

**FIRST AMENDMENT
TO
LEASE AGREEMENT FOR OPERATION AND LEASE OF
COUNTY HEALTHCARE FACILITIES**

This FIRST AMENDMENT TO LEASE AGREEMENT FOR OPERATION AND LEASE OF COUNTY HEALTHCARE FACILITIES (the "Lease Amendment") amends the LEASE AGREEMENT FOR OPERATION AND LEASE OF COUNTY HEALTHCARE FACILITIES dated July 1, 1999 (the "Lease") between the BOARD OF COUNTY COMMISSIONERS OF THE COUNTY OF BERNALILLO, a political subdivision of the State of New Mexico (the "County"), as landlord, and the REGENTS OF THE UNIVERSITY OF NEW MEXICO, a state educational institution named in Article XII, Section 11 of the New Mexico Constitution (the "University"), as tenant, as follows:

I. RECITALS

- A. The County and the University entered into the Lease to provide for operation and maintenance of University of New Mexico Hospital (the "Hospital") and the UNM Mental Health Center by the University pursuant to the New Mexico Hospital Funding Act, Sections 4-48B-1 *et seq.* NMSA 1978, as amended.
- B. The University proposes to enlarge the Hospital by construction of a new Children's Hospital and Critical Care Pavilion ("CHCCP") on land owned by the University adjacent to the Hospital.
- C. Construction of the CHCCP shall be financed partly by the proceeds of a loan (the "Loan") secured by a mortgage (the "Mortgage") insured by the Federal Housing Administration ("FHA") under its Section 242 Mortgage insurance program (the "Mortgage Insurance") and made to the University by the lender and mortgagee named in the Mortgage (the "Mortgagee").
- D. The FHA is empowered by the National Housing Act to insure hospital construction mortgages, provided that the mortgage is a first mortgage on land owned by the mortgagor in fee simple or leased by the mortgagor under a lease having at least 50 years to run from the date of loan endorsement by the FHA.
- E. The subject of the mortgage (the "Mortgaged Property") shall be: (i) the real property occupied by the main Hospital, a portion of which is owned in fee simple by the University and the remainder of which is leased by the University from the County under the Lease; and (ii) the real property occupied by the Hospital's offsite Outpatient Surgical and Imaging Services, which is owned in fee simple by the University. The portion of



the Mortgaged Property that is leased by the University from the County is separately referred to in this Amendment as the "Mortgaged Leasehold."

- F. This Lease Amendment incorporates lease provisions required by the FHA as a condition for issuance of the Mortgage Insurance to the Mortgagee, which shall also serve as trustee for the tax exempt bonds that shall be issued by the University to provide a source of funding for the Loan.
- G. This Lease Amendment incorporates in full the FIRST AMENDED AGREEMENT REGARDING CONSENT TO LEASE AGREEMENT ("Amended Consent") Exhibit E hereto, that sets out provisions that the University negotiated with the Indian Health Service (the "IHS"), in order to secure its consent to amend the Lease, as is required by the Federal Contract.

II. LEASE AMENDMENTS

- A. **Definitions.** A definition section is hereby added.

1. **638 Contractor** is defined as either an Albuquerque Area IHS or Navajo Area IHS tribe or tribal organization which has entered into a contract or compact with the Secretary of the Department of Health and Human Services under the authority of Title I or Title V of the Indian Self-Determination and Education Assistance Act (ISDA), codified at 25 U.S.C. Sec 450 *et seq.* and 458aaa *et seq.*, for the purpose of assuming the programs, functions, services and activities relating to the delivery of healthcare to eligible beneficiaries that were formerly delivered by the Secretary.

2. **Albuquerque Area** is defined as the field division of IHS that is headquartered in New Mexico.

3. **Navajo Area** is defined as the field division of IHS that is headquartered in Arizona.

- B. **Amended Property Descriptions.** Exhibits A, B and D to the Lease are deleted in their entirety and replaced by Exhibits A, B and D attached to this Lease Amendment. (There is no Exhibit C to this Lease Amendment, as Exhibit C to the Lease remains unchanged.) The attached Exhibits A, B and D conform the property descriptions and plats to the survey completed for the Mortgage transaction. The University shall record the survey in the real property records of Bernalillo County, New Mexico.
- C. **Amendments Required by FHA.** Notwithstanding any other provisions of the Lease, if and so long as the Mortgaged Leaschold is subject to the



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Mortgage or any mortgage insured, reinsured, or held by the Federal Housing Commissioner (the "Commissioner") or given to the Commissioner in connection with a resale, or the Mortgaged Property is acquired and held by the Commissioner because of a default under the Mortgage:

1. The term of the Lease shall be July 1, 1999 to June 30, 2055. The Lease may be renewed at the end of the term, under similar terms and conditions with the prior approval of IHS; provided, however, that the University and the County shall begin negotiations for renewal of the Lease on or before January 1, 2055. During the initial term of the Lease, either party shall have the right to give notice to the other party to reopen the terms and conditions of the Lease and to propose changes to the Lease which the other party shall discuss in good faith. Such notice may be given during the first three months of 2006, 2014, 2022, 2030, 2038, and 2046.
2. The University is authorized to obtain the Loan, the repayment of which is to be insured by the Commissioner and secured by the Mortgage on the Mortgaged Leasehold and other property owned by the University in fee simple. The University is further authorized to execute the Mortgage on the Mortgaged Leasehold and otherwise to comply with the requirements of the Commissioner for obtaining the Loan.
3. The University may assign, transfer, or sell its interest in the Mortgaged Leasehold upon written approval by the Commissioner, the IHS,¹ the County, the New Mexico Department of Finance and Administration ("DFA"), and the New Mexico Board of Finance ("BoF"). The University may assign, transfer, or sell its interest in the remainder of the Mortgaged Property upon written approval by the Commissioner and by such other authorities as may be required by applicable state law.
4. (a) Insurance policies shall be in an amount, and in such company or companies and in such form, and against such risks and hazards, as shall be approved by the Mortgagee, the Commissioner, and the New Mexico Risk Management Division.

¹ Pursuant to the federal Transfer Act of August 5, 1954, codified at 42 U.S.C. 2001 *et seq.*, as amended on December 29, 1973, by Pub. L. 93-222, all functions and duties of the Department of the Interior, Bureau of Indian Affairs (BIA), relating to maintenance and operation of hospital and health facilities for Native Americans were transferred to the Department of Health and Human Services, IHS.



(b) The County shall not take out separate insurance concurrent in form or contributing in the event of loss with that specifically required to be furnished by the University to the Mortgagee. The County may at its own expense, however, take out separate insurance which is not concurrent in form or not contributing in the event of loss with that specifically required to be furnished by the University.

5. (a) If all or any part of the Mortgaged Property shall be taken by condemnation, that portion of any award attributable to the taking of, or damage to, the improvements shall be paid to the Mortgagee or otherwise paid as may be provided in the Mortgage. Any portion of the award attributed solely to the taking of land owned by the County shall be paid to the County.

(b) In the event of a negotiated sale to the condemning party of all or a portion of the Mortgaged Property in lieu of condemnation, the proceeds shall be distributed as provided in (a) above, but the approval of the Commissioner and the Mortgagee shall be required as to the amount and division of the payment to be received.

6. Within fifteen (15) days after receipt of written request from the University, the County shall join in any and all applications for permits, licenses or other authorizations required by any governmental or other body claiming jurisdiction in connection with any work which the University may do hereunder, and shall also join in any grants for easements for electric, telephone, gas, water, sewer and such other public utilities and facilities as may be reasonably necessary in the operation of the Mortgaged Property or of any improvements that may be erected thereon; and if, at the expiration of such fifteen (15) days' period, the County shall not have joined in any such application, or grants for easements, the University shall have the right to execute such applications and grants in the name of the County, and, for that purpose, the County hereby irrevocably appoints the University as its attorney-in-fact to execute such documents on behalf of the County, provided that the County shall have no financial liability. In such case, the University shall be considered to have a power coupled with an interest that may not be unilaterally terminated by the County.

7. Nothing in the Lease shall require the University to pay any franchise, estate, inheritance, succession, capital levy or transfer tax of the County, or to pay any income, excess profits or revenue tax, or any other tax, assessment, charge or levy upon the rent payable by the University under the Lease.



8. (a) Upon any default under the Lease which authorizes the termination thereof by the County and upon which default the County determines to declare a breach of the terms and conditions of the Lease, the County shall give written notice to the University, the Mortgagee, the Commissioner, and the IHS. The Mortgagee and the Commissioner, and their successors and assigns, shall have the right at any time within six (6) months from the date of such notice to correct the default and reinstate the Lease.
- (b) If such default is not cured within six (6) months after delivery of such notice, the County may elect to:
- (i) terminate the Lease and acquire possession of the Mortgaged Leasehold; or
 - (ii) enter into an arrangement with the University satisfactory to the Commissioner and the IHS by which the University may continue to operate the Mortgaged Leasehold.
- (c) If the County elects to terminate the Lease, then upon acquiring possession of the Mortgaged Leasehold, the County shall notify the Commissioner, the Mortgagee, and the IHS. In such event and contingent upon approval by the Commissioner and the IHS, the County shall either:
- (i) operate the Hospital itself in accordance with the Federal Contract, this Lease Amendment and the Amended Consent, and make any required Loan or Mortgage payments to the Mortgagee or to the FHA, as appropriate, solely from Hospital revenues or other available funds, and observe and perform all the terms and provisions of the Mortgage; or
 - (ii) enter into a new lease (the "New Lease") with a successor operator (the "New Lessee"), consistent with the requirements of the Federal Contract (as defined at Section I-J of the Lease), this Lease Amendment and the Amended Consent, and require the new Lessee to make any required Loan or Mortgage payments to the Mortgagee or to the FHA, as appropriate, solely from Hospital revenues or other available funds, and observe and perform all the terms and provisions of the Mortgage. The New Lease shall have a term equal to the unexpired portion of the term of the Lease, as amended by this Lease Amendment, and shall be on



similar terms and conditions as contained in the Lease, as amended by this Lease Amendment, subject to approval by the Mortgagee, the Commissioner, the IHS, the DFA, and the BoF. The County shall deliver possession of the Mortgaged Leasehold and the remainder of the Mortgaged Property, to be leased to the County under the arrangement described in Subsection (c)(iii) below, to the New Lessee immediately upon execution of the New Lease, contingent upon approval as stated above.

- (iii) In the case of either alternative (i) or (ii) above, the University shall lease the portion of the Mortgaged Property owned by the University to the County on similar terms and conditions as contained in the Lease, as amended by this Lease Amendment, and at fair market value, subject to any approvals required by state law and the Mortgage. The terms and conditions of such lease shall permit the County to sublease that portion of the Mortgaged Property to the New Lessee, so that the County or the New Lessee shall be able to operate the Hospital in the entirety. This requirement shall also be incorporated into the Mortgage.
- (d) Notwithstanding anything to the contrary herein, regardless of whether the County elects (i) or (ii), the County remains at all times obligated under the terms and conditions of the Federal Contract.
- (e) If any default by the University under the Loan or Mortgage results in foreclosure or a deed instead of foreclosure of the Mortgage and transfer of the University's ownership interest in the Mortgaged Property to the Mortgagee, the Commissioner, or other transferee of the Mortgagee or Commissioner (collectively the "Transferee"), then the terms and conditions of the transfer of ownership shall require the Transferee to lease or sell that portion of the Mortgaged Property to the County, the New Lessee, the IHS or the Contract Operator, as appropriate, so that the Hospital can be operated in the entirety.

D. Default and Termination Amendments

- 1. Section X-B of the Lease is amended to read as follows:

"For breach of Section VI-A or Section VI-B by the County or upon failure of the County electorate to approve renewal of the



Hospital Mill Levy, the University may terminate this Agreement by giving written notice to the County at least 30 days in advance of the termination date proposed in the notice."

2. Notwithstanding Section X-E of the Lease, upon termination of the Lease because of default under the Mortgage and a failure to properly cure, the County's Hospital Ground Lease and the University's Hospital Ground Lease shall terminate concurrently. As long as the Mortgage remains in effect, the County's Hospital Ground Lease and the University's Hospital Ground Lease shall be of no force or effect, as the subject matter of those ground leases is subsumed by the Lease, as amended by this Lease Amendment.

- E. **Miscellaneous amendment.** Section XI-E. is amended to read as follows: "Third Parties. This Agreement is intended to confer rights, remedies, claims, and interests upon 638 Contractors to the extent expressly stated in the Amended Consent."

III. MISCELLANEOUS TERMS AND CONDITIONS:

- A. The provisions of this Lease Amendment are contingent upon approval by the University, the County, the DFA, the BoF, the IHS, and the FHA.
- B. Subject to the approvals required by Section III-A above, this Lease Amendment shall become effective upon the date of endorsement of the Loan by the FHA. The County and the University shall sign, acknowledge, and record an instrument certifying to the effective date of this Amendment.
- C. Except as expressly modified by this Lease Amendment, the provisions of the Lease remain in full force and effect, and neither the Lease nor this Lease Amendment may be modified without the consent of the IHS, the DFA, the BoF and the Commissioner. The consent of the Commissioner is required for only as long as the Mortgaged Leasehold is subject to the Mortgage or any mortgage insured, reinsured or held by the Commissioner, or given to the Commissioner in connection with a resale, or the Mortgaged property is acquired and held by the Commissioner because of a default under the Mortgage.
- D. All notices, demands and requests which are required to be given by the County, the University, the Mortgagee or the Commissioner shall be in writing and shall be sent by registered or certified mail, postage prepaid, and addressed to the address of the party as given in this instrument unless a request for a change in this address has been sent to the party giving the notice by registered or certified mail prior to the time when such notice is



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given. Addresses for notices, in addition to those provided in Section XI-K of the Lease, are:

To the IHS at:

Area Director
Albuquerque Area Indian Health Service
5400 Homestead, NE
Albuquerque, NM 87110

To the Commissioner at:

Federal Housing Commissioner
U.S. Department of Housing and Urban Development
451 7th Street S.W.
Washington, D.C. 20410

To the Mortgagee as provided in the Mortgage.

EFFECTIVE DATE: November 18, 2004


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COUNTY OF BERNALILLO:
BOARD OF COUNTY COMMISSIONERS

Alan B. Armijo
ALAN ARMJO, Chair

EXHIBIT
E. TIM CUMMINS, Vice Chair

Michael Brasher
MICHAEL BRASHER, Member

Steve D. Gallegos
STEVE GALLEGOS, Member

Tom Rutherford
TOM RUTHERFORD, Member

APPROVED:

Lito P. Chay
Legal Department

Date: 6/8/04

ATTEST:
Mary Herrera
Mary Herrera, Clerk County

Date: 6/8/04


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ACKNOWLEDGMENT

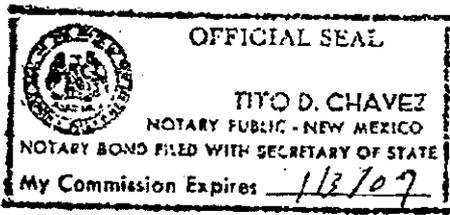
STATE OF NEW MEXICO

COUNTY OF BERNALILLO

This instrument was acknowledged before me on June 8, 2004, by Alan Armijo, Chair; ~~E. Tim Cummins~~, Vice Chair; Michael Brasher, Member; Steve Gallegos, Member; and Tom Rutherford, Member, of the Board of County Commissioners of the County of Bernalillo, a political subdivision of the State of New Mexico.

Tito D. Chavez
NOTARY PUBLIC

My commission expires:
1/13/07 ²⁰⁰⁷



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REGENTS OF THE UNIVERSITY
OF NEW MEXICO

BY THE BOARD OF REGENTS OF THE
UNIVERSITY OF NEW MEXICO

By: *James H. Koch* Date: *June 9, 2004*
James H. Koch
President

ATTEST: *Maria Griego-Rafly* Date: *June 9, 2004*
Maria Griego-Rafly
Secretary/Treasurer

APPROVED:

[Signature]
UNIVERSITY COUNSEL

ACKNOWLEDGMENT

STATE OF NEW MEXICO

COUNTY OF BERNALILLO

This instrument was acknowledged before me on *June 9th*
2004, by James H. Koch, President of the Board of Regents of the University of New
Mexico, a body corporate of the State of New Mexico.

[Signature]
NOTARY PUBLIC

My commission expires:

February 18th, 2008



Mary Herrera

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APPROVED:

NEW MEXICO DEPARTMENT OF
FINANCE AND ADMINISTRATION:

By: NOT

Title: REQUIRED

Date: _____
594

APPROVED:

NEW MEXICO BOARD OF FINANCE:

By: Diane D. Demish

Title: Lieutenant Governor

Date: July 13, 2004



Mary Herrera

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APPROVED:

INDIAN HEALTH SERVICE:

By: Charles W. Grim, DDS
RADM Charles W. Grim, D.D.S., M.H.S.A.

Title: Assistant Surgeon General
Director, Indian Health Service

Date: 7 | 16 | 04



Mary Herrera

Bern. Co. AMND

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EXHIBIT A
COUNTY PROPERTY DESCRIPTION



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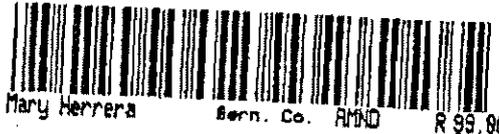
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DESCRIPTION
EXHIBIT A

A certain tract of land situate within the southwest one-quarter of Section 15, Township 10 North, Range 3 East, New Mexico Principal Meridian, in the City of Albuquerque, Bernalillo County, New Mexico. Said tract includes a easterly portion of vacated Stanford Drive and being more particularly described by New Mexico State Plane Grid Bearings (NAD 27, Central Zone) and ground distances as follows;

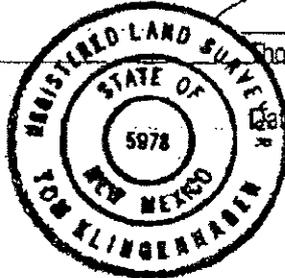
BEGINNING at the southwest corner of the tract herein described, said point also being the intersection of the northerly right-of-way line of Lomas Boulevard N.E. and the centerline of vacated Stanford Drive, whence the City of Albuquerque survey monument "9-J16", having New Mexico State Plane Grid coordinates X=389,674.32; Y=1,487,263.26 bears S85°15'25"W a distance of 546.87 feet; thence along the westerly boundary line of the tract herein described, N00°16'40"W a distance of 443.75 feet; thence along the face of the south wall of a hallway, S89°37'31"E a distance of 150.39 feet to the intersection with the east face of a hallway; thence continuing above ground, S89°37'31"E a distance of 17.24 feet to the intersection with the outside wall of the main hospital, thence along said hospital wall, N00°11'18"E a distance of 16.78 feet; thence, S89°48'42"E a distance of 8.02 feet; thence, N00°11'18"E a distance of 28.97 feet; thence, S89°48'42"E a distance of 28.76 feet; thence, N00°11'18"E a distance of 36.45 feet; thence, S89°48'42"E a distance of 25.91 feet; thence leaving said hospital wall, N00°00'00"E a distance of 96.27 feet; thence, N89°46'00"E a distance of 191.57 feet to the northeast corner of the tract herein described; thence along a fenceline, S00°00'00"E a distance of 623.17 feet to a point on the said northerly right-of-way line of Lomas Blvd. and the southeast corner of the tract herein described; thence along said right-of-way line, N89°47'18"W a distance of 410.00 feet to the point and place of beginning.

Exhibit A contains 5.0133 acres, more or less.

SURVEYOR'S CERTIFICATION

I, Thomas G. Klingenhagen, Registered New Mexico Surveyor No. 5978, hereby certify that the above description and attached site map are true and correct to the best of my knowledge and belief.

BOHANNAN-HUSTON, INC.
7500 Jefferson NE
Albuquerque, NM 87109



Thomas G. Klingenhagen
Thomas G. Klingenhagen, NMLS No. 5978
Date: 5-28-04

Mary Herrera Bern. Co. RIND R 99.86



SCALE: 1"=100'

CENTERLINE

Exhibit "D"

Exhibit "B"

Vacated Stanford Drive
City Ordinance No. 128-06
Dated: December 12, 1988

EXHIBIT "A"
5.0133 ACRES

5000'00" E 62317

N00716'40" W 443.75'

30'

30'

POINT OF BEGINNING

S89°47'18" W 410.00'

Lomas Blvd.

ACS Aluminum Disk Stamped "9-16"
Geographic Position (NAD 1927)
N.M. State Plane Coordinates (Central Zone)
X=389,674.32 Y=1,487,263.26
Ground-to-Sea Level Factor=0.99966810
Delta=+012'43"
Deviation=-001'08" (S.D. 0.29)



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Exhibit "A"

THE UNIVERSITY OF
NEW MEXICO
HEALTH SCIENCES CENTER

May 2004

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EXHIBIT B

UNIVERSITY'S HOSPITAL PROPERTY DESCRIPTION



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DESCRIPTION
EXHIBIT B

A certain tract of land situate within the southwest one-quarter of Section 15, Township 10 North, Range 3 East, New Mexico Principal Meridian, in the City of Albuquerque, Bernalillo County, New Mexico. Said tract includes a westerly portion of vacated Stanford Drive and being more particularly described by New Mexico State Plane Grid Bearings (NAD 27, Central Zone) and ground distances as follows;

BEGINNING at the southwest corner of the tract herein described, being a point on curve on the northerly right-of-way line of Lomas Boulevard N.E., whence the City of Albuquerque survey monument "9-J16", having New Mexico State Plane Grid coordinates X=389,674.32; Y=1,487,263.26 bears S75°09'21"W a distance of 231.47 feet; thence along the westerly boundary line of the tract herein described, N00°05'46"E a distance of 431.75 feet to the northwest corner of the tract herein described, thence along the northerly boundary line of the tract herein described and partially along the face of the south wall of a hallway, S89°37'31"E a distance of 318.38 feet to the northeast corner of the tract herein described, thence along the easterly boundary line of the tract herein described, S00°16'40"E a distance of 267.57 feet; thence, N89°51'34"W a distance of 86.85 feet; thence, N45°00'00"W a distance of 11.68 feet; thence, N00°05'56"E a distance of 12.06 feet; thence, N89°31'34"W a distance of 97.04 feet; thence, S00°05'46"W a distance of 195.82 feet to a point on curve on the said northerly right-of-way line of Lomas Blvd. N.E.; thence along the said right-of-way line, 128.60 feet along the arc of a curve to the right having a radius of 1223.33 feet and a chord bearing N84°28'24"W a distance of 128.54 feet to the point and place of beginning

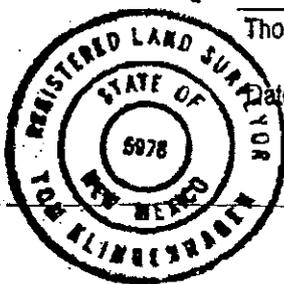
Exhibit B contains 2.4186 acres, more or less.

SURVEYOR'S CERTIFICATION

I, Thomas G. Klingenhagen, Registered New Mexico Surveyor No. 5978, hereby certify that the above description and attached site map are true and correct to the best of my knowledge and belief.

BOHANNAN-HUSTON, INC.
7500 Jefferson NE
Albuquerque, NM 87109

Thomas G. Klingenhagen
Thomas G. Klingenhagen, NMLS No. 5978



Date: 5-28-04

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Mary Herrera Bern. Co. PRIND R 99.09



100 50 0 100
 SCALE: 1"=100'

CENTERLINE

Exhibit "D"

Exhibit "A"

EXHIBIT "B"
 2.4186 ACRES

Vacated Stanford Drive
 City Ordinance No. 128-86
 Dated: December 12, 1986

N00°05'46"E 431.75'

S00°16'40"E 267.57'

N00°05'56"E

97.04'

12.06'

N89°31'34"W

86.85'

N45°00'00"W

N89°51'34"W

11.68'

S00°05'46"W 185.62'

30' 30'

R=1223.33'

L=128.60'

CH=N84°28'24"W 128.54'

POINT OF BEGINNING

Lomas Blvd.

ACS Aluminum Disk Stamped "9-J16"
 Geographic Position (NAD 1927)
 NAD State Plane Coordinates (Central Zone)
 X=389,674.32 Y=1,487,263.26
 Ground-to-Grid Factor=0.99966810
 Date=07/23/04
 Elevation = 514.08 (SAD 1929)

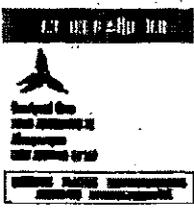


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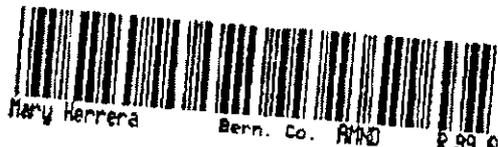
Exhibit "B"

THE UNIVERSITY OF NEW MEXICO
 HEALTH SCIENCES CENTER
 PHASE 10000 CENTER
 7000 SAN RAFAEL, S.W. 2.E.
 ALBUQUERQUE, N.M. 87131-0000

May 2004



AS EXPLAINED IN SECTION II-B,
THIS DOCUMENT HAS NO EXHIBIT C



Mary Herrera

Bern. Co. FWD

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EXHIBIT D
CANCER CENTER EASEMENT



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**FIRST AMENDMENT TO
AGREEMENT FOR CONSTRUCTION
OF CANCER RESEARCH CENTER**

The Agreement for Construction of Cancer Research Center (the "Agreement") between the Board of County Commissioners of the County of Bernalillo, a political subdivision of the State of New Mexico (the "County"), and the Regents of the University of New Mexico, a body corporate (the "University"), dated December 15, 1972, a copy of which is attached as Exhibit I, is amended by the County and the University as follows (this "Amendment"):

A. RECITALS

1 The Agreement subjected lands owned by both the University and the County to Cancer Research Center use. Those lands were described in Exhibit A to the Agreement without differentiation between those lands owned by the University and those lands owned by the County. Only those lands owned by the County were the subject of the permanent easement ("Permanent Easement") granted by the County to the University in the Agreement. The differentiation of ownership is now required by the Transaction (defined below).

2. The University constructed the University of New Mexico Cancer Research and Treatment Center on lands described in Exhibit A to the Agreement and has operated that facility on that site continuously since 1974, thereby fulfilling conditions of the Permanent Easement as described in the Agreement.

3. At the time the Agreement was entered into, a portion of University of New Mexico Hospital ("UNM Hospital") (formerly known as "Bernalillo County Medical Center") was already constructed on the Permanent Easement. At that time, the University operated UNM Hospital under a Joint Powers Agreement between the University and the County. Since January 24, 1978, the University has operated UNM Hospital under a lease from the County.

4. The University and the County entered into a new Lease Agreement for Operation and Lease of County Healthcare Facilities with a term beginning on July 1, 1999 (the "Lease"), under which the County continued the lease of UNM Hospital to the University.

5. The Lease stated at Section I-R that the Permanent Easement was not superseded and replaced by the Lease, but would remain in effect in accordance with its terms and was incorporated into the Lease by reference. The Permanent Easement was described separately in Section I-F and Exhibit D to the Lease.

6. Section II-A and Exhibit A of the Lease described the land and other property being leased by the County to the University. The leased land did not include the Permanent Easement.

7. The University is planning to enter into a transaction for partial financing of construction of a new Children's Hospital and Critical Care Pavilion at UNM Hospital under a Federal Housing Administration mortgage insurance program (the "Transaction").

8. The Transaction requires that the Lease encompass all the land owned by the County on which UNM Hospital is situated.

9. The purpose of this Amendment is to revise the Permanent Easement property description in the Agreement to delete the portion of the Permanent Easement that is occupied by UNM Hospital. The deleted portion will be added to the County property leased to the University under the Lease by a first amendment to the Lease (the "First Lease Amendment") to be signed by the University and the County contemporaneously with this Amendment.

B. AMENDMENTS

1. All statements set forth in the Recitals of this Amendment are true and correct. The Recitals are incorporated into this Amendment by this reference and are of full force and effect as if fully set forth in detail by the County and the University in this Amendment.

2. Exhibit A to the Agreement is deleted and is replaced in the entirety by attached Exhibit II to this Amendment, which Exhibit II will become the corrected Exhibit A to the Agreement.

3. All other terms of the Permanent Easement as provided in the Agreement remain in effect.

4. This Amendment will become effective on the effective date of the First Lease Amendment that incorporates the land deleted from the Permanent Easement by this Amendment.

DATED: November 18, 2004.



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COUNTY OF BERNALILLO:
BOARD OF COUNTY COMMISSIONERS

Alan B. Armiño
ALAN ARMIJO, Chair

EXCUSED
E. TIM COMMINS, Vice Chair

Michael Brasher
MICHAEL BRASHER, Member

Steve D. Gallegos
STEVE GALLEGOS, Member

Tom Rutherford
TOM RUTHERFORD, Member

APPROVED:

Lito S. Chavez
Legal Department

Date: 6/8/04

ATTEST
Mary Herrera
Mary Herrera, Clerk County Clerk

Date: 6/8/04



Mary Herrera

Bern. Co. ARMO

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ACKNOWLEDGMENT

STATE OF NEW MEXICO

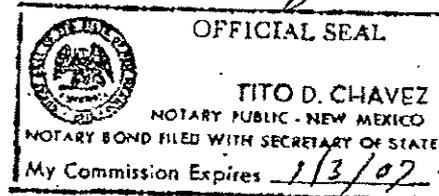
COUNTY OF BERNALILLO

This instrument was acknowledged before me on June 8,
2004, by Alan Armijo, Chair; ~~E. Tim Cummins~~, Vice Chair; Michael Brasher, Member;
Steve Gallegos, Member; and Tom Rutherford, Member, of the Board of County
Commissioners of the County of Bernalillo, a political subdivision of the State of New
Mexico.

Tito D. Chavez
NOTARY PUBLIC

My commission expires:

1/3/07



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REGENTS OF THE UNIVERSITY
OF NEW MEXICO

BY THE BOARD OF REGENTS OF THE
UNIVERSITY OF NEW MEXICO

By: *James H. Koch*

James H. Koch
President

Date: *June 9, 2004*

ATTEST: *Maria Griego Raby*

Maria Griego Raby
Secretary/Treasurer

Date: *June 9, 2004*

APPROVED:

[Signature]
UNIVERSITY COUNSEL

ACKNOWLEDGMENT

STATE OF NEW MEXICO

COUNTY OF BERNALILLO

This instrument was acknowledged before me on *June 9th*
2004, by James H. Koch, President of the Board of Regents of the University of New
Mexico, a body corporate of the State of New Mexico.

Emily D. Pargos
NOTARY PUBLIC

My commission expires:

February 18th, 2009



Mary Herrera

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APPROVED:

NEW MEXICO DEPARTMENT OF FINANCE AND ADMINISTRATION:

By: _____

Title: _____

Date: _____

APPROVED:

NEW MEXICO BOARD OF FINANCE:

By: Diane D. Dennis

Title: Lieutenant Governor

Date: July 13, 2004



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ORIGINAL CANCER CENTER PERMANENT EASEMENT

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EXHIBIT I

AGREEMENT FOR CONSTRUCTION
OF CANCER RESEARCH CENTER

The County of Bernalillo, a political subdivision of the State of New Mexico (hereinafter called the County), and the Regents of the University of New Mexico, a body corporate (hereinafter called the Regents), hereby agree as follows:

RECITALS: A). The County owns the Bernalillo County Medical Center which is operated by the University under agreement dated November 8, 1959, between the parties, as authorized by the Joint Powers Agreements Act of New Mexico, with the consent of the State Board of Finance and the United States.

B). A grant has been made by the United States through the National Cancer Institute of the National Institutes of Health, being Grant No. 1C06CA13582-01, for the construction of a Cancer Research Center on lands, part of which are owned by the University, and part of which are owned by the County. The parties desire to enter into this agreement to submit the lands of both parties to the custody and control of the University, for the duration of the construction and existence of the Cancer Research Center, to be built pursuant to the above described grant.

C). The Cancer Research Center will be contiguous to Bernalillo County Medical Center and the University School of Medicine. The Cancer Research Center will be of great benefit in health care delivery for the citizens of Bernalillo County and the State of New Mexico, and will also be an important teaching resource to the University.

NOW, THEREFORE, in consideration of the Recitals and of the above described grant, the parties hereto agree as follows

EXHIBIT I



Mary Herrera

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(1) The Cancer Research Center building shall be constructed on the lands described by survey description attached hereto, and incorporated herein, by reference as Exhibit A.

(2) The County hereby grants and conveys to the University an easement over the County lands as shown and described on Exhibit A hereto, for the occupancy by the University, its agents, employees, and other authorized persons, for the construction, maintenance, use of and operation of the Cancer Research Center building to be constructed in accordance with the grant from the National Cancer Institute hereinabove referred to, and this Mutual Grants of Easement is entered into pursuant to said Joint Powers Agreements Act, being laws 1961, Ch. 135.

(3) The University hereby undertakes to devote those lands of the University included in the survey described and reflected in Exhibit A to construction and operation of the Cancer Research Center and research or other pursuits for the study of medicine and health care delivery.

(4) This agreement of easement from the County to the University shall be permanent and shall be terminated upon the occurrence of any one of the events hereinafter stated:

- (a) The failure to complete construction of the Cancer Research Center building on or before December 13, 1977; or
- (b) Failure, for a period of twelve consecutive months, following completion of the construction of the Cancer Research Center building of the University to use the lands for the occupancy of the building for any lawful use; or
- (c) The agreement of the parties.

(5) The use of the lands herein described for the purposes stated above shall not be in violation of the lease between the parties dated March 9, 1967.

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IN WITNESS WHEREOF the parties hereto have executed
this easement agreement effective December 15, 1972.

THE BOARD OF COUNTY COMMISSIONERS OF THE
COUNTY OF BERNALILLO, STATE OF NEW MEXICO

By: *James P. Morris*
JAMES P. MORRIS, Chairman

Attest:

Ernest Gonzalez
County Clerk

REGENTS OF THE UNIVERSITY OF NEW MEXICO,
BODY CORPORATE

By: *Calvin Horn*
Calvin Horn, President

Attest:

James P. Morris
Secretary

Approval has been given by State Board
of Finance, pursuant to Ch. 100, Laws
of 1961.

STATE BOARD OF FINANCE

By: *Melvine Berlert* 10/12/73
for Executive Officer

STATE OF NEW MEXICO)
COUNTY OF BERNALILLO) ss.

The foregoing was acknowledged before me this 5th day of
July, 1973, by JAMES P. MORRIS, CHAIRMAN OF THE BOARD
OF COUNTY COMMISSIONERS OF BERNALILLO COUNTY, NEW MEXICO, on behalf
of said Board.

James P. Morris
Notary Public

(Seal

My commission expires: Aug 31, 1977

James P. Morris
Secretary



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STATE OF NEW MEXICO)
) ss.
COUNTY OF BERNALILLO)

The foregoing was acknowledged before me this 3rd day of August, 1973, by CALVIN HORN, PRESIDENT OF THE REGENTS OF THE UNIVERSITY OF NEW MEXICO, a body corporate, on behalf of said body corporate.

Eleanora L. Manson
Notary Public

(S E A L)

My commission expires: July 19, 1976



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DESCRIPTION OF BOUNDARIES OF LAND
PERTINENT TO THE PROPOSED CANCER RESEARCH CENTER SITE ON THE
UNIVERSITY OF NEW MEXICO NORTH CAMPUS IN ALBUQUERQUE, BERNALILLO
COUNTY, NEW MEXICO

Beginning at a point on the east boundary of the parcel herein described, which point is the identical northwest corner "Pt. 6" of "Parcel 2" shown and designated on that certain document entitled "Plat of Parcel 1-A and Utility Easements, Bernalillo County Indian Hospital, Albuquerque, New Mexico", filed for record on September 5, 1968, and on file in Book D-4, page 8 of the plat records of said County;

Running from said beginning-point South, 300 feet to the southeast corner of the said parcel herein described; thence

West, 500 feet to the southwest corner of the said parcel herein described; thence

North, 360 feet to the northwest corner of the said parcel herein described; thence

East, 500 feet to the northeast corner of the said parcel herein described; thence

South, 50 feet to the place of beginning.

The foregoing described parcel is situate in the South Half of the Southwest Quarter of Section 15, Township 10 North, Range 3 East, N.M.P.M., and comprises contiguous portions of both the East Half of the Southwest Quarter and the West Half of the Southeast Quarter, of the said Southwest Quarter (E 1/2 SW 1/4 SW 1/4, W 1/2 SE 1/4 SW 1/4) of Section 15, including:

a portion of the easterly portion of that certain lot or parcel of land and real estate described in that certain warranty deed filed for record on June 30, 1917, and recorded in Book 59, page 324 of the deed records of said County;

the northwest portion that certain parcel of land described in that certain deed from the Commissioner of Indian Affairs acting on behalf of the United States of America to the County of Bernalillo, State of New Mexico, made on the 11th day of July, 1952, and on file in Book D-212, page 11, of the deed records of said County;

a portion of Stanford Drive NE lying between the westward projection of the southerly right-of-way line of Marble Avenue NE and Lomas Boulevard NE;

the northerly portion of "Parcel 1-A" and the northerly portion of "Parcel 1" as said Parcels are indicated on that said certain document on file in Book D-4, page 8 of the plat records of said County;

the westerly portion of that certain tract of land described in that certain warranty deed filed for record on October 30, 1954, recorded as Document No. 24436 of the deed records of said County;

the Southwesterly portion of that certain tract of land described in that certain warranty deed filed for record on August 17, 1964, recorded in Volume D-753, folio 771 of the deed records of said County.

EXHIBIT A



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REVISED CANCER CENTER PERMANENT EASEMENT

PROPERTY DESCRIPTION



Mary Herrera

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EXHIBIT II

DESCRIPTION
EXHIBIT D

A certain tract of land situate within the southwest one-quarter of Section 15, Township 10 North, Range 3 East, New Mexico Principal Meridian, in the City of Albuquerque, Bernalillo County, New Mexico. Said tract includes a easterly portion of vacated Stanford Drive and being more particularly described by New Mexico State Plane Grid Bearings (NAD 27, Central Zone) and ground distances as follows;

BEGINNING at the northwest corner of the tract herein described, being a point on the centerline of said vacated Stanford Drive, whence the City of Albuquerque survey monument "9-J16", having New Mexico State Plane Grid coordinates X=389,674.32; Y=1,487,263.26 bears S39°10'21"W a distance of 858.04 feet; thence along the northerly boundary line of the tract herein described, N89°46'00"E a distance of 231.44 feet to the northeast corner of the tract herein described, thence along the easterly boundary line of the tract herein described, S00°00'00"W a distance of 96.27 feet to the intersection with the outside wall of the main hospital, thence along said hospital wall, N89°48'42"W a distance of 25.91 feet; thence, S00°11'18"W a distance of 36.45 feet; thence, N89°48'42"W a distance of 28.76 feet; thence, S00°11'18"W a distance of 28.97 feet; thence leaving said hospital wall along the southerly boundary line of the tract herein described, N89°37'31"W a distance of 17.24 feet to a point at the below ground intersection of the east face of a hallway wall and the projection of the south face of a hallway wall; thence along the said south face of the hallway wall, N89°37'31"W a distance of 150.39 feet to a point on the said centerline of vacated Stanford Drive and the southwest corner of the tract herein described; thence along said centerline and the westerly boundary line of the tract herein described, N00°16'40"W a distance of 176.23 to the point and place of beginning.

Exhibit D contains 0.8585 of an acre, more or less.

SURVEYOR'S CERTIFICATION

I, Thomas G. Klingenhagen, Registered New Mexico Surveyor No. 5978, hereby certify that the above description and attached site map are true and correct to the best of my knowledge and belief.

BOHANNAN-HUSTON, INC.
7500 Jefferson NE
Albuquerque, NM 87109



Tom Klingenhagen
Thomas G. Klingenhagen, AMLS No. 5978

Date: 5-28-04



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SCALE: 1"=100'

POINT OF BEGINNING

N89°46'00"E 231.44'

EXHIBIT "D"

0.8585 ACRES

Vacated Stanford Drive
City Ordinance No. 128-08
Dated: December 12, 1988

EXHIBIT "A"

ABS Aluminum Disk Stamped "9-016"
Geographic Position (NAD 1927)
NAD State Plane Coordinates (Central Zone)
X=389,674.32 Y=1,467,263.28
Ground-to-Grid Factor=0.99966810
Delta=0°12'43"
Elevation = 5141.08 (SLD 929)

EXHIBIT "B"

N89°48'42"W 25.91'
S00°11'18"W 36.45'
N89°48'42"W 28.76'
N89°48'42"W 8.02'
S00°11'18"W 16.78'
N89°37'31"W 17.24'
N89°37'31"W 150.39'
S00°00'00"E 96.27'

Lomas Blvd.



TR
5-28-04

Exhibit "D"

THE UNIVERSITY OF
NEW MEXICO
HEALTH SCIENCES CENTER
1600 GARDEN AVENUE
ALBUQUERQUE, N.M. 87131-0001

May 2004

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EXHIBIT E

**FIRST AMENDMENT TO AGREEMENT
REGARDING CONSENT TO LEASE AGREEMENT**



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**FIRST AMENDMENT TO AGREEMENT REGARDING
CONSENT TO LEASE AGREEMENT**

This FIRST AMENDMENT TO AGREEMENT REGARDING CONSENT TO LEASE AGREEMENT ("Amended Consent") is hereby granted by the United States Public Health Service Indian Health Service ("IHS"), the authorized federal agency whose consent is necessary to amend the LEASE AGREEMENT FOR OPERATION AND LEASE OF COUNTY HEALTHCARE FACILITIES, dated July 1, 1999 ("Lease"), between Bernalillo County (the "County") and the Regents of the University of New Mexico (the "University"). This Amended Consent is given for and in consideration of the following amendments to the AGREEMENT REGARDING CONSENT TO LEASE AGREEMENT ("Original Consent"), entered into between the IHS and the University, which was signed by the IHS on October 18, 1999.

The Original Consent is amended as follows:

- I. SECTION I, RECITALS, is amended to add the following new recitals¹:
- M. The University proposes to enlarge the Hospital by construction of a new Children's Hospital and Critical Care Pavilion ("CHCCP") on land owned by the University adjacent to the Hospital.
 - N. Construction of the CHCCP shall be financed partly by the proceeds of a loan (the "Loan") secured by a mortgage (the "Mortgage") insured by the Federal Housing Administration ("FHA") under its Section 242 mortgage insurance program (the "Mortgage Insurance").
 - O. The FHA requires a mortgage on the entire Hospital at 2211 Lomas Boulevard, N.E., Albuquerque, New Mexico, including land owned by the University and the University's leasehold interest in that portion of the Hospital owned by the County, as well as the Hospital's offsite Outpatient Surgical and Imaging Services facility at 1213 University Boulevard, N.E., Albuquerque, New Mexico.
 - P. The County and the University are entering into a First Amendment to Lease Agreement for Operation and Lease of County Healthcare Facilities ("Lease Amendment"), effective on the date of Loan endorsement by the FHA, to incorporate into the Lease various provisions required by the FHA.
- II. SECTION II, CONSENT BY FEDERAL GOVERNMENT, is amended to add the following provisions:

¹ Capitalized terms not defined in this Amended Consent are defined in the Original Consent, the Lease, or the Lease Amendment.



- C. Consent of the IHS is hereby given to the Lease Amendment, on behalf of the IHS.
- D. Any revision or modification of the Lease Amendment will not become effective unless consented to by the IHS.

III. SECTION III, CONSIDERATION FOR CONSENT, is amended to read as follows:

- A. The University shall maintain the appointment of a Pueblo Indian, recommended by the All Indian Pueblo Council ("AIPC"), to the Health Sciences Center ("HSC") Clinical Operations Board.
- B. The University will convene an annual meeting in September of each year to discuss the University's and the Hospital's performance as they relate to the Federal Contract, the Lease Amendment, the Amended Consent, and applicable federal law. Participants shall be representatives of the University, the County, the IHS, the AIPC, Albuquerque Area IHS, Navajo Area IHS and any interested tribe or Pueblo located within those two Areas.
- C. The Hospital will maintain the employment of a contract specialist dedicated to the negotiation of healthcare provider contracts between the University and the IHS and between the University and 638 Contractors.
- D. The Hospital will maintain the employment of a patient scheduling coordinator whose position is dedicated to facilitating Hospital admissions and outpatient clinic appointments for eligible Native Americans, by means of prioritizing those patients' access to those services over that of all other patients; however, such prioritized access shall take into consideration the medical necessity of non-Native American patients.
- E. The University and IHS will implement the reimbursement methodology system more fully described in Exhibit A hereto.
- F. 638 Contractors will be entitled to adopt in their healthcare provider contracts with the University either of the two reimbursement methodologies more fully described in Exhibit A hereto, independent of the IHS and any other 638 Contractor.
- G. Unless prohibited by law, the University will provide the IHS and those 638 Contractors who request of the University that they receive the same, the documentation set forth on Exhibit B hereto, which documentation may be expanded upon pursuant to written requests by the IHS or 638 Contractors unless the University demonstrates in good faith, in the



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judgment of IHS or the requesting 638 Contractors, an inability to collect or provide the requested documentation. The documentation will be provided to the IHS in the form and frequency as set out in Exhibit B, and will be provided to 638 Contractors as may be agreed to between the 638 Contractors and the University. The University, the IHS and the 638 Contractors will review Exhibit B at least annually and consult with each other regarding any requested changes to those documentation requirements.

- H. As more fully set out in the Lease Amendment and the mortgage, trust indenture or other relevant documents associated with the financing of the Hospital facility expansion, in the event of a default under any of those or other documents that results in a New Lessee, Contract Operator or other successor Hospital operator to the University, excluding either the County itself or IHS as successor Hospital operators, the IHS shall participate in the selection of the successor Hospital operator, and IHS consent shall be required prior to naming a successor Hospital operator. IHS shall incur no liability for its participation in the selection or approval process of a successor Hospital operator.
- I. The Hospital will provide to Bernalillo County indigent Native American residents financial assistance in accordance with the same policies and procedures applicable to any other Bernalillo County indigent resident, prior to requesting payment from IHS.
- J. The Hospital shall provide to any Native Americans who are Hospital outpatients, in accordance with the same policies and procedures applicable to all other Hospital outpatients, those pharmaceuticals available in the Hospital outpatient pharmacy, if and as prescribed by HSC providers.
- K. This Amended Consent shall be incorporated in its entirety into the Lease Amendment, and any New Lessee, Contract Operator or successor Hospital operator to either the County or the University shall be bound by its terms and conditions.

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COUNTY
IMMUNIZATION
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IV. SECTION IV, TERM AND TERMINATION, is amended to add the following provisions:

- C. This Amended Consent will become effective on the effective date of the Lease Amendment and will remain in full force and effect until June 30, 2055, or the earlier termination of the Lease Amendment by the University and the County, unless the IHS consents to an extension of the June 30, 2055 termination date.



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D. Except as expressly modified by this Amended Consent, all other provisions of the Original Consent remain in full force and effect. In the event of conflict among terms between the Original Consent and this Amended Consent, the terms and conditions of this Amended Consent control.

V. SECTION V, MISCELLANEOUS, is amended to revise Subsection E as follows:

E. **Third Parties.** This Amended Consent is intended to confer rights, remedies, claims, and interests upon 638 Contractors to the extent expressly stated in this Amended Consent.

EFFECTIVE DATE: November 18, 2004

PUBLIC HEALTH SERVICE INDIAN HEALTH SERVICE:

By: Charles W. Grim, DDS
RADM Charles W. Grim, D.D.S., M.H.S.A.

Title: Assistant Surgeon General
Director, Indian Health Service

Date: 7/2/04

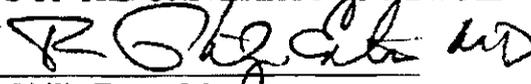
Approved as to form:

Attorney for the IHS

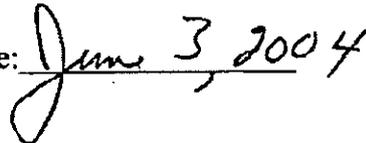

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REGENTS OF THE UNIVERSITY OF NEW MEXICO

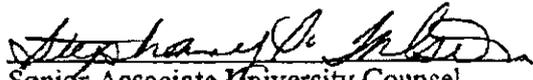
By:


R. Philip Eaton, M.D.
Vice President for Health Sciences

Date:



Approved as to form:


Senior Associate University Counsel



Mary Herrera

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EXHIBIT A

REIMBURSEMENT METHODOLOGY

A. Reimbursement Methodologies.

1. **Two methodologies.** IHS Albuquerque Area, IHS Navajo Area and 638 Contractors may elect annually, and independently of one another, between two reimbursement methodologies for the purpose of calculating the amount of reimbursement the Hospital will receive for its provision of inpatient and outpatient services.

(a) **Traditional Methodology.** The Traditional Methodology is a reimbursement methodology that is calculated on the basis of the average annual per diem amount, as more fully set out under applicable Federal law, in the Federal Contract, and a Hospital Form 1, which has been derived from the Hospital's most recent Medicare audited cost report ("Traditional Methodology").

(i) If the Hospital Medicare-audited cost report for the year in which the services are provided results in an average annual per diem dollar amount that varies from the reimbursement amount the Hospital has already received as payment for its inpatient and outpatient services, the amounts will be retroactively adjusted between the applicable parties as appropriate, either in the form of additional payments made to the Hospital or refunds made by the Hospital, as applicable. All retroactive adjustments shall be completed within 60 days of either party's identification of the need to adjust.

(ii) The average annual per diem cost shall not contain any amount attributable either directly or indirectly to any interest on or amortization of bonds or other forms of indebtedness of any nature.

(b) **DRG/Discount Methodology.** The DRG/Discount Methodology is a reimbursement methodology that is calculated on the basis of the Hospital's adjusted inpatient Medicare DRG payment that is applicable to the Hospital for the year in which the services were rendered, as more fully explained herein ("DRG/Discount Methodology").

(i) **Inpatient Services Reimbursement.** Reimbursement for these services shall be calculated on the basis of the inpatient Medicare DRG payment applicable to the Hospital for the year in which the services are provided (including outlier reimbursement when applicable), less (a) any disproportionate share adjustment,



and (b) a 25 percent discount on indirect medical education (IME) expense reimbursed by Medicare.

(ii) **Outpatient Services Reimbursement.** Reimbursement for these services shall be calculated at a 40 percent discount off of the Hospital's usual and customary outpatient charges in effect at the time the services are provided.

(iii) If the Hospital Medicare-audited cost report for the year in which the services are delivered results in a Medicare IME amount that varies from the reimbursement amount the Hospital has already received as payment for its inpatient and outpatient services, the amounts will be retroactively adjusted between the applicable parties as appropriate, either in the form of additional payments made to the Hospital or refunds made by the Hospital, as applicable. All retroactive adjustments shall be completed within 60 days of either party's identification of the need to adjust.

(iv) In addition to other costs which may be disallowed pursuant to the Federal Contract, reimbursement amounts shall not include any amount attributable to Medicare coinsurance or deductibles.

2. Regardless of which methodology is elected, in no event shall a reimbursement amount exceed that amount that would be allowable under the Federal Contract.

3. If the Hospital demonstrates an inability to admit or otherwise treat Native American patients referred for admission or treatment by IHS and 638 Contractors in a reasonably timely manner in a given year, in the judgment of the IHS or the 638 Contractors, then the Hospital will give a supplemental discount, in addition to that set forth in Section A.1 above, to the IHS and 638 Contractors for that year. The amount of the supplemental discount will be negotiated quarterly in consideration of the divert costs incurred by the IHS or the 638 Contractors.

B. Current Year Reimbursement. IHS and 638 Contractors will reimburse the Hospital for inpatient and outpatient care in a current year according to the reimbursement methodology elected for the immediately prior year.

1. If the DRG/Discount Methodology were elected for the immediately prior year, services for the current year will be reimbursed in the following manner:

(a) Inpatient services for the current year will be reimbursed according to the DRG/Discount Methodology;



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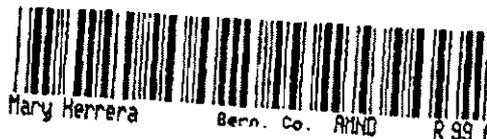
(b) Outpatient services for the current year will be reimbursed on a quarterly basis, upon the Hospital's presentation of a quarterly bill that reflects the cumulative total amount of charges for services provided to all Native American patients during that quarter. The quarterly bill will be supported by detailed information regarding each patient whose charges are reflected in that bill, including but not limited to each patient's name, date of birth, sex, community of residence, date of service, service performed and the provider who ordered the services.

C. Immediately Prior Year Reimbursement. The Hospital shall calculate the amount of reimbursement it claims it is owed for the immediately prior year by both methodologies, and present the results of its calculations in comparison format to the IHS and 638 Contractors within 90 days after the close of the federal fiscal year. Within 60 days of their respective receipts of the comparison format, the IHS and the 638 Contractors shall notify the Hospital of which methodology each has elected to be utilized. In the event of a failure to elect a methodology, the Traditional Methodology shall be utilized. If the elected methodology results in a dollar amount of reimbursement that varies from the actual dollar amount the Hospital has already received as reimbursement for that year, there will be an adjustment either in the form of additional payments made to the Hospital or refunds made by the Hospital, as applicable. The party to whom reimbursement is owed shall present supporting documentation to the party from whom reimbursement is claimed, and the party from whom reimbursement is claimed, shall pay within 60 days of its agreement with the amount owed.

D. Delivery of Notice. Any notices contemplated to be delivered herein shall be in the form of United States mail, electronic facsimile, overnight courier service or hand delivery.

If to the Hospital: Chief Executive Officer
UNM Hospital
2211 Lomas Boulevard NE
Albuquerque, NM 87106
(505) 272-2121

If to IHS: Albuquerque Area Director
5300 Homestead NE
Albuquerque, NM 87110
(505) 248-4500



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EXHIBIT B

DOCUMENTATION TO BE PROVIDED

The University or Hospital shall provide the IHS and those 638 Contractors who request that they receive the same, the following listing of reports and documentation ("Documentation"), which listing is not all-inclusive and is subject to expansion, as stated in Section III-G of the Amended Consent. The University or Hospital shall provide the Documentation to the IHS as set forth herein, and to the 638 Contractors as those 638 Contractors may agree separately with the University.

1. **Annual Reports.** Attached to the cost report which the Hospital presents to the IHS on an annual basis shall be:
 - (a) The name, age, sex and community of residence of each Native American patient who utilizes any Hospital department, unit, clinic, cost center or similar facility, reflected on a monthly basis;
 - (b) A detailed itemization of the Hospital expenses associated with each cost center for which the Hospital seeks reimbursement; and
 - (c) Total Actual Adjustment amount for patients registered by the Hospital as IHS patients.

2. **Quarterly and Annual Reports.** The following shall be provided quarterly and annually, relating to Hospital inpatient and outpatient data:
 - (a) Source of referral (Albuquerque Area, Navajo Area or the particular 638 Contractor);
 - (b) Date of referral (regardless of whether the referral culminated in either an appointment or admission);
 - (c) Date of appointment or admission, as applicable;
 - (d) Number of days elapsing between referral and appointment or admission; and
 - (e) Number of such referred Native American patients who failed to be admitted to the Hospital due to lack of bed space.



Mary Herrera

Bern. Co. RRND

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