

STATE OF NEW MEXICO

County of Grant

I hereby certify that this instrument  
was filed for record on the 16  
day of DEC, A.D. 1983  
at 7:02 o'clock A M. and duly  
recorded in book 204 of the records  
of County Clerks  
at page 125-126.

With this my hand and seal of office  
Isabel Quirone

County Clerk, Grant Co. N.M.

Mayra M. Phillips Deputy

County Ordinances Bk. #204 425

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No. 25-12-15

ORDINANCE

AN ORDINANCE RELATING TO THE LEASING OF CERTAIN REAL PROPERTY  
BY GRANT COUNTY, NEW MEXICO TO THE TOWN OF SILVER CITY, NEW  
MEXICO.

SAID LEASE WILL BE DONE FOR THE PURPOSE OF PROVIDING  
LAND FOR THE CONSTRUCTION AND INSTALLATION OF CERTAIN  
BUILDINGS, EQUIPMENT, MACHINERY AND OTHER FACILITIES CON-  
STITUTING A NURSING HOME FACILITY HAVING 90 INTERMEDIATE  
CARE BEDS LOCATED ON A 3.2 ACRE SITE OWNED BY GRANT COUNTY  
AND ADJACENT TO THE GILA REGIONAL MEDICAL CENTER IN THE TOWN  
OF SILVER CITY, NEW MEXICO (THE "PROJECT"). THE NURSING  
HOME FACILITY WILL BE OWNED BY THE TOWN AND LEASED TO R. C.  
DEVELOPMENT, INC., A NEW MEXICO CORPORATION.

WHEREAS, the Town of Silver City (referred to  
herein as the "Town"), is a municipal corporation which has  
been duly organized and is validly existing and in good  
standing under the Constitution and laws of the State of New  
Mexico (hereinafter sometimes referred to as the "State") as  
a political subdivision thereof, and is authorized by the  
Act entitled "Industrial Revenue Bonds", NMSA Sections 3-32-  
1 through 3-32-16, as amended (the "Act"), to issue its  
revenue bonds to pay the cost of business activities,  
including those involving nursing homes, which activities  
involve the supplying of services to the general public, and

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to lease said facilities in order to promote the local economy and improve local health and the general welfare by inducing enterprises to supply services to the general public, including providing more adequate health care services in the State; and

WHEREAS, under the Act a project may include land, building, machinery, equipment and other property deemed necessary in connection with said project; and

WHEREAS, Grant County, New Mexico (referred to herein as the "County") is a county duly constituted and existing under the Constitution and laws of the State of New Mexico and is authorized to lease projects, which include land, for the purpose of promoting industry and trade and further to promote the local health and general welfare; and

WHEREAS, the Town passed a binding ordinance on November 21, 1983, authorizing the leasing of certain real property from the County; and

WHEREAS, on November 17, 1983 the County Commission was presented with and executed the proposed form of Ground Lease between the County and the Town, to be dated as of December 1, 1983 (the "Ground Lease") subject to the approval of the State Board of Finance; and

WHEREAS, the County has submitted the Ground Lease to the State Board of Finance for approval, which approval is reasonably expected to be received; and

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WHEREAS, the leasing of the land by the County to the Town for the construction of the Project has constituted one of the inducements whereby R. C. Development, Inc. has determined to locate the Project within the County; and

WHEREAS, the Town now requests the County to lease the land to the Town so that the Town may, pursuant to the Act and in the regular operations of such real property, normally sublease the land to R. C. Development, Inc., who in turn will construct the Project thereon, thereby promoting industry and trade, and further promoting local health and general welfare in the County; and

WHEREAS, after careful study and investigation, including statements of counsel to R. C. Development, Inc., the County, in furtherance of the public purpose for which it was created, proposes to enter into the Ground Lease listed above; as well as any other documents reasonably necessary to consummate the transactions contemplated hereby, all as hereinafter set forth;

BE IT ORDAINED BY THE COUNTY COMMISSION, THE GOVERNING BODY OF GRANT COUNTY, NEW MEXICO:

1. All action (not inconsistent with the provisions of this Ordinance) heretofore taken by the County Commission and the officials of the County directed toward the leasing of the hereinbelow described land be and the same is hereby ratified, approved and confirmed.

2. The County finds and determines that the leasing of the land described on Exhibit "A" of the Ground Lease to the Town so that in the regular operation of such real property the Town may normally sublease the land to R. C. Development, Inc. for the construction of the Project, all as hereinafter provided, will serve public purposes in that the leasing thereof by the County as aforesaid, and the construction of the Project, will promote industry, trade, local health and general welfare to the general public by causing R. C. Development, Inc. to construct a nursing home facility having 90 intermediate care beds in Grant County, New Mexico, will result in the creation of approximately the equivalent of 45 full-time new jobs in Grant County, New Mexico, and will further promote the local economy and improve local health and the general welfare by inducing enterprises to provide more adequate health care services in the State.

3. The Ground Lease will provide for a term of fifty (50) years commencing as of December 1, 1983, and continuing until November 30, 2033. Monthly rent is the amount of Three Hundred Sixty-Five Dollars (\$365.00) will be paid to the County commencing on December 1, 1983 and continuing through November 30, 1986, at which time the monthly rent will be increased pursuant to a formula provided for in the Ground Lease which is premised on changes in the Consumer

Price Index, All Items, Urban Area, as published by the United States Department of Labor. Such rent, when computed on an annual basis, is equal to or greater than five percent (5%) of the appraised value of the land. The County shall be the "Lessor" and the Town shall be the "Lessee" under the Ground Lease.

4. The form, terms and provisions of the Ground Lease in the form of such document as presented at the November 17, 1983 meeting and at the meeting at which this Ordinance was adopted, be, and they hereby are, approved and incorporated herein by reference; and the Chairman of the County Commission is hereby authorized and directed to execute and deliver and the Clerk of the County is hereby authorized and directed to affix and attest the seal of the County to the Ground Lease in substantially the form so submitted, with such changes, insertions or omissions as may be approved by the Chairman of the County Commission, whose approval thereof shall be conclusively evidenced by his execution of each such instrument.

5. The officers of the County shall take all action necessary or reasonably required by the parties to the Ground Lease to effectuate its provisions and shall take all action necessary to consummate the transactions contemplated by this Ordinance, and the Ground Lease, including without limitation the execution and delivery of any other incidental

documents to be delivered in connection with the leasing of the land to the Town, all of which actions are hereby ratified, approved, and confirmed.

6. Nothing contained in this Ordinance nor in the Ground Lease, nor any other instrument shall be construed as obligating the County except with respect to the covenants of the Ground Lease, nor as incurring a pecuniary liability or a charge upon the general credit of the County or against its taxing powers, nor shall the breach of any agreement contained in this Ordinance, the Ground Lease, or any other instrument, impose a pecuniary liability upon the County or a charge upon its general credit or against its taxing powers, the County having no power to pay out of its general funds, or otherwise contribute any part of the costs of constructing and equipping the Project, nor power to operate the Project as a business or in any manner except as lessor thereof.

7. If any section, paragraph, clause or provision of this Ordinance shall for any reason be held to be invalid, or unenforceable, the invalidity or unenforceability of such section, paragraph, clause or provision shall not effect any of the remaining provisions of this Ordinance.

8. All bylaws, orders, resolutions, and ordinances, or parts thereof, inconsistent herewith are hereby repealed to the extent only of such inconsistency. This repealer

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shall not be construed as revising any bylaw, order, resolution or ordinance or part thereof.

9. This Ordinance, immediately upon its final passage and approval, shall be recorded in the Ordinance Book of the County kept for that purpose and there be authenticated by the signature of the Chairman of the County Commission and County Clerk, and shall be published in a newspaper of general circulation in the County and shall be in full force and effect thirty days after such publication.

PASSED, ADOPTED, SIGNED AND APPROVED THIS 15th

DAY OF Dec., 1983.

Chairman  
County Commission

ATTEST:

County Clerk

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