GRANT COUNTY
BOARD OF COUNTY COMMISSIONERS
RESOLUTION NO. R-16-62

A RESOLUTION APPROVING THE EXECUTION OF A BUILDING LEASE AGREEMENT BETWEEN GRANT COUNTY AND HIDALGO MEDICAL SERVICES

WHEREAS, the Board of Grant County Commissioners recognizes that substance abuse has been a significant problem in Grant County for years and that there is a lack of adequate comprehensive substance abuse treatment in Grant County; and

WHEREAS, the County awarded a Request for Proposals for Operation of Coordinated Adult Substance Abuse Center, RFP No. 15-01 ("RFP") to Hidalgo Medical Services ("HMS") on November 12, 2015;

WHEREAS, the RFP provided that the County would provide the building in which the adult substance abuse center would operate;

WHEREAS, Grant County has completed the design of an 8,250 square foot chemical dependency continuum of care facility and estimates that construction will begin in early 2017;

WHEREAS, Grant County and HMS desire to enter the attached Building Lease Agreement Between Grant County and Hidalgo Medical Services; and

WHEREAS, the Lease will not become effective until approved by the New Mexico State Board of Finance.

NOW THEREFORE, BE IT RESOLVED, that the Board of Grant County Commissioners hereby approves the execution of the attached Building Lease Agreement Between Grant County and Hidalgo Medical Services, which will become effective only upon approval by the New Mexico State Board of Finance.

APPROVED, ADOPTED, AND PASSED on this 15th day of December 2016.

GRANT COUNTY BOARD OF COMMISSIONERS:

Brett Kasten, Chairman

Ron Hall, Member

Gabriel Ramos, Member

[SEAL]

ATTEST:

Robert Zamarripa, County Clerk

BUILDING LEASE AGREEEMENT BETWEEN GRANT COUNTY AND HIDALGO MEDICAL SERVICES

THIS BUILDING LEASE AGREEMENT (hereinafter "Lease" or "Agreement") is hereby entered into by and between the County of Grant, New Mexico ("County" or "Lessor"), whose physical address is 1400 Highway 180 East, Silver City, NM 88061, and Hidalgo Medical Services ("HMS" or "Lessee"), a New Mexico non-profit, whose physical address is 530 DeMoss Street, Lordsburg, NM 88045.

1. **Recitals.**

A. The Town of Silver City, New Mexico leases a tract of land located in Grant County, New Mexico, as further described in the attached Exhibit A, from the New Mexico Commissioner of Public Lands pursuant to a Business Lease, No. BL-2342 (attached as Exhibit B), dated January 28, 2016, for a term of twenty-five (25) years.

B. Grant County is the Sub-Lessee of the tract of land described on Exhibit A, pursuant to a Sublease of Certain Leased Real Property and the Right to Make Improvements Thereupon From the Town of Silver City to the County of Grant ("Sublease"), dated October 17, 2016 (attached as Exhibit C), for a twenty-five (25) year term.

C. The Sublease permits the County to construct and operate a new chemical dependency continuum of care facility on the subleased property, subject to the terms of the Business Lease, No. BL-2342 and in accordance with the approved Application to Make Improvements issued by the State of New Mexico Land Office (attached as Exhibit D).

C. The County desires to lease the constructed chemical dependency continuum of care facility and its related improvements (hereinafter the "Premises") to HMS, and HMS, having demonstrated a history of service to sick and indigent persons in Grant County, desires to lease from the County, the Premises as depicted on the Site Overview Plan (attached as Exhibit E) in order to operate an adult substance abuse center.

2. **Term.** The term of this Lease shall be for twenty-four (24) years and shall commence upon the date of the last signature by the parties entered below, unless terminated earlier as provided herein.

3. **Rent.** The rent for the Premises shall be provided by HMS as follows:

   A. **Annual Rent.** HMS will pay the County an annual rent of One Hundred and Thirty-Two Thousand Dollars ($132,000) for the Premises, payable as set forth in Exhibit F attached hereto and incorporated herein. The first year shall be prorated. A market appraisal of the rental value of the Premises shall be conducted by the County every ten (10) years of the term of this Lease and the rent adjusted accordingly.

   B. **Commencement of Rent Payments.** Rent shall not become due under this lease until HMS takes occupancy of the Premises. HMS shall take occupancy of the Premises no later than the first day of the third full month following issuance of the certificate of occupancy, unless the parties agree otherwise in writing.

4. **Use of Premises.** HMS shall use the Premises for clinical and administrative uses for addiction recovery services by the HMS that include services to sick and indigent persons in Grant County. HMS shall not create a nuisance on the Premises. HMS shall use the Premises at all times in compliance with all applicable federal, state and local laws and regulations and only after all necessary permits or licenses have been obtained.

5. **Utilities.** HMS agrees to pay all utilities, in ready and available funds, including but not limited to water, sewer, refuse, electricity, gas, and telephone, whether or not such payments are made to the respective utility companies or to the County. In addition, HMS shall pay for all of itsjanitorial services and needs.

6. **Insurance.** HMS shall procure and maintain in force a policy of general commercial liability insurance, during the term of this Lease.

   A. All insurance documents must include a provision for thirty (30) days written notification to the County Manager, P.O. Box 898, Silver City, NM 88062, if any required policy has been materially changed orcancelled.

   B. The County shall be added as an additional insured and will be written on an occurrence form, and shall provide limits as follows:

      1) Commercial General Liability $1,050,000 combined single limit per occurrence

      2) Damage to Rented Premises $500,000

C. HMS shall furnish a copy of the Certificates of Insurance herein required, which shall specifically set forth evidence of all coverage required under this Lease. HMS shall furnish to the County copies of any endorsements that are subsequently issued amending coverage or limits.

D. If, during any term of this Lease, the Legislature of the State of New Mexico increases the maximum limits of liability under the Tort Claims Act, the County may require HMS to increase the limits of such insurance by notice to HMS. Evidence of a policy increasing the limits and complying with all requirements of this paragraph 6 shall be provided to the County within thirty (30) days of such notification.

7. **Indemnification.** HMS shall promptly defend, indemnify and hold harmless the County, their officers, employees and agents against liability, claims, damages, losses or expenses arising out of bodily injury to person, including death, or damage to property caused by or resulting from the negligent acts or omissions of HMS and/or its officials, agents or employees arising out of or relating to the obligations and conditions of this Lease or out of HMS's use, activities on or occupation of the Premises. HMS shall not be required to indemnify the County for any negligent or intentional acts or omissions of the County or any of its officials, employees and/or agents. Any liability of the County shall be in all cases subject to the immunities and limitations of the New Mexico Tort Claims Act, Section 41-4-1, et seq., NMSA 1978, as amended.

8. **Repair and Maintenance.** The County will maintain the roof, mechanical and electrical systems, HVAC systems, foundation, building exterior and plumbing of the building. HMS will maintain the interior of the building except to the extent the County is obligated to do so pursuant to the preceding sentence. HMS shall at its sole cost and expense provide day-to-day maintenance and shall repair or replace any damages caused by HMS, its employees or invitees to the Premises (even if the damage is to a part of the Premises which the County is required to maintain) promptly upon approval for such repairs from the County. All such repairs and replacements shall be at least equal in quality of materials and workmanship to the original work.

9. **Alterations and Improvements.** HMS shall not make any alterations, improvements, additions or structural changes to the Premises, other than those required for the day-to-

day maintenance of the Premises, without the prior written consent of the County, which shall be contained in a separate written agreement regarding any such improvements.

10. **Mechanic's Liens.** HMS further agrees to remove any mechanic's liens placed on the Premises as a result of work it has procured within five (5) business days of notice of the lien and will indemnify the County for the same. Any improvements made by HMS in the nature of fixtures shall become the property of the County at the termination of the Lease.

11. **Taxes.** HMS shall pay any and all taxes and levies assessed upon any personal property, fixtures and improvements belonging to HMS and located upon the Premises, and all leasehold and possessory interest taxes with respect to the Premises, levied or assessed by any proper taxing authority.

12. **Signs and Personal Property.** HMS may place signs on the Premises only with advance approval of the County, provided however that all such signs shall conform to applicable law. All personal property, *e.g.* signs and improvements of HMS, its employees, agents, customers and invitees, kept on the Premises shall be in furtherance of the use of the Premises as permitted under this Lease, and at the sole risk of HMS, and the County shall not be liable for any damages thereto.

13. **Non-Discrimination.** HMS, with respect to employment of staff and to those persons using the Premises and/or receiving services from HMS, shall not discriminate unlawfully with respect to race, sex, national origin, age, religion, sexual orientation or any other class protected against discrimination by applicable local, state or federal laws.

14. **Hazardous Materials.** HMS will neither cause nor permit any Hazardous Material (defined below) to be brought upon, kept or used in or about the Premises.

    A. In the event of HMS's breach of the foregoing covenants, HMS accepts and affirms full liability and responsibility for all costs and expenses related to, and indemnifies the County from and against any liability or damages related to:

        1.) any investigation of the Premises for the presence of Hazardous Materials alleged to have been brought, used or disposed of on the Premises by HMS and

        2.) the Hazardous Material clean-up, removal or restoration of the Premises required by a federal, state or local governmental agency.

    B. HMS's responsibilities and indemnity under this Lease will survive

the expiration or termination of this Lease.

C. As used herein, the term "Hazardous Material" means a substance the release of which on the Premises would necessitate an environmental response action under any federal, state, county or municipal law, whether now in effect or enacted in the future, and includes without limitation asbestos in any form, formaldehyde, transformers or other equipment which contain fluid containing polychlorinated biphenyls, any petroleum product in non-regulated bulk storage containers, radon, or any other chemical, material or substance which is defined or classified as hazardous or toxic or the exposure to which is prohibited, limited or regulated by any federal, state, county, regional or local authority having jurisdiction.

15. **Assignment or Subletting.** HMS shall not assign this Lease or sublet the whole or any part of the Premises.

A. HMS shall not assign, transfer or convey, either voluntarily or involuntarily, this Lease, or any interest in this Lease and this Lease may not be assigned, hypothecated or mortgaged by HMS, and any attempted assignment, subletting, hypothecation or mortgaging of this Lease shall be void, and shall be of no force or effect, and shall confer no rights upon any assignee, sub-lessee or mortgage pledgee.

B. In the event that HMS shall become incompetent, bankrupt or insolvent, or should a trustee or receiver be appointed to administer HMS's business or affairs, neither this Lease nor any interest in this Lease shall become an asset of HMS's bankruptcy or other estate, or of any guardian, trustee, or receiver, and in the event of the establishment of such estate and the appointment of any such guardian, trustee, or receiver, this Lease shall immediately terminate and end.

16. **County's Access to Property.** The County will have free access to the Premises at all reasonable times for the purpose of examining the Premises, to determine if HMS is performing this Lease, and to post such reasonable notices as the County may desire to protect the rights of the County. However, the County's access will be consistent with HMS's privacy obligations to its clients, in connection with applicable federal, state and county laws and HMS's operations and the County will provide reasonable prior notice of such access unless in the case of an emergency.

17. **Termination**. This Lease may be terminated without cause by either party upon ninety (90) days written notice to the other. By such termination, neither party may nullify obligations already incurred for performance or failure to perform prior to the date of termination.

18. **Surrender Upon Termination**. At the expiration of any term of this Lease or upon termination, HMS shall surrender the Premises, including all existing and any subsequently approved improvements, to the County in as good a condition as it was in at the beginning of the term, reasonable use and wear excepted.

19. **Notices**. All notices and other communications given as provided in this Lease will be in writing, and, unless otherwise specifically provided in this Lease, will be deemed to have been given if delivered in person, or sent by a nationally recognized overnight courier service, or mailed by certified or registered mail, postage prepaid, and addressed to County or HMS at the following addresses, unless either the County or HMS changes their address(es) by giving written notice of the change to the other. The addresses for notice are:

A. **Notice to the County:**

Grant County Manager
1400 Highway 180 East
PO Box 898
Silver City, NM 88062

B. **Notice to HMS:**

Hidalgo Medical Services
Dan Otero, CEO
530 DeMoss Street
Lordsburg, NM 88045

20. **Waiver**. No waiver of any default as provided in this Agreement or delay or omission in exercising any right or power of the County or HMS will be considered a waiver of any other default as provided in this Lease. The exercise of or failure to exercise any one of the rights and remedies of the County or HMS as provided in this Lease will not be deemed to be instead of, or a waiver of, any other right or remedy as provided in this Lease.

21. **Entire Agreement**. This Lease constitutes the entire agreement of the County and HMS relating to the subject matter hereof and supersedes all previous agreements, written or oral, between the County and HMS on such subject.

22. **Partial Invalidity**. If any term of this Lease, or the application of the term to any person or circumstance is, to any extent, invalid or unenforceable, the remainder of this Lease, or the application of the term to persons or circumstances other than those as to which the term is held invalid or unenforceable, will not be affected by the application and each term of the Lease will be valid and be enforced to the fullest extent permitted by law.

23. **Sublease Mortgages.** Center may not grant a collateral assignment, deed of trust, mortgage or other security interest in its interest in this Lease or as to any improvements to any person or entity.

24. **Fixtures.** Except as otherwise provided herein, HMS shall have the right to install such fixtures and equipment as may be necessary for the conduct of its business. Upon termination of this Lease, all fixtures shall remain affixed to the Premises and shall become the property of the County, except for HMS's equipment purchased by it that can be removed without damage to the Premises.

25. **Damage or Destruction of Premises.** If, at any time during the term hereof, any of the Premises are damaged or destroyed by fire, the elements or other causes, said Premises may be repaired and rebuilt and restored by the County to a condition as good as it was immediately prior to such damage or destruction, using any insurance funds toward such expense and in accordance with all laws, regulations and ordinances of all governmental authorities having jurisdiction. The County may authorize or direct construction of an alternate structure, or may elect to retain insurance proceeds or other funds if it deems reconstruction or construction of a substitute to be impractical or unreasonable. In the event reconstruction or construction of a substitute is deemed impractical or unreasonable by the County, this Lease Agreement shall terminate with no further obligation on the part of the County. All warranty items and major structural problems arising from either construction/design or natural causes shall be repaired by the County within 30 days or repairs started within 30 days if it cannot be completed within 30 days of notification by the County that such condition exists.

26. **Sovereign Immunity.** No provision of this Lease modifies or waives any sovereign immunity or limitation of liability enjoyed by the County or their public employees at common law or under the New Mexico Tort Claims Act, NMSA (1978) §41-41-1, *et seq.*

27. **Miscellaneous.** This Lease is governed by and will be construed according to the laws of the State of New Mexico and binds the successors, transferees and assigns of the parties. This Lease, between the County and HMS may be amended only in writing signed by both parties.

28. **State Approval.** This Lease shall not be binding or effective until approved by the State Board of Finance.

29. **Compliance with Laws.** HMS agrees to comply with all laws, ordinances, rules and regulations which may pertain or apply to the Premises and the use thereof.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the date of the last signature by the parties entered below.

LESSOR:
GRANT COUNTY, NEW MEXICO

Brett Kasten, Chairman,
Board of County Commissioners

Date: December 15, 2016

LESSEE:
HIDALGO MEDICAL SERVICES

_____

_____
Title

Date:_____

APPROVED as to Form:

Abigail E. Robinson,
County Attorney

Attest:

Robert Zamarripa
County Clerk

Date: December 15, 2016

APPROVED:
NEW MEXICO BOARD OF FINANCE

_____

Date:_____

IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the date of the last signature by the parties entered below.

LESSOR:
GRANT COUNTY, NEW MEXICO

_____
Brett Kasten, Chairman,
Board of County Commissioners

Date: _____

LESSEE:
HIDALGO MEDICAL SERVICES

Daniel Otero
Chief Executive Officer
Title
Date: 12/21/2016

APPROVED as to Form:

_____
Abigail E. Robinson,
County Attorney

Attest:

_____
Robert Zamarripa
County Clerk

Date: _____

APPROVED:
NEW MEXICO BOARD OF FINANCE

_____

Date: _____

EXHIBIT A

Legal Description of Parcel

EXHIBIT A

The Lease Premises

(BL-2342)

A tract of land situated in the NW¼NE¼ of Section 36, Township 17 South, Range 14 West, N.M.P.M., Grant County, New Mexico, being described more particularly as follows:

Beginning at Corner No. 1, a point from whence the North Quarter Corner of said Section 36 bears N64°47'29"W, 455.65 ft. distant;

Thence N78°02'30"E for 400.00 ft. to Corner No. 2;
Thence S11°57'30"E for 435.60 ft. to Corner No. 3;
Thence S78°02'30"W for 400.00 ft. to Corner No. 4;
Thence N11°57'30"W for 435.60 ft. to the Point of Beginning.

Said tract contains 4.000 acres, more or less.

EXHIBIT B

Business Lease No. BL-2342

Aubrey Dunn, Commissioner of Public Lands
State of New Mexico

BUSINESS LEASE

LEASE NO. BL-2342

THIS LEASE ("Lease") is entered into by and between the New Mexico Commissioner of Public Lands, the acting trustee for the Enabling Act Trust established in the Act of June 20, 1910, 36 Stat 557, ch. 310. ("Lessor") and **Town of Silver City,** whose address is **P. O. Box 1188, Silver City, NM 88061** ("Lessee"), pursuant to NMSA 1978, § 19-7-55 and State Land Office Rule 19.2.2 NMAC and is effective as of the 28th day of January, 2016 (the "**Effective Date**).

1. CERTAIN DEFINITIONS.

A. **Approval** means written approval and includes only that which has been expressly approved and not anything further which might be implied.

B. **Fee Schedule** means the schedule of business or commercial lease fees and costs validly promulgated by Lessor from time to time.

C. **Ground Disturbance Permit** means a letter from Lessor authorizing construction of Improvements after Lessee satisfies all applicable specified conditions of this Lease and obtains all required approvals from government agencies required before the start of construction.

D. **Hazardous Material** includes, but is not limited to, oil, petroleum products, explosives, PCBs, asbestos, formaldehyde, radioactive materials or waste, or other hazardous, toxic, or contaminated materials, substances, or wastes, including without limitation any substance, waste, or material which is defined or listed as a "hazardous substance," "hazardous water," "hazardous material", "toxic substances", or "regulated substance", or which is otherwise controlled or regulated because of its toxicity, infectiousness, radioactivity, explosiveness, ignitability, corrosiveness, or reactivity, under any federal, state, or local laws, ordinances, or regulations relating to landfills, industrial hygiene, environmental protection, or the manufacture, use, generation, presence, analysis, transportation, handling, storage, treatment, or disposal of any such material, substance, or waste.

E. **Holding Over** means, upon the expiration or cancellation of this Lease, any act or conduct of Lessee or a sublessee, including, but not limited to, the unapproved entry upon, occupancy or use, whether continuous or not, of all or any part of the Lease Premises by Lessee, Lessee's agents, or by any unauthorized improvements.

F. **Improvements** means any item of tangible personal property developed, placed, or constructed by Lessee on the Lease Premises, including, but not limited to, buildings, private roadways, and permanent equipment and fixtures.

G. **Improvement Value Credit** is a credit approved by the Lessor to be paid to Lessee by a subsequent lessee, purchaser, or other third party, except Lessor, which is a successor in interest to Lessee other than as a result of an assignment, permit or Sublease by Lessee, for the market value of tangible Approved Improvements (as defined in Section 11). A State certified real estate appraiser, working cooperatively and at Lessee's expense with a qualified valuation expert employed by one of the "Big Four" international public accounting firms, shall determine the market going concern value of such Approved Improvements as part of a proven property operation. The appraisal shall be submitted to Lessor for review and approval. Lessor reserves the right reasonably to modify or reject any such appraisal, and the amount, if any, of any Improvement Value Credit shall rest in Lessor's final reasonable discretion.

H. **Lease Premises** means the real property located in Grant County, New Mexico, more particularly described in Exhibit A, attached hereto and incorporated herein, and any additional real property at any time and from time to time made part of the Lease Premises by the written agreement of Lessor and Lessee.

I. **Lease Year** means the period beginning at midnight on an anniversary of the Effective Date and ending at midnight on the next following anniversary of the Effective Date.

J. **Monthly; Annual.** "Monthly" refers to calendar months. "Annual" means a calendar year.

K. **Rent** means (i) Annual Rent, as provided for in Section 6 and (ii) all other amounts described as "Rent" in this Lease.

L. **Sublease** means a transaction or arrangement whereby Lessee transfers to another either the use or possession of all or part of the Lease Premises or the management and control of all or part of the Improvements while remaining primarily liable for the performance of all Lease terms.

M. **Trust** refers to the Trust established by the Enabling Act for New Mexico (Act of June 20, 1910, 36 Statutes at Large 557, Chapter 310) and related statutes and laws, pursuant to which Lessor holds and manages lands, which include the Lease Premises.

2. LEASE.

A. For consideration, Lessor hereby leases to Lessee that tract of land located in **Grant County, New Mexico** and described in **Exhibit A** attached to and incorporated into this Lease, subject to all matters of record at the State Land Office or in the real property records of the County Clerk of Grant County. Lessee may at any time and from time to time relinquish all or any part or parts of the Lease Premises by furnishing Lessor with (i) a written notice of relinquishment, (ii) if less than all of the Lease Premises is being relinquished, a survey of the part or parts of the Lease Premises being relinquished, (iii) a Phase One and Phase Two Environmental Assessment pursuant to Section 17(B) and (iv) a relinquishment fee of $50.

B. The real property records of Lessor accurately reflect the state of title to the Lease Premises.

C. This Lease includes, as additional terms, the provisions of all applicable State Land Office rules currently in effect and published in the New Mexico Administrative Code ("NMAC"), including, without limitation, Rule 19.2.9 NMAC.

3. SUBLEASE. Lessee may sublease the Lease Premises for purposes consistent with this Lease with Approval of Lessor, which Approval will not be unreasonably conditioned, delayed or withheld. Lessor will agree to reasonable amendments to this Lease that are not inconsistent with the best interests of the Trust to accommodate subleasing.

4. TERM; SALE BY LESSOR; RENEWAL.

A. The term of this lease shall begin on the **Effective Date** of this lease and end at midnight **prior to the twenty-fifth (25th) Lease Anniversary (the "Term")** unless terminated or canceled earlier as herein provided. Nothing in this Lease shall limit Lessor's right to sell or exchange the Lease Premises during the Term as provided in Section 8. Any such sale or exchange, absent Lessee's express written agreement to the contrary, shall be subject to this Lease.

B. Prior to the end of the Term, Lessee may apply for a renewal of this Lease on such forms as Lessor may require or provide. If Lessor determines in Lessor's sole discretion that renewal is in the best interests of the Trust and Lessee agrees upon the terms for renewal offered by Lessor, Lessor shall grant a new lease to Lessee upon such terms.

5. HOLDING OVER. If Lessee or a sublessee holds over for any purpose after the end of the Term and this Lease is not renewed, Lessee shall pay Lessor Rent for each day or any part of a day of such Holding Over in an amount equal to two hundred percent (200%) of the pro rata Annual Rent due under this Lease for one (1) day of the immediately preceding Lease Year. Nothing contained herein shall be construed as a grant to Lessee of the right without the prior written Approval of Lessor to hold over or otherwise enter the Lease Premises for any purpose after the expiration or cancellation of this Lease.

6. ANNUAL RENT. Lessee shall pay to Lessor the annual rental for the leased premises and for the rights and privileges granted hereunder due for the first year of the Term on the Effective Date and every year thereafter on the anniversary of the Effective Date. The Rent for the first year of the Term shall be **Fifteen Thousand Two-Hundred Sixty Dollars ($15,260.00)**. Thereafter, the Rent shall increase by Three Percent (3%) per year of the Term, rounded to the next highest One Dollar ($1.00). The Rent for each year of the Lease is set forth in **Exhibit B.** Time is of the essence in the performance of this agreement. Interest on delinquent rent payments shall accrue from the date the payment becomes due at the rate of one percent a month or any fraction of a month. Lessee shall also pay a late processing fee of **$50.00** for any delinquent payment of rent, in accordance with the Lessor's schedule of fees.

7. RECEIPT OF MONIES.

A. No receipt of monies, including but not limited to Rent, by Lessor from Lessee, or any other person acting for or on Lessee's behalf, after expiration or cancellation of this Lease shall reinstate, continue or extend the Term, affect any notice previously given to Lessee, operate as a waiver of Lessor's right to enforce payment of any Rent or other monies due or thereafter falling due, or operate as waiver of the right of Lessor to recover possession of the Lease Premises by legal action. Lessor and Lessee agree that after (i) commencement of any such legal action or (ii) a final order or judgment for

possession by Lessor of the Lease Premises or establishing Lessor's rights and remedies, Lessor may demand, receive and collect any monies due without affecting such notice, legal action, order or judgment. All such monies collected shall be deemed to be payments on account of Lessee's obligations under this Lease.

B. Lessee understands that Lessor's receipt of any monies is governed by statute and the related regulations. Lessee agrees that Lessor's negotiation of Lessee's check or other means of payment, and crediting the proceeds of such instrument to a suspense account, does not constitute acceptance of Lessee's payment. A payment shall not be deemed made until it is accepted in accordance with the statutes and regulations which govern Lessor's operations.

C. Lessor shall have the right to apply any payments made by Lessee to satisfy Lessee's debt or obligation to Lessor at Lessor's sole discretion, and without regard to Lessee's instructions as to the application of any such payment or part thereof, whether such instructions are endorsed on Lessee's check or otherwise, unless Lessor and Lessee otherwise agree, in writing, before Lessor accepts such payment. Lessor's acceptance of a check or payment by Lessee or others on Lessee's behalf shall not in any way, affect Lessee's liability hereunder nor be deemed an approval of any assignment, permit or Sublease of this Lease.

8. SALE. At any time, Lessor may, in its sole discretion and in accordance with applicable statutes and regulations, offer to sell or exchange the Lease Premises, or any part or parts thereof, to the highest bidder, subject to all of the terms and conditions of this Lease, and any Approved Sublease or assignment, or permit approved by Lessor in accordance with this Lease. In the event Lessor decides to make such an offer, Lessor shall give Lessee at least sixty (60) days prior written notice of the proposed sale or exchange, which 60-day period shall not be in addition to any statutorily required notice period. Lessee may bid at such sale or exchange, provided Lessee (i) is not in default under this Lease and (ii) complies with the bid requirements established by Lessor pursuant to applicable statutes and regulations and this Lease. In the event that Lessee bids to acquire the Lease Premises or the part or parts thereof offered at such a sale or exchange, it shall be given credit in its bid and the purchase price for an amount equal to the Improvement Value Credit. If all or any part of the Lease Premises is sold or exchanged to any person or entity other than Lessee, such person or entity shall before Lessor issues any patent or deed to it, and unless Lessee executes and delivers to such person or entity a bill of sale for such Improvements, pay the Improvement Value Credit in cash to Lessor who shall, after deducting any Rent, costs and damages owed by Lessee to Lessor, promptly pay the balance thereof to Lessee. If Lessee acquires all or any part or parts of the Lease Premises at such a sale or exchange, it may elect to terminate this Lease by giving Lessor written notice of termination. Nothing in this Lease shall be interpreted to grant Lessee a right or an option, no matter how described or denominated, to acquire the Lease Premises or any part or parts thereof except pursuant to this Section 8, in the event Lessor decides to sell or exchange the same.

9. RESERVATIONS; NEGATIVE EASEMENT.

A. Lessor reserves the right to execute leases for mining purposes, including, but not limited to, the exploration, development, conservation, and production of geothermal resources, oil, natural gas, and any other minerals, natural resources, or deposits of whatsoever kind, located in, under, or upon the Lease Premises. Lessor further reserves all rights of access, ingress and egress over, through, or across the Lease Premises that are or may become necessary to such exploration, development, conservation or production.

B. Lessor further reserves the right to grant rights-of-way and easements over, upon, or across the Lease Premises for any legal purpose whatsoever, including, but not limited to, utilities, public highways, railroads, tramways, telephone, telegraph, and power lines, irrigation works, conservation, environmental or remediation studies or work, sewer lines, drainage ditches, mining, or logging. Any such right-of-way or easement shall be located to avoid interference with Permitted Uses, as defined in Section 10.A.

C. At the request of Lessee and upon payment by Lessee to Lessor of such additional fee as is agreed upon by Lessor and Lessee, Lessor shall (i) grant a negative easement to Lessee, (ii) subject all or any part or parts of the Lease Premises to land and use restrictions and conditions, or (iii) by some other means acceptable to Lessor and Lessee, agree not to exercise the rights reserved in Section 9.A and/or Section 9.B during the Term.

10. PERMITTED USES; FENCES.

A. Subject to the terms and conditions of this Lease, Lessee shall use the leased premises for the sole and exclusive purpose of: **Develop structure, access, parking and landscaping for operation and maintenance of a new chemical dependency continuum of care facility serving Grant County.** No other uses shall be permitted.

B. Lessor and Lessee acknowledge that, due to the long Term, additional or new Permitted Uses not currently anticipated may become necessary or desirable. Lessor and Lessee will negotiate diligently and in good faith to amend this Lease and any other documents and agreements as may be necessary or desirable to reasonably authorize and facilitate such additional or new Permitted Uses as Lessor finds to be in the best interests of the Trust.

C. Lessor and Lessee acknowledge that Lessor is not subject to any municipal or county ordinances and regulations that may on the Effective Date or thereafter regulate zoning and use of the Lease Premises. Nevertheless, Lessor and Lessee agree that such ordinances and regulations may provide appropriate guidelines for the use of the Lease Premises and, therefore, shall be complied with by Lessee, including permit requirements imposed under such ordinances and regulations, except where Lessor deems the same in conflict with the best interests of the Trust. Lessor and Lessee shall cooperate and use their best efforts to obtain any and all appropriate governmental approvals, including state, county and municipal approvals, as may be necessary or advisable, to facilitate Lessee's use of the Lease Premises. This Section 10.C shall not, however, grant to any third party or to any government or municipal agency, the right to enforce this Section 10.C.

11. IMPROVEMENTS.

A. Subject to the restrictions set forth in Clause 10., **"PERMITTED USES"**, above, Lessee shall make, or cause to be made, only the following improvements (the "Improvements"):

Those necessary for and incidental to a facility as shown on the "Proposed Site Plan" as Exhibit C, attached to and incorporated into this Lease by reference and including:

8,000 sq.ft. building
Utilities
Parking Lot and Landscaping

In connection with Permitted Uses, Lessee shall have the right from time to time and at any time to develop, construct or place Improvements on the Lease Premises. Improvements developed, constructed or placed on the Lease Premises in accordance with this Section 11 are called "Approved Improvements". Prior to the start of construction of any Improvements, Lessee shall furnish to Lessor a written master plan ("Master Plan") describing the Improvements. Lessee may at any time and from time to time amend the Master Plan by furnishing to Lessor a written amendment thereof. Lessor shall not unreasonably delay, condition or withhold approval of the Master Plan or any amendment thereof. Except as provided in Section 10.C, Improvements consistent with the Master Plan shall be constructed in accordance with applicable laws.

B. If Lessee constructs any improvements in violation of Section 11.A, Lessor may elect to (i) deem such improvements abandoned and forfeited to Lessor at the cancellation or expiration of this Lease, (ii) require Lessee to obtain Lessor's Approval of such improvements and pay all such reasonable fines and costs of Lessor as Lessor deems appropriate, or (iii), by written notice to Lessee, order the removal of such improvements and the restoration of the Lease Premises to its condition existing prior to the placement of such improvements, all at Lessee's sole expense and at such time as Lessor may reasonably direct. The foregoing rights of Lessor shall be cumulative to Lessor's other rights and remedies.

C. Lessee shall diligently, and at its own expense, maintain and protect from waste and trespass the Lease Premises and the Improvements.

D. The Approved Improvements and the Improvement Value Credit shall, unless Lessor and Lessee otherwise expressly agree in writing, be and remain Lessee's property. The interests of Lessee in, to and under this Lease shall be personal property interests. If under the terms of this Lease or any related agreement, Improvements are to remain on the Lease Premises after termination or relinquishment pursuant to Section 12, relinquishment pursuant to Section 13, or cancellation pursuant to Section 19, the subsequent lessee or purchaser of all or any part of the Lease Premises (but not under any circumstances Lessor) shall pay to Lessee an amount equal to the Improvement Value Credit. Upon such payment, such subsequent lessee or purchaser shall become the owner of such Improvements.

E. Improvements must be covered by liability insurance consistent with industry standards. Lessee shall at Lessor's request provide copies of the policy or policies of such insurance and all renewals thereof to Lessor. Lessor may, upon reasonable written notice to Lessee, require an increase in the amount of any such policy in keeping with Lessor's reasonable determination of increased liability.

F. Any documents, whether on paper or in magnetic, electronic or other format, relating to the development of Improvements, including but not limited to, all analyses, appraisals, approvals, contracts, drawings, lists, manuals, permits, plans, plats, reports, schematics, and studies, but excluding documents containing proprietary information, shall be provided to Lessor upon Lessor's written request.

12. IMPROVEMENT REMOVAL.

A. Unless (i) otherwise specified in this Lease, or (ii) Lessee subsequently purchases all or any part or parts of the Lease Premises, upon relinquishment or cancellation of this Lease or with any new Lease granted pursuant to Section 4.B, Lessee shall (a) at its sole expense remove all Improvements as Lessee desires or as Lessor may direct in writing, and (b) leave the Lease Premises in a reasonably safe condition. All Improvements not removed shall become the property of Lessor.

(1) If any Improvements that Lessee desires to remove or is required to remove have not been removed by the date this Lease is relinquished or cancelled, Rent will continue at the rate in effect on such date. Lessor may, in Lessor's sole discretion, waive this requirement if and after Lessee provides written notice of its desire for a new lease at least six (6) months prior to the end of the Term and Lessee is in compliance with the terms and conditions of this Lease.

(2) If Lessor and Lessee have so agreed, either in this Lease or in another authorized writing, that specified Improvements shall remain in place, Lessee shall provide to Lessor, no later than the end of the Term, satisfactory evidence that such Improvements have been paid for, including but not limited to waivers of mechanic's and materialmen's liens thereon and releases of any security interests or other liens therein or thereon.

B. Notwithstanding the provisions of Section 12.A, no Improvement shall be removed from the Lease Premises without Lessor's prior Approval if Lessee owes Rent or any other sums to Lessor or if any material duties owed by Lessee under this Lease remain unperformed. Approval of the removal of improvements will not be unreasonably conditioned, delayed or withheld,

C. Lessor may require in writing that specified unauthorized improvements be left in place during the Term.

D. Any Improvements left on the Lease Premises without Lessor's prior Approval, which shall not be unreasonably conditioned, delayed or withheld, for a commercially unreasonable period of time following the end of the Term and any renewal thereof, shall remain the sole property and liability of Lessee and shall constitute a nuisance until they are removed or abandoned as set out in Section 12(D)(2) or (3). Lessor may elect to:

(1) leave such Improvements in place and permit Lessee to retain the right to compensation for such Improvements from a subsequent lessee or purchaser pursuant to Section 11;

(2) take such action as is necessary to abate such nuisance, with all costs and fees incurred in so doing to be additional Rent due from Lessee under the terms of this Lease or any renewed lease; or,

(3) declare, by written notice to Lessee, such Improvements abandoned, at which time they shall become the property of Lessor.

E. All costs, fines, and fees incurred by Lessor as a result of (i) Improvements being left on the Lease Premises for a commercially unreasonable period of time following the end of the Term and any renewal thereof without Lessor's Approval and (ii) damage or waste to the Lease Premises during the Term arising from or in connection with Lessee's use and occupancy thereof, shall remain the sole liability of Lessee and shall be deemed additional Rent due at the time incurred. This Section 12.E shall survive the expiration or cancellation of this Lease.

13. RELINQUISHMENT.

A. Lessee may at any time and from time to time, in its sole discretion, and for any reason, relinquish this Lease as to all or any part or parts of the Lease Premises by completing and delivering to Lessor the forms for relinquishment prescribed by Lessor and, except as provided in Section 13.D, paying Lessor the relinquishment fee set forth in the then-current Fee Schedule and, if the relinquishment is of less than all of the Lease Premises, a survey of the part or parts of the Lease Premises being relinquished.

B. Lessee shall not as a result of any relinquishment avoid or be released from any liability for known or unknown waste or damage to the Lease Premises, including environmental damage which arose from, or in connection with, Lessee's or a sublessee's use or occupancy thereof.

C. No relinquishment shall be valid or effective until approved by Lessor. Any attempted relinquishment or rejection of this Lease without Lessor's Approval, which will not be unreasonably conditioned, delayed or withheld, shall be deemed a material breach of the Lease.

D. Except as provided in this Section 13.D, upon any relinquishment, Lessee shall not be entitled to the refund of any Rent previously paid. However, if Lessee seeks relinquishment in response to a request by Lessor, no relinquishment fee shall be charged and Lessee shall be entitled to a pro-rata refund of Rent previously paid.

14. CHANGE IN LESSEE OR LESSEE'S OWNERSHIP; SUBLEASE.

A. Lessor is entering this Lease based on Lessee's representation that Lessee shall not (i) assign or Sublease, in whole or in part, this Lease, the Lease Premises or any Improvements or (ii) change its identity, control or ownership, through sale, acquisition, merger or the like, without the prior written Approval of Lessor. Any such act without Lessor's prior Approval, which shall not be unreasonably delayed or withheld, or conditioned except as provided in Section 14.C, shall be null and void as to Lessor, and shall be deemed a breach of this Lease by Lessee. Lessor may seek any and all remedies available at law or in equity for third-party trespass or such other damages as may be caused by any such breach.

B. Lessor may condition Approval of any proposed assignment, permit or Sublease upon a commercially reasonable (i) increase in the Rent amount, (ii) modification of this Lease, (iii) addition of other provisions to this Lease, and (iv) proof of the assignee's, sublessee's or permittee's creditworthiness, financial soundness and skill and experience in effecting Permitted Uses, and such other conditions as Lessor may reasonably impose to protect Lessor's interest. Lessee's application or request for Approval of an assignment or Sublease shall be deemed a guarantee that no interest in this Lease is subject to pending or then reasonably foreseeable, litigation, and it shall not be necessary for Lessor to inquire into this.

C. Lessor's Approval of a Sublease, permit, or assignment shall not relieve or release Lessee from (i) any liability which may have arisen prior to the Sublease, permit, or assignment or (ii) from its continuing obligations under the Lease.

D. Lessor's Approval of a Sublease, permit or assignment will not constitute Approval of any subsequent Sublease, permit, or assignment, nor will Approval of a specific Sublease, permit, or assignment indicate that Lessor will grant such future Approvals when requested.

E. Except as provided in this Section 14, the occupation or use of Trust lands pursuant to any Sublease, permit, or assignment made without Lessor's Approval shall be a material breach of this Lease and a trespass by the purported assignee, permittee, or sublessee, and cannot vest the trespasser with any tenancy or other rights, interests, claims, or privileges in the Lease Premises or with respect to Lessor whatsoever. In addition to such other remedies as may be available to Lessor at law or in equity for such trespass, Lessee shall be liable for all costs, fees, and damages incurred by Lessor resulting from such trespass.

F. Applications by Lessee to Lessor for Approval of Subleases, permits, or assignments shall be made under oath, on forms prescribed by Lessor, and accompanied by such fees as are designated in the then-current Fee Schedule.

G. No assignment, permit, or Sublease shall have the effect of extending the Term hereof.

15. INSPECTION BY LESSEE. Lessee is entering into this Lease on the basis of its inspection of and judgment regarding the Lease Premises. Except as may otherwise be expressly provided in this Lease, Lessor is making no representations or warranties of any kind or nature whatsoever with regard to the Lease Premises or this Lease.

16. COMPLIANCE WITH LAWS AND PROTECTION FROM WASTE AND TRESPASS. Lessee shall fully comply with all laws, whether statutory or court-made, regulations, rules, ordinances, and requirements, including but not limited to those addressed to environmental protection and all current New Mexico State Land Office Rules and Regulations and such Rules and Regulations of general application that may be hereafter promulgated, applicable to the Lease Premises or to operations thereon under this Lease, including NMSA 1978, §19-6-5, requiring Lessee to protect the Lease Premises from waste and trespass by unauthorized persons, and the New Mexico Cultural Properties Act, NMSA 1978, § 18-6-1 et seq. ("the CPA"). It is illegal for any person to knowingly appropriate, excavate, injure, remove or destroy any structure, place, site or object having historic, archaeological, scientific, architectural or other cultural significance located on lands held and managed by the New Mexico State Land Office without a valid permit from the New Mexico Cultural Properties Review Committee and the express consent of Lessor. Governmental agencies promulgating laws, regulations, rules, ordinances, and requirements relating to cultural properties or historic or prehistoric preservation shall not be deemed third-party beneficiaries under this Lease. Lessee's compliance with the CPA shall be at its own expense and shall not be considered an offset to Rent due under this Lease.

17. HAZARDOUS MATERIALS.

A. Lessee shall be responsible for conditions on the Lease Premises caused by Hazardous Material placed thereon by Lessee, any Sublessee or others acting by, through or under Lessee, but Lessee shall not be responsible or liable with respect to Hazardous Material conditions not caused by Lessee, Sublesse or by others acting by, through or under Lessee.

B. Lessee shall not under any circumstances novate, terminate, cancel or relinquish this Lease, without first providing to Lessor a Phase One and a Phase Two Environmental Assessment materially complying with applicable standards. Lessor may require Lessee to perform reasonable clean-up or other remediation of the Lease Premises with respect to conditions caused by Lessee as a further condition precedent to any such novation, termination, cancellation, or relinquishment. However, if Lessee subsequently leases all or any part or parts of the Lease Premises, and agrees to accept continuing

liability for any Hazardous Material problems caused or created by Lessee during the Term, then no Phase One or Phase Two Environmental Assessment shall be required.

C. Lessor agrees that to the best of Lessor's knowledge (i) on the Effective Date, the Lease Premises is free of all Hazardous Material and (ii) Lessee shall have no liability with respect to Hazardous Materials kept, used, stored, generated or disposed of in, on, or under the Lease Premises prior to the Effective Date.

18. HOLD HARMLESS; INSURANCE.

A. Lessee shall hold harmless, indemnify and defend the State of New Mexico, Lessor and Lessor's employees, agents, and contractors, in both their official and individual capacities, from any and all liabilities, claims, losses, damages, or expenses, including but not limited to reasonable attorneys' fees, loss of land value, third party claims, penalties or removal, remedial or restoration costs arising out of, alleged to arise out of or indirectly connected with a) the operations hereunder of Lessee or Lessee's employees, agents, contractors, or invitees, b) the activities of third parties on the leased premises, whether with or without Lessee's knowledge or consent. In the event that any action, suit or proceeding is brought against Lessee, Lessee shall, as soon as practicable but no later than two (2) days after it receives notice thereof, notify the legal counsel of Lessor and the Risk Management Division of the New Mexico General Services Department by certified mail. This Paragraph 18(A) shall survive the termination, cancellation or relinquishment of this Lease, and any cause of action of Lessor to enforce this provision shall not be deemed to accrue until Lessor's actual discovery of said liability, claim, loss, damage, or expense.

B. During the Term of this Lease, Lessee shall, at Lessee's cost and expense, obtain and maintain at all times with insurers authorized to do business in the State of New Mexico commercial general liability insurance (in the broadest form then available in New Mexico) that names the Lessor ("**New Mexico State Land Office**") as an insured party, protecting the Lessor against claims for bodily injury, personal injury, death and property damage. Such an insurance policy must specifically provide coverage for the Lessor and its employees and agents in minimum amounts of $200,000 for damage to or destruction of each legally described real property arising out of a single occurrence with an aggregate of $1,000,000; $1,000,000 per occurrence/aggregate for bodily injury, personal injury or death; and $1,000,000 with respect to any one occurrence. Higher coverage for the Lessor may be reasonably required by the Lessor from time to time, including but not limited to increases needed to provide complete coverage for Lessor's maximum liability under the New Mexico Tort Claims Act, Section 41-4-1 et seq. NMSA 1978. Insofar as the above-described insurance provides protection against liability for damages to third parties for personal injury, death, and property damage, lessor shall be included as an additional insured, provided such liability insurance coverage shall also extend to damage, destruction and injury to Lessor-owned or Lessor-leased property and Lessor personnel, and caused by or resulting from work, acts operations or omissions of Lessee. Lessor shall have no liability for premiums charged for such coverage, and inclusion of Lessor as an insured party is not intended to, and shall not make Lessor a partner or joint venturer with Lessee in its operations.

C. The policy of insurance required to be maintained by Lessee pursuant to Paragraph 18(B) shall be reasonably satisfactory to Lessor and shall (a) provide for the benefit of Lessor that thirty (30) days prior written notice of suspension, cancellation, termination, modification, non-renewal or lapse or material change of coverage shall be given to all insured parties and that such insurance shall not be invalidated by any act or neglect of Lessor, nor by any foreclosure or other proceedings or notices thereof relating to the Land, leasehold or improvements, nor by occupation of the Land for purposes more hazardous than are permitted by such policy; (b) not contain a provision relieving the insurer thereunder

of liability for any loss by reason of the existence of other policies of insurance covering the Land, leasehold or improvements against the peril involved, whether collectable or not; and (c) include a contractual liability endorsement evidencing coverage of Lessee's obligation to indemnify Lessor pursuant to Paragraph 18(A).

D. In addition, the Lessee must obtain at its own expense, insurance coverage adequate to protect its operations, property, employees and agents in amounts Lessee finds sufficient. Lessee shall be solely responsible for obtaining insurance policies that provide coverage for losses of Lessee-owned property, including improvements. Lessor shall not be required to provide such insurance coverage or be responsible for payment of Lessee's costs for such insurance.

E. Within ten (10) days after the execution of this Lease by Lessor and delivery to Lessee, Lessee shall deliver to Lessor original or duplicate certificates of insurance, insurance policies, and policy riders/endorsements evidencing all the insurance which is required to be maintained under this Lease by Lessee certifying that all requirements set forth herein have been complied with, and within ten (10) days prior to the expiration of any such insurance, other original or duplicate policies or certificates evidencing the renewal of such insurance. A certificate, policy, endorsement or rider which states that failure to give Lessor notice imposes no liability or obligation on the insurer shall not be in compliance with this Lease. For example, certificates or policies stating that the insurer shall "endeavor to notify" and that "failure to give such notice imposes no obligation" on the insurer are unacceptable to Lessor. Failure to comply with the insurance specifications in this Lease is a material breach of the Lease. Different types of required insurance may be written in one or more policies.

19. BREACH AND CURE.

A. In the event of Lessee's breach or threatened breach, Lessor shall give Lessee thirty (30) days' notice by registered mail. If any breach or threatened breach of Lessee is not properly cured on or before the thirtieth (30th) day, Lessor shall have the option of cancelling this Lease, or of pursuing any other remedies provided by this Lease or available at law or in equity. No proof of receipt of such notice shall be necessary in order for Lessor to act.

B. Lessor shall be entitled to recover reasonable compensation from Lessee for all damages and costs caused by a breach or threatened breach not cured within the time periods set forth in Section 19.A and all reasonable costs and expenses incurred by Lessor in pursuing its remedies for such uncured breach or threatened breach.

C. In the event of Lessee's eviction from the Lease Premises following a cancellation pursuant to Section 19.A or abandonment of the Lease Premises, Lessor shall have the right, but not the obligation, to re-lease or to sell all, or any part of, the Lease Premises. The exercise of such right shall be at Lessor's sole discretion and except as otherwise provided in this Lease, shall not extinguish Lessee's obligations hereunder. If Lessor re-leases all or any part of the Lease Premises, Lessor may agree upon a term that is greater or less than the remaining unexpired Term at the time this Lease is cancelled and to such covenants, conditions, and agreements as Lessor may deem proper.

20. EXHAUSTION OF ADMINISTRATIVE REMEDIES. In the event that Lessee disputes a decision of Lessor determining that Lessee is in default or cancelling this Lease, Lessee shall within thirty (30) days after the date of such decision file an administrative contest pursuant to NMSA 1978, § 19-7-64 and State Land Office Rule 15 (19.2.15 NMAC). Lessee shall initiate no court action regarding this Lease except to appeal a final decision of the Commissioner of Public Lands rendered pursuant to such a contest

proceeding, and as provided by NMSA 1978, § 19-7-64.

21. NO WAIVER BY LESSOR. No employee or agent of Lessor has the power, right, or authority to orally waive any of the conditions, covenants or agreements of this Lease and no waiver by Lessor of any of such conditions, covenants or agreements shall be effective unless in writing and executed by Lessor. Lessor's waiver of any breach by Lessee or default under any such conditions, covenants or agreements shall not constitute or be construed as a waiver of any other or subsequent breach or default by Lessee. The failure of Lessor to enforce at any time any such condition, covenant or agreement, to exercise any option herein to Lessor provided, or to require at any time performance by Lessee of any such conditions, covenants or agreements, shall not constitute or be construed to be a waiver of any such conditions, covenants, or agreements, nor shall it affect the validity of this Lease or any part thereof, or Lessor's right to thereafter enforce each and every such condition, covenant, or agreement.

22. SCOPE OF AGREEMENT. This Lease incorporates all the agreements, covenants and understandings between Lessor and Lessee concerning the subject matter hereof and all such agreements, covenants and understandings are merged into this written Lease. No prior agreement or understanding between Lessor and Lessee shall be valid or enforceable unless expressly embodied in this Lease.

23. AMENDMENT. This Lease shall not be altered, changed, or amended except by an instrument duly executed by Lessor and Lessee.

24. APPLICABLE LAW AND VENUE. This Lease shall be governed by the laws of the State of New Mexico, without giving effect to conflict of law principles. Lessee consents to venue and jurisdiction in the District Court in and for the County of Santa Fe, New Mexico, and to service of process under the laws of New Mexico in any action relating to this Lease or its subject matter.

25. SUCCESSORS IN INTEREST. All terms, conditions, and covenants of this Lease and any subsequent amendments hereto shall extend to and bind the respective successors and assigns of Lessor and Lessee.

26. TIME. Time is of the essence in the performance of this Lease.

27. MISCELLANEOUS.

A. SINGULAR AND PLURAL; USE OF GENDERS. Whenever in this Lease (i) the singular is used, the same shall include the plural and (ii) a particular gender is used, the same shall include the other gender and no gender.

B. HEADINGS AND TITLES. The use of section or paragraph headings and titles herein is for descriptive purposes only and is independent of the covenants, conditions, and agreements contained herein.

C. SEVERABILITY. Nothing in this Lease is intended to supplant or be inconsistent with applicable statutes and regulations. In the event that any provision of this Lease is held invalid or unenforceable under applicable statutes or regulations, this Lease shall be deemed not to include that provision and all other provisions shall remain in full force and effect.

8h :01 NV 9[illegible] 9102

D. MEMORANDUM OF LEASE. Lessor and Lessee shall execute and deliver for recording a memorandum of the material terms of this Lease.

Executed in duplicate.

LESSOR:

COMMISSIONER OF PUBLIC LANDS,
STATE OF NEW MEXICO

By _____
AUBREY DUNN

(Seal)

LESSEE:

TOWN OF SILVER CITY

By Alex C. Brown

Name: Alex C. Brown

Title: Town Manager

ACKNOWLEDGMENT IN A REPRESENTATIVE CAPACITY

State of New Mexico

County of Grant

This instrument was acknowledged before on January 22, 2016 (date)

by Alex C. Brown (name) as Town Manager (title)

of the Town of Silver City (name of party on behalf of whom instrument is executed).

(seal)

OFFICIAL SEAL
Yolanda C. Holguin
NOTARY PUBLIC
STATE OF NEW MEXICO
My Commission Expires: 04-27-18

Yolanda C. Holguin
(Signature of notarial officer)

My commission expires: 04-27-2018

2016 JAN 26 AM 10:48

EXHIBIT A

The Lease Premises

(BL-2342)

A tract of land situated in the NW¼NE¼ of Section 36, Township 17 South, Range 14 West, N.M.P.M., Grant County, New Mexico, being described more particularly as follows:

Beginning at Corner No. 1, a point from whence the North Quarter Corner of said Section 36 bears N64°47'29"W, 455.65 ft. distant;

Thence N78°02'30"E for 400.00 ft. to Corner No. 2;
Thence S11°57'30"E for 435.60 ft. to Corner No. 3;
Thence S78°02'30"W for 400.00 ft. to Corner No. 4;
Thence N11°57'30"W for 435.60 ft. to the Point of Beginning.

Said tract contains 4.000 acres, more or less.

EXHIBIT B

Rent Schedule

(BL-2342)

Rent increases by Three Percent (3%) per year, rounded to the next higher One Dollar ($1.00).

Year 1	2016-2017	$15,260.00
Year 2	2017-2018	$15,718.00
Year 3	2018-2019	$16,190.00
Year 4	2019-2020	$16,676.00
Year 5	2020-2021	$17,176.00
Year 6	2021-2022	$17,691.00
Year 7	2022-2023	$18,222.00
Year 8	2023-2024	$18,769.00
Year 9	2024-2025	$19,332.00
Year 10	2025-2026	$19,912.00
Year 11	2026-2027	$20,509.00
Year 12	2027-2028	$21,124.00
Year 13	2028-2029	$21,758.00
Year 14	2029-2030	$22,411.00
Year 15	2030-2031	$23,083.00
Year 16	2031-2032	$23,775.00
Year 17	2032-2033	$24,488.00
Year 18	2033-2034	$25,223.00
Year 19	2034-2035	$25,980.00
Year 20	2035-2036	$26,759.00
Year 21	2036-2037	$27,562.00
Year 22	2037-2038	$28,389.00
Year 23	2038-2039	$29,241.00
Year 24	2039-2040	$30,118.00
Year 25	2040-2041	$31,022.00

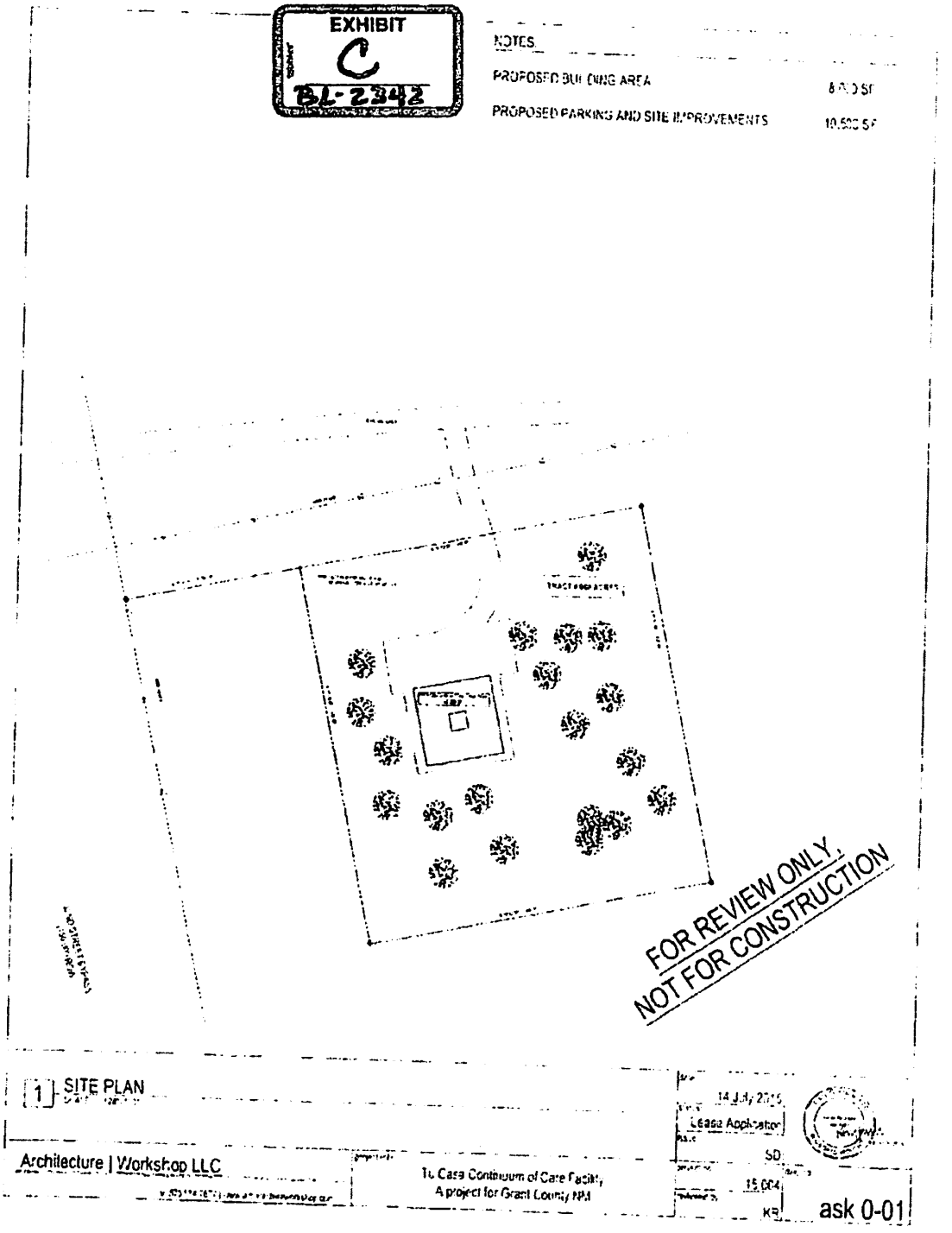


EXHIBIT
C
BL-2342
NOTES
PROPOSED BUILDING AREA
PROPOSED PARKING AND SITE IMPROVEMENTS
FOR REVIEW ONLY,
NOT FOR CONSTRUCTION
1 SITE PLAN
Architecture | Workshop LLC
To Case Continuum of Care Facility,
A project for Grant County PUD
Lease Application
SD
KR
ask 0-01

EXHIBIT C

Sublease of Certain Leased Real Property and the Right to Make Improvements Thereupon From the Town of Silver City to the County of Grant (the Sublease)

SUBLEASE OF CERTAIN LEASED REAL PROPERTY AND THE RIGHT TO MAKE IMPROVEMENTS THEREUPON FROM THE TOWN OF SILVER CITY TO THE COUNTY OF GRANT

This Sub-Lease Agreement is made this 17th day of October, 2016 by and between the Town of Silver City ("Sub-Lessor" or "Town"), P.O. Box 1188, Silver City, New Mexico and the County of Grant ("Sub-Lessee" or "County"), 1400 Highway 180 East, Silver City, New Mexico.

RECITALS:

WHEREAS, the Town of Silver City is a New Mexico municipal corporation and the County of Grant is a political subdivision of the State of New Mexico; and

WHEREAS, both the Town Council and the County Commission are aware of the significant problems to the communities and persons of Grant County caused by the abuse of legal and illegal drugs within the County, and wish to cooperate in responding to the problem; and

WHEREAS, the parties believe that the construction and maintenance of a rehabilitation and treatment facility staffed by qualified personnel to address the needs of those persons suffering from drug abuse and addiction would be beneficial to the health, safety and welfare of the people of Grant County; and

WHEREAS, effective January 28, 2016, the Town has secured a lease (the "primary lease") from the New Mexico State Land Office of certain unimproved real property located in Grant County and more particularly described in Appendix "A," attached hereto and by this reference made a part hereof; and

WHEREAS, the aforementioned real property is suitable for the construction of the aforementioned facility and will be convenient to the communities of Grant County; and

WHEREAS, the Town has secured permission from the New Mexico State Land Office to make improvements upon the leased land; and

WHEREAS, it is the intent of the parties that the Town shall sub-lease the mentioned real property and the permission to make improvements to the County for its construction of a rehabilitation and treatment facility for drug abuse and addiction, referred to hereunder as a "chemical dependency continuum of care facility" under the terms and conditions mentioned herein; and

WHEREAS, the Town Council of the Town of Silver City has determined that the execution of this Sub-Lease is in the best interests of the Town.

IT IS, THEREFORE, AGREED:

1. Subject to the written approval of the New Mexico State Land Office, the Town shall sub-lease to the County that unimproved real property described in Appendix "A," the term of which shall commence on the effective date of this Sub-Lease and continue for a term of twenty-five (25) years, unless otherwise terminated or canceled as provided for under the terms herein, or under the terms of the primary lease held by the Town.

2. There shall be no rental or sub-lease charges for the Sub-Leased property during the initial term of this Sub-Lease. Thereafter, the parties shall meet and negotiate in good faith what rent, if any, should be paid to the Town.

3. The Sub-Lease is contingent upon the construction and operation by the County of a new chemical dependency continuum of care facility on the Sub-Leased property in accordance with the approved Application To Make Improvements issued by the State of New Mexico Land Office.

4. The Sub-Lessee shall do no act in violation of the terms and conditions in the primary lease held by the Town from the New Mexico State Land Office (Appendix "B"), the terms of which are included herewith as if fully set forth.

5. The Sub-Lessee shall provide the Town in a timely manner with a written Master Plan which shall fully describe all improvements developed, constructed or placed on the Sub-Leased Premises. The Sub-Lessee shall furnish to the Town all reports and documents mentioned in Paragraph 11 of the primary lease (Appendix "B") in a timely manner so that the Town may forward them to the primary Lessor as required.

6. The Sub-Lessee shall maintain liability insurance on the improvements, consistent with the requirements of Paragraphs 11E and 18B, C, D, and E of the primary lease (Appendix "B").

7. The Sub-Lessee shall hold harmless, indemnify and defend the State of New Mexico, the State Land Office, and the Town of Silver City, and the employees, agents, and contractors, in both their official and individual capacities, all in accordance with the terms of Paragraph 18A of the primary lease.

8. The Sub-Lessee for the purposes of this Sub-Lease will be considered to be a "successor in interest" concerning the subject matter hereof, and shall be bound to the terms, conditions and covenants of the primary lease as well as the terms herein this Sub-Lease.

9. The Sub-Lessee shall cooperate with the Town in the accomplishment of any of the duties and obligations of the Town under the primary lease. The Sub-Lessee shall keep and maintain all invoices, documents and records generated by the construction of all improvements upon the Sub-Leased premises. The Town retains the right and authority to inspect and copy those records as it deems necessary.

Executed and made effective on the date first mentioned above.

Alex C. Brown. Town Manager
Town of Silver City

Charlene Webb. County Manager
County of Grant

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

SUBSCRIBED AND SWORN TO by ALEX C. BROWN as Town Manager of the Town of Silver City on this 17th day of October, 2016.

Notary Public

OFFICIAL SEAL
Yolanda C. Holguin
NOTARY PUBLIC
STATE OF NEW MEXICO
My Commission Expires: 04-27-2018

My Commission Expires:

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

SUBSCRIBED AND SWORN TO by CHARLENE WEBB as the Grant County Manager on this 17th day of October 2016.

Notary Public

OFFICIAL SEAL
Randy J. Hernandez
NOTARY PUBLIC
STATE OF NEW MEXICO
My Commission Expires: 3/20/2017

My Commission Expires:

EXHIBIT A

The Lease Premises

(BL-2342)

A tract of land situated in the NW¼NE¼ of Section 36, Township 17 South, Range 14 West, N.M.P.M., Grant County, New Mexico, being described more particularly as follows:

Beginning at Corner No. 1, a point from whence the North Quarter Corner of said Section 36 bears N64°47'29"W, 455.65 ft. distant;

Thence N78°02'30"E for 400.00 ft. to Corner No. 2;
Thence S11°57'30"E for 435.60 ft. to Corner No. 3;
Thence S78°02'30"W for 400.00 ft. to Corner No. 4;
Thence N11°57'30"W for 435.60 ft. to the Point of Beginning.

Said tract contains 4.000 acres, more or less.

EXHIBIT D

Application to Make Improvements issued by the State of New Mexico Land Office

NEW MEXICO STATE LAND OFFICE
Commercial Resources Division

APPLICATION TO MAKE IMPROVEMENTS

I, Town of Silver City whose address
(Please print the name of the legal entity, or, if applying as an individual, the personal name)
is P.O. Box 1188, Silver City, NM, 88061.
(mailing address) *(city)* *(state)* *(zip code)*

herewith make application for the written consent of the Commissioner of Public Lands to make improvements on the lands in Business Lease No. _____, described as follows:

SUBDIVISION	SECTION	TOWNSHIP	RANGE	ACRES
NW1/4 NE1/4	36	17S	14W	4.00
	36	17S	14W	2.524

PROPOSED IMPROVEMENTS: *(You may submit a separate sheet if additional room is required)*

New 8,000 sq /ft. building, site, utilities and landscaping with connections to existing driveway. **Value $** 1,600,000.00
_____ **Value $** _____
_____ **Value $** _____
_____ **Value $** _____
_____ **Value $** _____

TOTAL VALUE OF IMPROVEMENTS..... **Value $** 1,600,000.00

Submit "Exhibit A", a plot plan locating all proposed improvements (if applicable).

Estimated time of completion 23,January, 2017.
(Day, Month, Year)

Town of Silver City
(Please print name of applicant or of attorney in fact/authorized agent and title)

(Signature of individual or of attorney in fact - authorized agent)

November 30, 2016
(Date)

I, Aubrey Dunn, Commissioner of Public Lands, hereby give my consent to the above lessee(s) to make improvements as listed above, conditioned upon the completion of construction and installation of such improvements on or before January 23, 2017.

DEC 8 2016 COMMISSIONER OF PUBLIC LANDS SANTA FE, NEW MEXICO

APPROVAL DATE

COMMISSIONER OF PUBLIC LANDS

APPLICATION FEE $50.00*

*Please make checks payable to "Commissioner of Public Lands". When you provide a check as payment, you authorize the State of New Mexico to either use information from your check to make a one-time electronic fund transfer from your account or to process the payment as a check transaction.

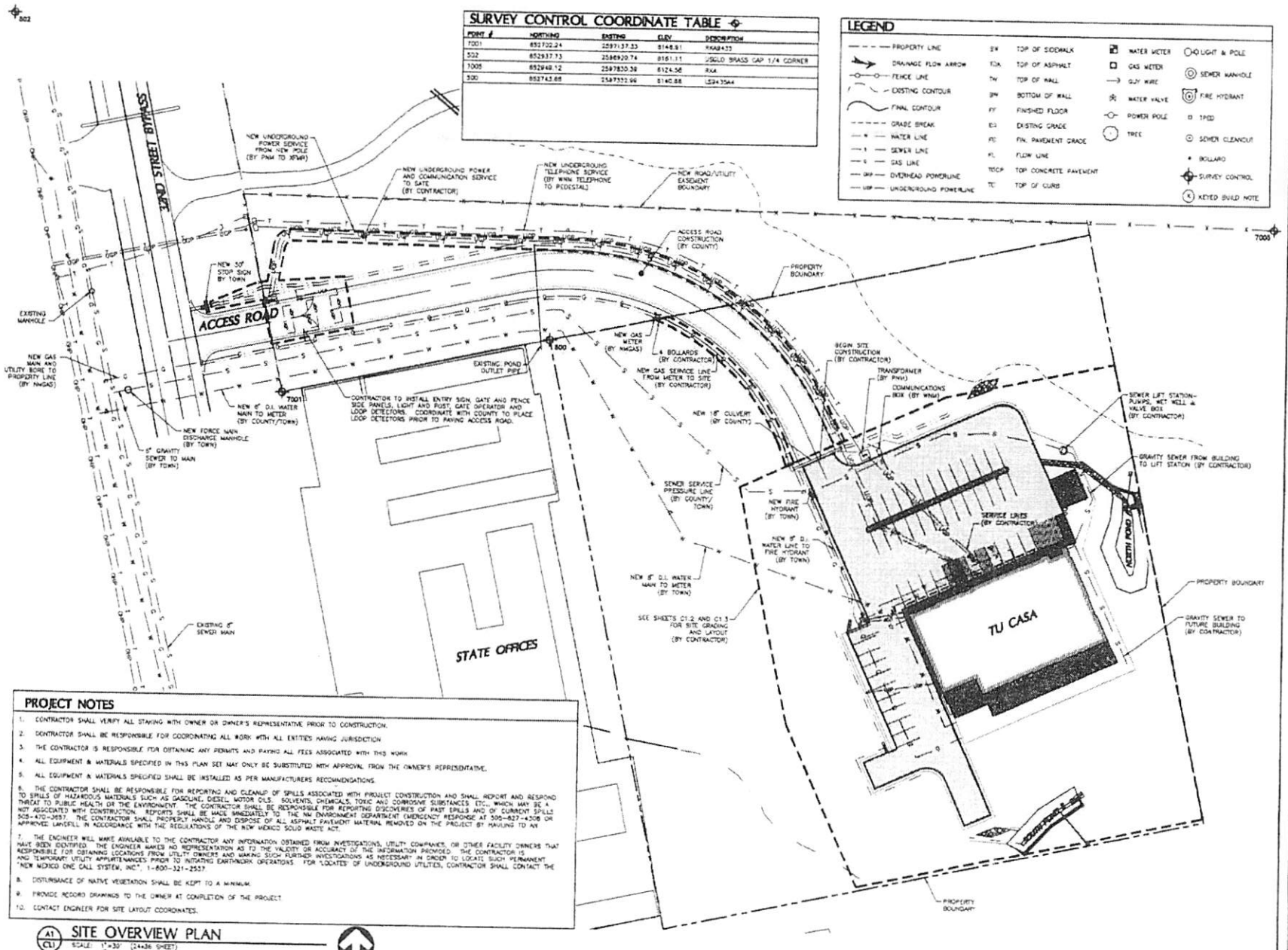
2016

EXHIBIT E

Site Overview Plan

EXHIBIT E

Site Overview Plan



SURVEY CONTROL COORDINATE TABLE				
POINT #	NORTHING	EASTING	ELEV	DESCRIPTION
7001	852702.24	2597137.33	5148.91	RAILROAD
502	852937.73	2586920.74	5161.11	SOLID BRASS CAP 1/4 CORNER
7005	852948.12	2597830.39	5124.56	RAILROAD
500	852743.68	2587552.99	5140.88	LS24354

PROJECT NOTES

1. CONTRACTOR SHALL VERIFY ALL STAKING WITH OWNER OR OWNER'S REPRESENTATIVE PRIOR TO CONSTRUCTION.
2. CONTRACTOR SHALL BE RESPONSIBLE FOR COORDINATING ALL WORK WITH ALL ENTITIES HAVING JURISDICTION.
3. THE CONTRACTOR IS RESPONSIBLE FOR OBTAINING ANY PERMITS AND PAYING ALL FEES ASSOCIATED WITH THIS WORK.
4. ALL EQUIPMENT & MATERIALS SPECIFIED IN THIS PLAN SET MAY ONLY BE SUBSTITUTED WITH APPROVAL FROM THE OWNER'S REPRESENTATIVE.
5. ALL EQUIPMENT & MATERIALS SPECIFIED SHALL BE INSTALLED AS PER MANUFACTURERS RECOMMENDATIONS.
6. THE CONTRACTOR SHALL BE RESPONSIBLE FOR REPORTING AND CLEANUP OF SPILLS ASSOCIATED WITH PROJECT CONSTRUCTION AND SHALL REPORT AND RESPOND TO SPILLS OF HAZARDOUS MATERIALS SUCH AS GASOLINE, DIESEL, MOTOR OILS, SOLVENTS, CHEMICALS, TOXIC AND CORROSIVE SUBSTANCES ETC., WHICH MAY BE A THREAT TO PUBLIC HEALTH OR THE ENVIRONMENT. THE CONTRACTOR SHALL BE RESPONSIBLE FOR REPORTING DISCOVERIES OF PAST SPILLS AND OF CURRENT SPILLS NOT ASSOCIATED WITH CONSTRUCTION. REPORTS SHALL BE MADE IMMEDIATELY TO THE NM ENVIRONMENT DEPARTMENT EMERGENCY RESPONSE AT 505-827-4308 OR 505-470-3557. THE CONTRACTOR SHALL PROPERLY HANDLE AND DISPOSE OF ALL ASPHALT PAVEMENT MATERIAL REMOVED ON THE PROJECT BY HAULING TO AN APPROVED LANDFILL IN ACCORDANCE WITH THE REGULATIONS OF THE NEW MEXICO SOLID WASTE ACT.
7. THE ENGINEER WILL MAKE AVAILABLE TO THE CONTRACTOR ANY INFORMATION OBTAINED FROM INVESTIGATIONS, UTILITY COMPANIES, OR OTHER FACILITY OWNERS THAT HAVE BEEN IDENTIFIED. THE ENGINEER MAKES NO REPRESENTATION AS TO THE VALIDITY OR ACCURACY OF THE INFORMATION PROVIDED. THE CONTRACTOR IS RESPONSIBLE FOR OBTAINING LOCATIONS FROM UTILITY OWNERS AND MAKING SUCH FURTHER INVESTIGATIONS AS NECESSARY IN ORDER TO LOCATE SUCH PERMANENT AND TEMPORARY UTILITY APPURTENANCES PRIOR TO INITIATING EARTHWORK OPERATIONS. FOR "LOCATES" OF UNDERGROUND UTILITIES, CONTRACTOR SHALL CONTACT THE "NEW MEXICO ONE CALL SYSTEM, INC", 1-800-321-2537.
8. DISTURBANCE OF NATIVE VEGETATION SHALL BE KEPT TO A MINIMUM.
9. PROVIDE RECORD DRAWINGS TO THE OWNER AT COMPLETION OF THE PROJECT.
10. CONTACT ENGINEER FOR SITE LAYOUT COORDINATES.

A1/C1 SITE OVERVIEW PLAN

SCALE: 1"=30' (24x36 SHEET)
1"=60' (11x17 SHEET)

NORTH

Architecture Workshop LLC
ARCHITECT
WEBER ENGINEERING
WEBERENGR@ROADRUNNER.NET
(575) 388-2082
P.O. BOX 5132
SILVER CITY, NM 88062
ENGINEER

Tu Casa Continuum of Care
A Project For Grant County
3200 32nd Street
Silver City NM

PROJECT NO. 1617
DRAWN TW
CHECKED TW
DATE 12/16/2016

Revisions Date

BID ISSUE
12/16/16

SITE OVERVIEW
SHEET TITLE

C1.1
SHEET NUMBER

EXHIBIT F

The annual rent set forth in Paragraph 3 of this Lease shall be paid as follows:

1. The annual rent in any year shall be paid with cash or the equivalent thereof in the form of uncompensated addiction recovery services that HMS provides to sick and/or indigent residents of Grant County which includes those that are not otherwise paid for with County money as set forth in Paragraph 2 below.
2. On or before each June 30 (beginning on June 30, 2017), HMS shall provide the County with a report that contains each of the following:
   a. A written description and valuation of the uncompensated services provided to Grant County residents; and
   b. Any and all documentation required by the County in order that the County may verify such services.
3. The County will review the report and, if approved by the County, the County will accept the services provided by HMS as rental payment so long as:
   a. The value of the services performed is equal to or greater than the rental rate due;
   b. HMS has not already been paid for the services by the County; and
   c. The services are provided to sick and/or indigent residents of the County. For purposes of this agreement, "sick" includes behavioral, physical or mental conditions which adversely affect the functioning of an individual, and "indigent" means a person who qualifies as an "indigent patient" as described in the Indigent Hospital and County Health Care Act ("the Act"), and who is qualified by application of residency and income criteria to receive assistance pursuant to the Act according to policies of the Grant County Indigent and Health Plan Claims Board.
4. In the event the services provided in any one year are greater than the annual rent due for the preceding year, the excess shall be carried forward and applied against the next year's annual rent. In the event the services are less than the annual rent due for the preceding year, then HMS shall promptly pay the balance owing to the County in ready and available funds within thirty (30) days.
5. HMS may, at its option, pay all or part of the annual rent in cash in lieu of providing services.
6. The annual report provided by HMS shall be submitted to:

Charlene Webb,
Grant County Manager
PO Box 898
Silver City, NM 88062

7. Should the County reject any or all of the report of services provided, HMS shall, within thirty (30) days of notice from the County, pay the rent due for the preceding year, in ready and available funds.
8. Nothing in this Exhibit F shall require HMS to disclose information that would violate the privacy rights of clients pursuant to HIPAA or other applicable state or federal law.