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City of McKinney, Texas

FACILITIES AGREEMENT

97-0034539

HCA HEALTH SERVICES OF TEXAS, INC.

THIS AGREEMENT is entered into on the 27th day of January, 1997, by and between the **CITY OF MCKINNEY**, a Texas municipal corporation, whose address is 222 N. Tennessee Street, McKinney, Texas 75069, (hereinafter known as the "CITY"), and **HCA HEALTH SERVICES OF TEXAS, INC.**, a Texas corporation, whose address is One Park Plaza, P.O. Box 550, Nashville, Tennessee 37202-0550, (hereinafter known as "HCA").

WHEREAS, HCA has requested or will request the CITY to permit the platting and/or development of one or more tracts of land contained within the Property described on Exhibit "A" attached hereto and incorporated herein for all purposes (hereinafter referred to as the "Property") out of a Preliminary Plat containing two (2) separate tracts known as or to be known as "Tract A" and "Tract B" (referred to collectively as the "Tracts"), the Final Plat of Tract A which will be filed for record in the Land Records of Collin County, Texas; Tract A is owned by HCA and shall be Lot 1, Block 1 of the Property, and Tract B shall be Lot 1, Block 2 of the Property, such tracts being more particularly depicted on the Preliminary Plat, copy of which is attached hereto as Exhibit "B"; and,

WHEREAS, the CITY has approved a Preliminary Plat for such platting of Lot 1, Block 1 of Tract A and Lot 1, Block 2 of Tract B; and,

WHEREAS, HCA, its vendors, grantees, assigns, successors, trustees and all others holding any interest now or in the future, agree and enter into this Agreement which shall operate as a covenant running with the land and be binding upon all parties hereto, their successors and assigns.

NOW, THEREFORE, the CITY and HCA, in consideration of the mutual covenants and agreements contained herein, do mutually agree as follows:

A. ZONING & PLATTING

All property owned by HCA and located within the limits of the attached Exhibit "B" shall be zoned and platted in accordance with the Zoning Ordinance and Subdivision Controls in force by the CITY before any Development Permit or Building Permit will be issued. As a condition of approval of the final plat of Lot 1, Block 1, HCA shall dedicate, at no cost to the CITY, all street, thoroughfare and highway rights-of-way (including state Highway Spur 399),

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alleys, drainage easements, floodways, parks and other dedications as shown on Exhibit "D", subject to any plat amendments approved by the CITY, or as may be required in the future.

B. PUBLIC IMPROVEMENTS

Except as otherwise provided by this Agreement, all public improvements required by CITY regulations and engineering standards to serve the areas of approved final plats, including streets, utilities, drainage, sidewalks (except those which would adjoin individual private development lots, and not common areas, which shall be installed by the individual lot developers), street lighting, street signage, and all other required improvements, shall be provided by HCA, at no cost to the CITY, in accordance with the Subdivision Controls in force by the CITY, and as approved by the City Engineer or his designee, prior to issuance of any Certificate of Occupancy. Engineering Studies, plan/profile sheets, and other construction documents shall be provided by HCA at the time of platting as required by the Subdivision Controls. Such plans shall be approved by the City Engineer or his designee prior to approval of a Development Permit.

C. PROVISION OF UTILITIES TO TRACT A

The CITY shall construct a 16" water main and a 15"/12" wastewater main on the northwest side of State Highway Spur 399, such mains to be stubbed out under State Highway Spur 399 at the northeast corner of Tract A, as generally shown on Exhibit "D", in order to allow HCA to construct on-site distribution lines at HCA's cost. The CITY shall construct both the 16" water main and the 15"/12" wastewater main on the northwest side of State Highway Spur 399 at its own cost and expense. Upon the earlier of the CITY's issuance of a Certificate of Occupancy for the hospital facility to be constructed by HCA on Tract A or the CITY's completion of a 15"/12" wastewater main to be constructed by CITY extending approximately 1,600 linear feet along the northern property boundary of Tract B, HCA shall reimburse the CITY for the engineering and construction costs and expenses associated with such 15"/12" wastewater main, such costs currently estimated to be Forty-Eight Thousand and No/100 Dollars (\$48,000.00). Extension of said lines to other areas of Tract A shall be at HCA's cost. HCA agrees to pay normal and regularly assessed impact fees and building permit fees.

D. PROVISION OF UTILITIES BETWEEN TRACT A AND TRACT B

HCA shall construct a 12" water main extending from the convergence of the northeast corner of Tract A and the northwest corner of Tract B to the convergence of the southeast corner of Tract A and the southwest corner of Tract B, as generally shown on Exhibit "D". HCA shall also construct a wastewater main (size to be approved by the City Engineer) extending from the wastewater main described in Section C herein to the convergence of the southeast corner of Tract A and the southwest corner of Tract B, as generally shown on Exhibit "D". The mains shall be constructed to satisfy the specifications of the CITY, including the Subdivision Controls of the CITY, and plans shall be approved by the City Engineer or his designee prior to approval of a Development Permit. The mains shall also be located adjacent to the north-south collector

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road to be constructed by HCA pursuant to Section E herein (such collector road to be referred to as Medical Center Drive). The mains to be constructed pursuant to this Section D shall be at the sole cost of HCA.

E. CONSTRUCTION OF MEDICAL CENTER DRIVE

HCA shall construct a north-south collector road (45' width), extending from the convergence of the northeast corner of Tract A and the northwest corner of Tract B to the convergence of the southeast corner of Tract A and the southwest corner of Tract B, as generally shown on Exhibit "D", such road to be adjacent to the mains constructed pursuant to Section D herein ("Medical Center Drive"). Medical Center Drive shall be constructed to satisfy the specifications of the CITY, including the Subdivision Controls of the CITY, and plans shall be approved by the City Engineer or his designee prior to approval of a Development Permit. Medical Center Drive shall be constructed at the sole cost of HCA.

F. CONSTRUCTION OF ROAD ADJACENT TO SOUTH SIDE OF TRACT B

HCA shall construct a two (2) lane access road extending from State Highway 5 at the southeast corner of Tract B to the convergence of the southwest corner of Tract B and the southeast corner of Tract A, as generally shown on Exhibit "D" ("Road B"). Road B shall be constructed to satisfy the specifications of the CITY, including the Subdivision Controls of the CITY, and plans shall be approved by the City Engineer or his designee prior to approval of a Development Permit. Road B shall be constructed at the sole cost of HCA.

G. CONSTRUCTION OF ROAD ADJACENT TO SOUTH SIDE OF TRACT A

HCA shall construct a two (2) lane access road extending from the west end-point of Road B, constructed pursuant to Section F herein, to the southwest corner of Tract A, as generally shown on Exhibit "D" ("Road A"). The CITY agrees to allow HCA to defer the construction of Road A until such time as the CITY determines that such road is necessary, but, in any event, construction shall commence on or before March 31, 2005, and completion occur on or before December 31, 2005. At such time, Road A shall be constructed to satisfy the specifications of the CITY, including the Subdivision Controls of the CITY, and plans shall be approved by the City Engineer or his designee prior to approval of a Development Permit. When the CITY determines that Road A is necessary, it shall be constructed by HCA at the sole cost and expense of HCA. HCA's failure to commence construction of Road A on or before ninety (90) days from the date of written notice by the CITY, shall permit the CITY to construct Road A. In such event, the CITY may assess HCA for all of the construction and engineering costs and expenses associated with Road A, such assessment constituting a consensual lien upon Tract A.

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H. PRO-RATA AND IMPACT FEES

The CITY agrees to impose upon HCA the obligation to pay, and HCA agrees to pay to the CITY any applicable impact fees, pro-rata fees, and other standard fees typically due at the time of building permit issuance and/or utility tap for development of Tract A. HCA further waives any rights to reimbursement for construction of off-site improvements on Tract B. Each respective pro-rata or impact fee payment due shall be paid by HCA in accordance with applicable CITY ordinances. All development fees for any lot developed in a plat or replat of Tract B shall be paid in accordance with applicable CITY ordinances.

I. WAIVER

HCA expressly acknowledges that by entering into this Agreement, HCA, its successors, assigns, vendors, grantees, and/or trustees, shall never construe this Agreement as waiving any of the requirements of the Zoning Ordinance or Subdivision Controls in force by the CITY, except as herein agreed upon.

J. VARIANCES

It is expressly acknowledged that only those variances to the Zoning Ordinance and Subdivision Controls stipulated herein are granted by the CITY for this subdivision and/or development.

K. INDEMNITY AND HOLD HARMLESS

HCA, its successors, assigns, vendors, grantees, and/or trustees do hereby agree, jointly and severally, to fully indemnify, and hold harmless the CITY from all third-party claims, suits, judgments, and demands, including all reasonable attorneys' fees, arising out of the sole or concurrent negligence of HCA, and only to the extent or percentage attributable to HCA, in the subdividing, development, or construction of the public improvements referenced herein, including the negligent maintenance thereof. HCA shall not be responsible for or be required to indemnify the CITY from its own negligence. The indemnity contained herein shall expire five (5) years from the date of final acceptance of each of the improvements.

L. MAINTENANCE BOND

Prior to final acceptance of the public improvements set forth herein, HCA shall cause the contractor constructing the improvements to furnish to the CITY a good and sufficient maintenance bond in the amount of fifteen percent (15%) of the contract price of such improvements, or in such lesser amounts as approved by the City Engineer, with a reputable and solvent corporate surety, in favor of the CITY, to indemnify the CITY against any repairs which may become necessary to any part of the construction work performed in connection with the subdivision and/or development, arising from defective workmanship or materials used therein, for a period of one (1) year from the date of final acceptance of such improvements.

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M. REVOCATION

In the event HCA fails to comply with any of the provisions of this Agreement, and upon sixty (60) days written notice and opportunity to cure such default, the CITY shall be authorized to revoke any and all Development Permits that may have been previously issued in relation to the subdivision and/or development if determined by the City Manager, or his designee, that any default hereunder constitutes an imminent threat to the public health, safety or welfare; and in event of default and HCA's failure to cure, the CITY shall be further authorized to file this instrument in the Mechanic's Lien Records of Collin County, Texas as a Mechanic's Lien against Lot 1, Block 1; or in the alternative, the CITY shall be authorized to levy an assessment against Lot 1, Block 1 for public improvements to be held as a consensual lien against Lot 1, Block 1 by the CITY.

N. CONTINUITY

This Agreement shall be a covenant running with the land and be binding upon all parties hereto, their successors, heirs, assigns, grantees, trustees, and/or representatives.

O. TERMINATION AND RELEASE

Upon satisfactory completion by HCA and final acceptance by the CITY of all requirements of this Agreement, this Agreement shall terminate and the CITY will execute a release of covenant to HCA, its successors, heirs, assigns, grantees, trustees, and/or representatives.

CITY OF MCKINNEY, TEXAS

By: 

DONALD E. PASCHAL, JR.

City Manager

ATTEST:



JENNIFER SMITH

City Secretary

APPROVED AS TO FORM:



MARK S. HOUSER

City Attorney

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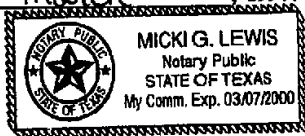
HCA HEALTH SERVICES OF TEXAS, INC.

By: [Signature]
Name: DAVID J. MALONE, JR.
Title: VICE PRESIDENT

STATE OF TEXAS
COUNTY OF COLLIN

BEFORE ME, the undersigned authority, in and for said County, Texas, on this day personally appeared DONALD E. PASCHAL, JR., City Manager of CITY OF MCKINNEY, TEXAS, a Texas municipal corporation, known to me to be the person whose name is subscribed to the foregoing instrument, and acknowledged to me that he has executed the same for the purposes and consideration therein expressed, and in the capacity therein stated.

GIVEN UNDER MY HAND AND SEAL OF OFFICE this 5th day of March, 1997.



[Signature]
Notary Public, State of Texas

STATE OF ~~TEXAS~~ Tennessee
COUNTY OF ~~COLLIN~~ Davidson

BEFORE ME, the undersigned authority, in and for said County, Texas, on this day personally appeared David J. Malone, Jr., Vice President of HCA HEALTH SERVICES OF TEXAS, INC., a Texas corporation, known to me to be the person whose name is subscribed to the foregoing instrument, and acknowledged to me that he has executed the same for the purposes and consideration therein expressed, and in the capacity therein stated and as the act and deed of said corporation.

GIVEN UNDER MY HAND AND SEAL OF OFFICE this 28th day of February, 1997.

[Signature]
Notary Public, State of ~~Texas~~ Tennessee
September 26, 1998

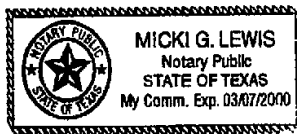
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STATE OF TEXAS

COUNTY OF COLLIN

BEFORE ME, the undersigned authority, in and for said County, Texas, on this day personally appeared MARK S. HOUSER, City Attorney for the *CITY OF MCKINNEY*, a Texas municipal corporation, known to me to be the person whose name is subscribed to the foregoing instrument, and acknowledged to me that he has executed the same for the purposes and consideration therein expressed, and in the capacity therein stated and as the act and deed of said corporation and partnership.

GIVEN UNDER MY HAND AND SEAL OF OFFICE this 5th day of March, 1997.



Micki G. Lewis
Notary Public, State of Texas

PREPARED IN THE LAW OFFICES OF:
VIAL, HAMILTON, KOCH & KNOX, L.L.P.
1717 Main Street, Suite 4400
Dallas, Texas 75201
214/712-4730
214/712-4700 Fax

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EXHIBIT "A"

LEGAL DESCRIPTION

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LEGAL DESCRIPTION

BEING 113.417 acres of land located in the WILLIAM HEMPHILL SURVEY, Abstract No. 449, and the J. BUTLER SURVEY, Abstract No. 68, City of McKinney, Collin County, Texas and being all of that certain tract of land conveyed to Seminole 113 Joint Venture according to the deed recorded in Instrument No. 94-0026025 of the Deed Records of Collin County, Texas and more particularly described by metes and bounds as follows:

BEGINNING at 1/2-inch iron found at the Northwest corner of said Seminole Tract being the Northeast corner of the certain tract of land conveyed to McKinney 17 Venture according to the deed recorded in Instrument No. 92-0045470 of the Deed Records of Collin County, Texas and lying in the Southeast right-of-way line of State Highway No. 121 (a variable with right-of-way);

THENCE along the North boundary line of said Seminole Tract with the said South right-of-way line of State Highway No. 121 as follows:

N 54° 23' 06" E, 1357.58 feet to a 5/8-inch iron rod found;

N 32° 25' 54" W, 34.96 feet to a 3/8-inch iron rod found;

N 54° 25' 11" E, 1813.33 feet to a wood post found;

N 85° 10' 44" E, 195.89 feet to 1/2-inch iron rod set;

THENCE along the East boundary line of said Seminole Tract with the said westerly right-of-way of State Highway No. 5 as follows:

S 30° 15' 44" E, 190.28 feet to a 1/2-inch iron rod set;

S 07° 17' 27" W, 390.06 feet to a 1/2-inch iron rod set;

S 01° 53' 41" W, 185.81 feet to a 1/2-inch iron rod set;

S 10° 21' 44" W, 674.47 feet to a 1/2-inch iron rod set;

S 10° 48' 07" W, 1117.94 feet to a 1/2-inch iron rod found at the Beginning of a Curve to the Right;

Southwesterly, 360.98 feet along said Curve to the Right having a radius of 252.51 feet, a central angle of 81° 54' 33" and a chord bearing S 59° 09' 30" W, 331.02 feet, to a 3/8-inch iron rod found at the End of said Curve lying in the

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North right-of-way line of Old Highway No. 24 (Frisco Road, a variable width right-of-way);

THENCE along the South boundary line of said Seminole Tract with the said North right-of-way line of Frisco Road as follows:

N 87° 12' 25" W, 716.05 feet to a 1/2-inch iron rod set at the Beginning of a Curve to the Left;

Southwesterly, 497.09 feet along a Curve to the Left having a radius of 853.55 feet a central angle of 33° 22' 06" and a chord bearing S 76° 01' 12" W, 490.10 feet to a 1/2-inch iron set at the End of said Curve;

S 59° 25' 06" W, 200.04 feet to a 1/2-inch iron rod set to the Beginning of the Curve to the Right;

Southwesterly, 436.60 feet along said Curve to the Right having a radius of 753.08 feet to a central angle of 33° 13' 02" and a chord bearing S 73° 51' 48" W, 430.51 feet to a 1/2-inch iron found at the End of said Curve;

N 87° 35' 46" W, 437.21 feet to a 1/2-inch iron rod set at the Southwest corner of Seminole Tract lying in the East boundary line of aforesaid McKinney 17 Venture Tract and lying N 01° 47' 37" E, 39.36 feet from a bolt found at the Southeast corner thereof;

THENCE N 01° 47' 37" E, 1063.77 feet along the West boundary line of said Seminole Tract with the East boundary line of said McKinney 17 Venture Tract to the PLACE OF BEGINNING, containing 113.417 acres (4,940,450 square feet) of land.

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LEGAL DESCRIPTION

BEING 17.709 acres of land located in the WILLIAM HEMPHILL SURVEY, Abstract No. 449, City of McKinney, Collin County, Texas and being all that certain tract of land conveyed to McKinney 17 Venture according to the deed recorded in Instrument No. 94-0045470 of the Deed Records of Collin County, Texas and more particularly described by metes and bounds as follows:

BEGINNING at 1/2-inch iron found at the Northeast corner of said McKinney 17 Tract being the Northwest corner of that certain tract of land conveyed to Seminole 113 Joint Venture according to the deed recorded in Instrument No. 94-0026025 of the Deed Records of Collin County, Texas and lying in the Southeast right-of-way line of State Highway No. 121 (a variable with right-of-way);

THENCE S 01° 47' 37" W, at 1063.77 feet along the common boundary line between said McKinney and Seminole Tracts passing a 1/2-inch iron rod set at the Southwest corner of said Seminole Tract and continuing in all a total distance of 1103.13 feet to an iron bolt found at the Southeast corner of said McKinney Tract lying in the approximate centerline of Old Highway No. 24 (Frisco Road);

THENCE N 87° 30' 57" W, 1273.17 feet along the South boundary line of said McKinney Tract with the said approximate centerline of Frisco Road to a 60d nail found at the most Southerly Southwest corner of said McKinney Tract lying in the aforesaid Southeast right-of-way line of State Highway No. 121;

THENCE along the Northwest boundary line of said McKinney Tract with the said Southeast right-of-way line of State Highway No. 121 as follows:

N 01° 43' 24" E, 87.75 feet to 1/2-inch iron rod set;

N 50° 54' 15" E, 344.12 feet to a nail found in a wood post;

N 54° 23' 06" E, 1275.35 feet to the PLACE OF BEGINNING, containing 17.709 acres (771,423 square feet) of land.

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EXHIBIT "B"

PRELIMINARY PLAT

Return to .

City of McKinney

P.O. Box 517

McKinney Tx 75070

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ANY PROVISION HEREIN WHICH RESTRICTS THE SALE, RENTAL, OR USE OF THE
DESCRIBED REAL PROPERTY BECAUSE OF COLOR OR RACE IS INVALID AND
UNENFORCEABLE UNDER FEDERAL LAW (COUNTY OF COLLIN)
(THE STATE OF TEXAS)
I hereby certify that this instrument was FILED in the File Number Squares on the date
and the time specified herein by me, and was duly RECORDED, in the Official Public
Records of Real Property of Collin County, Texas on

MAY 02 1997

Helen Starnes

COUNTY CLERK, COLLIN COUNTY, TEXAS



Filed for Record in:
COLLIN COUNTY, TX
HONORABLE HELEN STARNES

On 1997/05/02

At 2:42P

Number: 97- 0034539
Type : AG 35.00