

**CITY OF EL PASO, TEXAS**  
**AGENDA ITEM DEPARTMENT HEAD'S SUMMARY FORM**

**DEPARTMENT:** Development & Infrastructure Services

**AGENDA DATE:** July 24, 2007

**CONTACT PERSON/PHONE:** Patricia D. Aauto, Deputy City Manager for Development & Infrastructure Services

**DISTRICT AFFECTED:** 7

**SUBJECT:**

A RESOLUTION AUTHORIZING THE CITY MANAGER TO EXECUTE, ON BEHALF OF THE CITY OF EL PASO, A PURCHASE OF PRIVATE PROPERTY CONSISTING OF DEVELOPED AND UNDEVELOPED LAND TO BE USED AS THE SITE FOR THE PROPOSED *MISSION VALLEY TRANSIT TERMINAL*.

**BACKGROUND / DISCUSSION:**

The *Mission Valley Transit Terminal* will be designed and constructed to accommodate eight full-size buses, commuter parking, covered passenger area, lighting, landscaping benches, information kiosks, restrooms, ticket booth, public telephones, drinking fountains and a small maintenance/storage room. Its proposed location in El Paso's Mission Valley, District 7, is on property situated within a triangular tract of parcels bordered by Alameda Avenue, Harris Street and Zaragoza.

**PRIOR COUNCIL ACTION:**

The Council has previously considered and approved two previous land purchases related to this project.

**AMOUNT AND SOURCE OF FUNDING:**

This item is funded through a Federal Transit Authority (FTA) grant. No budgetary adjustments are necessary. Funding source is as follows:

<u>Grant</u>	<u>Fund</u>	<u>Department</u>	<u>Account</u>
G600405	11629	60600011	508000

**BOARD / COMMISSION ACTION:**

(N/A)

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\*\*\*\*\*REQUIRED AUTHORIZATION\*\*\*\*\*

**LEGAL:** (if required) \_\_\_\_\_ **FINANCE:** (if required) \_\_\_\_\_

**DEPARTMENT HEAD:** \_\_\_\_\_

**APPROVED FOR AGENDA:**

**CITY MANAGER:** \_\_\_\_\_ **DATE:** \_\_\_\_\_

**RESOLUTION**

**WHEREAS**, the Mass Transit Department Board of the City of El Paso is interested in constructing and operating a Mission Valley Transit Terminal for the use and benefit of Sun Metro passengers and customers as a multi-purpose transit terminal; and

**WHEREAS**, on January 27, 2004, the Mass Transit Department Board authorized the purchase of properties from property owners for the purpose of constructing the Mission Valley Transit Terminal; and,

**WHEREAS**, the owner of the following described parcels of land, is willing to sell its property and such property is needed for the purpose of completing the Mission Valley Transit Terminal Project;

**NOW, THEREFORE, BE IT RESOLVED BY THE CITY OF EL PASO:**

**THAT** the City Manager be authorized to execute a Contract of Sale by and between the **CITY OF EL PASO** and **CONSUELO ORTEGA** and **PEDRO A. ORTEGA**, as sole surviving shareholders and directors and officers of **DELGADO GREEN CROSS HOSPITAL, INC.** and **YSLETA GENERAL HOSPITAL, INC.**, to purchase property for the Mission Valley Transit Terminal, which property is described as follows:

- Parcel 1A: Lots 10, 11 & 12, Block 2, HARRIS TRACT, an Addition to the City of El Paso, El Paso County, Texas, according to the plat thereof on file in Volume 4, Page 33, Real Property Records, El Paso County, Texas; and
- Parcel 1B: Lots 13, 14 and 15, Block 2, HARRIS TRACT, an Addition to the City of El Paso, El Paso County, Texas, according to the plat thereof on file in Volume 4, Page 33, Real Property Records, El Paso County, Texas, SAVE AND EXCEPT a portion of Lot 15 conveyed to the City of El Paso; and
- Parcel 1C: A portion of Lots 16, 17, and 18, Block 2, HARRIS TRACT, an Addition to the City of El Paso, El Paso County, Texas, according to the plat thereof on file in Volume 4, Page 33, Real Property Records, El Paso County, Texas, plus portion of Depot Street which was vacated, closed and abandoned by Ordinance No. 5692, on 2/12/76, and amended by Ordinance No. 6059, on 9/8/77; and
- Parcel 1D: Tract 20D, Block 45, YSLETA GRANT, in the City of El Paso, El Paso County Texas, according to the resurvey of said YSLETA GRANT made by El Paso County, Texas, for tax purposes,

**THAT** the Contract of Sale shall offer just compensation for the value of the land in the amount of \$500,000 and

**THAT** the City Manager of the City of El Paso or her designee is hereby authorized to execute any related documents necessary to accomplish the purchase of the parcel identified within this Resolution.

**ADOPTED THIS \_\_\_ DAY OF July, 2007.**

City of El Paso

\_\_\_\_\_  
John F. Cook, Mayor

ATTEST:

\_\_\_\_\_  
Richarda Momsen  
City Clerk

APPROVED AS TO FORM:

*Theresa Cullen-Garney*  
\_\_\_\_\_  
Theresa Cullen-Garney  
Deputy City Attorney

APPROVED AS TO CONTENT:

*Patricia D. Adauto*  
\_\_\_\_\_  
Patricia D. Adauto, Deputy City Manager  
Development & Infrastructure Services

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STATE OF TEXAS           §  
                                  §  
COUNTY OF EL PASO    §

**CONTRACT OF SALE**

This Agreement is entered into as of the \_\_\_\_ day of \_\_\_\_\_, 2007 by and between the **CITY OF EL PASO**, hereinafter referred to as the "City," and **CONSUELO ORTEGA** and **PEDRO A. ORTEGA**, as sole surviving shareholders and directors and officers of **DELGADO GREEN CROSS HOSPITAL, INC.** and **YSLETA GENERAL HOSPITAL, INC.**, hereinafter referred to as "Seller."

**NOW, THEREFORE**, for and in consideration of the premises and for other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the parties agree as follows:

1.     Description of Property. The Seller hereby agrees to sell and convey and the City hereby agrees to acquire free and clear of any liens or encumbrances, the following real property located in El Paso County, Texas:

Parcel 1A: Lots 10, 11 & 12, Block 2, HARRIS TRACT, an Addition to the City of El Paso, El Paso County, Texas, according to the plat thereof on file in Volume 4, Page 33, Real Property Records, El Paso County, Texas; and

Parcel 1B: Lots 13, 14 and 15, Block 2, HARRIS TRACT, an Addition to the City of El Paso, El Paso County, Texas, according to the plat thereof on file in Volume 4, Page 33, Real Property Records, El Paso County, Texas, SAVE AND EXCEPT a portion of Lot 15 conveyed to the City of El Paso, said portion being more particularly described by metes and bounds in Exhibit "A" attached hereto and made a part hereof; and

Parcel 1C: A portion of Lots 16, 17, and 18, Block 2, HARRIS TRACT, an Addition to the City of El Paso, El Paso County, Texas, according to the plat thereof on file in Volume 4, Page 33, Real Property Records, El Paso County, Texas, said portion being more particularly described by metes and bounds in Exhibit "B", attached hereto and made a part hereof; plus a portion of Depot Street which was vacated, closed and abandoned by Ordinance No. 5692, on 2/12/76, and amended by Ordinance No. 6059, on 9/8/77, said portion being more particularly described by metes and bounds in Exhibit "C", attached hereto and made a part hereof; and

Parcel 1D: Tract 20D, Block 45, YSLETA GRANT, in the City of El Paso, El Paso County Texas, according to the resurvey of said YSLETA GRANT made by El Paso County, Texas, for tax purposes,

together with any interest of the Seller in (i) all improvements, if any, and (ii) all right, title and interest of the Seller in and to any easements, appurtenances, and rights-of-way, and all interests in, on or to, any land, highway or street, in, on, across, in front of, abutting, or adjoining any such real property, all of such property, hereinafter collectively referred to as the "Property."

2. Amount of Payment of Purchase Price. The purchase price, including the relocation payment, for the Property shall be a total of FIVE HUNDRED THOUSAND and no/100 DOLLARS (\$500,000.00). Such sum is allocated FOUR HUNDRED SEVENTY THOUSAND and no/100 DOLLARS to the purchase price, and TWENTY THOUSAND and no/100 DOLLARS (\$20,000.00) to the relocation payment and TEN THOUSAND and no/100 DOLLARS (\$10,000) for a re-establishment allowance. The consideration recited herein represents a release of all claims, a settlement and compromise by all parties as to the value of the property herein conveyed in order to avoid litigation and the added expense of litigation.

2.1 Payment of Purchase Price. The full amount of the purchase price, including the relocation payment and re-establishment allowance, will be payable in cash at the closing. Notwithstanding the prior sentence, the parties agree as follows: (a) this Contract, the Deed, and the Lease shall be signed on ~~July 31, 2007~~ and delivered to the Title Company.

*July 27, 2007 [Signature]*

3. Conditions to City's Obligations. The obligations of the Seller hereunder to consummate the transaction contemplated herein are subject to the satisfaction of each of the following conditions, any of which may be waived, in whole or in part, in writing by the City, at or prior to Closing.

3.1 Title Insurance. Within two (2) working days after the date of execution of this contract, the City at its expense will order a title commitment ("Commitment"), accompanied by copies of all recorded documents affecting the property for the issuance of an Owner's Policy of Title Insurance with respect to the Property, in an amount to be decided by the City ("Owner's Policy").

3.2 Title Objections. The City will give the Seller written notice on or before the expiration of ten (10) working days after it receives the Commitment that the condition of the title set forth in the Commitment is or is not satisfactory. In the event the City states that the condition is not satisfactory, the City will specifically set forth in such notice the defect or exception to title that is deemed objectionable. The Seller may at its option promptly undertake to eliminate or modify all unacceptable matters to the reasonable satisfaction of the City. Otherwise, this condition will be deemed acceptable and any objection by the City will be deemed waived.

4. Representations and Warranties of Seller. The Seller hereby represents, to the best of its knowledge, covenants, and warrants to the City, as follows:

4.1 Parties in Possession. Other than the lease referenced in Paragraph 5.1, there are no parties in possession of any portion of the Property as lessees, tenants at sufferance, or otherwise.

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4.2 Legal and Authorized Transactions. The Seller warrants that no person or persons own an interest in the fee title in the Property other than the Seller and that the joinder of no other third party shall be required to consummate this transaction.

4.3 Mechanic's Lien. To the Seller's best knowledge and belief: (i) no action has been taken, suffered or permitted by or on behalf of the Seller, the effect of which would be to establish or cause the inception or priority of any mechanic's or materialmen's lien, statutory, constitutional or otherwise, or other lien, charge or encumbrance upon the Property or any part thereof or interest therein; or (ii) no liens or lien claims, choate or inchoate, arising from the Seller's actions or otherwise, exist or can exist for the benefit of mechanics or materialmen in regard to the Property. Except as expressly disclosed in the documents relating to this transaction, the Seller has not entered into any contracts or agreements relating to the use of ownership of the Property or by which any person or entity agreed to provide labor, services or materials in regard to the Property or the business of the Seller.

4.4 Litigation. To the best knowledge of the Seller, there is no pending or contemplated litigation before or by any court of law pertaining to the Property or which involve incidents occurring on the Property including, but not limited to, claims of damage to persons or property.

4.5 Bills Paid. At closing, there will be no unpaid bills or claims in connection with any repair or operation of the Property.

4.6 Compliance With Law. To the Seller's knowledge, the Property is in compliance with all applicable laws, ordinances, rules and regulations of any Government or any agency, body or subdivision, including any environmental issues related to the Seller's activities thereof.

4.7 Taxes. To the best of the Seller's knowledge, no state or municipal taxes are due with respect to the Property and no liens for such taxes are in effect against the Property, except as set forth on the Title Commitment. The Seller agrees to pay the prorated taxes due on the Property for the year 2007 through the date of Closing.

4.8 Pre-Closing Claims.

- A. The Seller agrees that the City's acceptance of title to the Property under the conveyance documents should not create any liability on the City's part to third parties that have claims of any kind against the Seller in connection with the Property. The City hereby expressly disclaims any and all liability to third parties that have any claims against the Seller. The City will not assume or agree to discharge any liabilities pertaining to the Property that occurred or accrued prior to the date of Closing. The Seller agrees to indemnify and hold the City harmless from and against any claims, injuries, liabilities, losses, damages, or expenses, including attorneys' fees and court costs, pertaining to claims arising out of the Property, and accruing prior to and arising from events that occurred prior to the date of Closing.
- B. The Seller agrees to indemnify and hold the City harmless from and against any and all claims, injuries, liabilities, losses, damages, or expenses, including

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attorneys fees and court costs, pertaining to claims arising out of the Property, accruing prior to and arising from events that occurred prior to the date of Closing, and arising from any of the following: (i) testing or inspection obligations required by federal or state environmental agencies, including without limitation any required after the date of Closing; (ii) pending environmental investigations or cases by the Texas Commission on Environmental Quality known to the Seller; or (iii) the acts or omissions of the Seller on the Property. The City acknowledges that it will assume the costs of any remediation obligations as of the date of Closing. The Seller acknowledges and agrees that the Property is being acquired by the City for the purpose of development of a transit terminal, that such facility is to be primarily financed with federal funding, that federal agencies may require remediation of environmental problems as a condition to such funding, and that the foregoing indemnification on its part, not assumed by the City herein, extends to any costs in that instance. The Seller and the City each agree to promptly inform other party of any correspondence, directive, inquiry, demand, request, or similar communication from any federal or state environmental agency relating to the Property, to reasonably cooperate with the other party on the response to and handling of such communication and any related proceeding, and allow the reasonable participation of the other party in connection with the same.

4.9 Authority. The Seller has full right, power and authority to convey the property to the City and to consummate this transaction as provided in this Contract without the joinder of any other person or entity.

4.10 Title. The Seller has good and indefeasible title to a fee simple estate in the Property, subject to no liens, charges, encumbrances or exceptions other than those shown on the Title Commitment.

4.11 Condition of Property Prior to Closing. Prior to Closing, the Seller shall not create or permit to be created any easement or other condition affecting the Property without the prior written consent of the City.

4.12 Misrepresentation. The Seller shall indemnify and hold the City harmless from and against any losses, damages, costs or expenses (including attorneys' fees) incurred by the City as a direct or indirect result of (i) breach of any representation or warranty of the Seller contained in this document, or (ii) any breach or default by the Seller under any of the covenants or agreements contained in this document to be performed by the Seller, all of which shall survive the Closing hereof.

4.13 Survival. All representations, warranties, covenants and agreements of the Seller made in this document, including without limitation any indemnity obligations, shall survive the execution and delivery hereof and of the Deed as well as the Closing hereunder, until such time as all of the obligations of the signatories hereto shall have lapsed in accordance with their respective terms [if and as applicable] or shall have been discharged in full.

5. Closing. The closing of this transaction ("Closing") shall take place at the offices of LandAmerica Lawyers Title of El Paso, 301 East Yandell Drive, El Paso, Texas 79902 (the "Title Company").

5.1 Lease. At Closing, the City agrees to lease the Property to the Seller, through Oct. 31, 2007, pursuant to the terms and conditions of a lease Agreement, being in form and substance as set forth in Exhibit "E", attached hereto and incorporated herein (the "Lease"). The lease shall be signed at Closing. Notwithstanding anything herein or in the Lease to the contrary, the Guaranteed rental for the entire stated term of the Lease, being \$3.00, shall be deducted at closing from the purchase price for the Property.

5.2 Real Property Taxes. The Seller agrees to pay the taxes due on the Property for the year 2007.

5.3 Closing Costs.

- (a) All recording fees arising from the recordation of documents necessary to show good title to the Property shall be paid by the City.
- (b) Premiums and other charges for the issuance of the Owner's Policy of Title Insurance for the Property shall be paid by the City.
- (c) Escrow fees, if any, shall be paid by the City.

5.4 Seller's Obligations. At Closing, the Seller shall deliver to the City a duly executed and acknowledged Warranty Deed to the Property, free and clear of any and all liens, encumbrances, conditions, easements, assessments, and restrictions, except for (i) ad valorem taxes for the year of Closing which shall be prorated to the date of Closing, (ii) the standard printed exceptions contained in the usual form of the Owner's Policy, and (iii) any other exceptions set forth in the Title Policy which the City has approved pursuant to Paragraph 3.2 above.

5.5 Other Obligations. Each party shall do all other acts, or deliver any other instruments or documents required or helpful to be done or delivered, in order to consummate this transaction.

5.6 Special Provisions. The Seller shall be entitled to remove all furnishings, fixtures, equipment, or its personal property from the Property on Oct. 31, 2007 which is the termination date of the Lease referenced in paragraph 5.1 hereof.

6. Default.

6.1 Breach by Seller. In the event that the Seller shall fail to fully and timely perform any of its obligations under this Agreement, or shall fail to consummate the sale of the Property for any reason, except the City's default, or the termination of this Agreement in accordance with its terms, the City may enforce specific performance of this Agreement.

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6.2 Breach by City. In the event that City shall fail to fully and timely perform any of its obligations under this Agreement, or shall fail to consummate the sale of the Property for any reason, except the Seller's default, or the termination of this Agreement in accordance with its terms, due to the difficulty of assessing the Seller's actual damages as a result of such breach by City, the Seller shall have a right to receive the \$100.00 as independent consideration as well as the reasonable and necessary out-of-pocket expenses of the Seller directly relating to this Agreement, such sum being agreed upon as liquidated damages for the failure of the City to perform the duties, liabilities and obligations imposed upon it by the terms and provisions of this Agreement, and the Seller agrees to accept and take such cash payment as its total, reasonable damages and relief and as the Seller's sole, exclusive remedy hereunder in such event.

7. Miscellaneous.

7.1 Notice. Any notice, demand, direction, request, or other instrument authorized or required by this Agreement to be given to or filed with either party, shall be deemed to have been sufficiently given or filed for all purposes, if and when personally delivered or sent by certified mail, postage prepaid, return receipt requested, to the address specified below or at such other address as may be designated in writing by the parties:

Seller: Consuelo Ortega and Pedro A. Ortega, as sole surviving shareholders and directors and officers of Delgado Green Cross Hospital, Inc. and Ysleta General Hospital, Inc.  
c/o Victor F. Poulos  
5915 Silver Springs Drive, Building 1  
El Paso, Texas 79912

City: City Manager  
City of El Paso  
2 Civic Center Plaza  
El Paso, Texas 79901-1196

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8. Entire Agreement/Governing Law. **This Agreement constitutes the entire agreement between the parties, and supersedes all prior agreements and understandings, written or oral, regarding the subject matter of this Agreement, and may be amended or supplemented only by an instrument in writing, executed by the party against whom enforcement is sought. This Agreement shall be governed in all respects, including validity, interpretation and effect, by and shall be enforceable in accordance with the laws of the State of Texas.**

8.1 Time. Time is of the essence of this Agreement and each and every provision hereof.

8.2 Severability. If any provision of this Agreement shall be invalid, illegal or unenforceable, the validity, legality and enforceability of the remaining portion shall not in any way be affected or impaired.

8.3 Survival of Provisions. The terms contained in this Agreement, including without limitation, representations, warranties, covenants and agreements of the parties, shall survive the Closing and shall not be merged therein. In case any one or more of the provisions contained in this contract for any reason is held invalid, this invalidity will not affect any other provision of this Contract, which will be construed as if the invalid or unenforceable provision had never existed.

8.4 Binding Effect. This Agreement shall be binding upon the parties hereto and their respective successors and assigns.

8.5 Compliance. In accordance with the requirements of Section 2B of the Texas Real Estate License Act, the City or its representatives is hereby advised that it should be furnished with or obtain a policy of title insurance or have an abstract covering the Property examined by an attorney of its own selection.

8.6 Reservation. The City reserves, and does not waive, its rights of sovereign immunity and similar rights and its rights under the Texas Tort Claims Act, except to the extent necessary to give legal effect to this Contract.

**The above instrument, together with all conditions thereto is hereby EXECUTED by the Seller to be effective as of the 19<sup>th</sup> day of July, 2007.**

Consuelo Ortega and Pedro A. Ortega, as sole surviving shareholders and directors and officers of DELGADO GREEN CROSS HOSPITAL, INC.

Consuelo Ortega  
Consuelo Ortega

Pedro A. Ortega  
Pedro A. Ortega

YSLETA GENERAL HOSPITAL, INC.

By: Pedro A. Ortega

Name: PEDRO A. ORTEGA

Title: PRESIDENT

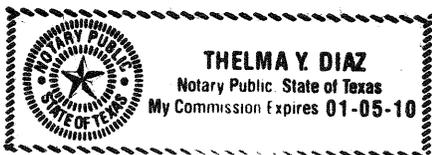
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*(Acknowledgments begin on next page)*

ACKNOWLEDGEMENT

STATE OF TEXAS )  
 )  
COUNTY OF EL PASO )

This instrument was acknowledged before me on the 19<sup>th</sup> day of July, 2007 by Consuelo Ortega as a sole surviving shareholder, director and officer of Delgado Green Cross Hospital, Inc.

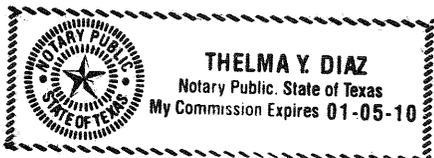


[Signature]  
Notary Public, State of Texas

ACKNOWLEDGEMENT

STATE OF TEXAS )  
 )  
COUNTY OF EL PASO )

This instrument was acknowledged before me on the 19<sup>th</sup> day of July, 2007 by Pedro A. Ortega as a sole surviving shareholder, director and officer of Delgado Green Cross Hospital, Inc.

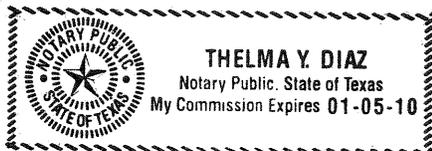


[Signature]  
Notary Public, State of Texas

ACKNOWLEDGEMENT

STATE OF TEXAS )  
 )  
COUNTY OF EL PASO )

This instrument was acknowledged before me on the 19<sup>th</sup> day of July, 2007 by Pedro Ortega, as President of Ysleta General Hospital, Inc.



[Signature]  
Notary Public, State of Texas

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(Signatures continue on following page)

EXECUTED by the City of El Paso to be effective as of the \_\_\_\_ day of \_\_\_\_, 2007.

City of El Paso

By: \_\_\_\_\_  
Joyce Wilson  
City Manager

APPROVED AS TO CONTENT:

Patricia D. Adauto  
Patricia D. Adauto  
Deputy City Manager  
Development & Infrastructure Services

APPROVED AS TO FORM:

Theresa Cullen-Garney  
Theresa Cullen-Garney  
Deputy City Attorney

**ACKNOWLEDGEMENT**

STATE OF TEXAS        )  
                                  )  
COUNTY OF EL PASO    )

This instrument was acknowledged before me on the \_\_\_\_ day of \_\_\_\_\_, 2007 by  
Joyce Wilson, City Manager of the City of El Paso.

\_\_\_\_\_  
Notary Public, State of Texas

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A parcel of land which is a portion of Lot 15, Block 2, Harris Tract in the City of El Paso, El Paso County, Texas, being more particularly described as follows:

From a county marker located on the centerline of Alameda Avenue and Harris Street, thence along the centerline of Harris Street North  $26^{\circ} 03' 41''$  East a distance of thirty and no hundredths (30.00) feet to a point, said point being the intersection of the centerline of Harris Street and the north right of way line of Alameda Avenue (extended), thence South  $64^{\circ} 21' 19''$  East a distance of twenty-five and no hundredths (25.00) feet to a point, said point being the intersection of the east right of way line of Harris Street and the north right of way line of Alameda Avenue, thence along the east right of way line of Harris Street North  $26^{\circ} 03' 41''$  East a distance of three hundred sixty-four and ninety-one hundredths (364.91) feet to the commonwest corner of Lots 15 and 16, Harris Tract, thence along the common lot line of said Lots 15 and 16 South  $63^{\circ} 56' 19''$  East a distance of one hundred eight and seventy-one hundredths (108.71) feet to the point of beginning;

Thence along the common lot line of said Lots 15 and 16 South  $63^{\circ} 56' 19''$  East a distance of three and no hundredths (3.00) feet to a point, said point being the east common corner of Lots 15 and 16;

Thence along the east lot line of said Lot 15 South  $07^{\circ} 05' 19''$  East a distance of five and thirty-five hundredths (5.35) feet to a point on said east lot line;

Thence North  $26^{\circ} 50' 43''$  West a distance of seven and forty-three hundredths (7.43) feet to the point of beginning.

Said parcel of land consisting of 6.72 square feet or 0.00015 acres of land, more or less.

**EXHIBIT A**

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A parcel of land, being a portion of Lots 16,17 and 18, Block 2, Harris Tract, and being more particularly described as follows:

From a county marker located on the centerline intersection of Alameda Avenue and Harris Street, thence North  $26^{\circ}03'41''$  East, a distance of thirty and no hundredths (30.00) feet to a point; thence South  $64^{\circ}21'19''$  East, a distance of twenty-five and no hundredths (25.00) feet to a point; thence North  $26^{\circ}03'41''$  East, a distance of three hundred sixty-four and ninety-one hundredths (364.91) feet to a point; thence South  $63^{\circ}56'19''$  East, a distance of zero and nine thousandths (0.009) feet to establish the true point of beginning;

THENCE along the arc of a curve to the right, a distance of sixty and five hundredths (60.05) feet, said curve having a central angle of  $47^{\circ}24'40''$  a radius of seventy-two and fifty-seven hundredths (72.57) feet and a chord bearing North  $50^{\circ}41'26''$  East, a distance of fifty-eight and thirty-five hundredths (58.35) feet to a point;

THENCE North  $74^{\circ}23'46''$  East, a distance of two and eighty-three hundredths (2.83) feet to a point for a curve;

THENCE along the arc of a curve to the right, a distance of twenty-three and sixty-nine hundredths (23.69) feet, said curve having a central angle of  $90^{\circ}08'01''$  a radius of fifteen and six hundredths (15.06) feet and a chord bearing South  $60^{\circ}32'13''$  East, a distance of twenty-one and thirty-two hundredths (21.32) feet to a point for a curve;

THENCE along the arc of a curve to the left, a distance of eight-one and forty-three hundredths (81.43) feet, said curve having a central angle of  $14^{\circ}14'30''$  a radius of three hundred twenty-seven and sixty hundredths (327.60) feet and a chord bearing South  $22^{\circ}35'28''$  East, a distance of eighty-one and twenty-two hundredths (81.22) feet to a point;

THENCE North  $63^{\circ}56'19''$  West, a distance of one hundred eight and seventy hundredths (108.70) feet to the point of beginning.

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**EXHIBIT B**

That part of Depot Street in the City of El Paso, El Paso County, Texas, which is owned by Grantors, and which is a portion of Depot Street which was vacated, closed and abandoned as a public street by Ordinance No. 5692, passed and approved by the City Council of the City of El Paso on February 12, 1976, as amended by Ordinance No. 6059, passed and approved by the City Council of the City of El Paso on September 8, 1977; the portion of Depot Street so vacated, closed and abandoned as a public street pursuant to said Ordinances being more particularly described as follows:

From a county marker located on the centerline intersection of Alameda Avenue and Harris Street, thence along the centerline of Harris Street North  $26^{\circ}03'41''$  East a distance of thirty and no hundredths (30.00) feet to a point, said point being the intersection of Harris Street and the north right of way line of Alameda Avenue (extended), thence South  $64^{\circ}21'19''$  East a distance of twenty-five and no hundredths (25.00) feet to a point, said point being the intersection of the east right of way line of Harris Street and the North right of way line of Alameda Avenue, thence along the east right of way line of Harris Street North  $26^{\circ}03'41''$  East a distance of two hundred fourteen and ninety-one hundredths (214.91) feet to a point being the common west corner of Lots 9 and 10, Block 2, Harris Tract, thence along the common lot line of said Lots 9 and 10 South  $63^{\circ}56'19''$  East a distance of one hundred fifty-two and sixty-eight hundredths (152.68) feet to a point on the west right of way line of Depot Street, said point the point of beginning;

Thence North  $19^{\circ}16'50''$  East a distance of one hundred seven and forty-two hundredths (107.42) feet along the west right of way line of Depot Street to a point on the said west right of way line of Depot Street;

Thence along said west right of way line of Depot Street North  $07^{\circ}05'19''$  West a distance of forty-six and forty-one hundredths (46.41) feet to a point, said point being the intersection of the west right of way line of Depot Street and the westerly right of line of Zaragoza Road;

Thence South  $26^{\circ}33'11''$  East a distance of seventy and twenty-five hundredths (70.25) feet to a point on the east right of way line of Depot Street;

Thence along the east right of way line of Depot Street South  $19^{\circ}16'50''$  West a distance of one hundred fifty-seven and twenty-four hundredths (157.24) feet to a point, said point being the southwest corner of Tract 20D, Block 45, Ysleta Grant Surveys;

Thence North  $04^{\circ}20'55''$  East a distance of fifty-seven and thirty-four hundredths (57.34) feet to the intersection of the centerline of Depot Street and a common lot line of Lots 9 and 10, Block 2, Harris Tract (extended);

Thence North  $63^{\circ}56'19''$  West a distance of fifteen and eleven hundredths (15.11) feet to a point, said point being the common east corner of Lots 9 and 10, Block 2, Harris Tract, and also said point being the point of beginning.

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**EXHIBIT C**

**LEASE AGREEMENT**

THIS LEASE AGREEMENT ("this Lease") is made as of the Effective Date by and between by the Landlord and the Tenant hereinafter named.

**ARTICLE I.  
Definitions and Certain Basic Provisions**

1.01.

- (A) Landlord: City of El Paso
- (B) Landlord's Address: City Manager  
City of El Paso  
2 Civic Center Plaza  
El Paso, Texas 79901-1196
- (C) Tenant: Ysleta General Hospital, Inc.
- (D) Tenant's Address: c/o Victor F. Poulos  
5915 Silver Springs Drive, Building 1  
El Paso, Texas 79912
- (E) Premises: The real property and improvements in the City of El Paso, El Paso County, Texas described on Exhibit "A", attached hereto and incorporated herein.
- (F) Lease Term: As set forth in Article III.
- (G) Rent: As set forth in Article IV.
- (H) Permitted Use: Medical clinic and office and any other uses being done by the Tenant at the Premises as of July 27, 2007.
- (I) Security Deposit: \$0.00.

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Each of the foregoing definitions and basic provisions shall be construed in conjunction with and limited by the references thereto in the other provisions of this Lease.

**ARTICLE II.**  
**Granting Clause**

2.01. In consideration of the obligation of Tenant to pay rent as herein provided and in consideration of the other terms, covenants and conditions hereof, Landlord hereby demises and leases to Tenant, and Tenant hereby takes from Landlord, the Premises as described in Section 1.01(E), TO HAVE AND TO HOLD said Premises for the lease term specified in Section 1.01(F), all upon the terms and conditions set forth in this Lease.

**ARTICLE III.**  
**Term**

3.01. The Landlord agrees to, and does hereby, lease the Premises to the Tenant for a term (the "Term") commencing as of July 27, 2007 (the "Effective"), and terminating at 11:59 P.M. on Oct. 31, 2007.

**ARTICLE IV.**  
**Rent and Other Matters**

4.01. As rent for the Premises (the "Minimum Guaranteed Rental"), the Tenant agrees to pay to the Landlord rent of \$3.00, payable in advance [without proration, abatement, deduction or offset, except insofar as any such abatement, deduction or offset is expressly permitted under this Lease].

4.02. Rental shall accrue hereunder from July 27, 2007 (the "Rent Commencement Date"), and shall be payable to Landlord at the place designated as Landlord's address. It is agreed by the Landlord and Tenant that this Lease is binding upon the parties and enforceable according to its terms, even if the Rent Commencement Date hereof is after the Effective Date hereof.

4.03. Tenant shall pay to Landlord at its address the Minimum Guaranteed Rental in monthly installments in the amounts specified in Section 4.01 above. The first such monthly installment shall be due and payable on or before the Rent Commencement Date, and subsequent installments shall be due and payable on or before the first day of each succeeding calendar month during the hereby demised term. The Minimum Guaranteed Rental shall be paid to the Landlord without notice or demand and without deduction, abatement or setoff.

4.04. The obligation of the Tenant to pay rent during any term hereof is an independent covenant, and no act or circumstance whatsoever, whether such act or circumstance constitutes a breach of covenant by Landlord or not, shall release the Tenant of the obligation to pay rent as required by this Lease.

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**ARTICLE V.**  
**Use and Care of Premises**

5.01. The Premises may be used only for the purpose or purposes specified in Section 1.01(H) above, and for no other purpose or purposes without the prior written consent of Landlord.

5.02. **UPON THE EFFECTIVE DATE OF THIS LEASE, THE PARTIES ACKNOWLEDGED THAT LANDLORD HAS DELIVERED TO TENANT POSSESSION OF THE PREMISES SUBJECT TO THE TERMS AND CONDITIONS OF THIS LEASE, AND TENANT ACCEPTS THE PREMISES "AS IS" WITH ANY AND ALL LATENT AND PATENT DEFECTS AND THAT THERE IS NO WARRANTY BY LANDLORD THAT THE PREMISES IS SUITABLE, HABITABLE, OR FIT FOR A PARTICULAR PURPOSE. TENANT ACKNOWLEDGES THAT IT IS NOT RELYING UPON ANY REPRESENTATION WITH RESPECT TO THE CONDITION OF THE PREMISES, BUT IS RELYING UPON ITS OWN EXAMINATION OF THE PREMISES.**

**ARTICLE VI.**  
**Maintenance and Repair of Premises**

6.01. Tenant shall have the obligation at its expense to maintain all parts and portions of the Premises in their current condition.

6.02. Should Tenant fail to promptly perform any maintenance or repairs required by the provisions of this Lease to be performed by Tenant, Landlord may request that Tenant make such repairs or perform such maintenance and upon Tenant's failure or refusal to do so promptly (and in any event, in case of an emergency irrespective of whether Landlord shall have requested or obtained Tenant's prior consent), Landlord shall have the right (but shall not be obligated) to perform such maintenance or make such repairs; thereupon, Tenant will, at Landlord's election, on demand, pay (or reimburse Landlord for) the reasonable cost of such maintenance or repairs; and in addition, Tenant shall pay Landlord upon demand interest at eighteen percent (18%) per annum on any amounts incurred by Landlord in connection herewith.

6.03. At the expiration of this Lease, Tenant shall surrender the Premises in good condition, reasonable wear and tear and loss by fire or other casualty excepted.

6.04. Tenant shall, at its sole cost and expense, promptly comply with all laws, statutes, ordinances and governmental rules, regulations or requirements now in force or which may hereafter be in force relating to or affecting the condition, use or occupancy of the Premises. Specifically, Tenant shall comply with all requirements applicable to the Premises imposed under or by virtue of the Americans with Disabilities Act of 1990, the State Architectural Barriers Act and all regulations issued pursuant thereto and any local ordinance, rule or regulation now or hereafter enacted.

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**ARTICLE VII.**

**Alterations**

7.01 Tenant shall not make any alterations, additions or improvements to the Premises without the prior written consent of Landlord, except for (i) the erection and installation of signs at Tenant's expense and in conformity with any laws or ordinances of the City of El Paso pertaining to signs, and (ii) the installation of unattached, movable trade fixtures which may be installed without drilling, cutting or otherwise defacing the Premises.

7.02. All construction work done by Tenant at the Premises shall be performed in a good and workmanlike manner, and in compliance with all governmental requirements.

7.03. Tenant shall not permit any mechanic's, materialmen's or other liens to be fixed or placed against the Premises and agrees immediately to discharge (whether by payment or by filing of the necessary bond, or otherwise) any mechanic's, materialmen's or other lien which is allegedly fixed or placed against any of the foregoing as the result of an act or omission of Tenant.

**ARTICLE VIII.**

**Landlord's Right of Access**

8.01. Landlord shall have the right to enter upon the Premises at any time for the purpose of inspecting the same, or making repairs to the Premises, or making repairs, alterations or additions to adjacent Premises, or showing the Premises to prospective purchasers, lessees or lenders.

8.02. Landlord, directly and through its contractors and representatives, shall further have the right to enter upon the Premises upon reasonable notice to Tenant to conduct surveys, studies, design and engineering, and other activities, conducted in a manner so as to not unreasonably interfere with or disrupt Tenant's operations at the Premises. Each such contractor of Landlord shall maintain liability insurance in a minimum amount of \$1,000,000.00, covering its activities at the Premises.

**ARTICLE IX.**

**Utilities**

9.01. Tenant shall promptly pay before delinquency all charges for electricity, water, gas, telephone service, sewerage service and other facilities furnished to the Premises, including any hook-up or connection fees.

9.02. Landlord shall not be liable for any interruption whatsoever in utility services.

9.03. During the term of this Lease, Tenant shall be entitled to use any existing utility easements on the Premises, whether or not of record, in order to provide utility service to the improvements and its operations on the Premises.

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**ARTICLE X.**  
**Indemnity and Public Liability Insurance**

10.01. Landlord and Landlord's agents and employees shall not be liable to Tenant for any injury to person or damage to property caused by the Premises coming out of repair or by defect in or failure of equipment, pipes or wiring, or broken glass, or by the backing up of drains, or by gas, water, steam, electricity or oil leaking, escaping or flowing into the Premises, nor shall Landlord be liable to Tenant for any loss or damage that may be occasioned by or through the acts or omissions of any other persons whomsoever, excepting only duly authorized employees and agents of Landlord. Tenant agrees to indemnify and hold Landlord harmless of, from and against all claims, actions, damages, liabilities and expenses asserted against the Landlord on account of injuries to person or damage to property (including any diminution in value thereof) when and to the extent that any such damages or injury may be caused, either proximate or remote, wholly or in part by any breach of this Lease by Tenant, any act or omission, whether negligent or not, of Tenant or any of its agents, servants, employees, contractors, patrons or invitees (while such invitees are on the Premises) or of any other person entering upon the Premises under or with the express or implied invitation of Tenant, or if any such injury or damage may in any other way arise from or out of the occupancy or use of Tenant, its agents, employees and invitees of the Premises, or for the disposal on, or use of, the Premises of any Hazardous Substances in violation of any federal, state or municipal environmental or other laws, rules or regulations. This paragraph is for the benefit of the Landlord only, and no right of action shall accrue hereunder to any third party by way of subrogation or otherwise.

10.02. Tenant shall procure and maintain throughout the term of this Lease a policy or policies of insurance, at its sole cost and expense, insuring both Landlord, its agents and Tenant against all claims, demands or actions arising out of or in connection with Tenant's use or occupancy of the Premises, or by the condition of the Premises, the limits of such policy or policies to be in an amount not less than \$1,000,000.00 in respect of injuries to or death of any one person, and in an amount not less than \$1,000,000.00 in respect of any one accident or disaster, and in an amount not less than \$500,000.00 for property damage arising out of any one occurrence. All policies of insurance shall be written by an insurance company or companies authorized to do business in the State of Texas. A copy of Tenant's public liability insurance policy, and any renewal policies shall be furnished to Landlord by Tenant. Tenant will procure endorsements on the policies required to be maintained by it requiring that at least thirty (30) days' prior written notice be given to the Landlord before any cancellation or reduction of insurance under any such policy.

10.03. Landlord and Tenant and all parties claiming under them mutually release and discharge each other from all claims and liabilities arising from or caused by any casualty or hazard covered or required hereunder to be covered in whole or in part by insurance on the Premises or in connection with property on or activities conducted on the Premises; and waive any right of subrogation which might otherwise exist in or accrue to any person on account thereof; provided that such release shall not operate in any case where the effect is to invalidate such insurance coverage.

**ARTICLE XI**  
**Environmental Matters**

11.01 Neither Tenant nor Tenant's agents or contractors shall, without Landlord's prior written consent, which consent shall not be unreasonably withheld, keep on or around the Premises for use, handling, transport, disposal, treatment, generation, storage, or sale, any of the following: hazardous materials, hazardous substances, toxic wastes, toxic substances, pollutants, petroleum products, underground tanks, oils, pollution, asbestos, PCB'S, materials, or contaminants, as those terms are commonly used or as defined by federal, state, and/or local law or regulation related to protection of health or the environment, including but not limited to the Resource Conservation and Recovery Act (RCRA) (42 U.S.C. § 6901 et. seq.); the Comprehensive Environmental Response, Compensation and Liability Act (CERCLA) (42 U.S.C. § 9601, et seq.); the Toxic Substances Control Act (15 U.S.C. § 2601, et seq.); the Clean Water Act (33 U.S.C. § 1251, et. seq.); and the Clean Air Act (42 U.S.C. § 7401 et. seq.); and as any of the same may be amended from time to time, and/or by any rules and regulations promulgated thereunder (collectively, the "Hazardous Substances"), and/or is subject to regulation by any federal, state, or local law, regulation, statute, ordinance, or management plan.

**ARTICLE XII.**  
**Damage by Casualty**

12.01. Tenant shall give immediate written notice to Landlord of any damage caused to the Premises by fire or other casualty.

12.02. In the event that the Premises shall be damaged or destroyed by fire or other casualty, then Landlord may elect either to terminate this Lease or to proceed to rebuild and repair the Premises. Landlord shall give written notice to Tenant of such election within sixty days after the occurrence of such casualty and if it elects to rebuild and repair shall proceed to do so with reasonable diligence and at its sole cost and expense.

12.03. Landlord's obligation to rebuild and repair under this Article XII shall in any event be limited to restoring the Premises to substantially the condition in which the same existed prior to such casualty, exclusive of any alterations, additions, improvements, fixtures and equipment installed by Tenant. Tenant agrees that promptly after completion of such work by Landlord, Tenant will proceed with reasonable diligence and at Tenant's sole cost and expense to restore, repair and replace all alterations, additions, improvements, fixtures, signs and equipment installed by Tenant.

12.04. Tenant agrees that during any period of reconstruction or repair of the Premises it will continue the operation of its business within the Premises to the extent practicable. During the period from the occurrence of the casualty until Landlord's repairs are completed, the Minimum Guaranteed Rentals shall be reduced to such extent as may be fair and reasonable under the circumstances; however, there shall be no abatement of the other charges provided for herein.

**ARTICLE XIII.**  
**Condemnation**

13.01. If any part of the Premises shall be taken by any public or private authority under the power of eminent domain, and a part thereof remains which is susceptible of occupation for Tenant's business hereunder, this Lease shall, as to the part so taken, terminate as of the date title vests in the condemnor, and the rent payable hereunder shall be adjusted so that the Tenant shall be required to pay for the remainder of the term only such portion of such rent as the value of the part remaining after condemnation bears to the value of the entire Premises at the date of condemnation; but in such event, Landlord or Tenant shall have the option to terminate this entire Lease as of the date when title to the part so condemned vests in the condemnor. If all of the Premises is taken, or such a large part thereof is taken that there does not remain any portion susceptible of occupation for Tenant's business hereunder, this entire Lease shall thereupon terminate. In the event of condemnation of the whole or any part of the Premises, all compensation awarded or paid in the event of such taking shall belong to and be the property of Landlord, whether such compensation be awarded for diminution in value of the leasehold or to the fee of the Premises and the Lease shall be considered to have terminated prior to the taking; provided, however, that Landlord shall have no interest in any award made to Tenant for loss of business or depreciation to and cost of removal of Tenant's stock and fixtures and other property, if a separate award for such items is made to Tenant. Tenant hereby irrevocably assigns the interest, if any, it shall have in the compensation awarded or to be paid Landlord under the provisions of this Article XIII.

**ARTICLE XIV.**  
**Property Taxes**

14.01. Tenant shall be liable for all taxes levied against real property and personal property, inventory, and trade fixtures placed by Tenant in the Premises, or in connection with the operation of Tenant's business. If any such taxes are levied against Landlord or Landlord's property and if Landlord elects to pay the same or if the assessed value of Landlord's property is increased by inclusion of personal property and trade fixtures placed by Tenant in the Premises and Landlord elects to pay the taxes based on such increase, Tenant shall pay to Landlord upon demand that part of such taxes for which Tenant is primarily liable hereunder.

**ARTICLE XV.**  
**Default by Tenant and Remedies**

15.01. The following events shall be deemed to be events of default by Tenant under this Lease:

(1) Tenant shall fail to pay any installment of rent hereunder and such failure shall continue for a period of ten (10) days.

(2) Tenant shall fail to comply with any term, provision or covenant of this Lease, other than the payment of rent, and shall not cure such failure within thirty (30) days after written notice thereof to Tenant.

(3) Tenant shall become insolvent, or shall make a transfer in fraud of creditors, or shall make an assignment for the benefit of creditors.

(4) Tenant or any guarantor of Tenant's obligations under this Lease shall file a petition under any section or chapter of the Bankruptcy Code, as amended, or under any similar law or statute of the United States or any State thereof; or Tenant of Tenant's obligations under this Lease shall be adjudged bankrupt or insolvent in proceedings filed against Tenant of Tenant's obligations under this Lease thereunder.

(5) A receiver or trustee shall be appointed for the Premises or for all or substantially all of the assets of Tenant of Tenant's obligations under this Lease.

(6) Tenant shall do or permit to be done anything which creates a lien upon the Premises.

Upon the occurrence of any such event of default, Landlord shall have the option to pursue any one or more of the following remedies:

(A) Terminate this Lease, in which event Tenant shall immediately surrender the Premises to Landlord, and if Tenant fails to do so, Landlord may, without prejudice to any other remedy which it may have for possession or arrearages in rent, enter upon and take possession of the Premises and expel or remove Tenant and any other person who may be occupying said Premises or any part thereof, by force if necessary, without being liable for prosecution or any claim of damages therefor; and Tenant agrees to pay to Landlord on demand the amount of all losses and damage which Landlord may suffer by reason of such termination, whether through inability to relet the Premises on satisfactory terms or otherwise.

(B) Enter upon and take possession of the Premises and expel or remove Tenant and any other person who may be occupying said Premises or any part thereof, and if Landlord so elects, relet the Premises on such terms as Landlord may deem advisable and receive the rent therefor; and Tenant agrees to pay to Landlord on demand any deficiency that may arise by reason of such reletting.

(C) Enter upon the Premises without being liable for prosecution or any claim for damages therefor, and do whatever Tenant is obligated to do under the terms of this Lease; and Tenant agrees to reimburse Landlord on demand for any expenses which Landlord may incur in thus effecting compliance with Tenant's obligations under this Lease, and Tenant further agrees that Landlord shall not be liable for any damages resulting to the Tenant from such action.

Pursuit of any of the foregoing remedies shall not preclude pursuit of any other remedies herein provided or provided by law, nor shall pursuit of any other such remedy constitute a forfeiture or waiver of any rent due to Landlord hereunder or of any damages accruing to Landlord by reason of

the violation of any of the terms, provisions and covenants herein contained. Forbearance by Landlord to enforce one or more of the remedies herein provided upon an event of default shall not be deemed or construed to constitute a waiver of such default.

15.02. If on account of any breach or default by Tenant in its obligations hereunder, Landlord shall employ an attorney to enforce or defend any of Landlord's rights or remedies hereunder, Tenant agrees to pay any reasonable attorney's fees incurred by Landlord in such connection.

**ARTICLE XVI.**  
**Landlord's Lien**

16.01 Intentionally Deleted.

**ARTICLE XVII.**  
**Holding Over**

17.01. Tenant shall have no right whatsoever to hold over at the Premises after termination or expiration of the Lease. In the event Tenant remains in possession of the Premises after the expiration or termination of this Lease and without the execution of a new lease, Tenant shall be deemed to be occupying said Premises as a tenant from month to month at a rental equal to \$3,000.00 per month and otherwise subject to all the conditions, provisions and obligations of this Lease insofar as the same are applicable to a month to month tenancy, and Tenant shall furthermore indemnify Landlord for all claims, causes of action, damages, injuries, liabilities, expenses, costs, losses, or harm of any kind that Landlord may suffer due to any such hold-over of the Premises by Tenant. Tenant acknowledges and agrees that Landlord intends to use the Premises immediately after the expiration or termination of this Lease for the purpose of development of an inter-modal transportation facility, that such facility is to be primarily financed with federal funding, that such funding is and will be subject to numerous requirements and deadlines, that any hold-over of the Premises by Tenant may threaten to cause or may cause non-compliance with such requirements and deadlines, and that the foregoing indemnity extends to losses of Landlord due to such actual or threatened non-compliance.

**ARTICLE XVIII.**  
**Subordination, Attornment and Estoppel**

18.01. Tenant accepts this Lease subject and subordinate to any mortgage, deed of trust or other liens presently existing or hereafter created upon the Premises, building or improvements located thereon, and to any renewals and extensions thereon, and Tenant agrees that any such mortgagee shall have the right at any time to subordinate such mortgage, deed of trust and other lien to this Lease. Landlord is hereby irrevocably vested with full power and authority to subordinate this Lease to any mortgage, deed of trust or other lien hereafter placed upon the Premises, or the buildings or improvements located thereon, as Tenant agrees upon demand to execute such further instruments subordinating this Lease as Landlord may request.

In the event any proceedings are brought for foreclosure, or in the event of the exercise of the power of sale under any mortgage or deed of trust made by the Landlord covering the Premises, the Tenant shall attorn to the purchaser upon any such foreclosure or sale and recognize such purchaser as the Landlord under this Lease.

The provisions of this Article to the contrary notwithstanding and so long as Tenant is not in default hereunder, this Lease shall remain in full force and effect for the term hereof.

18.02. Tenant agrees upon reasonable request of Landlord to execute, acknowledge and deliver to Landlord (or to any party specified by Landlord) an instrument ratifying this Lease and certifying each of the following, if same is true and correct, to-wit: (i) that Tenant has entered into occupancy of the Premises and the date of such entry; (ii) that this Lease is in full force and effect, and has not been assigned, modified, supplemented or amended in any way (or if there has been any assignment, modification, supplement or amendment identifying the same); (iii) that this Lease represents the entire agreement between Landlord and Tenant as to the subject matters hereof (or if there has been any assignment, modification, supplement or amendment identifying the same); (iv) the date of commencement and expiration of the term; (v) that all conditions under the Lease to be performed by Landlord have been satisfied; (vi) that no default exists in the performance or observance of any covenant or condition in this Lease and there are no defenses or offsets against the enforcement of this Lease by Landlord (or specifying such default, defense or offset); (vii) that, except for a security deposit, no rental has been paid in advance and no security has been deposited with Landlord; and (viii) the date to which rental has been paid under this Lease.

**ARTICLE XIX.**  
**Assignment and Subletting**

19.01. Tenant may not assign or in any manner transfer this Lease or any interest therein, directly or indirectly, or sublet the Premises or any part thereof, or grant any license, concession or other right to occupy any portion of the Premises without the prior written consent of Landlord, EXCEPT, however, an assignment to a wholly-owned subsidiary of Tenant and so long as Tenant remains jointly and severally liable under this Lease.

**ARTICLE XX.**  
**Security Deposit**

20.01. Intentionally Deleted.

**ARTICLE XXI.**  
**Commissions**

21.01. Tenant represents and warrants that it has incurred no liabilities or claims for brokerage commissions or finder's fees in connection with the execution of this Lease and that it has not dealt with, and has no knowledge of, any real estate broker, agent, or salesperson in connection with this Lease.

**ARTICLE XXII.**

**Miscellaneous**

22.01. In the event of the transfer and assignment by Landlord of its interest in this Lease and the Premises to a person expressly assuming Landlord's obligations under this Lease, Landlord shall thereby be released from any further obligations hereunder, and Tenant agrees to look solely to such successor in interest of the Landlord for performance of such obligations.

22.02. Tenant specifically agrees to look solely to Landlord's interest in the Premises for the recovery of any judgment from Landlord, it being agreed that Landlord shall never be personally liable for any such judgment.

22.03. Wherever any notice is required or permitted hereunder such notice shall be in writing. Any notice or document required or permitted to be delivered hereunder shall be deemed to be delivered, whether actually received or not, when deposited in the United States Mail, postage prepaid, registered mail, return receipt requested, addressed to the parties hereto at the respective addresses set out in Section 1.01 above, or at such other addresses as they have theretofore specified by written notice.

22.04. Nothing herein contained shall be deemed or construed by the parties hereto, nor by any third party, as creating the relationship of principal and agent or of partnership or joint venture between the parties hereto, it being understood and agreed that neither the method of computation of rent, nor any other provision contained herein, nor any acts of the parties hereto, shall be deemed to create any relationship between the parties hereto other than the relationship of landlord and tenant. Whenever herein the singular number is used, the same shall include the plural, and words of any gender shall include each other gender. The captions used herein are for convenience only and do not limit or amplify the provisions hereof. One or more waivers of any covenant, term or condition of this Lease by either party shall not be construed as a waiver of subsequent breach of the same covenant, term or condition. The consent or approval by either party to or of any act by the other party requiring such consent or approval shall not be deemed to waive, or render unnecessary, consent to or approval of any subsequent similar act. Whenever a period of time is herein prescribed for action to be taken by Landlord, Landlord shall not be liable or responsible for, and there shall be excluded from the computation of any such period of time, any delays due to strikes, riots, acts of God, shortages or labor or materials, war, governmental laws, regulations or restrictions or any other causes of any kind whatsoever which are beyond the reasonable control of Landlord. At any time when there is outstanding a mortgage, deed of trust or similar security instrument covering Landlord's interest in the Premises, Tenant may not exercise any remedies for default by Landlord hereunder unless and until the holder of the indebtedness secured by such mortgage, deed of trust or similar security instrument shall have delivered written notice of such default and a reasonable time for curing such default shall thereafter have elapsed.

22.05. Landlord agrees that if Tenant shall perform all of the covenants and agreements herein required to be performed by Tenant, Tenant shall, subject to the terms of this Lease, at all times during the continuance of this Lease have the peaceable and quiet enjoyment and possession of the Premises.

22.06. THIS LEASE CONTAINS THE FINAL, ENTIRE, AND INTEGRATED AGREEMENT BETWEEN THE PARTIES [IN CONJUNCTION WITH THE PURCHASE AND SALE AGREEMENT AND SPECIAL WARRANTY DEED OF EVEN DATE BETWEEN THE PARTIES], AND NO AGREEMENT SHALL BE EFFECTIVE TO CHANGE, MODIFY OR TERMINATE THIS LEASE IN WHOLE OR IN PART UNLESS SUCH AGREEMENT IS IN WRITING AND DULY SIGNED BY THE PARTY AGAINST WHOM ENFORCEMENT OF SUCH CHANGE, MODIFICATION OR TERMINATION IS SOUGHT.

22.07. The terms, provisions and covenants contained in this Lease shall apply to, inure to the benefit of, and be binding upon the parties hereto and their respective successors and permitted assigns.

22.08. THE LAWS OF THE STATE OF TEXAS SHALL GOVERN THE INTERPRETATION, VALIDITY, PERFORMANCE AND ENFORCEMENT OF THIS LEASE. IF ANY PROVISION OF THIS LEASE SHALL BE HELD TO BE INVALID OR UNENFORCEABLE, THE VALIDITY AND ENFORCEABILITY OF THE REMAINING PROVISIONS OF THIS LEASE SHALL NOT BE AFFECTED THEREBY. EXCLUSIVE VENUE FOR ANY LITIGATION ARISING OUT OF THE INTERPRETATION, VALIDITY, PERFORMANCE OR ENFORCEMENT OF THIS LEASE SHALL BE EL PASO COUNTY, TEXAS.

22.09. NOTWITHSTANDING ANYTHING HEREIN TO THE CONTRARY, THE LANDLORD RESERVES, AND DOES NOT WAIVE, ITS RIGHTS OF SOVEREIGN IMMUNITY AND SIMILAR RIGHTS AND ITS RIGHTS UNDER THE TEXAS TORT CLAIMS ACT.

Executed to be effective as of the 19 th day of July, 2007.

TENANT: Ysleta General Hospital, Inc.

By: [Signature]  
Name: PEDRO A. ORTEGA  
Title: PRESIDENT

(Signatures continued on next page)

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CITY CLERK DEPT.

**LANDLORD:** City of El Paso

By: \_\_\_\_\_  
Joyce Wilson, City Manager

APPROVED AS TO CONTENT:

Patricia D. Adauto  
Patricia D. Adauto  
Deputy City Manager  
Development & Infrastructure Services

APPROVED AS TO FORM:

Theresa Cullen-Garney  
Theresa Cullen-Garney  
Deputy City Attorney

ATTACHMENT 1

- Parcel 1A: Lots 10, 11 & 12, Block 2, HARRIS TRACT, an Addition to the City of El Paso, El Paso County, Texas, according to the plat thereof on file in Volume 4, Page 33, Real Property Records, El Paso County, Texas; and
- Parcel 1B: Lots 13, 14 and 15, Block 2, HARRIS TRACT, an Addition to the City of El Paso, El Paso County, Texas, according to the plat thereof on file in Volume 4, Page 33, Real Property Records, El Paso County, Texas, SAVE AND EXCEPT a portion of Lot 15 conveyed to the City of El Paso, said portion being more particularly described by metes and bounds in Exhibit "A" attached hereto and made a part hereof; and
- Parcel 1C: A portion of Lots 16, 17, and 18, Block 2, HARRIS TRACT, an Addition to the City of El Paso, El Paso County, Texas, according to the plat thereof on file in Volume 4, Page 33, Real Property Records, El Paso County, Texas, said portion being more particularly described by metes and bounds in Exhibit "B", attached hereto and made a part hereof; plus a portion of Depot Street which was vacated, closed and abandoned by Ordinance No. 5692, on 2/12/76, and amended by Ordinance No. 6059, on 9/8/77, said portion being more particularly described by metes and bounds in Exhibit "C", attached hereto and made a part hereof; and
- Parcel 1D: Tract 20D, Block 45, YSLETA GRANT, in the City of El Paso, El Paso County Texas, according to the resurvey of said YSLETA GRANT made by El Paso County, Texas, for tax purposes.

A parcel of land which is a portion of Lot 15, Block 2, Harris Tract in the City of El Paso, El Paso County, Texas, being more particularly described as follows:

From a county marker located on the centerline of Alameda Avenue and Harris Street, thence along the centerline of Harris Street North  $26^{\circ} 03' 41''$  East a distance of thirty and no hundredths (30.00) feet to a point, said point being the intersection of the centerline of Harris Street and the north right of way line of Alameda Avenue (extended), thence South  $64^{\circ} 21' 19''$  East a distance of twenty-five and no hundredths (25.00) feet to a point, said point being the intersection of the east right of way line of Harris Street and the north right of way line of Alameda Avenue, thence along the east right of way line of Harris Street North  $26^{\circ} 03' 41''$  East a distance of three hundred sixty-four and ninety-one hundredths (364.91) feet to the commonwest corner of Lots 15 and 16, Harris Tract, thence along the common lot line of said Lots 15 and 16 South  $63^{\circ} 56' 19''$  East a distance of one hundred eight and seventy-one hundredths (108.71) feet to the point of beginning;

Thence along the common lot line of said Lots 15 and 16 South  $63^{\circ} 56' 19''$  East a distance of three and no hundredths (3.00) feet to a point, said point being the east common corner of Lots 15 and 16;

Thence along the east lot line of said Lot 15 South  $07^{\circ} 05' 19''$  East a distance of five and thirty-five hundredths (5.35) feet to a point on said east lot line;

Thence North  $26^{\circ} 50' 43''$  West a distance of seven and forty-three hundredths (7.43) feet to the point of beginning.

Said parcel of land consisting of 6.72 square feet or 0.00015 acres of land, more or less.

**EXHIBIT** A

07 JUL 18 PM 3:22  
CITY CLERK DEPT.

A parcel of land, being a portion of Lots 16,17 and 18, Block 2, Harris Tract, and being more particularly described as follows:

From a county marker located on the centerline intersection of Alameda Avenue and Harris Street, thence North  $26^{\circ}03'41''$  East, a distance of thirty and no hundredths (30.00) feet to a point; thence South  $64^{\circ}21'19''$  East, a distance of twenty-five and no hundredths (25.00) feet to a point; thence North  $26^{\circ}03'41''$  East, a distance of three hundred sixty-four and ninety-one hundredths (364.91) feet to a point; thence South  $63^{\circ}56'19''$  East, a distance of zero and nine thousandths (0.009) feet to establish the true point of beginning;

THENCE along the arc of a curve to the right, a distance of sixty and five hundredths (60.05) feet, said curve having a central angle of  $47^{\circ}24'40''$  a radius of seventy-two and fifty-seven hundredths (72.57) feet and a chord bearing North  $50^{\circ}41'26''$  East, a distance of fifty-eight and thirty-five hundredths (58.35) feet to a point;

THENCE North  $74^{\circ}23'46''$  East, a distance of two and eighty-three hundredths (2.83) feet to a point for a curve;

THENCE along the arc of a curve to the right, a distance of twenty-three and sixty-nine hundredths (23.69) feet, said curve having a central angle of  $90^{\circ}08'01''$  a radius of fifteen and six hundredths (15.06) feet and a chord bearing South  $60^{\circ}32'13''$  East, a distance of twenty-one and thirty-two hundredths (21.32) feet to a point for a curve;

THENCE along the arc of a curve to the left, a distance of eight-one and forty-three hundredths (81.43) feet, said curve having a central angle of  $14^{\circ}14'30''$  a radius of three hundred twenty-seven and sixty hundredths (327.60) feet and a chord bearing South  $22^{\circ}35'28''$  East, a distance of eighty-one and twenty-two hundredths (81.22) feet to a point;

THENCE North  $63^{\circ}56'19''$  West, a distance of one hundred eight and seventy hundredths (108.70) feet to the point of beginning.

**EXHIBIT B**

07 JUL 18 PM 3:22

CITY CLERK DEPT.

That part of Depot Street in the City of El Paso, El Paso County, Texas, which is owned by Grantors, and which is a portion of Depot Street which was vacated, closed and abandoned as a public street by Ordinance No. 5692, passed and approved by the City Council of the City of El Paso on February 12, 1976, as amended by Ordinance No. 6059, passed and approved by the City Council of the City of El Paso on September 8, 1977; the portion of Depot Street so vacated, closed and abandoned as a public street pursuant to said Ordinances being more particularly described as follows:

From a county marker located on the centerline intersection of Alameda Avenue and Harris Street, thence along the centerline of Harris Street North  $26^{\circ}03'41''$  East a distance of thirty and no hundredths (30.00) feet to a point, said point being the intersection of Harris Street and the north right of way line of Alameda Avenue (extended), thence South  $64^{\circ}21'19''$  East a distance of twenty-five and no hundredths (25.00) feet to a point, said point being the intersection of the east right of way line of Harris Street and the North right of way line of Alameda Avenue, thence along the east right of way line of Harris Street North  $26^{\circ}03'41''$  East a distance of two hundred fourteen and ninety-one hundredths (214.91) feet to a point being the common west corner of Lots 9 and 10, Block 2, Harris Tract, thence along the common lot line of said Lots 9 and 10 South  $63^{\circ}56'19''$  East a distance of one hundred fifty-two and sixty-eight hundredths (152.68) feet to a point on the west right of way line of Depot Street, said point the point of beginning;

Thence North  $19^{\circ}16'50''$  East a distance of one hundred seven and forty-two hundredths (107.42) feet along the west right of way line of Depot Street to a point on the said west right of way line of Depot Street;

Thence along said west right of way line of Depot Street North  $07^{\circ}05'19''$  West a distance of forty-six and forty-one hundredths (46.41) feet to a point, said point being the intersection of the west right of way line of Depot Street and the westerly right of line of Zaragoza Road;

Thence South  $26^{\circ}33'11''$  East a distance of seventy and twenty-five hundredths (70.25) feet to a point on the east right of way line of Depot Street;

Thence along the east right of way line of Depot Street South  $19^{\circ}16'50''$  West a distance of one hundred fifty-seven and twenty-four hundredths (157.24) feet to a point, said point being the southwest corner of Tract 20D, Block 45, Ysleta Grant Surveys;

Thence North  $04^{\circ}20'55''$  East a distance of fifty-seven and thirty-four hundredths (57.34) feet to the intersection of the centerline of Depot Street and a common lot line of Lots 9 and 10, Block 2, Harris Tract (extended);

Thence North  $63^{\circ}56'19''$  West a distance of fifteen and eleven hundredths (15.11) feet to a point, said point being the common east corner of Lots 9 and 10, Block 2, Harris Tract, and also said point being the point of beginning.

**EXHIBIT C**

07 JUL 18 PM 3:22  
CITY CLERK DEPT.