Valencia County Hospital
VCR-FY22-012
Questions and Answers

1. Can the Offeror be reimbursed out of the $50M received from the state for the costs of the site prep?

The DFA has clarified that the site preparation is part of construction and that the $50M can be utilized for site prep. The RFP, however, contemplates that the provider will donate a fully prepped site to the County for the construction of the hospital, and does not anticipate reimbursing the Offeror for site prep costs.

Commented [DP1]: This needs to be discussed with Board at next meeting.

2. Section 4 of the Health Care Facilities Contract states that the County can terminate without cause with 180 days notice after the first three years. It references a specific New Mexico Statute in this section (4-48B-5(J)(1). Is the County agreeable to a "termination fee" clause in the Health Care Facilities Contract if the three year term is a non-negotiable? This clause would be triggered to pay the operator additional fees in the event that the contract is terminated without cause prior to the ten year anniversary of the contract.

NMSA 1978, Section 4-48B-5(J)(1) (2001) provides, in applicable part, that "notwithstanding any other provision of law, to enter into leases, management or operating contracts, health care facilities contracts and other agreements authorized by the Hospital Funding Act for periods in excess of one year; provided that . . . the contract, lease or agreement may be terminated by the county without cause upon one hundred eighty days' notice after the first three years of the contract[.]" Accordingly, the termination provision is non-negotiable. It is entirely within the Board's discretion whether it would be amenable to a liquidated damages provision were it to exercise its statutory rights under Section 4-48B-5(J).

3. The Health Care Facilities Agreement limits the provision of the mill levy funds to the hospital to $2.7M per year over 10 years (section 2.1). Is there any flexibility to the $2.7M per year cap provision?

We committed to visiting with the Board about increasing the distribution for the first year to $5.4M in lieu of the 10th distribution. It is entirely within the Board's discretion whether it would be amenable to changing the proposed distribution schedule. We will visit with the Board about the distribution schedule at its meeting on May 4, 2022.

4. If the $2.7M per year from the mill levy funds in question #3 is negotiable, can mill levy funds be utilized to provide initial working capital to the hospital upon opening?

Mill levy funds may only be utilized for the operation and maintenance of the hospital/24 hour emergency healthcare facility.

5. Can mill levy funds be utilized for pre-opening costs for the hospital? Section 2.1 of

the Health Care Facilities Agreement limits the provision of funds to use after the hospital receives its license. The operator will have to expend funds prior to opening on a number of tasks to get the hospital ready to open (staffing, EMR selection and implementation, equipment procurement, etc.)

The Valencia County voters authorized the County to impose a 2.75 mills ad valorem tax to pay the cost of operating, maintaining or providing for a hospital/24-hour emergency healthcare facility in Valencia County. The County has limited the provision of funds to after the hospital receives its license because the funds may only be utilized for a hospital/24-hour emergency healthcare facility in Valencia. As a facility is not a hospital until it is licensed as a hospital, it would subject any proposed distribution to a potential challenge were the County to agree to distribute the mill levy proceeds in advance of licensure as a hospital.