

**VALENCIA COUNTY  
STATE OF NEW MEXICO**

**REQUEST FOR PROPOSALS (RFP)**

**VALENCIA COUNTY HOSPITAL**



**RFP #VCR-FY22-012**  
*Amendment #1*

**VALENCIA COUNTY PURCHASING**  
444 Luna Ave., Suite 100A  
Los Lunas, NM 87031

**March 17, 2022**

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## **I. INTRODUCTION**

### **A. PURPOSE OF THIS REQUEST FOR PROPOSALS**

The County of Valencia, State of New Mexico, on behalf of the Valencia County Board of County Commissioners, seeks sealed proposals from qualified businesses interested in working with the County to develop an acute care hospital in Valencia County, and in operating and maintaining an acute care hospital in Valencia County.

### **B. HISTORICAL PERSPECTIVE; SCOPE OF WORK**

In late 2006, the residents of Valencia County overwhelmingly authorized the imposition of a property tax to expand the provision of healthcare in the community to provide for the operation and maintenance of a hospital/24-hour emergency healthcare facility by a margin of 14,245 in favor to 4,438 opposed. Specifically, the Valencia County voters were presented with and approved a “Hospital Tax Question” authorizing 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 for a period of eight years.

Pursuant to the Hospital Funding Act, the County must transfer the mill levy funds for the costs of operating, maintaining, or providing for a hospital/24-hour emergency healthcare facility by means of a health care facilities contract. The Hospital Funding Act defines a “health care facilities contract” as:

[A]n agreement between a hospital and a county or counties, or between a hospital and a county or counties and another political subdivision, that provides for the payment by the county or counties of all or a portion of the proceeds of a mill levy to the hospital in exchange for the agreement by the hospital to use the funds only for nonsectarian purposes and to make available the following for the sick of the county or counties:

- (1) hospital facilities that admit and treat patients without regard to race, sex, religion or national origin;
- (2) hospital facilities that include x-ray, laboratory services and a pharmacy or drug room;
- (3) adequate emergency equipment, personnel and procedures, including:
  - (a) a standby emergency power system;
  - (b) at least one person capable and authorized to initiate immediate lifesaving measures;
  - (c) facilities for emergency laboratory work, including, as a minimum, urinalysis, complete blood count, blood type and cross match; and
  - (d) diagnostic radiographic facilities;
- (4) facilities, procedures and policies for prevention, control and reporting of communicable diseases, including one or more rooms for isolation of patients having or suspected of having communicable diseases;
- (5) adequate records, including, as a minimum, a daily census and a register of all births, deliveries, deaths, admissions, emergency room admissions, discharges, operations, outpatients, inpatients and narcotics; and
- (6) physical facilities, personnel, equipment and procedures that comply with the regulations promulgated by the public health division of the department of health.

NMSA 1978, 4-48B-3 (G) (2003). A “hospital” is defined by department of health regulations as a “facility offering in-patient services, nursing, overnight care on a 24-hour basis for diagnosing, treating, and providing medical, psychological or surgical care for three or more separate individuals who have a physical or mental illness, disease, injury, a rehabilitative condition or are pregnant; use of the term “hospital” for any facility not duly licensed according to these requirements is prohibited; any acute care hospital shall have emergency services, inpatient medical and nursing care for acute illness, injury, surgery, and obstetrics; any limited services hospital shall have emergency services, inpatient medical and nursing care for acute illness, injury and surgery; ancillary services such as pharmacy, clinical laboratory, radiology, and dietary are required for acute-care or limited service hospitals. 7.7.2.7(Z) NMAC 2019.

Pursuant to appropriation number 21-ZF3514, the State of New Mexico has appropriated to Valencia County fifty million dollars (\$50,000,000) to the department of finance and administration to plan, design, construct, equip and furnish an acute care hospital in a county with a population of less than one hundred thousand, according to the most recently decennial census.” This appropriation will revert to the State of New Mexico on June 30, 2025. Neither the appropriated funds, nor the hospital mill levy, may be utilized to purchase real property for the hospital. Accordingly, this RFP requires that the selected offeror identify, secure, and donate to the County a site meeting the minimum requirements outlined herein. The County will, however, reimburse up to \$3,200,000 for site preparation costs after the property is donated to the County. Additionally, Valencia County is required to secure the approval of the New Mexico Board of Finance to lease the hospital facility to the selected provider. Among other things, the lease must expressly state that the lease, and any amendments thereto, are subject to and shall not be effective prior to New Mexico Board of Finance approval, that the County secure an appraisal of the hospital facility by a certified appraiser, that the County secure a report of technical review from the Taxation and Revenue Department, Property Tax Division, on the appraised value, and that the hospital be leased to the selected offeror for fair market value.

This procurement will result in the parties’ execution of the enclosed healthcare facilities contract and lease agreement.

### **C. SCOPE OF PROCUREMENT**

The scope of the procurement consists of the operation and maintenance of an acute care hospital as specified herein. This procurement will result in a single source award. Contract award is expected on or about **August 3, 2022**.

### **D. PROCUREMENT MANAGER**

The County of Valencia has designated a Procurement Manager who is responsible for this procurement and whose name, address, and telephone number are listed below. Any inquiries or requests regarding this procurement should be submitted to the Procurement Manager in writing. Offerors may contact **ONLY** the Procurement Manager regarding the procurement. Other County employees do not have the authority to respond on behalf of the County of Valencia.

**Rustin Porter**  
Valencia County Purchasing

<u>Delivery Address (Including proposal delivery):</u> 444 Luna Ave., Suite 100A // Los Lunas, NM 87031	<u>Mailing Address:</u> P.O. Box 1119 // Los Lunas, NM 87031
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Phone: (505) 866-2005  
Fax: (505) 866-2424  
E-mail: rustin.porter@co.valencia.nm.us

NOTE: All deliveries via express carrier (INCLUDING PROPOSAL DELIVERY) should be addressed to Rustin Porter’s Delivery Address, above.

**E. DEFINITION OF TERMINOLOGY**

This section contains definitions that are used throughout this procurement document, including appropriate abbreviations.

“Board of County Commissioners” (also “BCC”) means the elected board in whom all powers of the County are vested and who are responsible for the proper and efficient administration of County government.

"Close of Business" means 5:00 P.M. Mountain Standard Time (MST) or Mountain Daylight Time (MDT), whichever is in effect on the date specified.

"Contract" or “Agreement” means a written agreement for the procurement of items of tangible personal property or services.

"Contractor" means a successful Offeror who enters into a binding contract.

"County" means the County of Valencia, State of New Mexico.

"Determination" means the written documentation of a decision of the procurement manager including findings of fact required to support a decision. A determination becomes part of the procurement file to which it pertains.

“Desirable" refers to the terms "may", "can", "should", "preferably" or "prefers" which identify a desirable or discretionary item or factor. (As opposed to a “mandatory” item or factor.)

"Evaluation Committee" means the Board of County Commissioners of Valencia County. Efforts will be made to provide the evaluation committee any necessary technical support in the review of the proposals.

"Evaluation Committee Report" means a report prepared by the Procurement Manager and the Evaluation Committee for submission to appropriate approval authorities for contract award that

contains all written determinations resulting from the conduct of a procurement requiring the evaluation of competitive sealed proposals.

"Finalist" is defined as an Offeror who meets all the mandatory specifications of this Request for Proposal and whose score on evaluation factors is sufficiently high to merit further consideration by the Evaluation Committee.

"Mandatory" refers to the terms "must", "shall", "will", "is required" or "are required" which identify a mandatory item or factor. (As opposed to a "desirable" item or factor.) Failure to meet a mandatory item or factor may result in the rejection of the Offeror's proposal.

"Offeror" is any person, corporation, or partnership who chooses to submit a proposal.

"Procurement Manager" means the person or designee authorized by the County to manage or administer a procurement requiring the evaluation of competitive sealed proposals.

"Procuring agency of the County" means the department or other subdivision of the County of Valencia that is requesting the procurement of services or items of tangible personal property.

"Purchase Order" or "PO" means the document which directs a contractor to deliver items of tangible personal property or services pursuant to an existing, valid contract.

"Purchasing" means the County of Valencia Purchasing Office or the Valencia County Purchasing Agent.

"Purchasing Agent" or "PA" means the Purchasing Agent for the County of Valencia.

"Request for Proposals" or "RFP" means all documents, including those attached or incorporated by reference, used for soliciting proposals.

"Responsible Offeror" means an Offeror who submits a responsive proposal and who has furnished required information and data to prove that their financial resources, production or service facilities, personnel, service reputation and experience are adequate to make satisfactory delivery of the services or items of tangible personal property called for in this proposal.

"Responsive Offer" or "Responsive Proposal" means an offer or proposal which conforms in all material respects to the requirements set forth in the request for proposals. Material respects of a request for proposals include, but are not limited to, price, quality, quantity and delivery requirements.

"Statement of Compliance" and "Statement of Concurrence" mean an express statement, by the Offeror in their proposal, that they agree with and agree to the stated requirement(s). Possible examples of acceptable responses include "The [NAME HERE Company] agrees to comply with this requirement." and "The [NAME HERE Company] concurs with this requirement."



## **F. RESIDENT BUSINESS PREFERENCE**

The New Mexico Procurement Code provides for preference for resident businesses and Contractors under certain conditions. If applicable, the preference will be provided to those Offerors that have provided a valid resident business preference certificate with their proposal, as required by 13-1-22 NMSA 1978.

In order for an Offeror to receive preference as a resident business, that Offeror must submit a copy of their preference certificate with their proposal. The preference certificate must have been issued by the New Mexico Taxation and Revenue Department after January 1, 2012. Providing only a preference number is not acceptable and will not qualify the Offeror for any preference.

For more information, reference Sections 13-1-21 and 13-1-22 of the New Mexico Procurement Code. Preference applications are available for download at:

Resident Business:

<http://www.tax.newmexico.gov/SiteCollectionDocuments/acd-bp0001.pdf>

## **G. PROCUREMENT LIBRARY**

The Procurement Library consists of the following documents which may be accessed by their associated Internet links:

**- New Mexico Procurement Code**

<http://www.conwaygreene.com/nmsu/lpext.dll?f=templates&fn=main-h.htm&2.0>

**- Valencia County Procurement Policy**

<https://www.co.valencia.nm.us/DocumentCenter/View/497/Valencia-County-Purchasing-Policy-PDF?bidId=>

## II. CONDITIONS GOVERNING THE PROCUREMENT

This section of the RFP contains the schedule for the procurement, describes the major procurement events and contains the general requirements governing the procurement.

### A. SEQUENCE OF EVENTS

The Procurement Manager will make every effort to adhere to the following schedule:

ACTION	RESPONSIBILITY	DATE
1. Issue RFP	Procurement Manager (PM)	March 17, 2022
2. Return of “Acknowledgment of Receipt” Form for Distribution List	Potential Offerors (PO)	March 31, 2022
3. Pre-Proposal Conference	PM, PO	April 7, 2022
4. Deadline to Submit Additional Questions	PO	April 11, 2022
5. Response to Written Questions/ RFP Amendments	PM	April 25, 2022
<b>8. Submission of Proposal</b>	<b>PO</b>	<b>June 17, 2022</b>
9. Proposal Evaluation	PM	June 22, 2022
10. Notification of Finalists (If desired)	Offerors	July 1, 2022
11. Best & Final Offer (If requested)	PM	July 5, 2022
12. Oral Presentations	EC	July 13, 2022
13. Notice of Intent to Award	Offerors	July 14, 2022
14. Contract Negotiations (If needed)	Offerors	July 19, 2022
15. Protest Deadline	Purchasing Agent	July 29, 2022
16. Contract Award*	Offeror/BCC	August 3, 2022

\*Contract award is subject to approval of the Board of County Commissioners.

### B. EXPLANATION OF EVENTS

The following paragraphs further detail the activities listed in the sequence of events shown in Section II, Paragraph A.

#### 1. Issue RFP

This RFP is being issued by the Valencia County Purchasing Agent on behalf of the County of Valencia and the Valencia County Board of County Commissioners.

#### 2. Return of “Acknowledgment of Receipt” Form for Distribution List

Potential Offerors should hand deliver or return by facsimile or e-mail or registered or certified mail the “Acknowledgement of Receipt” form that accompanies this document (See Appendix A) to have their organization placed on the procurement distribution list. The form

should be signed by an authorized representative of the organization, dated and returned by the close of business on the date indicated in Section II.A (Sequence of Events), above.

The procurement distribution list will be used to notify those that submitted the form of any written responses to questions and any RFP amendments. Failure to return this form shall constitute a presumption of receipt and rejection of the RFP, and the potential Offeror's organization name shall not appear on the distribution list.

### 3. Pre-Proposal Conference

A Pre-Proposal Conference will be held on the date indicated in Section II.A (Sequence of Events), above at 10:00 A.M. MDT in the Commission Room, Room 103, 444 Luna Ave., Los Lunas, NM 87031. Potential Offerors are encouraged to submit written questions in advance of the conference to the Procurement Manager (See Section I, Paragraph D). The identity of the organization submitting the question(s) will not be revealed. Additional written questions may be submitted at the conference. All written questions will be addressed at the conference. A public log will be kept of the names of potential Offerors that attended the Pre-Proposal Conference.

Attendance at the Pre-Proposal Conference is a requirement for submission of a proposal as questions will be answered.

### 4. Deadline to submit additional written questions

Potential Offerors may submit additional written questions as to the intent or clarity of this RFP until 5:00 PM MDT on the date indicated in Section II.A (Sequence of Events), above. All written questions must be sent by e-mail to the Procurement Manager (See Section I, Paragraph D.)

### 5. Response to written questions/RFP Amendments

Written responses to written questions and any RFP amendments will be posted to the Valencia County Purchasing Office web site (<http://www.co.valencia.nm.us/>, via the "Purchasing/Sell to County" link). Notification of such posting shall be provided to all potential Offerors that have returned the "Acknowledgement of Receipt" Form found at Appendix A. A new "Acknowledgement of Receipt" Form will accompany the posted distribution package. The form should be signed by the Offeror's representative, dated, and hand-delivered or returned by facsimile or e-mail or by registered or certified mail by the date indicated thereon. Failure to return this form shall constitute a presumption of receipt and withdrawal from the procurement process.

### 6. Submission of Proposal

**OFFEROR PROPOSALS MUST BE RECEIVED FOR REVIEW AND EVALUATION BY THE PROCUREMENT MANAGER OR DESIGNEE NO LATER THAN 2:00 PM MDT**

**ON THE DATE INDICATED IN SECTION II.A (SEQUENCE OF EVENTS), ABOVE. PROPOSALS RECEIVED AFTER THIS DEADLINE FOR ANY REASON WILL NOT BE ACCEPTED OR CONSIDERED.**

The date and time of receipt will be recorded on each proposal. Proposals must be addressed and delivered to the Procurement Manager at the delivery address listed in Section I, Paragraph D. Proposals must be sealed and should be labeled on the outside of the package to clearly indicate that they are in response to the “Valencia County Hospital RFP”, should reference “RFP #VCR-FY22-012” and should indicate the deadline for receipt (due date and time.) Proposals submitted by facsimile or other electronic means **WILL NOT BE ACCEPTED.**

A public log will be kept of the names of all Offerors submitting proposals. Pursuant to Section 13-1-116 NMSA 1978, the contents of any proposal shall not be disclosed to competing Offerors prior to contract award.

#### 7. Proposal Evaluation

The evaluation of proposals will be performed by an Evaluation Committee appointed as directed herein. This process will take place during the time period indicated in Section II.A (Sequence of Events), above. During this time, the Procurement Manager may at his option initiate discussions with Offerors who submit responsive or potentially responsive proposals for the purpose of clarifying aspects of the proposals, but proposals may be accepted and evaluated without such discussion. Discussions SHALL NOT be initiated by the Offerors.

#### 8. Notification of Finalists

The Evaluation Committee may select and the Procurement Manager may notify finalist Offerors on the date indicated in Section II.A (Sequence of Events), above. Only finalists will be invited to participate in the subsequent steps of the procurement. The Evaluation Committee reserves the right not to utilize the finalist process if they deem it in the best interest of the County.

#### 9. Best and Final Offers

Finalists may be asked to submit revisions to their proposals for the purpose of obtaining best and final offers on the date indicated in Section II.A (Sequence of Events), above.

#### 10. Oral Presentations

Finalist Offerors may be required to make an oral presentation to the Evaluation Committee. If so required, the Procurement Manager will schedule the time for each Offeror’s presentation. All presentations will be made in a location to be specified in Los Lunas, NM 87031. Each presentation will be limited to a fixed amount of time as designated by the Procurement Manager in the Oral Presentation requirement notification.

#### 11. Notice of Intent to Award

A notice of intent to award letter will be sent to the proposed winning offeror and to all offerors indicated the Counties intent to award the contract to the most advantageous offeror. 15 Day Protest Period will begin the day after the Notice of Intent to Award letters are sent to all offerors of the Proposal.

#### 12. Contract Negotiations

If necessary, contract negotiations shall commence with the most advantageous Offeror no later than the date indicated in Section II.A (Sequence of Events), above. In the event that mutually agreeable terms cannot be reached within the time specified, the County reserves the right to finalize a contract with the next most advantageous Offeror without undertaking a new procurement process. Contract negotiations will be based only upon recommended revisions submitted with Offeror's proposal in accordance with Section I(C)(15-17).

#### 13. Contract Award

After review of the Evaluation Committee Report and the tentative contract, the Purchasing Agent anticipates the Board of County Commissioners will award the contract on the date indicated in Section II.A (Sequence of Events), above. This date is subject to change at the discretion of the Purchasing Agent or the Board of County Commissioners.

Any contract awarded shall be awarded to the Offeror whose proposal is most advantageous to the County, taking into consideration the evaluation factors set forth in this RFP. The most advantageous proposal may or may not have received the most points.

#### 14. Protest Deadline

Any protest by an Offeror must be timely, in conformance with, and will be governed by Sections 13-1-172 through 13-1-176 NMSA 1978 and Valencia County Procurement Policy #401-01-3, Section 24. The fifteen (15) day protest period for timely Offerors shall begin on the day following contract award and will end at 5:00 PM MDT on the date indicated in Section II.A (Sequence of Events), above. Protests must be written and must include the name and address of the protestor and the Request for Proposals number. It must also contain a statement of grounds for protest including appropriate supporting exhibits, and it must specify the ruling requested from the Purchasing Agent. The protest must be delivered to the Purchasing Agent.

Valencia County Purchasing  
Attn. Rustin Porter, County Purchasing Agent  
444 Luna Avenue, Suite 100A  
Los Lunas, New Mexico 87031

NOTE: Protests received after the deadline will not be accepted.

## **C. GENERAL REQUIREMENTS**

This procurement will be conducted in accordance with the New Mexico Procurement Code (13-1-28 NMSA 1978) and Valencia County Procurement Policy (#401-01-3, Resolution 2005-68).

### **1. Acceptance of Conditions Governing the Procurement**

Offerors must indicate their acceptance of the Conditions Governing the Procurement in the letter of transmittal form (see Appendix D). Submission of a proposal constitutes acceptance of the Evaluation Factors contained in Section V of this RFP.

### **2. Incurring Cost**

Any cost incurred by the Offeror in preparation, transmittal, presentation of any proposal or material or negotiation associated with their response to this RFP shall be borne solely by the Offeror.

### **3. Prime Contractor Responsibility**

Any contract that may result from this RFP shall specify that the prime contractor is solely responsible for fulfillment of the contract with the County. The County will only make contract payments to the prime contractor.

### **4. Subcontractors**

Use of subcontractors must be clearly explained in the proposal and each must be identified by name. The prime contractor shall be wholly responsible for contract performance whether or not subcontractors are used. Substitution of subcontractors, after contract award, must receive prior written approval of the County Purchasing Office.

### **5. Amended Proposals**

An Offeror may submit an amended proposal before the deadline for receipt of proposals. Such amended proposals must be complete replacements for a previously submitted proposal and must be clearly identified as such in the transmittal letter. County personnel will not merge, collate, or assemble proposal materials.

### **6. Offeror's Rights to Withdraw Proposal**

Offerors will be allowed to withdraw their proposals at any time prior to the deadline for receipt of proposals. The Offeror must submit a written withdrawal request signed by the Offeror's duly authorized representative addressed to the Procurement Manager. The approval or denial of withdrawal requests received after the deadline for receipt of the proposals is governed by the applicable procurement regulations.

## 7. Proposal Offer Firm

Responses to this RFP, including proposal prices, will be considered firm for ninety (90) days after the due date for receipt of proposals or sixty (60) days after the due date for the receipt of a best and final offer, if one is solicited.

## 8. Disclosure of Proposal Contents

The proposals will be kept confidential until a contract is awarded by the awarding authority. At that time, all proposals and documents pertaining to the proposals will be open to the public, except for material which is proprietary or confidential. The Procurement Manager will not disclose or make public any pages of a proposal on which the Offeror has stamped or imprinted "proprietary" or "confidential" subject to the following requirements.

Proprietary or confidential data shall be readily separable from the proposal in order to facilitate eventual public inspection of the remaining portions of the proposal. Confidential data is normally restricted to confidential financial information concerning the Offeror's organization and data that qualifies as a trade secret in accordance with the Uniform Trade Secrets Act, 57-3A-I to 57-3A-7 NMSA 1978. The price of products offered or the cost of services proposed shall not be designated as proprietary or confidential information.

If a request is received for disclosure of data for which an Offeror has made a written request for confidentiality, the Purchasing Agent shall examine the Offeror's request and make a written determination that specifies which portions of the proposal should be disclosed. Unless the Offeror takes legal action to prevent the disclosure, the proposal will be so disclosed. The proposal shall be open to public inspection subject to any continued prohibition on the disclosure of confidential data.

## 9. No Obligation

This procurement in no manner obligates Valencia County or any of its departments to enter into a healthcare facilities contract and lease with any offeror, until a valid written contract is approved by the Purchasing Agent and other required approval authorities.

## 10. Termination

This RFP may be canceled at any time and any and all proposals may be rejected in whole or in part when the County determines such action to be in the best interest of the County.

## 11. Sufficient Appropriation

Any contract awarded as a result of this RFP process may be terminated if sufficient appropriations or authorizations do not exist. Such termination will be effected by sending written notice to the contractor. The County's decision as to whether sufficient appropriations and authorizations are available will be accepted by the contractor as final.

12. Legal Review

The County requires that all Offerors agree to be bound by the General Requirements contained in this RFP. Any Offeror concerns must be promptly brought to the attention of the Procurement Manager.

13. Governing Law; Venue

This procurement and any agreement with Offerors that may result shall be governed by the laws of the State of New Mexico. Venue for any action arising out of this solicitation will lie exclusively within the Thirteenth Judicial District Court in Valencia County.

14. Basis for Proposal

Only information supplied by the County in writing through the Procurement Manager or in this RFP should be used as the basis for the preparation of Offeror proposals.

15. Healthcare Facilities Contract Terms and Conditions

The Healthcare Facilities Contract and the Lease Agreement between the County and the Contractor will follow the format specified by the County and contain the terms and conditions set forth in Appendices B and C. However, the County reserves the right to negotiate with a successful Offeror provisions in addition to those contained in this RFP. The contents of this RFP, as revised or supplemented, and the successful Offeror's proposal will be incorporated into and become part of the contract.

Should an Offeror object to any of the terms of the attached Healthcare Facilities Contract or the Lease Agreement, as contained in this Section or in Appendices B and C, that Offeror must propose specific alternative language as part of its response to this solicitation. The County may or may not accept the alternative language, at the County's sole discretion. General references to the Offeror's terms and conditions or attempts at complete substitutions are not acceptable to the County and may lead to disqualification of the Offeror's proposal.

Offerors must provide a brief discussion of the purpose and impact, if any, of each proposed change followed by the specific proposed alternate wording for its proposed revision to be considered.

16. Offeror's Terms and Conditions

Offeror's must submit with their proposal a complete set of any additional terms and conditions which they request be included in a contract negotiated with the County. The County may or may not accept the additional language, at the County's sole discretion.

17. Contract Deviations



Any additional terms and conditions, which may be the subject of negotiation, will be discussed only between the County and the selected Offeror and shall not be deemed an opportunity to amend the Offeror's proposal.

#### 18. Offeror Qualifications

The Evaluation Committee may make such investigations as necessary to determine the ability of the Offeror to adhere to the requirements specified within this RFP. The Evaluation Committee will reject the proposal of any Offeror who is not a responsible Offeror or fails to submit a responsive offer as defined in Sections 13-1-83 and 13-1-85 NMSA 1978.

#### 19. Right to Waive Minor Irregularities

The Evaluation Committee reserves the right to waive minor irregularities. The Evaluation Committee also reserves the right to waive mandatory requirements provided that all of the otherwise responsive proposals failed to meet the same mandatory requirements or doing so does not otherwise materially affect the procurement. This right is at the sole discretion of the Evaluation Committee.

#### 20. Change in Contractor Representatives

The County reserves the right to require a change in contractor representatives if the assigned representatives are not, in the opinion of the County, meeting its needs adequately.

#### 21. Notice

The Procurement Code, Sections 13-1-28 through 13-1-199 NMSA 1978, imposes civil and misdemeanor criminal penalties for its violation. The State of New Mexico criminal statutes also impose felony penalties for bribes, gratuities and kick-backs.

#### 22. County Rights

The County reserves the right to accept all or a portion of an Offeror's proposal.

#### 23. Ownership of Proposals

All documents submitted in response to the RFP shall become the property of the County. However, any technical or user documentation submitted with the proposals of non-selected Offerors may be returned after the expiration of the protest period, by request, at the expense of the Offeror.

#### 24. Ambiguity, Inconsistency or Errors in RFP

Offerors shall promptly notify the Procurement Manager, in writing, of any ambiguity, inconsistency or error which they discover upon examination of the RFP.

25. Competition

By submitting a proposal, Offeror certifies that they have not, either directly or indirectly, entered into any action in restraint of full competition in connection with the proposal submitted to the County.

26. Use by Other Government Entities

N/A

27. Confidentiality

Any confidential information provided to, or developed by, the contractor in the performance of any agreement resulting from this RFP shall be kept confidential and shall not be made available to any individual or organization by the contractor without the prior written approval of the County of Valencia.

28. Electronic mail address required

A large part of the communication regarding this procurement will be conducted by electronic mail (e-mail). Offeror must have a valid e-mail address to receive this correspondence.

29. Use of Electronic Versions of this RFP

This RFP is being made available by electronic means. If accepted by such means, the Offeror acknowledges and accepts full responsibility to ensure that no changes are made to the RFP. In the event of conflict between a version of the RFP in the Offeror's possession and the version maintained by the County, the version maintained by the County shall govern.

### III. RESPONSE FORMAT AND ORGANIZATION

#### A. NUMBER OF RESPONSES

Offeror's may submit only one (1) response to this RFP.

#### B. NUMBER OF COPIES

Offerors shall deliver **six (6)** identical copies of their proposal to the location specified in Section I, Paragraph D on or before the closing date and time for receipt of proposals. (Identical copies are defined as the original plus the number of additional copies needed to fulfill the requirement. For example, a requirement for six (6) identical copies would be fulfilled by submitting the original and five [5] copies of the original.) The original copy should be clearly marked "ORIGINAL" on the front cover and shall contain original signatures. (An exception to this requirement is made for the "Cost Response Form" and the "Campaign Contribution Disclosure Form". See Section III.C.1, immediately below.)

#### C. PROPOSAL FORMAT

All proposals must be typewritten on standard 8 1/2 x 11 paper (larger paper is permissible for charts, spreadsheets, etc.) and placed within a binder with tabs delineating each section.

##### 1. Proposal Organization

The proposal should be organized and indexed in the following format and must contain, as a minimum, all listed items in the sequence shown unless otherwise indicated.

- a. Table of Contents
- b. Letter of Transmittal Form (See Appendix D)
- c. Valid Resident Preference Certificate (Optional at Offeror's discretion. See Section I.F.)
- d. Campaign Contribution Disclosure Form\* (See Appendix E) in a sealed and labeled envelope
- e. Proposal Summary (Optional)
- f. Response to Specifications
- g. Other Supporting Material (Optional. See Section III.C.3., below)

\*Only the single original needs to be provided and must be secured in the binder marked "Original" in the required sealed and labeled envelope.

Within each section of their proposal, Offerors should address the items in the order in which they appear in this RFP. Any forms provided in the RFP must be thoroughly completed and included in the appropriate section of the proposal.

Any proposal that does not adhere to these requirements may be deemed non-responsive and rejected on that basis.

A proposal summary may be included by Offerors to provide the Evaluation Committee with an overview of the technical and business features of the proposal; however, this material will not be used in the evaluation process unless specifically referenced from other portions of the Offeror's proposal.

## 2. Letter of Transmittal Form

The Letter of Transmittal Form at Appendix D **must** be completed, signed and included with the Offeror's proposal.

## 3. Other Supporting Materials

Offerors may attach other materials which they feel may improve the quality of their responses. However, these materials may not be reviewed by members of the Evaluation Committee and **will not** be scored.

## IV. SPECIFICATIONS

### A. INFORMATION

#### 1. Resident Business Preference

A valid Resident Preference Certificate issued by the New Mexico Taxation and Revenue Department on or after January 1, 2012 **must** be included with the proposal if the Offeror wishes to receive the additional points available as a qualifying resident business. See Section I.F, above, for more information.

#### 2. Response to Requirements

Each mandatory requirement in sections IV.B.1 through IV.B.9, below, requires a vendor response, as indicated. Failure to respond to, or properly comply with, a mandatory requirement may result in the disqualification of the Offeror's proposal. Each desirable requirement in sections IV.C.1 through IV.C.2, below may be answered at the Offeror's discretion. Failure to respond to a desirable requirement will result in a score of zero (0) being assigned for that requirement.

#### 3. County Participation

As noted above, Valencia County will work with the selected offeror to design and construct the acute care hospital. The County's sole financial responsibility with respect to the acute care hospital will be limited to planning, designing, constructing, equipping and furnishing an acute care hospital up to the appropriated amount of \$50,000,000.00, and transferring the hospital mill levy funds to the selected offeror to subsidize the continued operation and maintenance of the hospital.

In exchange for receipt of the mill levy proceeds and the exclusive right to operate the hospital designed, constructed, equipped, and furnished by the County, the selected offeror will identify, select and donate a fully-prepped site meeting the requirements detailed herein to the County within nine (9) months of the execution of the healthcare facilities contract, to work with the County in the design and construction of the acute care hospital to ensure that it will meet the offeror's needs, and the offeror will be solely responsible for the staffing, operation and maintenance of the hospital/24 hour emergency healthcare facility. The County will reimburse the selected offeror up to \$3,200,000 for site preparation costs after the property is donated to the County.

### B. MANDATORY REQUIREMENTS

#### 1. Letter of Transmittal Form (*0 Points*) \*Pass/Fail only.

Offeror must complete and submit the "Letter of Transmittal Form", found at Appendix D, with their proposal. The form must be signed and dated by an individual authorized to contractually bind the offeror.

2. Agreement to Donate a Fully Prepared site for the Construction of the Hospital to the County, to Lease the Hospital from the County for the Appraised Value and Pursuant to the Lease enclosed as Exhibit B, and to Operate and Maintain an Acute Care Hospital in Valencia County (0 Points) \*Pass/Fail only.

With the exception of the County providing reimbursement to the selected provider of up to \$3,200,000 for the cost of site preparation, the Offeror must, at its sole cost and expense, acquire, prepare, and donate to the County a builder ready site that meets the following criteria for the development and construction of the acute care hospital, including costs associated with excavation, utility relocation, grubbed and cleared, absent from a need for environmental remediation, arrangement of water and sewer lines and hook-ups, which work must be performed in accordance with all applicable laws within nine (9) months of execution of the healthcare facilities contract:

<b>Criterion</b>	<b>Metric</b>
Size	10 Acres Minimum
Approach Classification, Condition, Appropriateness	Roadway Classification “Collector”
Pedestrian Access	Roadway Classification include adequate ROW for sidewalks
Bicycle Access	Roadway Classification must have planned bike routes
Public Transportation Potential	Roadway Classification must have potential for Public Transport
Zoning Appropriateness	Zoning Classification must be a permissive use
Flood Plain Determination and Suitability	Site must be above or built above the flood plain and sized to manage stormwater. The site must be free and clear of need for FEMA map revision.
Stormwater Management Plan	Provide a Stormwater Management Plan
Water Availability and Appropriateness	Available, dependable, sufficient Public Water Utility
Power Availability and Appropriateness	Available, dependable, sufficient Public Power Utility
Sewer Availability and Appropriateness	Available, dependable, sufficient Public Sewer Utility
Natural Gas Availability and Appropriateness	Available, dependable, sufficient Public Natural Gas Utility
Digital Fiber Availability	Available, dependable, sufficient Public Digital Fiber Utility
Appropriate Topography	Suitable for balanced earthwork free of impediments and within 2/10 <sup>th</sup> foot of being ready to build
Appropriate Geotechnical Suitability	Existing material suitable for site development
Historical/Archaeological Significance	Approved Phase I environmental resulting in a Categorical Exclusion. The site should not have findings based on the Phase I analysis.
Contamination (Known or Suspected)	Approved Phase I Environmental resulting in a Categorical Exclusion. The site should not have findings based on the Phase I analysis.

Land Donation	Land must be donated to Valencia County free and clear of liens and with a clear title
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As part of the provision of a fully prepared site, the County additionally expects the following:

1. Site Clearing – The entire site will be graded and obstacles removed that could hinder the construction of the acute care hospital.
2. Site Survey – A complete survey of the site and should line out where the building is to be constructed.
3. Soil Testing –The soil’s main composition should be determined to test the ability to absorb water and examine the ability to withstand the weight of the structure. There are certain locations in Valencia County that require advanced geotechnical investigation and unusual site preparation. If the soil is not suitable then it must either be exported and engineered fill material brought in, or another site must be found. The Offeror must provide a stamped geotechnical report reflecting the suitability of the site for construction of the acute care hospital.
4. Site Plan Design – After soil testing, all necessary underground infrastructure and drainage should be installed via engineered design. The site plan should also reflect any proposed access roads.
5. Site Investigation – Acquiring correct site information. Any information from the site investigation is generally used for building design.

Offeror must additionally agree to Lease the Acute Care Hospital from the County for the Appraised Value and pursuant to the terms as detailed in Appendix B, and to operate and maintain an Acute Care Hospital in Valencia County that meets the minimum requirements specified within this RFP, consistent with all applicable statutory and regulatory requirements. A statement of concurrence is required.

3. Qualifications and Experience in Planning, Designing and Constructing an Acute Care Hospital (**100 Points**)

Offerors must describe, in narrative form, how they meet this requirement. The response must include details of each facility including the location, size, construction cost, and specific medical capabilities offered by each facility constructed.

4. Qualifications and Experience in the Operation and Maintenance of a Hospital (**300 Points**)

Offerors must describe, in narrative form, how they have the necessary experience to operate and maintain a hospital. At minimum, Offerors must detail whether they have successfully operated and maintained an acute care hospital, how long they have operated and maintained

an acute care hospital. the size of the community served, the services offered at the facilities operated, the number of beds at each facility, the staffing composition of each facility, employee recruitment and retention, include profit and loss statements, days cash on hand, days in accounts receivable, bad debt, the provision of indigent care, community involvement and participation and what has been done to strengthen community partnerships, and relationships with specialized hospitals.

5. “24/7” Operation (**0 Points**) \*Pass/Fail only.

Offeror must agree that the acute care hospital will be operated on a twenty-four (24) hour a day, seven (7) day a week (“24/7”) basis. A statement of concurrence is required.

6. Services Offered (**200 Points**)

The County desires as complete and robust medical facility as possible to best serve the citizens of Valencia County, while not compromising the economic viability or sustainability of the Hospital. Offeror must detail in narrative form the medical services and capabilities to be provided, as well as how they anticipate expanding services and/or facilities in the County in the future. Offerors must detail whether they will offer both urgent and emergency care services at the Hospital. Offeror additionally must detail in narrative form as to how they intend to disseminate information pertaining to the development, maintenance and operation of the hospital facility to the governmental entities within the County and to the public, including, but not limited to, participating in public hearings to be held throughout the County after contract award to address the public’s inquiries regarding the hospital project. Offeror additionally must address whether they intend to establish a hospital advisory board comprised of members of the public to provide public input into the operations of the hospital.

7. Capability and Agreement to Perform (**0 Points**) \*Pass/Fail only.

Offeror certifies that they are capable and qualified to provide the products or services required by this RFP and agrees to execute the Healthcare Facilities Contract and Lease Agreement as specified in the Contract at Appendices B and C. A statement of concurrence is required.

8. Oral Presentation (**150 Points**)

Offeror must agree to attend and participate in an oral presentation as specified by the Evaluation Committee. A statement of concurrence is required. If held, the offeror will be required to present their proposal and explain their approach to providing a sustainable acute-care hospital in Valencia County.

9. Campaign Contribution Disclosure Form (**0 Points**) \*Pass/Fail only.

Offeror must complete and sign the Appendix E, Campaign Contribution Disclosure Form – whether any applicable contribution has been made or not. This form must be submitted with your proposal whether an applicable contribution has been made or not. Note that there are two (2) different signature sections within the form. (For purposes of this requirement, the



applicable elected public officials within the County of Valencia are BoCC Chair Gerard Saiz; BoCC Vice-Chair Jhonathan Aragon; Commissioners Joseph Bizzell, David Hyder, and Troy Richardson; Assessor Beverly Dominguez Romero; Clerk Mike Milam; Probate Judge Wendy Wallace; Sheriff Denise Vigil and Treasurer Deseri Sichler.)

10. Insurance Accepted (**150 Points**)

Offeror must detail what existing contracts they have with insurance providers, whether they will be willing to work on contracting with additional insurance companies at the hospital facility, and at its urgent and emergency care centers, if provided, and a project plan on how they plan on securing additional insurance contracts. Offerors must additionally detail what insurance is accepted at the facilities they currently operate.

11. Centers for Medicare and Medicaid Services Certification (**0 Points**) **\*Pass/Fail only.** Offeror must agree that the Acute Care Hospital will be CMS certified. A statement of concurrence is required.

12. References (**50 points**)

Offeror should provide names and current contact information for at least three (3) governmental or private entities for which your firm has provided similar services. Offeror must also describe the type of service provided to each, when the service was performed and the duration of the service.

13. RESIDENT/VETERAN BUSINESS PREFERENCE (**50 Points**)

The New Mexico Procurement Code provides for preference for resident businesses and Contractors under certain conditions. If applicable, the preference will be provided to those Offerors that have provided a valid resident business preference certificate with their proposal, as required by 13-1-22 NMSA 1978.

In order for an Offeror to receive preference as a resident business, that Offeror must submit a copy of their preference certificate with their proposal. The preference certificate must have been issued by the New Mexico Taxation and Revenue Department after January 1, 2012. Providing only a preference number is not acceptable and will not qualify the Offeror for any preference.

For more information, reference Sections 13-1-21 and 13-1-22 of the New Mexico Procurement Code. Preference applications are available for download at:

<https://www.tax.newmexico.gov/businesses/in-state-veteran-preference-certification/>

## V. EVALUATION

### A. EVALUATION POINT SUMMARY

The following is a summary of evaluation factors with point value assigned to each or a Pass/Fail evaluation. These, along with the general requirements, will be used in the evaluation of individual Offeror proposals.

<b>REF.</b>	<b>REQUIREMENT</b>	<b>POINTS AVAIL.</b>
IV.B.1	Letter of Transmittal Form	<i>0*</i>
IV.B.2	Agreement to Donate a Fully-Prepared Site for the Construction of the Hospital to the County, to Lease the Hospital from the County for the Appraised Value and Pursuant to the Lease enclosed as Exhibit B, and to Operate and Maintain an Acute Care Hospital in Valencia County	<i>0*</i>
IV.B.3	Qualifications and Experience in Planning, Designing and Constructing an Acute Care Hospital	<i>100</i>
IV.B.4	Experience in the Operation and Maintenance of an Acute Care Hospital	<i>300</i>
IV.B.5	“24/7” Operation	<i>0*</i>
IV.B.6	Services Offered	<i>200</i>
IV.B.7	Capability and Agreement to Perform	<i>0*</i>
IV.B.8	Oral Presentation	<i>150</i>
IV.B.9	Campaign Contribution Disclosure Form	<i>0*</i>
IV.B.10	Insurance Accepted	<i>150</i>
IV.B.11	CMS Certification	<i>0*</i>
IV.B.12	References	<i>50</i>
IV.B.13	Resident Business Preference	<i>50</i>
<b>TOTAL</b>		<i>1000</i>

*\*Pass/Fail only.*

Points will be awarded based on the evaluation factors found in IV.B.1 through IV.B.13.

**B. EVALUATION FACTORS: MANDATORY REQUIREMENTS**

1. Letter of Transmittal Form (*0 Points*)

*Pass/Fail only.*

2. Agreement to Donate a Fully-Prepared Site for the Construction of the Hospital to the County, to Lease the Hospital from the County for the Appraised Value and Pursuant to the Lease enclosed as Exhibit B, and to Operate and Maintain an Acute Care Hospital in Valencia County (*0 Points*)

***Pass/Fail only.***

3. Qualifications and Experience in Planning, Designing and Constructing an Acute Care Hospital (***100 Points***)

Points will be awarded based on the Offerors description, in narrative form, how they meet this requirement. The response must include details of each facility they have planned, designed, and/or constructed, including the location, size, construction cost, and specific medical capabilities offered by each facility.

4. Experience in the Operation and Maintenance of an Acute Care Hospital (***300 Points***)

Points will be awarded based on the Offerors description of how they meet this requirement. Specifically, the evaluation committee will examine whether Offerors have successfully operated and maintained an acute care hospital, the length of operation and maintenance of an acute care hospital, the similarity in size of the community served, the services offered at the facilities operated, the number of beds at each facility, the staffing composition of each facility, employee recruitment and retention, profit and loss statements, days cash on hand, days in accounts receivable, bad debt, provisions for indigent care, community involvement and participation and what has been done to strengthen community partnerships, and relationships with specialized hospitals.

5. “24/7” Operation (***0 Points***)

***Pass/Fail only.***

6. Services Offered (***200 Points***)

Points will be awarded based on the scope of services offered, and must expressly include reference to the minimum requirements set forth in the Hospital Funding Act. Points will additionally be awarded based on the Offeror’s anticipated expansion of services and/or the provision of additional health care facilities in the County, as well as based on the extensiveness of the Offeror’s public information campaign to keep the governmental entities and public apprised of matters pertaining to the development, maintenance and operation of the hospital.

7. Capability and Agreement to Perform (***0 Points***)

***Pass/Fail only.***

8. Oral Presentation (***150Points***)

Points will be awarded based on the offeror’s presentation of their proposal and explanation of their approach to providing a sustainable acute-care hospital in Valencia County.

9. Campaign Contribution Disclosure Form (*0 Points*)

*Pass/Fail only.*

10. Insurance Accepted (**150 Points**)

Points will be awarded based on the Offeror's ability to serve the population of Valencia County.

11. Centers for Medicare and Medicaid Services Certification (*0 Points*)

*\*Pass/Fail only*

12. References (50 points)

Points will be awarded based on the nature of the references secured from at least three (3) governmental or private entities for which the offeror's firm has provided similar services. Offeror must also describe the type of service provided to each, when the service was performed and the duration of the service.

13. RESIDENT/VETERAN BUSINESS PREFERENCE (*50 Points*)

Points will be awarded based on the provision of a Resident/Veteran Business Preference Certificate issued by The State of New Mexico.

**C. EVALUATION PROCESS**

1. Initial Review

All Offeror proposals will be reviewed for compliance with the mandatory requirements stated within the RFP. Proposals deemed non-responsive to any mandatory requirement will be eliminated from further consideration.

2. Clarifications

The Procurement Manager may contact the Offeror for clarification of its response to the Request for Proposals.

3. Other Information Sources

The Evaluation Committee may use other sources of information to perform the evaluation as specified in this Request for Proposals.

4. Resident/Resident Veteran Preference

13-1-21 NMSA 1978 provides for preference for resident/resident veteran businesses under certain conditions. If applicable, the preference will be provided to those Offerors that have

provided a valid resident business preference certificate or a valid resident veteran certificate with their proposal, as required by 13-1-22 NMSA 1978.

#### 5. Scoring and Contract Award Recommendation

Responsive proposals will be evaluated and assigned a point value based on the factors in Section V. Finalist Offerors who are asked and choose to submit revised proposals for the purpose of obtaining best and final offers will have their points recalculated accordingly. The responsible Offeror whose proposal is most advantageous to the County, taking into consideration the evaluation factors in Section V, will be recommended for contract award to the Purchasing Agent, and any other required approving authorities, as specified in Section II, Paragraph B.12. Please note, however, that a serious deficiency in the response to any one factor may be grounds for rejection regardless of overall score.

**APPENDIX A**

**ACKNOWLEDGEMENT OF RECEIPT FORM**

Request for Proposals

**VALENCIA COUNTY HOSPITAL**

**Valencia County RFP #VCR-FY22-012**

In acknowledgment of receipt of this Request for Proposals, the undersigned agrees that he/she has received a complete copy, beginning with the title page and table of contents, and ending with Appendix E.

**The acknowledgment of receipt should be signed and returned (by fax, e-mail, courier or hand delivery) to the Procurement Manager no later than March 31, 2022.**

The firm listed below does/does not (circle one) intend to respond to this Request for Proposals.

FIRM: \_\_\_\_\_

REPRESENTED BY: \_\_\_\_\_ TITLE: \_\_\_\_\_

E-MAIL ADDRESS: \_\_\_\_\_

PHONE NO.: \_\_\_\_\_ FAX NO.: \_\_\_\_\_

ADDRESS: \_\_\_\_\_

CITY: \_\_\_\_\_ STATE: \_\_\_\_\_ ZIP CODE: \_\_\_\_\_

SIGNATURE: \_\_\_\_\_ DATE: \_\_\_\_\_

This name and address will be used for all correspondence related to the Request for Proposals.

Please return to:

**Rustin Porter**  
Valencia County Purchasing  
444 Luna Ave, Suite 100A  
Los Lunas, NM 87031  
Phone: (505) 866-2006  
Fax: (505) 866-2424  
E-mail: rustin.porter@co.valencia.nm.us

APPENDIX B



HEALTH CARE FACILITIES CONTRACT

This **HEALTH CARE FACILITIES CONTRACT** (the "Contract"), is entered into this \_\_\_ day \_\_\_\_\_ of 2022, by and between the BOARD OF COUNTY COMMISSIONERS OF VALENCIA COUNTY, NEW MEXICO, a political subdivision of the State of New Mexico ("County") and \_\_\_\_\_; a \_\_\_\_\_ corporation located in \_\_\_\_\_, New Mexico ("PROVIDER").

**WHEREAS**, the County determined upon its own initiative to submit the question of the imposition of a mill levy of 2.75 mills (the "Mill Levy") to finance the cost of operating, maintaining and/or providing for a hospital/24-hour emergency healthcare facility to the registered qualified electors of Valencia County; and,

**WHEREAS**, the County submitted such question to the registered qualified electors of Valencia County at the November 7, 2006 General Election, as authorized by Section 4-48B-1 *et seq.*, NMSA 1978 (the "Hospital Funding Act");

**WHEREAS**, in said election, the voters approved the imposition of the Mill Levy by a vote of 14,245 in favor to 4,438 opposed; and,

**WHEREAS**, the State Department of Finance & Administration imposed the Mill Levy for the operation and maintenance of the Hospital Project pursuant to, and in accordance with, Section 4-48B-15 of the Hospital Funding Act for property tax year 2007; and

**WHEREAS**, the collection of the Mill Levy authorization expired after property tax year 2014, in accordance with its terms; and

**WHEREAS**, pursuant to the collection of funds received from the imposition and collection of the Mill Levy, the County has a total amount of \$[update amount], including all interest accrued on the mill levy funds as of [update date] (the "Mill Levy Funds"); and

**WHEREAS**, PROVIDER determined that the creation of a hospital in Valencia County (the "Hospital Project") is needed and economically feasible; and,

**WHEREAS**, PROVIDER has developed an operational plan for the Hospital Project; and,

**WHEREAS**, the County and PROVIDER are empowered by the Hospital Funding Act to enter into this Contract for purposes of operating and maintaining the Hospital Project in accordance with the provisions of the Hospital Funding Act; and

**WHEREAS**, the State of New Mexico has appropriated to “[f]ifty million dollars (\$50,000,000) to the department of finance and administration to plan, design, construct, equip and furnish an acute care hospital in a county with a population of less than one hundred thousand, according to the most recently decennial census;” and

**WHEREAS**, the County and PROVIDER wish to execute and deliver this Contract to transfer the Mill Levy Funds from the County to PROVIDER for use in connection with the operation and maintenance of the Hospital Project pursuant to, among other provisions, Section 4-48B-3(G), NMSA 1978, Section 4-48B-7(A), NMSA 1978, and Section 4-48B-12, NMSA 1978, of the Hospital Funding Act.

**NOW THEREFORE**, in consideration of the foregoing recitals and the mutual promises and covenants hereinafter contained, the Parties agree as follows. Section 1: The Hospital Project.

## **SECTION 1. THE HOSPITAL PROJECT**

**1.1 Control of the Hospital Project:** Subject to the laws, rules, and regulations of the United States, the State of New Mexico, the County of Valencia, and any applicable municipality, the PROVIDER shall have exclusive control of the Operation and Maintenance of the Hospital.

**1.2 Non-Discrimination Policy:** Pursuant to the Hospital Funding Act, PROVIDER shall treat patients at the Hospital Project without regard to race, sex, religion or national origin.

**1.3 Availability of Services; Description of Facilities:** PROVIDER undertakes to provide nonsectarian professional medical services to the sick of Valencia County and such other persons as may legitimately require services. PROVIDER agrees to make the services and facilities identified in the Hospital Funding Act, NMSA 1978, Section 4-48B-3(G) (2003) available to the sick of Valencia County at the Hospital Project, including but not limited to:

- A. hospital facilities that admit and treat patients without regard to race, sex, religion or national origin;
- B. hospital facilities that include x-ray, laboratory services and a pharmacy or drug room;
- C. adequate emergency equipment, personnel and procedures, including:
  - i. a standby emergency power system;
  - ii. at least one person capable and authorized to initiate immediate lifesaving measures;
  - iii. facilities for emergency laboratory work, including, as a minimum, urinalysis, complete blood count, blood type and cross match; and
- D. facilities, procedures and policies for prevention, control and reporting of communicable diseases, including one or more rooms for isolation of patients having or suspected of having communicable diseases;



- E. adequate records, including, as a minimum, a daily census and a register of all births, deliveries, deaths, admissions, emergency room admissions, discharges, operations, outpatients, inpatients and narcotics; and
- F. physical facilities, personnel, equipment and procedures that comply with the regulations promulgated by the public health division of the department of health;
- G. diagnostic radiographic facilities;
- H. Hospital facilities on a 24-hour emergency basis for both sick and injured; and
- I. A hospital that, at minimum, satisfies the requirements of Section 7.7..2.7(Z) NMAC 2018 (“[A]facility offering in-patient services, nursing, overnight care on a 24-hour basis for diagnosing, treating, and providing medical, psychological or surgical care for three or more separate individuals who have a physical or mental illness, disease, injury, a rehabilitative condition or are pregnant; use of the term “hospital” for any facility not duly licensed according to these requirements is prohibited; any acute care hospital shall have emergency services, inpatient medical and nursing care for acute illness, injury, surgery, and obstetrics; any limited services hospital shall have emergency services, inpatient medical and nursing care for acute illness, injury and surgery; ancillary services such as pharmacy, clinical laboratory, radiology, and dietary are required for acute-care or limited service hospitals.”

**1.4 Financial Operation:** PROVIDER takes and assumes full and complete financial responsibility for maintenance and operation of the Hospital, and may utilize any additional public and private funds as permitted under State and Federal law. PROVIDER may use any Mill Levy Funds transferred by the County for the purposes described in Section 2.3 of this Contract. PROVIDER shall be responsible for all losses arising out of the operation of the Hospital Project and shall receive the benefit of all profits arising out of the operation of the Hospital Project.

**1.5 Site Selection:** PROVIDER, in its sole discretion and subject to the minimum requirements outlined in the Valencia County Hospital RFP, shall choose the site for the Hospital Project in the County. The PROVIDER shall donate that site to the County within nine (9) months of execution of this Agreement. Failure to donate to the County a hospital site that satisfies the minimum requirements outlined in the Valencia County Hospital RFP shall be grounds for automatic termination of this Contract as provided in Section 4 of this Contract. Upon the issuance of the hospital license and after donation of the prepped real property to Valencia County, the PROVIDER will be reimbursed for the costs of site preparation up to \$3,200,000 from the funding appropriated by the State of New Mexico.

**1.6 Commencement of Services:**

PROVIDER will begin providing services to patients at the Hospital Project on a date not later than thirty (30) days after it has obtained all regulatory approval(s) required for the Hospital Project. “Substantial Completion” means the Hospital Project is sufficiently complete so that PROVIDER may legally occupy the Hospital Project for its intended use, subject to any necessary regulatory approvals. The date PROVIDER commences the provision of services is the Commencement Date. Failure to commence the provision of services within the time set forth in this Section shall be

grounds for automatic termination of this Contract as provided in Section 4 of this Contract.

**1.7 Private Control of Hospital Project:** PROVIDER and the County agree that the Hospital Project will be exclusively operated and maintained by PROVIDER, in its full control and discretion, and that the responsibilities of the County are limited to the costs associated with the planning, design, construction, equipping and furnishing the acute care hospital with the State's appropriation. Nothing in this Contract is intended to apply the New Mexico Procurement Code (Section 13-1-28 *et seq.*, NMSA 1978), the New Mexico Open Meetings Act (Section 10-15-1 *et seq.*, NMSA 1978), the New Mexico Inspection of Public Records Act (Section 14-2-1 *et seq.*, NMSA 1978), or any other laws governing the operation of public bodies to the operation and maintenance of the Hospital Project, or to create circumstances so that the County is so intertwined with PROVIDER that PROVIDER will become an alter ego of the County or otherwise impose substantial government involvement except as required by the Hospital Funding Act.

**1.8 Incorporation of Proposal:** This Contract expressly incorporates the PROVIDER's proposal. In the event of any inconsistency between the proposal and this Healthcare Facilities Contract, the provisions of this Healthcare Facilities Contract shall prevail.

## **SECTION 2: THE MILL LEVY FUNDS**

**2.1 Transfer:** Following PROVIDER's receipt of a Licensure from the New Mexico Department of Health and upon the Commencement Date, the County hereby agrees to transfer the 2007-2014 Mill Levy Funds to PROVIDER for the purposes and uses more fully described in this Contract, with the first payment of \$5,400,00 to be made within ten (10) days from the Commencement date, and equal payments of \$2,700,000 to be made on each annual anniversary of the commencement date thereafter for the next eight (8) payments. The final payment will include all accrued interest earned on the mill levy.

The Mill Levy Funds shall be held in a restricted account by the County until transferred to PROVIDER.

**2.2 Use of Mill Levy Funds:** Upon the transfer of the Mill Levy Funds to PROVIDER, PROVIDER shall use the Mill Levy Funds for the purpose of operation and maintenance of the acute care hospital in Valencia County.

**2.3 Extensions of Mill Levy:** Further mill levy funding requests must be submitted to the County for approval pursuant to Section 4-48B-15, NMSA 1978. Such mill levy funds will be subject to distribution pursuant to an additional Healthcare Facilities Contract negotiated with the PROVIDER.

**2.4 Impermissible Uses:** PROVIDER may not, under any circumstances, use Mill Levy Funds for any purposes other than the operation and maintenance of the acute care hospital in Valencia County. Use of Mill Levy Funds for capital expenditures, construction costs or any other expenditure not authorized herein shall be deemed an impermissible use of Mill Levy Funds and shall be grounds

for termination of this Contract pursuant to Section 4.2(B) of this Contract and an action to recover funds expended in violation of this Contract.

**SECTION 3: REPORTING REQUIREMENTS:**

**3.1 Reporting:** Any reporting required or permitted under this Contract shall be in writing and shall be hand delivered or mailed to the County or PROVIDER, as the case may be, postage pre-paid and by certified mail, return receipt requested, at their respective addresses shown below (or at such other address as either party may specify to the other party in writing from time to time). Such reporting shall be deemed effective as of the date of mailing.

PROVIDER: [Redacted]  
P.O. Box [Redacted]  
City, State Zip

COUNTY: County of Valencia  
Attn: County Manager  
444 Luna Avenue  
P.O. Box 1119  
Los Lunas, New Mexico 87031

**3.2 Annual Reporting:** Pursuant to Section 4-48B-4, NMSA 1978, PROVIDER hereby agrees to prepare and provide one year after the Commencement Date and upon each anniversary of the Commencement date until the later of the termination of the Contract or until such time as all Mill Levy Funds are expended, an annual report that accounts for the expenditure of Mill Levy Funds for the prior year and an annual plan explaining the planned use of Mill Levy Funds for the succeeding year. PROVIDER shall also provide to the County, commencing one year after the Commencement Date and upon each anniversary of the Commencement Date for the duration of this Contract an annual report summarizing the number of patients served at the Hospital Project and the services offered at the Hospital Project for the prior year, the services anticipated to be provided in the succeeding year under the contract, and further confirm that they have advertised the cost of services on their website.. These annual reports shall run from the first day of whatever month in which the Commencement Date occurs.

**3.3 Annual Audit:** PROVIDER hereby agrees to provide the County on an annual basis, within thirty (30) days of receipt, complete copies of its audited financial statements, detailing the financial condition of PROVIDER. PROVIDER shall provide the County with an annual balance sheet, personal and real property inventories, profit and loss statements, accounts receivable, accounts payable records, and other financial records bearing on the operation of the Hospital Project. The financial information shall be in sufficient detail to allow the County to appropriately analyze the fiscal status and management practices of the Hospital Project. The financial information shall be deemed a "public record" under the New Mexico Public Records Act (Section 14-3-1 *et seq.*, NMSA 1978) and the Inspection of Public Records Act (Section 14-2-1 *et seq.*, NMSA 1978). If PROVIDER designates any financial information and/or reporting provided to the County as trade

secret information, pursuant to New Mexico's Trade Secrets Act, NMSA 1978, §§ 57-3A-1, *et seq.*, the County agrees to receive and maintain such information as confidential and to permit PROVIDER to defend and indemnify it against any request or claim for the disclosure of such designated information, including without limitation any claims made under the New Mexico Inspection of Public Records Act, NMSA 1978, §§ 14-12-1, *et seq.* The parties agree that any information provided by PROVIDER to the County that is protected by the Trade Secrets Act, shall not be considered or treated by the County as a "public record" subject to inspection under the Inspection of Public Records Act.

**3.4 Termination Event:** The Parties hereby agree to report, in writing, the occurrence of any termination event noted in Section 4.2 of this Contract to the other party within (30) days of a party's knowledge of its occurrence.

## **SECTION 4: THE CONTRACT**

**4.1 Term:** The term of this Contract shall commence on the date of approval by both parties and shall remain effective, unless otherwise terminated pursuant to the terms of this Contract or applicable law, until the final scheduled distribution of the mill levy funds as detailed herein.

**4.2 Termination:** This Contract may be terminated for the following reasons so long as the party seeking termination follows the reporting requirements contained in Section 3.1 of this Contract.

- A. Termination Without Cause: Pursuant to Section 4-48B-5(J)(1), NMSA1978, this Contract may be terminated by the County without cause upon one hundred eighty days' (180) notice after the first three (3) years of the contract.
- B. Failure to Appropriately Use Mill Levy Funds: The use of Mill Levy Funds for any purpose other than the operation and maintenance of the Hospital Project.
- C. Failure to provide services to patients: Failure to provide services to patients on a date not later than thirty (30) days after it has obtained all regulatory approval (s) required for the hospital project shall constitute grounds for automatic termination of this Contract.
- D. Failure to Follow Reporting Requirements: Failure to report any of the information required under Section 3 of this Contract shall constitute grounds for termination of this Contract.
- E. Changes in Federal or State Law: Any change in Federal or State law that materially impairs the ability of the County to perform its duties and obligations of this Contract shall constitute grounds for termination of this Contract.
- F. Failure of New Mexico Board of Finance to approve the Lease: The New Mexico Board of Finance's refusal to approve the lease shall constitute grounds for termination of this Contract.
- G. Loss of CMS Certification. The loss of CMS certification constitutes grounds for termination

of this Contract.

- H. Failure to provide Fully Prepped Site within nine (9) months of contract award. The Board of County Commissioners retains discretion to extend this period upon a demonstration of good cause. The decision to extend this period rests solely within the discretion of the Board of County Commissioners.
- I. Violation of the Terms or Provisions of this Healthcare Facilities Contract or Lease Agreement. The violation of the terms or provisions of this Healthcare Facilities Contract or Lease constitutes grounds for termination of this Contract.

**4.3 Cure:** The parties shall have thirty (30) days from the date of a party's written notice specifying the nature of the alleged termination event to cure such event. This Section shall not apply to the termination events set forth in Section 4. 2(A) and 4.2 (E) of this Contract. In the event of termination by the County pursuant to Section 4. 2, the County will have no further obligation to the Provider.

## **SECTION 5: INDEMNIFICATION; LIMITATION ON DAMAGES**

**5.1 Indemnification of County:** PROVIDER hereby agrees to defend, indemnify, and hold harmless the County from and against any and all liabilities, claims, losses, costs, damages or expenses (including, without limitation, reasonable attorneys' fees and expenses and court costs) incurred by the County in connection with all claims, actions and proceedings brought against the County by third parties arising from alleged negligence of PROVIDER in the operation and maintenance of the Hospital and Hospital Facilities.

Within twenty days after receipt of a threat of any claim or a notice of the commencement or filing of any claim against which the County may be indemnified hereunder, the County shall give written notice thereof to PROVIDER. Failure to give or delay in giving such written notice shall not relieve the indemnifying party of any liability except to the extent that the defense or insurance coverage of such claim is prejudiced thereby. With regard to any claim for which the County seeks indemnification from PROVIDER, the County shall allow PROVIDER to have sole control of the defense and of all negotiations for settlement of such claim, except that no compromise or settlement thereof may be effected or committed unless such settlement or compromise (i) includes a full discharge and release of any and all liability for the County, (ii) does not involve any non-monetary, injunctive or other equitable relief entered against the County, does not require the County to do or to forbear from doing any act, and does not involve, require, or imply the admission of any wrongful act (whether civil or criminal) by the County, and (iii) is kept confidential pursuant to a confidentiality and non-disclosure agreement which shall be reasonably acceptable to the County, subject to the requirements of the New Mexico Inspection of Public Records Act. The County shall provide all reasonable assistance, at PROVIDERs request and expense, needed in the defense or negotiation for settlement of such claim. The County may also elect to participate in the defense of such claim at its own expense with counsel of its choice.

## **SECTION 6: MISCELLANEOUS**

**6.1 Binding Effect:** Upon the execution of this Contract, the Contract shall be binding upon and shall inure to the benefit of the parties hereto and their successors.

**6.2 Assignment:** This Contract shall not be assigned by PROVIDER or the County to any other party.

**6.3 Severability:** If any term or provision of this Contract shall be determined by a court of competent jurisdiction to be illegal or invalid for any reason whatsoever, such provision or term shall be severed from the Contract and shall not affect the validity of the remainder of this Contract.

**6.4 Applicable Law/Venue:** The validity, construction and effect of this Contract will be governed by the laws of the State of New Mexico, without regard to any conflicts of law provisions contained therein. Venue for an action arising under this Contract will lie exclusively in the Thirteenth Judicial District Court in Valencia County.

**6.5 Amendment:** This Contract may be amended only by a written instrument executed by the County and PROVIDER.

**6.6 Further Assurances:** PROVIDER and the County hereby agree to execute, acknowledge and deliver any documents and instruments and perform any additional acts that may be necessary, appropriate or advisable to carry out their respective obligations under this Contract.

**6.6 Attorney's Fees:** In the event this Agreement results in dispute, mediation, litigation, or settlement, the prevailing party of such action shall NOT be entitled to an award of attorneys' fees and court costs.

**6.7 Cost of Implementation:** In the event this Contract is determined to be invalid or otherwise unenforceable, for any reason whatsoever, PROVIDER will make no claim against the County or any of its officers, agents, contractors or employees for any compensation for lost profits, costs or expenses incurred in proceeding with the implementation of the terms of the Contract.

**6.8 Counterparts:** This Contract may be executed in exact counterparts and when so executed by the parties hereto shall be effective in accordance with the terms hereof.

*APPROVED, ADOPTED, AND PASSED on this \_\_\_ day of \_\_\_\_\_, 2022.*

***BOARD OF COUNTY COMMISSIONERS  
OF VALENCIA COUNTY***

\_\_\_\_\_  
Gerard Saiz  
Chair, District I

\_\_\_\_\_  
Jhonathan Aragon  
Vice-Chair, District V

\_\_\_\_\_  
Troy Richardson  
Commissioner, District II

\_\_\_\_\_  
David A. Hyder  
Commissioner, District III

\_\_\_\_\_  
Joseph Bizzell  
Commissioner, District IV

Attest:

\_\_\_\_\_  
Mike Milam  
Valencia County Clerk

**PROVIDER**

\_\_\_\_\_  
Name:

\_\_\_\_\_  
Title:

**WITNESS** my hand and seal this \_\_\_\_ day of \_\_\_\_\_, 2022.

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

The foregoing instrument was acknowledged before me on \_\_\_\_\_, 2022, by

\_\_\_\_\_.

\_\_\_\_\_  
Notary Public

My Commission Expires:

\_\_\_\_\_



**APPENDIX C**  
**LEASE AGREEMENT**

**VALENCIA COUNTY HOSPITAL LEASE**

This **VALENCIA COUNTY HOSPITAL LEASE** (the "Lease"), is entered into this \_\_\_day \_\_\_\_\_ of 2022, by and between the BOARD OF COUNTY COMMISSIONERS OF VALENCIA COUNTY, NEW MEXICO, a political subdivision of the State of New Mexico ("County") and \_\_\_\_\_, ("PROVIDER").

*Recitals:*

**WHEREAS**, the PROVIDER was selected by the County pursuant to Request for Proposals [insert number] to operate and maintain Valencia County’s Hospital; and,

**WHEREAS**, the State of New Mexico has appropriated to “[f]ifty million dollars (\$50,000,000) to the department of finance and administration to plan, design, construct, equip and furnish an acute care hospital in a county with a population of less than one hundred thousand, according to the most recently decennial census;” and

**WHEREAS**, as the appropriation may not be utilized to secure real property upon which the hospital may be constructed, the Provider has donated certain real property located at [insert address] to Valencia County that satisfied the minimum site requirements identified by the County in the Valencia County Hospital RFP; and,

**WHEREAS**, the County utilized the appropriation to plan, design, construct, equip and furnish an acute care hospital in Valencia County on the property donated to the County by the PROVIDER; and,

**WHEREAS**, the County and PROVIDER have negotiated and agreed to a Health Care Facilities Contract (the “HCF Contract”) pursuant to which PROVIDER will manage and operate the Hospital and provide medical and health care services to the citizens of Valencia County and surrounding areas in exchange for receipt of the hospital mill levy proceeds;

**WHEREAS**, PROVIDER desires to lease the Hospital Premises from the County to provide the medical and health care services contemplated by the HCF Contract;

**WHEREAS**, the County and PROVIDER are empowered by the Hospital Funding Act to enter into this Lease;

**NOW THEREFORE**, in consideration of the foregoing recitals and the mutual promises and covenants hereinafter contained, the Parties agree as follows.

**SECTION 1: LEASE**

**1.1 Lease of Premises.** County hereby leases to PROVIDER and PROVIDER hereby leases from County the Premises.

**1.2 Lease Term.** The term of this Lease shall be for a period beginning with the Commencement Date (as defined below) and ending at midnight nine (9) years after Commencement (the "Expiration Date"), unless this Lease or the HCF Contract shall sooner terminate or be extended pursuant to the provisions hereof.

**1.3 Holding Over.** PROVIDER, for and in consideration of this Lease and the demise of the Premises, agrees and covenants with County that no holding over by PROVIDER after the expiration of this Lease, or any renewal or extension thereof, whether with or without the consent of County, shall operate to extend or renew this Lease, and that any such holdings over shall be construed as a tenancy from month to month at the monthly rental which shall have been payable at the time immediately prior to when such holding over shall have commenced, and such tenancy shall be subject to all the terms, conditions, covenants, and agreements of this Lease. Consistent with the requirements of the New Mexico Board of Finance, the holdover period is limited to six (6) months.

**1.4 Commencement Date.** The Commencement Date of this Lease will be approval of this Lease by the New Mexico Board of Finance. PROVIDER will be entitled to take possession of the Premises under the terms of this lease at the Commencement Date.

**1.5 Rent:**

The PROVIDER will pay the fair market rent value as reflected by the rental appraisal in the amount of [insert amount] per year, which amount will be adjusted on each anniversary of the approval of this lease based upon any changes in the CPI from the prior year. For purposes of this Lease "CPI" means the Consumer Price Index for All Urban Consumers (CPI-U) (1982-84 equals 100), as published by the U.S. Department of Labor, Bureau of Labor Statistics, for the Albuquerque, New Mexico, standard metropolitan statistical area, or any successor publication. If the CPI is changed, the new base shall be converted to the 1982-84 base and the base so converted shall be used.

**1.6 Utility Charges.** PROVIDER, for and in consideration of this Lease, hereby agrees and covenants with County to pay promptly all utility charges, including charges for electrical, gas, garbage, water, sewage, which may be incurred in connection with PROVIDER's use of the Premises. PROVIDER hereby agrees and covenants with County to pay promptly telephone and internet service, which may be incurred in connection with PROVIDER's use of the Premises.

**1.7 Use of Premises:** The Hospital Premises shall be used only for the operation of an acute care general hospital and uses reasonably related or ancillary thereto. PROVIDER shall not (i) do or permit to be done in or about the Premises nor bring to, keep or permit to be brought or kept in the Premises anything which is prohibited by, or is in any way in conflict with, any law, statute, ordinance or governmental rule or regulation which is now or may hereafter be in force; (ii) use or

allow the Premises to be used for any improper, immoral, unlawful or objectionable purpose; or (iii) cause, maintain or permit any nuisance in, on or about the Premises, or commit or allow to be committed any waste in, on or about the Premises.

## **SECTION 2:           CONDITION OF THE PREMISES, ALTERATIONS**

**2.1     Condition of Premises and Repairs:** PROVIDER, for and in consideration of this Lease and the demise of the Premises, hereby agrees and covenants with the County that PROVIDER has examined the Premises prior to the execution hereof, knows the condition thereof, and acknowledges that PROVIDER has received the Premises in good order and condition, and that no representation or warranty as to the condition or repair of the Premises has been made by the County, and, at the expiration of the term of this Lease, or any renewal or extension thereof, PROVIDER will yield up peaceably the Premises to the County in as good order and condition as when the same were entered upon by PROVIDER, loss by fire, damage by the elements, and reasonable use and wear excepted. PROVIDER will keep, at PROVIDER's expense, the Premises in good order and repair during the term of this Lease, or any extension or renewal thereof, and will repair and replace promptly, at PROVIDER's expense, any and all damage, including, but not limited to, damage to roof, walls, floors and foundations, heating and cooling units, plumbing, glass, and all other appurtenances, that may occur from time to time.

**2.2     Alterations, Additions and Improvements:** PROVIDER, for and in consideration of this Lease and the demise of the Premises, hereby agrees and covenants with County that PROVIDER shall not make, or suffer or permit to be made, any alterations, additions, or improvements to permanent real estate fixtures in or about the Premises without first obtaining the written consent of County therefor. However, that such consent, if given, shall be subject to the express condition that any and all alterations, additions, and improvements shall be done at PROVIDER's own expense and in accordance and compliance with all applicable municipal, state, and federal ordinances, laws, rules and regulations, and that PROVIDER hereby covenants and agrees with County that in doing and performing such work PROVIDER shall do and perform the same at PROVIDER's own expense, in conformity and compliance with all applicable municipal, state, and federal ordinances, laws, rules and regulations. That no liens of mechanics, materialmen, laborers, architects, artisans, contractors, subcontractor, or any other lien of any kind whatsoever shall be created against or imposed upon the Premises, or any part thereof. Any alterations, additions and/or improvements will not impact or change, positive or negative, the consideration to be furnished by PROVIDER under this Lease.

**2.3     Ownership of Alterations, Additions and Improvements:** County, for and in consideration of this Lease and the demise of the Premises, hereby agrees and covenants with PROVIDER that any and all non-permanent fixtures alterations, additions, and improvements, made at PROVIDER's own expense, whether or not attached to the roof, walls, or floors, foundations, or the premises in any manner whatsoever, shall not become a permanent part of the realty, and shall be removed by PROVIDER at PROVIDER's expense on or before the termination of the Lease, and PROVIDER shall repair any damage caused thereby at PROVIDER's own expense, such that the Premises shall be in as good order and condition as when the same were entered upon by PROVIDER, subject to normal wear and tear. In addition, with respect to any signs, shelving, furniture and equipment purchased by PROVIDER and not affixed to the roof, walls or floors of the Premises, PROVIDER shall have the right to remove or replace any such items in its discretion at any time.

**2.4 County's Right of Entry and to Make Alterations, Additions and Improvements.**

PROVIDER, for and in consideration of this Lease and the demise of the Premises, hereby agrees and covenants with County, County shall have the right at any time, upon reasonable notice to PROVIDER, to enter upon the said premises, except for areas designated as secure areas for the protection of the health, safety and welfare of the County including areas that contain legally confidential information, to inspect the same. Additionally, upon reasonable advance written request, with sufficient time to respond to the written request, the County shall have the right to inspect during normal business hours records and documents not otherwise privileged or confidential, which are reasonably necessary for the County to be able to determine whether PROVIDER is in compliance with its obligations under this Lease, post notices of non-responsibility and the like; provided, that nothing in this provision shall limit the County's right to inspect confidential records or documents, excluding medical records or other records containing protected health information, which the County otherwise has a right to review, including, without limitation proprietary or confidential matters described herein, subject to continuing confidentiality protections.

**SECTION 3: ASSIGNMENT AND SUBLETTING**

**3.1 Assignment and Subletting.** PROVIDER, for and in consideration of this Lease and the demise of the Premises, hereby agrees and covenants with County that neither PROVIDER nor PROVIDER's assigns, or successors in interest shall assign this Lease or sublet the Premises, in whole or in part, without first obtaining the written consent of County therefor: that no assignment of this Lease or any subletting of the Premises, in whole or in part, shall be valid, except by and with the written consent of County first obtained, which consent will not unreasonably be withheld or delayed; that the consent of County to any such assignment or subletting shall not operate to discharge PROVIDER or PROVIDER's assigns or successors in interest from their liability upon the agreements and covenants of this Lease, and PROVIDER, PROVIDER's assigns and successors in interest shall remain liable for the full and complete performance of all the terms, conditions, covenants, and agreements herein contained as principals and not as guarantors or sureties, to the same extent as though no assignments or sublease had been made; that any consent of County to any such assignment or subletting shall not operate as a consent to further assignment or subletting or as a waiver of this covenant and agreement against assignment and subletting; and that the following any such assignment or subletting, the assignee and/or subtenant shall be bound by all of the terms, conditions, covenants, and agreements herein contained including the covenant against assignment or subletting.

**SECTION 4: TAXES, OTHER ASSESSMENTS**

**4.1 Taxes, Other Assessments.** PROVIDER and County hereby covenant and agree that all taxes and special and general assessments of whatsoever kind and nature, extraordinary as well as ordinary, which have been or may be levied upon the Premises and upon any alterations, additions, and improvements thereon, shall be paid by County at the time when the same become due and payable, and that all taxes and special and general assessments of whatsoever kind and nature, extraordinary as well as ordinary, which have been or may be levied upon the personal property located upon the Premises shall be paid by PROVIDER at the time when the same shall become due and payable.

**SECTION 5: DEFAULT AND TERMINATION**

**5.1 Default and Termination:** In the event of PROVIDER's default hereunder, then, in addition to any other rights or remedies County may have under any law or this Lease, County shall have the right, at County's option, without further notice or demand of any kind to terminate this Lease and PROVIDER's right to possession of the Premises and reenter the Premises and take possession thereof, and PROVIDER shall have no further claims to the Premises or under this Lease. This Lease may be terminated for the following reasons:

- A. Termination Without Cause: Pursuant to Section 4-48B-5(J)(1), NMSA1978, this Lease may be terminated by the County without cause upon one hundred eighty days' (180) notice after the first three (3) years of this Lease. However, pursuant to Section 4-48B-5(J)(2), NMSA 1978, this provision shall not apply during the portion of a lease term in which PROVIDER is obligated to make debt service payments on revenue bonds that finance all or part of the hospital or equipment for the Hospital.
- B. Changes in Federal or State Law: Any change in Federal or State law that materially impairs the ability of PROVIDER or the County to perform the duties and obligations of this Lease.
- C. Noncompliance with Material Terms: PROVIDER's violation of any material term of this Lease.
- D. An uncured material default under the HCF Contract.
- E. Failure to Obtain and Maintain Insurance. PROVIDER's failure to Obtain and Maintain Insurance as required by this Lease.
- F. Dissolution, Bankruptcy or Receivership. PROVIDER's adoption of a plan of dissolution, filing for bankruptcy liquidation or receivership.
- G. Other Act or Omission Inconsistent with any Obligation under this Lease.

The County may otherwise enforce the terms of this Lease by invoking any other right or remedy allowed at law or in equity, including, without limitation, an action for specific performance if warranted by the particular circumstances.

**5.2 Cure:** PROVIDER shall have thirty (30) days from the date of the County's written notice specifying with particularity the nature of the alleged termination event to cure such event, except that if the nature of the default is such that more than thirty (30) days are reasonably required for its cure, the PROVIDER shall not be deemed to be in default if PROVIDER commences such cure within said thirty (30) day period and thereafter diligently prosecutes such cure to completion. This Section shall not apply to the termination events set forth in Section 5.1 (A), (B), (D), or (E) of this Lease.

**5.3 Effect of Default by the County.** PROVIDER shall have the right to enforce the terms of this Lease by invoking any right or remedy allowed at law or in equity, including without limitation, an action for specific performance if the County fails to perform any of its material obligations under the terms of this Lease, provided such failure continues for thirty (30) after written notice of such default

from PROVIDER, except that if the nature of the default is such that more than thirty (30) days are reasonably required for its cure, then the County shall not be deemed to be in default if the County commences such cure within said thirty (30) day period and diligently prosecutes such cure to completion.

**5.4 Bankruptcy and Condemnation.** In no event shall this Lease be deemed an asset of PROVIDER after the assignment for the benefit of creditors, the adjudication in bankruptcy, the appointment of a receiver or trustee, or the issuance of a Writ of Execution, a Writ of Attachment, a Writ of Replevin, or other court order against PROVIDER or PROVIDER's property whereby the Premises or any building or buildings, or alterations, additions, or improvements thereon, shall be taken or occupied or attempted to be taken or occupied by someone other than the PROVIDER. Further, PROVIDER hereby covenants and agrees with County that in the event the Premises, or any part thereof, shall be taken for any public or quasi-public use under any statute or by right of eminent domain, this Lease shall automatically terminate, as to the part so taken, as of the date possession shall have been taken, and the rent reserved shall be adjusted so that PROVIDER shall be required to pay for the remainder of the term that portion of the rent reserved in the proportion that the Premises remaining after the taking for public or quasi-public use bears to the whole of the Premises before the taking for public or quasi-public use. All damages and payments resulting from the taking for public or quasi-public use of the Premises shall accrue to and belong to County, and PROVIDER shall have no right to any part thereof.

**5.5 Waivers:** County and PROVIDER, for and in consideration of this Lease and the demise of the Premises, agrees and covenants with each other that the delay or omission in the enforcement of any of the agreements and covenants herein contained, or in the exercise of any of the Parties rights hereunder, shall not affect the duty of the other Party to thereafter faithfully fulfill and perform all of the agreements and covenants herein contained, and that the failure, neglect, or omission of the other to terminate this Lease for any one or more breaches of any agreements and covenants hereof, shall not be deemed a consent by either Party of such breach and shall not impede, impair, stop, bar, or prevent either Party from thereafter terminating this Lease, either for such violation, or for prior to subsequent violations of any covenant or agreement hereof.

**5.6 Surrender of Hospital Upon Termination.** Upon a termination of this Lease for any reason, PROVIDER shall, on the date of termination, surrender the Premises to the County or an entity designated by the County.

## **SECTION 6: ENVIRONMENTAL COMPLIANCE**

### **6.1 Compliance with Environmental Laws.**

- A. PROVIDER and the Premises will remain in compliance with all applicable laws, statutes, ordinances, and regulations (including consent decrees and administrative orders) relating to public health and safety and protection of the environment, all as amended and modified from time to time (collectively, "environmental laws"). All governmental permits relating to the use or operation of the Premises required by applicable environmental laws are and will remain in effect, and PROVIDER will comply with them.

- B. PROVIDER will not permit to occur any release, generation, manufacture, storage, treatment, transportation, or disposal of hazardous material, as that term is defined in applicable environmental laws,) on, in, under, or from the Premises. PROVIDER will promptly notify County, in writing, if PROVIDER has or acquires notice or knowledge that any hazardous material has been or is threatened to be released, generated, manufactured, stored, treated, transported, or disposed of, on, in, under, or from the Premises; and if any hazardous material is found on the Premises, County, at its own cost and expense, will immediately take such action as is necessary to detain the spread of and remove the hazardous material to the complete satisfaction of PROVIDER and the appropriate governmental authorities.
- C. PROVIDER will immediately notify County and provide copies upon receipt of all written complaints, claims, citations, demands, inquiries, reports, or notices relating to the condition of the premises or compliance with environmental laws. County will promptly cure and have dismissed with prejudice any of those actions and proceedings to the satisfaction of PROVIDER.

## **SECTION 7:            DAMAGE TO PREMISES; EMINENT DOMAIN**

**7.1    Damage and Destruction.** If during the Term any significant portion of the Hospital Premises or the Clinic Premises shall be damaged or partially or totally destroyed by fire, flood, windstorm or other casualty, PROVIDER shall notify the County within ten (10) days of such casualty. PROVIDER may, upon such notice, at its option elect to either:

- A. Terminate this Lease effective as of the date of such casualty, pay no further rental payments hereunder, and pay all proceeds of the property insurance on the damaged or destroyed real property assets to the County within ten (10) days after such proceeds are received; or
- B. Proceed with all due diligence to restore, repair or replace the damaged or destroyed real property assets using the proceeds of the property insurance on such assets; provided, however, that if PROVIDER fails (i) to substantially restore, repair or replace such assets within 180 days after such casualty, or (ii) with respect to restoration, repair or replacement which cannot with reasonable due diligence be completed within said 180-day period, PROVIDER fails to take all actions necessary to complete such restoration, repair or replacement with all due diligence, the County shall have the right to terminate this Agreement by notifying PROVIDER of such termination (i) as of the expiration of said 180-day period; or (ii) with respect to restoration, repair or replacement which cannot with due diligence be completed within said 180-day period, after allowing a reasonable time for the completion of such restoration, repair or replacement. In the event that PROVIDER elects to restore, repair or replace the damaged or destroyed real property assets under this Paragraph, the County shall promptly execute and deliver to PROVIDER any and all documents necessary to waive any and all rights on claims which the County has or may have in and to all insurance proceeds to the extent of the cost of repairs. If the County elects to terminate this Lease under this Paragraph, PROVIDER shall promptly pay to the County all remaining insurance proceeds not yet expended on the on-site restoration, repair or replacement of such real property assets.

**7.2    Eminent Domain.** If during the Term either title to or the temporary use of the Hospital Premises shall be taken under the exercise of the power of eminent domain by any governmental body

or by any person, firm or corporation action under governmental authority, any proceeds received from any award made in any related eminent domain proceedings (after the payment of any expenses incurred in connection with such proceedings) shall be paid to PROVIDER on the express condition that PROVIDER use all such proceeds for the sole purpose of acquiring new land and facilities in the County's name to be used for the provision of health care services to the residents of the County as specified in this Lease, subject to the prior written consent of the County, which consent shall not unreasonably be withheld or delayed. In such case PROVIDER shall account contemporaneously and fully to the County for all expenditures of any such proceeds. If any part of such proceeds is used for any purpose not authorized under this Paragraph, the County may demand the return of all proceeds, in which event PROVIDER shall within thirty (30) days of such demand pay to the County all proceeds not used for an authorized purpose. PROVIDER and the County further agree that if only the temporary use of all or substantially all of the Hospital Premises and/or Clinic Premises is taken PROVIDER shall not be obligated to pay a management fee with respect to such period except to the extent of recovery of business interruption insurance proceeds in connection with such taking, if any; and if title to all or substantially all of the Hospital Premises and/or Clinic Premises is taken PROVIDER may elect to terminate this Lease and PROVIDER shall not be obligated to pay any further amount as rent hereunder or be bound in anyway by the terms of this Lease effective as of the date of such taking.

## **SECTION 8: MAINTENANCE AND IMPROVEMENT OF PREMISES**

**8.1 Maintenance and Improvement of Hospital.** PROVIDER shall maintain, preserve and keep the Hospital Premises and Clinic Premises in good condition, repair and working order. PROVIDER may, at its own expense, make or cause to be made any and all additions, alterations, changes and deletions in and to all or any part of the Hospital Premises as PROVIDER, in its sole discretion, deems necessary or appropriate; provided, however, that (i) all additions and alterations shall be performed in a good and workmanlike manner which means that the quality of workmanship and materials shall be at least equal that existing on the Effective Date; (ii) no permanent demolition of any substantial part of the Hospital Premises shall be made without replacement of such assets or replacement space or otherwise without the prior written consent of the County, (iii) PROVIDER shall not grant any lien, mortgage security interest or other encumbrance on the Hospital Premises in connection with construction, projects, (iv) PROVIDER shall, not sell, sublease, exchange, alienate or otherwise dispose of all or a substantial part of the Hospital Premises, without the prior written consent of the County, and PROVIDER shall obtain prior written consent from the County, which consent will not unreasonably be withheld or delayed for any construction project for which the cost is expected to exceed \$250,000 and with respect to such construction projects, PROVIDER shall pursue such projects in a manner designed to maximize the purchasing value of the expenditure of funds. Except as otherwise provided in this Lease, ownership of such improvements to the Premises will vest in the County.

**8.2 Process for Large Construction Projects.** PROVIDER and the County will agree upon the process to be followed with respect to the expenditure of public monies for all improvements to be made to the Premises in excess of \$250,000 per project to maximize the value of the expenditure of funds.

## **SECTION 9: INSURANCE**



**9.1 Insurance.** PROVIDER shall at all times carry and maintain for the benefit of itself and the County, as their respective interests may appear, such type and amount of insurance concerning the Hospital Premises as PROVIDER deems appropriate, including, but not limited to, comprehensive general liability insurance covering bodily injury and property damage liability, with aggregate coverage of [insert amount of replacement cost of hospital], business interruption insurance, to the extent reasonably necessary to protect the interests of the County which shall be named as an additional named insured on all such policies. Fire and extended coverage insurance upon all buildings, alterations, and improvements upon the Premises shall be provided for by County. Fire and extended coverage insurance upon all of the contents and other personal property situated upon the Premises shall be provided for by PROVIDER. Failure to provide or maintain the required insurance shall constitute a material breach of this Lease. PROVIDER shall obtain, and provide on an annual basis to the County, certificates of all such insurance and shall require each insurance carrier to place an endorsement in each such policy agreeing to give the County at least 30 days' notice of any proposed cancellation of any such coverage.

## **SECTION 10: GENERAL COVENANTS OF THE COUNTY**

The County hereby covenants with PROVIDER to take, or cause to be taken, the following actions during the Term (or such other period as may be specified below):

**10.1 Consents and Notices.** The County shall obtain any consents and give any notices required in connection with this Lease under the terms and conditions hereof.

**10.2 Liens and Encumbrances.** The County shall not suffer or permit any liens or encumbrances for the County's benefit to be filed or exist against the Hospital Premises.

**10.3 Exemption from Property Taxes.** The County shall not, during the term of this lease, transfer or convey any right, title or interest owned or held in or to the Hospital Premises, or take any other action, which would cause any of the Hospital Premises to become subject to any property taxes under the laws of the State of New Mexico as now or hereafter enacted.

## **SECTION 11: INDEMNIFICATION; LIMITATION ON DAMAGES**

**11.1 Indemnification of County.** PROVIDER shall indemnify and hold the County, its employees and agents harmless from and against, any and all demands, claims, causes of actions, fines, penalties, damages (including consequential damages), liabilities, judgments, and expenses (including, without limitation, attorneys' fees and costs of defenses) incurred in connection with or arising from: (i) the use or occupancy or manner of use or occupancy of the Hospital Premises by PROVIDER or any person claiming under PROVIDER; (ii) any activity, work or thing done, permitted or suffered by PROVIDER in or about the Hospital Premises; (iii) any acts, omissions or negligence of PROVIDER or any person claiming under PROVIDER, or the contractors, agents, employees, invitees or visitors of PROVIDER or any such person; (iv) any breach, violation or nonperformance by PROVIDER or any person claiming under PROVIDER or the employees, agents, contractors, invitees or visitors of PROVIDER or any such person of any term, covenant or provision of this Lease or any law, ordinance or governmental requirement of any kind; (v) any injury or damage to the person, property or business of PROVIDER, its employees, agents, contractors, invitees, visitors or any other person entering upon the Hospital Premises under the express or

implied invitation of PROVIDER, except for any injury or damage to persons or property on the Hospital Premises which is proximately caused by or results proximately from the negligence or intentional wrongdoing of the County, its employees or agents. PROVIDER, as a material part of the consideration to the County for this Lease, hereby waives and releases all claims against the County, its employees and agents with respect to all matters for which the County has disclaimed a liability pursuant to the provisions of this Lease. Except for any damage or injury to person or property on the Hospital Premises which is proximately caused by or results proximately from the negligence or intentional wrongdoing of the County or its agents or employees, PROVIDER covenants and agrees that the County and its agents and employees shall not at any time or to any extent whatsoever be liable, responsible or in any way accountable for any loss, injury, death or damage (including consequential damages) to persons, property or PROVIDER's business interests from any cause, either ordinary or extraordinary, beyond the County's control. No provision of this Lease shall require any indemnity obligation which would render such provision void and unenforceable by operation of any law, including, but not limited to, N.M. Stat. Ann. § 56-7-1 (1978).

Within twenty days after receipt of a threat of any claim or a notice of the commencement or filing of any claim against which the County may be indemnified hereunder, the County shall give written notice thereof to PROVIDER. Failure to give or delay in giving such written notice shall not relieve the indemnifying party of any liability except to the extent that the defense or insurance coverage of such claim is prejudiced thereby. With regard to any claim for which the County seeks indemnification from PROVIDER, the County shall allow PROVIDER to have sole control of the defense and of all negotiations for settlement of such claim, except that no compromise or settlement thereof may be effected or committed unless such settlement or compromise (i) includes a full discharge and release of any and all liability for the County, (ii) does not involve any non-monetary, injunctive or other equitable relief entered against the County, does not require the County to do or to forbear from doing any act, and does not involve, require, or imply the admission of any wrongful act (whether civil or criminal) by the County, and (iii) is kept confidential pursuant to a confidentiality and non-disclosure agreement, subject to the requirements of the New Mexico Inspection of Public Records Act. The County shall provide all reasonable assistance, at PROVIDER's request and expense, needed in the defense or negotiation for settlement of such claim. The County may also elect to participate in the defense of such claim at its own expense with counsel of its choice.

**ARTICLE 12: REPRESENTATIONS AND WARRANTIES OF PROVIDER**

PROVIDER hereby represents and warrants to the County that the following representations and warranties are true and accurate as of the date hereof and as of the Effective Date:

**12.1 Organization.** PROVIDER is a [insert state in which Hospital was organized] [nonprofit corporation, for profit corporation] duly organized and in good standing under the laws of the State of New Mexico. PROVIDER has the power to contract with third parties and to own assets and to carry on its business as contemplated under this Contract.

**12.2 Authority.** PROVIDER has the power to execute and deliver this Lease and to carry out the transactions contemplated hereby and therein, respectively. All corporate actions required to be taken by PROVIDER to authorize the execution, delivery and performance of this Lease and all transactions contemplated hereby have been duly and properly taken.

**12.3 No Conflicts.** This Lease is duly executed and delivered and is the valid and legally binding obligation of PROVIDER enforceable under its terms. The execution and delivery of this Lease does not, and the consummation of the transactions contemplated hereby shall not result in the creation of any lien charge or encumbrance, or the accelerations of any indebtedness or other obligation of PROVIDER and is not prohibited by, in violation of or in conflict with any provision of and shall not result in a default under or breach of (i) any contract agreement or other, instrument to which PROVIDER is a party or is bound; (ii) any ordinance, law or regulation or (iii) any order decree or judgment of any court or governmental agency to which PROVIDER is a party or is bound.

**12.4 Compliance with Codes and Regulations.** To the knowledge of PROVIDER the Hospital Premises has been and is being used in material compliance with all zoning, environmental, health code and other similar laws, ordinances and regulations and with all covenants, conditions and restrictions affecting the Hospital Premises.

**12.5 Inspection of Hospital.** PROVIDER acknowledges that, prior to execution of this Contract, PROVIDER has made such inspections and investigations of the condition of the Hospital Premises as PROVIDER deems necessary and appropriate and that PROVIDER has found the Hospital Premise to be in good condition, suitable and fit for PROVIDER's intended uses. ON THE EFFECTIVE DATE PROVIDER SHALL ACCEPT THE HOSPITAL "AS IS" AND "WHERE IS," WITHOUT WARRANTY OR REPRESENTATION FROM THE COUNTY AS TO CONDITION, STATE OF REPAIR, OR SUITABILITY OR FITNESS FOR ANY PARTICULAR USE OR PURPOSE. Except as expressly provided in this County, the County shall have no obligation to PROVIDER to maintain, repair, restore, replace, alter, remodel, improve or add to the Hospital Premises.

### **SECTION 13: DELIVERABLES**

**13.1 PROVIDER Deliverables to the County.** PROVIDER shall deliver the following to the County as of the date of execution of this Contract or within ten (10) business days thereafter, a certified copy of resolutions adopted by the Board of Directors of PROVIDER, authorizing, and approving the execution and performance of this Lease, and any other agreements contemplated herein.

**13.2 County Deliverables to PROVIDER.** The County shall deliver the following to PROVIDER by the date this Lease is signed by both parties or (except as otherwise provided in this Paragraph) within ten (10) business days thereafter:

- A. Two (2) executed copies of the Lease.
- B. Evidence of all consents and notices required. New Mexico Board of Finance authorization will be required for this Lease pursuant to NMSA 1978, Section 13-6-2.1. This Agreement, and any amendments thereto, shall be subject to and shall not be effective prior to New Mexico Board of Finance approval.
- C. A certified copy of resolutions or ordinances adopted by the County authorizing and approving the execution and performance of this Lease.

**13.3 Failure to Deliver.** In the event that any party hereto fails to make any delivery required under this Article, and such failure continues for a period of fifteen business days after written request by the other party, any non-defaulting party may, at its option, declare this Lease to be null and void as of the Effective Date, in which case all deliveries shall immediately be returned to the party making the

delivery, or seek specific performance and/or pursue such other remedies as may be available at law or in equity.

**SECTION 14: MISCELLANEOUS**

**14.1 Binding Effect:** Upon the execution of this Lease, the Lease shall be binding upon and shall inure to the benefit of the parties hereto and their successors.

**14.2 Assignment:** This Lease shall not be assigned by PROVIDER or the County to any other party.

**14.3 Severability:** If any term or provision of this Lease shall be determined by a court of competent jurisdiction to be illegal or invalid for any reason whatsoever, such provision or term shall be severed from the Lease and shall not affect the validity of the remainder of this Lease.

**14.4 Applicable Law:** The validity, construction and effect of this Lease will be governed by the law of the State of New Mexico, without regard to any conflicts of law provisions contained therein. Venue for any action arising from this Lease will lie in the Thirteenth Judicial District Court in Valencia County.

**14.5 Amendment:** This Lease may be amended only by a written instrument executed by the County and PROVIDER. Any amendment will require New Mexico Board of Finance approval.

**14.6 Further Assurances:** PROVIDER and the County hereby agree to execute, acknowledge and deliver any documents and instruments and perform any additional acts that may be necessary, appropriate or advisable to carry out their respective obligations under this Lease.

**14.7 Attorney's Fees:** In the event this Lease results in dispute, mediation, litigation, or settlement, the prevailing party of such action shall NOT be entitled to an award of attorneys' fees and court costs.

**14.8 Cost of Implementation:** In the event this Lease is determined to be invalid or otherwise unenforceable, for any reason whatsoever, PROVIDER will make no claim against the County or any of its officers, agents, contractors or employees for any compensation for lost profits, costs or expenses incurred in proceeding with the implementation of the terms of the Lease.

**14.9 Counterparts:** This Lease may be executed in exact counterparts and when so executed by the parties hereto shall be effective in accordance with the terms hereof.

**14.10 Impossibility.** No party hereto shall be liable for any delay in performance or failure to perform when fire, flood, explosion, accident, energy shortage, war, weather, casualty, act of God, sabotage, law or government regulation, or any other cause reasonably beyond such party's control makes performance impossible despite the best efforts to perform by the party from whom performance is required.

**14.11 Entire Agreement.** This Lease contains the entire understanding of the parties with respect to the lease of the Premises and supersedes and replaces all other agreements and understandings between

the parties. Wherever in this Lease the permission or consent of any party is required or requested, such omission and consent shall not be unreasonably withheld or delayed.

**14.12 Accounting Determinations.** All accounting determinations required to be made under this Lease shall be made in accordance with generally accepted accounting principles.

**14.13 Authorization of PROVIDER to Act as if PROVIDER Were Fee Owner in Certain Matters.** The County hereby authorizes PROVIDER to act as if PROVIDER were the owner of the fee simple title to the Hospital Premises for the purpose of obtaining licenses and all zoning and/or building permits, maintaining a determination of tax-exempt status under IRC Section 501(c)(3), filing plats of subdivision, negotiating agreements with public and private utilities, and any and all other documents and/or approvals required by or from any governmental authority exercising jurisdiction over all or any part of the Hospital, as PROVIDER shall from time to time deem necessary or appropriate in order to carry out the health care purposes of PROVIDER. Nothing in this Article shall be deemed or construed as in any way limiting or amending (1) the obligations of the County to cooperate with PROVIDER to enable PROVIDER to exercise its rights hereunder, including without limitation, the obligation to sign any and all documents and to take any and all other steps necessary to accomplish any of the actions set forth in this Article, or (2) the limitations on the rights of PROVIDER to transfer, mortgage, pledge or otherwise encumber the Hospital Premises.

**14.14 Conditions Precedent to Effective Date.** The obligations of the parties under this Lease are contingent upon the following conditions:

A. There shall have been no material breach by any party in the performance of any of their respective covenants herein, each of the representations and warranties of each of them contained or referred to in this Lease shall be true and correct in all material respects on the Effective Date as though made on the Effective Date, and there shall have been delivered to each party their respective deliveries as described herein;

B. No order shall have entered in any action or proceeding before any court or governmental agency, and no preliminary injunction by any court shall have been issued which would have the effect of (i) making the transactions contemplated by this Lease illegal; or (ii) otherwise preventing consummation of such transactions; and there shall have been no federal or state statute, rule or regulation enacted or promulgated that could reasonably, directly or indirectly, result in any of the consequences referred to in this Paragraph;

C. All necessary federal, state and local governmental approvals and consents shall have been obtained, without the imposition of any material conditions or restrictions and without the loss of any existing material waivers arising out of the closing of the transactions contemplated hereby;

D. If any governmental agency seeks to preliminarily enjoin the transactions contemplated hereby, either party may decide not to proceed further with the Lease transactions; and

E. All third-party consents or waivers required to be obtained with respect to the proposed transactions shall have been obtained.

**APPROVED, ADOPTED, AND PASSED** on this \_\_\_ day of \_\_\_\_\_, 2022.

***BOARD OF COUNTY COMMISSIONERS  
OF VALENCIA COUNTY***

\_\_\_\_\_  
Gerard Saiz  
Chair, District I

\_\_\_\_\_  
Jhonathan Aragon  
Vice-Chair, District V

\_\_\_\_\_  
Troy Richardson  
Commissioner, District II

\_\_\_\_\_  
David A. Hyder  
Commissioner, District III

\_\_\_\_\_  
Joseph Bizzell  
Commissioner, District IV

Attest:

\_\_\_\_\_  
Mike Milam  
Valencia County Clerk

**PROVIDER**

\_\_\_\_\_  
Name:

\_\_\_\_\_  
Title:

**WITNESS** my hand and seal this \_\_\_\_ day of \_\_\_\_\_, 2022.

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

The foregoing instrument was acknowledged before me on \_\_\_\_\_, 2022, by

\_\_\_\_\_.

\_\_\_\_\_  
Notary Public

My Commission Expires:

\_\_\_\_\_

## APPENDIX D

### LETTER OF TRANSMITTAL FORM

**Items #1 to 4 MUST EACH BE RESPONDED TO. Failure to respond to all four items WILL RESULT IN THE DISQUALIFICATION OF THE PROPOSAL!**

1. Identity (Name) and Mailing Address of the submitting organization:

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2: For the person authorized by the organization to contractually obligate the organization:

Name	
Title	

3. For the person authorized to negotiate the contract on behalf of the organization:

Name	
Title	
E-Mail Address	
Telephone Number	

4. For the person to be contacted for clarifications:

Name	
Title	
E-Mail Address	
Telephone Number	

5. Declarations:

- I certify that I am authorized to contractually bind my company.
- On behalf of the submitting organization named in item #1, above, I accept the Conditions Governing the Procurement as required in Section II, Paragraph C.1.
- I concur that submission of our proposal constitutes acceptance of the Evaluation Factors contained in Section V of this RFP.
- I acknowledge receipt of any and all amendments to this RFP.
- I certify that my company/entity/organization commits to comply and act in accordance with (1) Federal Executive Orders and New Mexico State Statutes relating to the enforcement of civil rights, (2) Federal Code 5 USCA 7201 et. seq., Anti-Discrimination in Employment; (3) Executive Order No. 11246, Equal Opportunity in Federal Employment; (4) Title 6, Civil Rights Act of 1964; and (5) Requirements of the American with Disabilities Act of 1990 for work performed as a result of this RFP.



\_\_\_\_\_, 2022

Authorized Signature and Date (Must be signed by the person identified in item #2, above.)

## APPENDIX E

### CAMPAIGN CONTRIBUTION DISCLOSURE FORM

Pursuant to the Procurement Code, Sections 13-1-28, et seq., NMSA 1978 and NMSA 1978, § 13-1-191.1 (2006), as amended by Laws of 2007, Chapter 234, any prospective contractor seeking to enter into a contract with any state agency or local public body **for professional services, a design and build project delivery system, or the design and installation of measures the primary purpose of which is to conserve natural resources** must file this form with that state agency or local public body. This form must be filed even if the contract qualifies as a small purchase or a sole source contract. The prospective contractor must disclose whether they, a family member or a representative of the prospective contractor has made a campaign contribution to an applicable public official of the state or a local public body during the two years prior to the date on which the contractor submits a proposal or, in the case of a sole source or small purchase contract, the two years prior to the date the contractor signs the contract, if the aggregate total of contributions given by the prospective contractor, a family member or a representative of the prospective contractor to the public official exceeds two hundred and fifty dollars (\$250) over the two year period.

Furthermore, the state agency or local public body may cancel a solicitation or proposed award for a proposed contract pursuant to Section 13-1-181 NMSA 1978 or a contract that is executed may be ratified or terminated pursuant to Section 13-1-182 NMSA 1978 of the Procurement Code if: 1) a prospective contractor, a family member of the prospective contractor, or a representative of the prospective contractor gives a campaign contribution or other thing of value to an applicable public official or the applicable public official's employees during the pendency of the procurement process or 2) a prospective contractor fails to submit a fully completed disclosure statement pursuant to the law.

The state agency or local public body that procures the services or items of tangible personal property shall indicate on the form the name or names of every applicable public official, if any, for which disclosure is required by a prospective contractor.

**THIS FORM MUST BE INCLUDED IN THE REQUEST FOR PROPOSALS AND MUST BE FILED BY ANY PROSPECTIVE CONTRACTOR WHETHER OR NOT THEY, THEIR FAMILY MEMBER, OR THEIR REPRESENTATIVE HAS MADE ANY CONTRIBUTIONS SUBJECT TO DISCLOSURE.**

The following definitions apply:

**“Applicable public official”** means a person elected to an office or a person appointed to complete a term of an elected office, who has the authority to award or influence the award of the contract for which the prospective contractor is submitting a competitive sealed proposal or who has the authority to negotiate a sole source or small purchase contract that may be awarded without submission of a sealed competitive proposal.

**“Campaign Contribution”** means a gift, subscription, loan, advance or deposit of money

or other thing of value, including the estimated value of an in-kind contribution, that is made to or received by an applicable public official or any person authorized to raise, collect or expend contributions on that official’s behalf for the purpose of electing the official to statewide or local office. “Campaign Contribution” includes the payment of a debt incurred in an election campaign, but does not include the value of services provided without compensation or unreimbursed travel or other personal expenses of individuals who volunteer a portion or all of their time on behalf of a candidate or political committee, nor does it include the administrative or solicitation expenses of a political committee that are paid by an organization that sponsors the committee.

“**Family member**” means spouse, father, mother, child, father-in-law, mother-in-law, daughter-in-law or son-in-law of (a) a prospective contractor, if the prospective contractor is a natural person; or (b) an owner of a prospective contractor.

“**Pendency of the procurement process**” means the time period commencing with the public notice of the request for proposals and ending with the award of the contract or the cancellation of the request for proposals.

“**Prospective contractor**” means a person or business that is subject to the competitive sealed proposal process set forth in the Procurement Code or is not required to submit a competitive sealed proposal because that person or business qualifies for a sole source or a small purchase contract.

“**Representative of a prospective contractor**” means an officer or director of a corporation, a member or manager of a limited liability corporation, a partner of a partnership or a trustee of a trust of the prospective contractor.

Name(s) of Applicable Public Official(s) if any: Applicable elected public officials within the County of Valencia are Gerard Saiz, Jhonathan Aragon, Joseph Bizzell, David Hyder, and Troy Richardson; Assessor Beverly Dominguez; Clerk Mike Milam; Probate Judge Wendy Wallace; Sheriff Denise Vigil and Treasurer Deseri Sichler.

**DISCLOSURE OF CONTRIBUTIONS BY PROSPECTIVE CONTRACTOR:**

Contribution Made By: \_\_\_\_\_

Relation to Prospective Contractor: \_\_\_\_\_

Date Contribution(s) Made: \_\_\_\_\_  
\_\_\_\_\_

Amount(s) of Contribution(s) \_\_\_\_\_  
\_\_\_\_\_

Nature of Contribution(s) \_\_\_\_\_

Purpose of Contribution(s)

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(Attach extra pages if necessary)

Signature

Date

Title (position)

**--OR--**

**NO CONTRIBUTIONS IN THE AGGREGATE TOTAL OVER TWO HUNDRED FIFTY DOLLARS (\$250) WERE MADE** to an applicable public official by me, a family member or representative.

Signature

Date

Title (Position)

## APPENDIX F HOSPITAL NEEDS BASED ASSESSMENT

4 January 2022

Danny Monette  
County Manager  
Valencia County  
444 Luna Avenue  
Los Lunas, NM 87031



Re: Final Submittal: Valencia County Healthcare Analytics Study ReportDear

Mr. Monette:

Enclosed please find the final report on the Market Assessment and Clinical Services Need study commissioned by Valencia County. This engagement started in April 2021 and the majority of the work was completed in October 2021, with a public presentation to the Board of County Commissioners on 1 December 2021 (see appendix for copy of PowerPoint presentation).

The study was conducted by a collaborative consulting team comprised of Kulik Strategic Advisers (dba KSA) and Huddy HealthCare Solutions. This report includes the initial study objectives, revisions to the original Request for Proposal (RFP) Scope of Work to allow the findings to be customized to the needs of an Albuquerque-area health system, and an Executive Summary of findings, conclusions, and healthcare provider comments.

The schedule of events and process leading to these findings is documented herein. The data projections and market analytics summary defines the major facility programming impact that led to high-level facility space programs, architectural planning concepts.

An appendix details the process through display of project kick-off/data presentations, demographic information used to estimate clinical service needs and final public presentation.

The comments from multiple presentations to Albuquerque-based health systems are provided to inform Valencia County and stakeholders of the key elements to be included in any applicable RFP that may be developed for a potential project.

Thank you for your time, dedication and critical input about the local landscape and needs of Valencia County citizens. It has been an honor and pleasure working with you and the County Commissioners and staff in this engagement.

Regards,

**Richard S. Kulik**

Richard S. Kulik  
Project Executive  
Kulik Strategic Advisers

  
Jon Huddy  
President & Senior Healthcare Consultant  
Huddy HealthCare Solutions, LLC

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## 1. INTRODUCTION

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### Study Introduction

From May 2021 through October 2021, KSA and Huddy Healthcare teamed together to provide a comprehensive market assessment, clinical service needs and feasibility study to Valencia County, New Mexico. The scope of the procurement consists of a planning effort that included developing a comprehensive market assessment examining population and demographic trends, and current and future healthcare demands (use-rates) by applicable specialties. This information informs the programming (room/space need), scoping (sizing/facility type), and conceptual planning of a proposed medical facility.

It was concluded during this study that the following items were eliminated from the scope of work to make the recommendations more flexible for potential implementation by a healthcare provider:

- Selection of a recommended location for any proposed facility was eliminated
- Recommendations for staffing, provider coverage or operational budgets were eliminated allowing a health provider to define their own plan based on applicable service offerings
- Detailed managed care rates were not examined due to no specificity to any particular healthcare system

### KSA Introduction

Kulik Strategic Advisers (dba KSA) is a consulting firm dedicated to the needs of public entities who provide health and social services. Our role is to serve as a trusted adviser creating value for our clients. Clients are governmental entities ranging from cities, counties, regions and states. Our process is to partner with our clients in a community-based participatory approach that yields positive actions from thorough research. Our mission is to support Cities, Counties, Regions and States that provide human services to residents with action-based strategies and metrics that result in desired outcomes and increased funding. Our vision is to be mission-based and client-focused using a community-based participatory approach in all client interactions, in which the client has ownership and KSA leverages their resources to achieve their vision.

### Huddy HealthCare Background

Huddy HealthCare Solutions is a healthcare analytics and planning firm focused on working with clients to develop, quantify, and deliver high-performance strategic, organizational, and facility planning solutions. Their U.S. and international projects include large scope engagements, such as working with national and regional health systems to forecast service line distribution strategies, and very focused projects, such as assisting clients in quantifying and shaping solutions for individual health facilities, hospitals, specific service lines, or single departments.

## 2. EXECUTIVE SUMMARY, CONCLUSIONS, AND HEALTH SYSTEMS' COMMENTS

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The analytics of the Valencia County zip-codes show a projected total volume of 36,000 total emergency department visits (ED) coming from those specific Valencia County locations. Based on estimates of travel patterns, such as those residents living closer to Albuquerque still using Albuquerque EDs, and estimated patient acuities (such as the highest acuities and traumas still using Albuquerque hospital EDs), it was projected that a range of 18,000 to 22,000 of mid-to-lower acuity emergency department visits could potentially utilize an emergency care facility in Valencia County.

With regard to an inpatient volume suitable for a Valencia County-located facility, the numbers are much smaller. Micro-hospitals and smaller, rural hospitals usually focus on “general medicine” patient types with limited ability to provide specialty clinical services and the associated specialty-based healthcare providers. With the assumption that only selected “general medicine” inpatients may utilize a Valencia County inpatient facility, the data forecasts an estimated need of only 4 inpatient beds for the area. If a health system decided to provide other specialties beyond selected general medicine inpatient services, this number may expand to up to 6 or 8 beds, or more, based on number of specialty services provided.

A health provider would need to analyze the cost of building and operating a facility of this size, based on their expected staffing/provider coverage, services, applicable equipment, and space/facility needs to be able to define the probability of creating a successful return on their investment for services.

KSA/Huddy believes that the programming and planning of a flexible facility may allow a health system to phase-in a licensed inpatient “hospital” by initially creating a Free-Standing Emergency Department (FSED) facility with some observation beds designed to inpatient standards, but not initially licensed as inpatient beds. Then, should volumes grow as inpatient service needs start to grow, the observation beds could become licensed beds and the facility expanded to meet hospital standards. This document outlines the analysis and findings in detail in support of the above summary.



## Healthcare Provider Comments

Representatives from three health systems (LoveLace, UNM, and Presbyterian) all participated in interviews and review of the data and planning analytics and recommendations.

All three providers indicated general agreement with the Clinical Needs and Feasibility Study with regards to the data analytics, utilization projections, and general facility scope. There was agreement in the defined ED acuity ESI (Emergency Severity Index) designations in the study, as well as the opportunity for the Free-Standing Emergency Department. The providers interviewed individually indicated a need for further clarification of the funding, the “permitted use of the levy funds”; provider funding vs county/state funding, and the need for a provider generated business plan supporting the FSED and/or inpatient facility.

The healthcare providers were in agreement that their own unique operational and staffing parameters may impact the final design of a facility, but that staffing challenges are always associated with micro-hospital facilities.

A summary of notes for the healthcare providers interviews includes the following comments. Ron

### Stern Comments, 08.30.2021 Lovelace Health System Presentation

- Ron Stern (RS) Agreed with Clinical Service Needs and Feasibility Study data.
- RS mentioned the results determined in our study closely mirror Lovelace’s proposal.
- RS, LoveLace fully recognizes the need for a FSED.
- RS requested greater definition of available funding and the application of such funds.
- RS noted county’s continued commitment.
- Brief discussion of Governor’s visit and hospital attendance.
- RS noted need for LoveLace protection and harmless posture in light of recent and past litigation wrt the placement of a hospital.
- Huddy’s discussed an “order of magnitude” cost for the project and said if the average cost of construction is \$500.00 per sf, then a 29,000 sf building would result in a construction project in the range of \$14,500,000.00 building cost not including cost of site work, equipment, and other “soft” costs. Another 40% for “soft costs” would bring the total closer to \$20 million not including site acquisition, site work, and bringing infrastructure to the site. This was for informational purposes only and not considered a formal cost estimate. Huddy noted an architect-of-record and local contractor would have better insights to actual construction costs.
- The consulting team clarified that quantifying an annual operational cost is not within our scope of services.
- RS requested electronic copy of Feasibility study for his staff review.

Comments, 09.01.2021 Presbyterian Health Care System Presentation

- Dr. Richards: Agreed with Clinical Service Needs and Feasibility Study data.
- Lauren Cates commented the results determined in our study closely mirror Presbyterian’s findings.
- Lauren suggested the population figure (per IBM Watson) of 80,000 was a little high.
- Dr. Richards and Lauren requested greater definition of available funding and the application of such funds.
- Dr. Richards noted county’s continued commitment.
- Brief discussion of Governor’s visit and hospital attendance.
- Dr. Richards comments:
  - Agreed with Assumptions
  - Viewing sizing to be accurate
  - Noted staffing challenge at all levels
  - Agreed with FSED sizing suggestions
  - Financial performance needs further discussion
  - Comments presentation and findings were a “nice job”
- Lauren Cates comments:
  - Directionally accurate assessment
  - Provided a realistic view
  - While volume was a little high, performance remains with merit
  - Supports FSED, Presbyterian currently has three with a forth planned for in first quarter of 2022
  - Medical Transportation is a challenge requiring further investigation.
  - Staffing recruitment, a challenge
- Huddy’s discussed an “order of magnitude” cost for the project and said if the average cost of construction is \$500.00 per sf, then a 29,000 sf building would result in a construction project in the range of \$14,500,000.00 building cost not including cost of site work, equipment, and other “soft” costs. Another 40% for “soft costs” would bring the total closer to \$20 million not including site acquisition, site work, and bringing infrastructure to the site.
- Presbyterian has received an electronic copy of Feasibility study.
- Presbyterian is postured to respond to an RFI for a FSED.
- Presbyterian is in agreement with the need for a FSED

### 3. Schedule of Study Events

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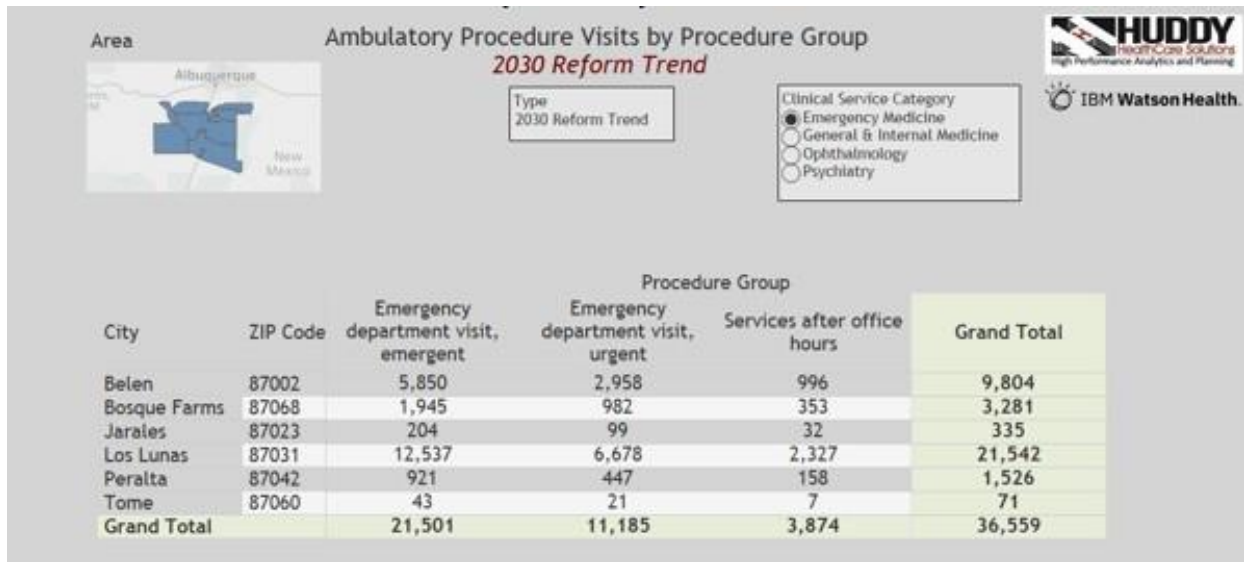
Following is a list of dates, meetings and interviews that were completed as part of this study. Notes and presentations can be found in the appendix to this document.

#### Schedule of Events and Interviews

- 06.02.2021 VM (Virtual Meeting) Steering Committee #1
- 06.06.2021 Commissioner(s) Presentation
- 06.09 – 10.2021 On Site Meetings
  - Presbyterian Health Care - Lauren Gates / Tracey Brewer
  - Danny Monette – County Manager
  - Dave Pato / Adren Nance – Attorneys for county
  - LoveLace – Ron Stern / Janette Rabon – County Commissioners
  - Gerard Saiz / Joseph Bizzell – Chairman - County Commissioners
  - Tour Of Area – Rustin Porter
  - Troy Richardson - County Commissioner
  - Jhonathan Aragon / David Hyder - County Commissioners
  - Steering Comm. #2
  - UNM / Michael Richardson
- 06.21.2021 Project Call In report
- 06.27.2021 Virtual Meeting of the Steering Committee #3
- 07.14.2021 Steering Committee
- 08.09.2021 Data Update – Steering Committee
- 08.14.2021 Data – Presentation Review - County Commissioners and County Manager
- 08.18.2021 White Paper Delivered to Rustin Porter
- 08.30.2021 LoveLace and Michael Richards - Providers Presentation
- 09.01.2021 Presbyterian HealthCare Presentation
- 12.01.2021 Public Presentation to County Commissioners
- 01.04,2022 Submittal of Final Report

#### 4. Data and Market Analytics Summary

KSA/Huddy completed the data analytics for potential patient volumes with regards to emergency department (ED) and inpatient services with the ability to define variables for ED patient population acuities/types and inpatient types. This information was based on projected inpatient and outpatient healthcare demand through 2030. The first step was identifying total future healthcare demand by geographical region at the inpatient and outpatient level. The image below is an example of projected 2030 Emergency Department visits by type by zip code for Valencia County. The “total visits to all EDs” from the Valencia County zip-codes is projected to be approximately 36,500 in year 2030.



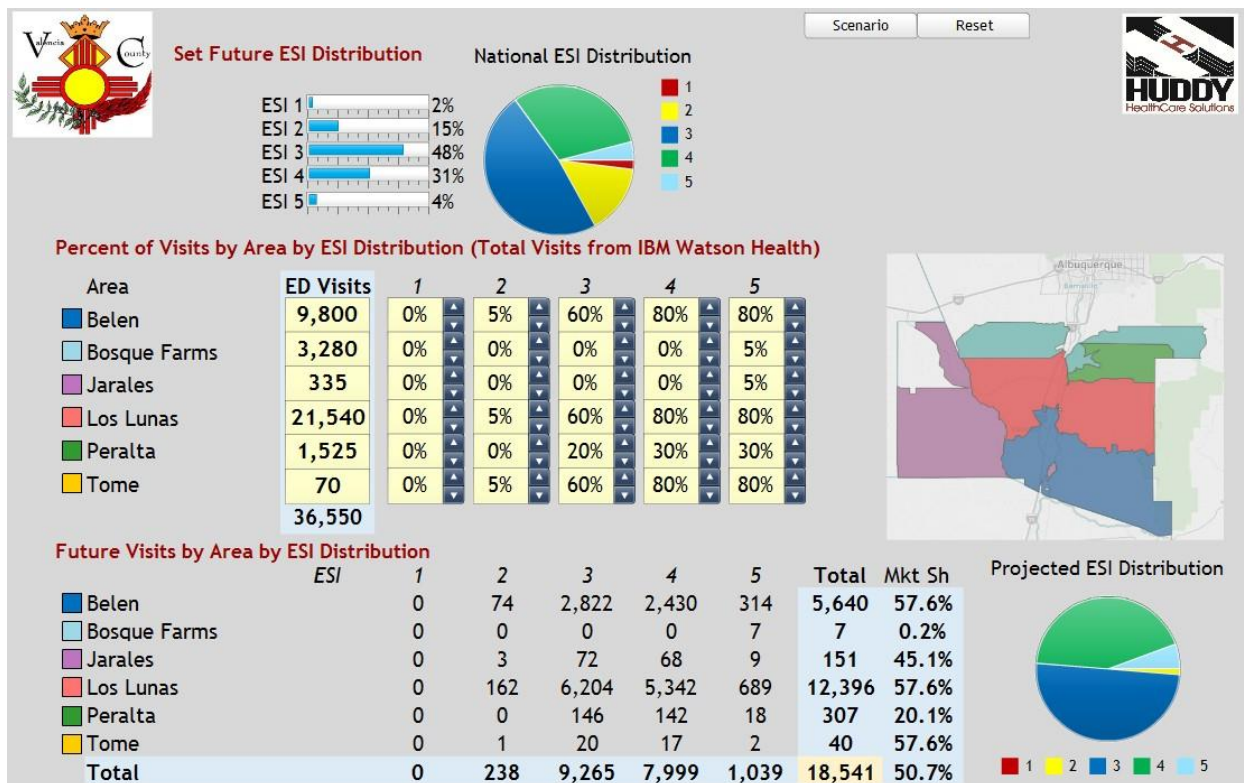
The next step was to identify projected visits at a potential Freestanding ED (FSED) in Valencia County – meaning how many of the “total” 36,500 ED visits would actually be projected to utilize a local emergency department.

First, the projected total of ED visits was identified for both 2025 and 2030. The national acuity distribution (how sick ED patients are) was then applied to these totals. Finally, a market percentage for each geographic area and ED acuity was allocated to determine total predicted ED visits. It was assumed that areas closer to Albuquerque (Bosque Farms, etc.) would have lower market share percentages since they would most likely utilize Albuquerque-based EDs. Then, it was assumed that higher acuity ED patients (trauma and emergent) would continue to go to Albuquerque, or be immediately transferred up to Albuquerque-based hospitals for a higher level of emergency care.

Following, is a summary of the key assumptions:

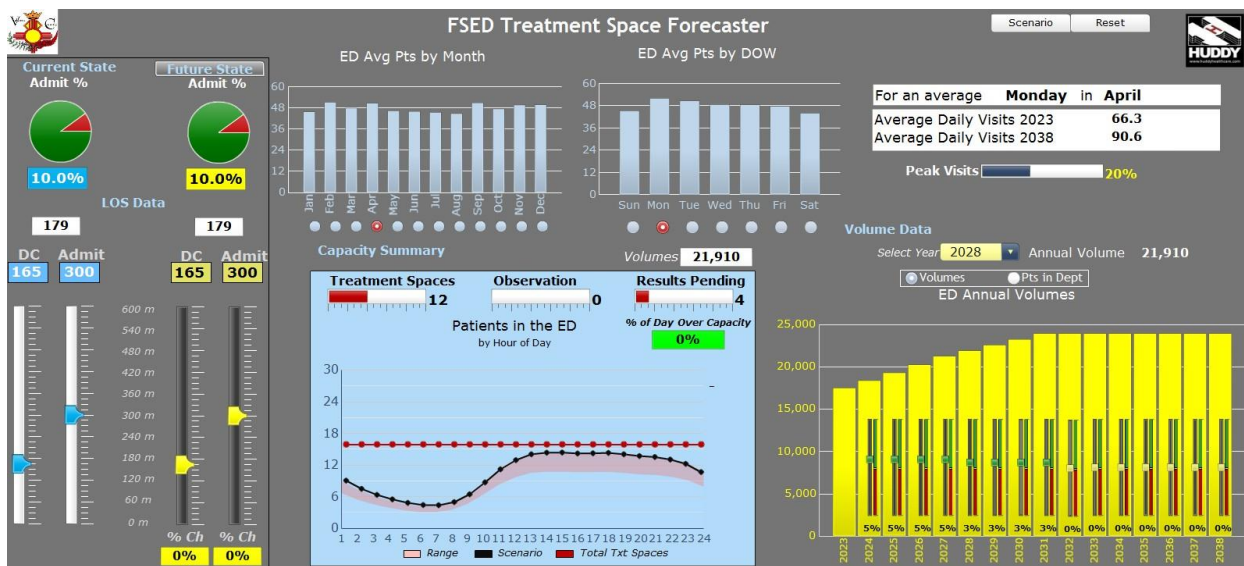
- Most all Emergency Service Index (ESI) patients with the highest acuities (ESI 1s and 2s) would continue to utilize Albuquerque-based EDs
- Remaining acuities (ESI 3s, 4s, and the lowest acuity 5s) would utilize the Valencia facility at a higher rate if they were not in the northern part of the county.

In summary, the ranges of targeted volumes by 2030 were 18,500 annual ED visits. If the ESI 3s, 4s, and 5s, even used the ED at a higher rate the top end volume approached 22,000 annual ED visits.



### Quantify Space Needs

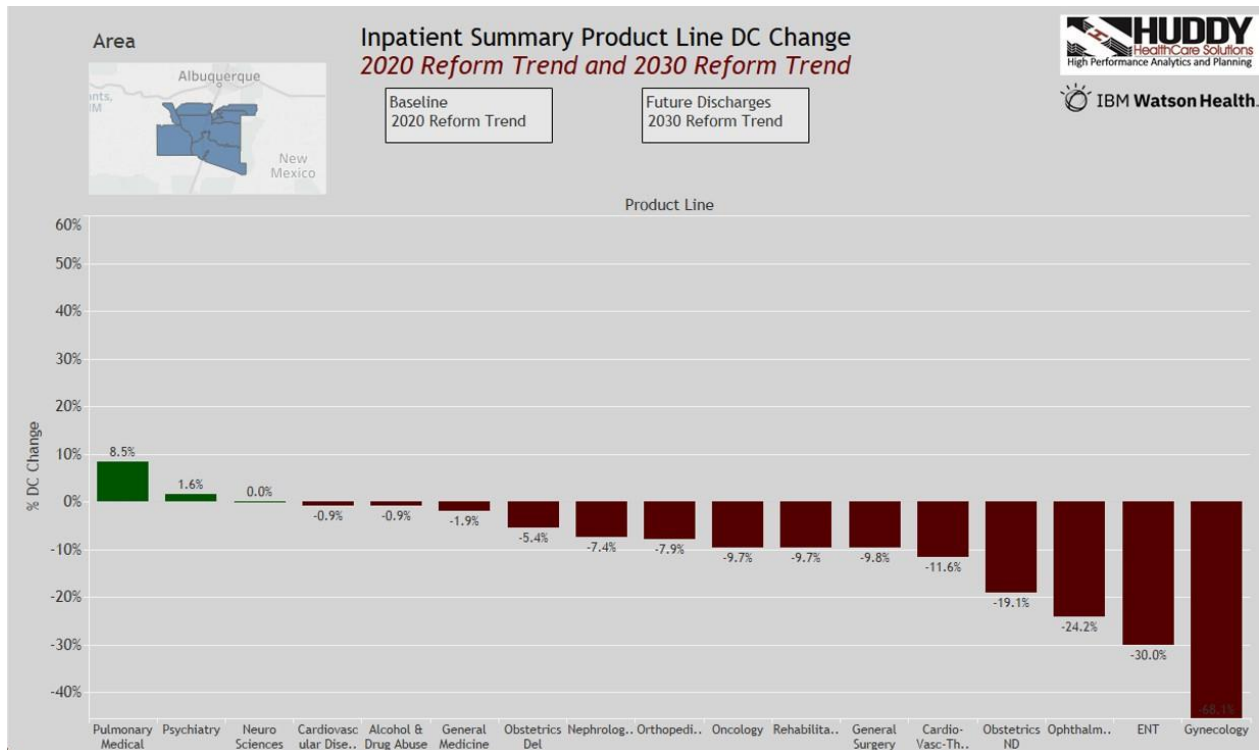
To help identify the appropriate number of ED treatment spaces, assumptions were made regarding percent of FSED that would be admitted, average length of stay (LOS) times for discharged and admitted patients, and patterns of arrival by month, day of week and hour including allowances for peak periods of activity. Below shows a representation of this interactive Capacity Forecaster that was used to test the different space program assumptions based on FSED volumes.



In summary, a facility in the range of 12 ED treatment bays/rooms would be applicable to the range of 18,000 to 22,000 visits.

### Inpatient Analytics

Similar data was analyzed on the inpatient side, first looking at projected total discharge volumes from the Valencia County service area by service line. Most service lines are projected to see a decrease in discharge volumes over the next 10 years.



Following the above, an assumed market share capture rate determination for each geographic area and subservice line for each major service line has been determined. The assumption that the inpatient cases seen at this facility would be General Medicine since (at this time) there would be no specialty or surgical service lines. Below is an example of the interactive modeling tool developed to test different inpatient scenarios:

**Final Report Market Assessment, Clinical Services Needs and Feasibility Study for Valencia County, New Mexico**  
**4 January 2022**

**Inpatient Bed Need Model**

Service Line	Incl?	Sub Service Line	Belen	Bosque	Farms	Jarales	Los Lunas	Peralta	Tome
<input type="radio"/> Alcohol & Drug Abuse									
<input checked="" type="radio"/> Body Injuries			2	1	0		3	0	0
<input type="checkbox"/> Burns			0	0	0	0	0	0	0
<input type="checkbox"/> Dermatology			8	3	0		15	1	0
<input checked="" type="radio"/> Endocrinology			61	19	2		118	10	0
<input checked="" type="radio"/> Gastroenterology			91	29	3		173	15	1
<input type="checkbox"/> Hematology (Medical)			0	0	0	0	0	0	0
<input type="checkbox"/> Infectious Disease			0	0	0	0	0	0	0
<input type="checkbox"/> Invalid			0	0	0	0	0	0	0
<input type="checkbox"/> Nervous System Infection			0	0	0	0	0	0	0
<input type="checkbox"/> Oral and Maxillofacial Surgery			0	0	0	0	0	0	0
<input checked="" type="radio"/> Other General Medicine			11	3	0		21	2	0
<input checked="" type="radio"/> Substance Abuse			20	7	1		42	3	0
<input type="radio"/> Cardio-Vasc-Thor Surgery									
<input type="radio"/> Cardiovascular Diseases									
<input type="radio"/> ENT									
<input checked="" type="radio"/> General Medicine									
<input type="radio"/> General Surgery									
<input type="radio"/> Gynecology									
<input type="radio"/> Nephrology/Urology									
<input type="radio"/> Neuro Sciences									
<input type="radio"/> Obstetrics Del									
<input type="radio"/> Obstetrics ND									
<input type="radio"/> Oncology									
<input type="radio"/> Ophthalmology									
<input type="radio"/> Orthopedics									
<input type="radio"/> Psychiatry									
<input type="radio"/> Pulmonary Medical									

**Total Market**

	Belen	Farms	Jarales	Lunas	Peralta	Tome	Total
Discharges	193	62	6	372	31	1	665
Days	786	250	28	1,512	130	6	2,712
LOS	4.1	4.0	4.7	4.1	4.2	6.0	4.1

**Projected Market Share**

	Belen	Farms	Jarales	Lunas	Peralta	Tome	Total
30%	0%	30%	30%	30%	0%	0%	

**Valencia County Microhospital Projected Demand**

	Belen	Farms	Jarales	Lunas	Peralta	Tome	Total
Discharges	58	0	2	112	9	0	181
Days	236	0	8	454	39	0	737
LOS	4.1		4.7	4.1	4.2		4.1

Average Daily Census: 2.0  
 Targeted Bed Utilization: 60%  
 Inpatient Bed Need: 4

With the assumption that only selected “general medicine” inpatients may utilize a Valencia County facility, the data forecasts an estimated need of only 4 inpatient beds for the area. If a health system decided to provide other specialties beyond selected general medicine inpatient services, this number may expand up to 6 or 8 beds.

Based on this information, we have developed a draft space program for a potential facility to illustrate the emergency and observation patients with the ability to transition to a “hospital” if the observation beds become licensed inpatient beds.

Following, please find a facility space program that supports the findings of the ED (12 beds) and inpatient bed volumes (4 to 6 Beds) and a conceptual plan to show how the facility may be envisioned.



## 5. Facility Programming Impacts

A room-by-room conceptual program was established to quantify an order-of-magnitude facility size to accommodate the 12 ED beds and 4 to 8 future inpatient beds. The program was created in two sections:

### **Section 1: Freestanding Emergency Department with Observation Beds**

### **Section 2: Required Rooms/Spaces Should the Facility Be Licensed as an Inpatient Hospital**

On the next pages you will find the conceptual space program that includes:

- **A Freestanding Emergency Department** sized at approximately 25,140 Building Gross Square Feet that includes:
  - 12 ED Beds
  - 4 Additional Observation Beds designed to hospital standards
  - General Radiology and CT Rooms
  - Clinical support spaces
  - Ancillary support spaces
  - Staff support spaces
  - Facility support spaces sized for conversion to a future hospital
  
- **Approximately 3,650 square feet of additional/required Spaces for a Licensed Inpatient Hospital**
  - Hospital lobby and administrative spaces
  - Additional diagnostic and treatment support spaces

The total facility is estimated to be in the range of 28,000 to 29,000 building gross square feet for all components. Obviously, a health system may have different standards over and above what KSA/Huddy defined in this program, but we believe that order-of-magnitude of this facility is in the right range should it be created as a freestanding ED (section 1 of program) or as a licensed inpatient hospital (total program)

## 6. Facility Space Program

Valencia County Healthcare Facility		HUDDY HEALTHCARE SOLUTIONS		
Valencia County, New Mexico		<b>Draft 09</b>		
Freestanding Emergency Department		Thursday, July 29, 2021		
<b>FSED TARGET SPACE PROGRAM</b> <span style="float: right;">Comments</span>				
<b>Design Target Annual Volume:</b>	18,000 to 22,000 Annual Emergency Department Patient Visits			
<b>Total FSED + Hospital Building Gross SF</b>	<b>28,770 BGSF</b>	<b>Building Gross SF</b>		
<b>Section 1: FREESTANDING ED WITH OBSERVATION BEDS</b> <span style="float: right;">Comments</span>				
<b>Total FSED Building Gross Square Footage</b>	<b>25,138 BGSF</b>	<b>Building Gross SF</b>		
Dept Gross Area to Bldg Gross Area Multiplier:	1.05	dept gross to bldg gross		
<b>Total FSED Department Gross Square Footage:</b>	<b>23,941 dgsf</b>	<b>Dept Gross SF if all renovations</b>		
Total Net Area to Dept Gross Area Multiplier:	1.55	net to gross		
<b>Total Net Square Footage:</b>	<b>15,446 nsf</b>	<b>Total Patient Spaces:</b>	<b>12 Pat Spaces</b>	<b>Potential Future Inpatient Beds</b> 4 Observation Spaces
1.0 PUBLIC AREA	1,117 nsf			
2.0 PATIENT ACCESS / EXIT	376 nsf			
3.0 TREATMENT AREA	7,511 nsf		12 Pat Spaces	4 Observation Spaces
4.0 AMBULANCE ENTRY	456 nsf			
5.0 IMAGING COMPONENTS	1,080 nsf			
6.0 ANCILLARY SUPPORT AREAS	950 nsf			
7.0 STAFF SUPPORT AREAS	2,542 nsf			
8.0 FACILITY SUPPORT	1,414 nsf			
<b>Section 2: REQUIRED HOSPITAL COMPONENTS TARGET SPACE PROGRAM (FIT-UP ONLY)</b> <span style="float: right;">Comments</span>				
<b>Hospital Components Building Gross SF</b>	<b>3,631 BGSF</b>	<b>Building Gross SF</b>		
Dept Gross Area to Bldg Gross Area Multiplier:	1.05	dept gross to bldg gross		
<b>Total FSED Department Gross Square Footage:</b>	<b>3,458 dgsf</b>	<b>Dept Gross SF if all renovations</b>		
Total Net Area to Dept Gross Area Multiplier:	1.10	net to gross		
<b>Total Net Square Footage:</b>	<b>3,144 nsf</b>			
1.0 Hospital Intake	1,004 nsf			
2.0 CLINICAL/DIAGNOSTIC/TREATMENT COMPONENTS	798 nsf			
3.0 HOSPITAL SUPPORT	170 nsf			
4.0 ADMINISTRATION	1,172 nsf			
5.0 FACILITIES SUPPORT	0 nsf	Completed in Phase 1		

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Valencia County Healthcare Facility				HUDDY HEALTHCARE SOLUTIONS	
Valencia County, New Mexico				Draft 09	
Freestanding Emergency Department				Thursday, July 29, 2021	
Note: Target Volume 17,000 to 22,000 Visits				TARGET SPACE PROGRAM	
PROGRAMMING COMPONENT	Quantity	Net Area	Total NSF	Dept. Gross SF	Comments
<b>1.0 PUBLIC AREA</b>			1,117 nsf	1,731 dgsf	
Walk-In Vestibule	1 each	150 nsf	150 nsf		
Wheelchair Storage					Included in Walk-in Vestibule
Security Station	1 each	126 nsf	126 nsf		
Reception/Triage Work	1 each	242 nsf	242 nsf		
Public Waiting Area	16 seats	18 nsf	288 nsf		Socially Distanced
Vending	1 each	31 nsf	31 nsf		
Male Public Toilet	1 fixtures	60 nsf	60 nsf		
Female Public Toilet	1 fixtures	60 nsf	60 nsf		
Family Consultation Room	1 each	160 nsf	160 nsf		
<b>2.0 PATIENT ACCESS / EXIT</b>			376 nsf	583 dgsf	
Rapid Assessment (Triage)	1 each	236 nsf	236 nsf		
Intake: Toilet/Shower	1 each	70 nsf	70 nsf		
Stretcher/Wheelchair Alcove	1 each	70 nsf	70 nsf		

See next page for Treatment Spaces

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3.0 TREATMENT AREA		7,511 nsf	11,642 dgsf	
<b>Treatment Zone</b>	<b>12 spaces</b>			
Universal Exam Room	7 pat rms	140 nsf	980 nsf	
Universal Exam Room/EKG	1 pat rms	140 nsf	140 nsf	
Universal / Mental Health (Anti-ligature)	2 pat rms	211 nsf	422 nsf	Roll-down shutter doors
Resuscitation Room	1 pat rms	256 nsf	256 nsf	
Exam Room-Isolation- Bariatric	1 pat rms	220 nsf	220 nsf	(Inpatient Standards)
<b>Observation: Flexible Exam (Inpatient Standards)</b>	<b>4 pat rms</b>	260 nsf	1,040 nsf	(Sized to Inpatient Standards)
Extended Stay Toilet/Shower Rooms	4 each	61 nsf	244 nsf	
Results Pending Recliners	2 seats	42 nsf	84 nsf	with Side Chair
Results Pending Consult/Discharge Room	1 each	120 nsf	120 nsf	
Mental Health Sitter Station	1 each	26 nsf	26 nsf	2 Workstations between Mental Health Rooms
Isolation Room Toilet/Shower (Bariatric)	1 each	70 nsf	70 nsf	To accommodate a Bariatric Patient
Ante Room for Isolation (PPE)	1 each	80 nsf	80 nsf	
Resuscitation Equipment	1 each	143 nsf	143 nsf	
Central ED Communication/Nursing	1 each	250 nsf	250 nsf	2 Workstations
Work Spaces: Provider, Tech, Pharmacist, Physician Extender, Social Work, Case Manager	1 each	420 nsf	420 nsf	6 Workstations
Obs/ Inpatient Nurse Station/Work	1 each	420 nsf	420 nsf	
Medication Room	1 each	115 nsf	115 nsf	
Equipment Alcove	1 each	70 nsf	70 nsf	
Soiled Utility	2 each	153 nsf	306 nsf	
Clean Supplies	2 each	230 nsf	460 nsf	
Clean Linen Cart Alcove	1 each	76 nsf	76 nsf	
Temporary Bed Storage	1 each	1,077 nsf	1,077 nsf	Store 4 inpatient beds or stretchers, Respiratory Equipment Future Hospital Dietary
Patient Toilet	2 each	60 nsf	120 nsf	
Toilet-Staff	2 each	60 nsf	120 nsf	
Alcove-Nourishment	1 each	32 nsf	32 nsf	
Alcove-Crash Cart	2 each	0 nsf	0 nsf	Included in Nurse Work Areas
Point of Care Lab Testing	1 each	60 nsf	60 nsf	
Workstation on Wheels (WOW) Charging Alcoves	8 each	5 nsf	40 nsf	
EVS Closet	2 each	60 nsf	120 nsf	

See next page for ED Support Spaces

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<b>4.0 AMBULANCE ENTRY</b>			456 nsf		<b>707 dgsf</b>	
Ambulance Vestibule	1 each	175 nsf	175 nsf			
Storage-Stretchers	1 each	0 nsf	0 nsf			Included in EMS Vestibule
Police-Ambulance/EMS Counter	1 each	75 nsf	75 nsf			2 Workstations
Decontamination Shower	1 each	206 nsf	206 nsf			
<b>5.0 IMAGING COMPONENTS</b>			1,080 nsf		<b>1,674 dgsf</b>	
General Radiography	1 each	380 nsf	380 nsf			Includes Control
CT	1 each	410 nsf	410 nsf			
CT Control	1 each	80 nsf	80 nsf			
Tech Work/Reading	1 each	140 nsf	140 nsf			
Portable Imaging/Ultrasound Equipment Alcove	1 each	70 nsf	70 nsf			
<b>6.0 ANCILLARY SUPPORT AREAS</b>			950 nsf		<b>1,473 dgsf</b>	
Storage-Portable Medical Gas Tanks	1 each	50 nsf	50 nsf			
Materials Management	1 each	900 nsf	900 nsf			Sized for current and future expansion
Receiving/Distribution						
Supply						
Soiled Linen Holding						
Waste Management						
<b>7.0 STAFF SUPPORT AREAS</b>			2,542 nsf		<b>3,940 dgsf</b>	
Nursing Director, Physician Office, Nurse Office	3 each	100 nsf	300 nsf			
Conference/Future Hospital Lobby	1 each	884 nsf	884 nsf			
Staff Break/Conference Room (Future I.P. Rooms & Toilet/Shwr)	1 each	700 nsf	700 nsf			
Staff Unisex Lockers (Future I.P. Rooms -2)	1 each	536 nsf	536 nsf			
Staff Toilet/Shower Future I.P. Toilet/Shower	2 each	61 nsf	122 nsf			
<b>8.0 FACILITY SUPPORT</b>			1,414 nsf		<b>2,192 dgsf</b>	
Data/I.T.	1 each	162 nsf	162 nsf			
Electrical Panels	1 each	162 nsf	162 nsf			
Mechanical Room	1 each	1,090 nsf	1,090 nsf			Sized for Current and Future Use

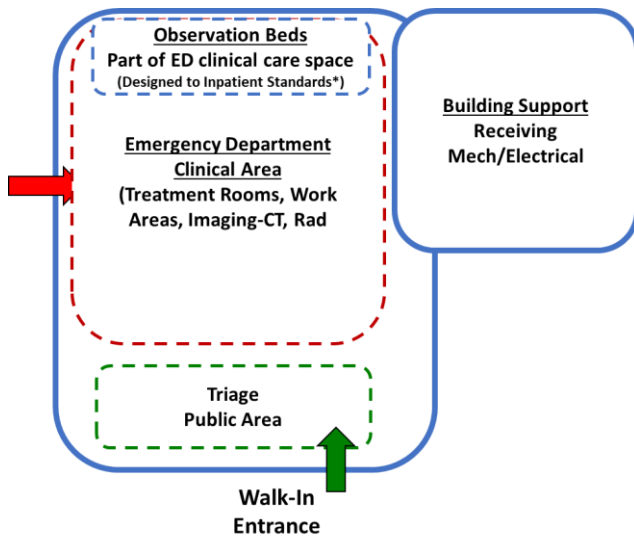
See following page for additional spaces should facility be built as inpatient facility or converted to an inpatient facility in the future. Please note that the original ED program had 4 spaces for Observation Beds, but sized/designed for inpatient beds with supporting toilets/showers. The spaces defined on the next page are based on requirements by the State of New Mexico should the Observation Beds become licensed inpatient beds.

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Valencia County Healthcare Facility					HUDDY HEALTHCARE SOLUTIONS
Valencia County, New Mexico					Draft 09
Hospital Fit-up Requirements (Based on Title 7 Chapter 7 part 2 NMAC)					Thursday, July 29, 2021
TARGET SPACE PROGRAM					
PROGRAMMING COMPONENT	Quantity	Area	Total NSF	Dept. Gross SF	Comments
<b>1.0 Hospital Intake</b>			1,004 nsf	1,104 dgsf	
Lobby	1 each	884 nsf	884 nsf		
Public Toilets	2 each	60 nsf	120 nsf		
<b>2.0 CLINICAL/DIAGNOSTIC/TREATMENT COMPONENTS</b>			798 nsf	878 dgsf	
Inpatient Beds	4 each				Completed in Phase-1
Inpatient Toilet/Shower Rooms	4 each				Completed in Phase-1
Respiratory Care/Rehab Services	1 each	280 nsf	280 nsf		Warming Kitchen, Dry and Cold Storage
Pharmacy	1 each	265 nsf	265 nsf		
Lab	1 each	253 nsf	253 nsf		
<b>3.0 HOSPITAL SUPPORT</b>			170 nsf	187 dgsf	
Medical Records	1 each	170 nsf	170 nsf		
Dietary	1 each				Completed in Phase-1
Bed Storage	1 each				Completed in Phase-1
Imaging (Rad & CT)	1 each				Completed in Phase-1 (Included in FSED)
			0 nsf		
<b>4.0 ADMINISTRATION</b>			1,172 nsf	1,289 dgsf	
Administrative Suite	1 each	1,172 nsf	1,172 nsf		
Hospital Administrator	1 each				Completed in Phase-1
Nursing Administrator	1 each				Completed in Phase-1
Chief of Clinical Staff	1 each				Completed in Phase-1
Quality Improvement	1 each				Part of Office Suite
Utilization Management	1 each				Part of Office Suite
Disaster & Emergency Management	1 each				Part of Office Suite
Infection Control	1 each				Part of Office Suite
Employee Health	1 each				Private Office
Social Work	1 each				Private Office TBD
<b>5.0 FACILITIES SUPPORT</b>			0 nsf	0 dgsf	
Engineering & Facilities Maintenance	1 each	0 nsf	0 nsf		Completed in Phase-1
Office - Facilities Management	1 each	0 nsf	0 nsf		Completed in Phase-1
Data/I.T.	1 each	0 nsf	0 nsf		Completed in Phase-1
Electrical Panels	1 each	0 nsf	0 nsf		Completed in Phase-1
Mechanical Room	1 each	0 nsf	0 nsf		Completed in Phase-1

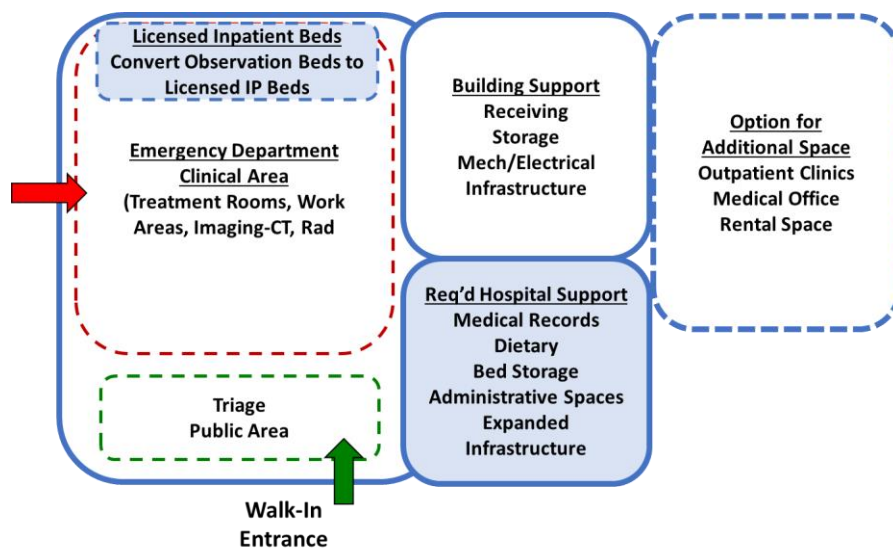
## 7. Conceptual Planning

Based on the draft space program, KSA/Huddy developed a conceptual floor plan to define an option for how the space program may be realized in an actual building design. This is not a recommended design solution, only a sample to demonstrate how the building may be arranged giving the reviewer a chance to understand potential patient flow, flexibility, and overall size of a potential facility.



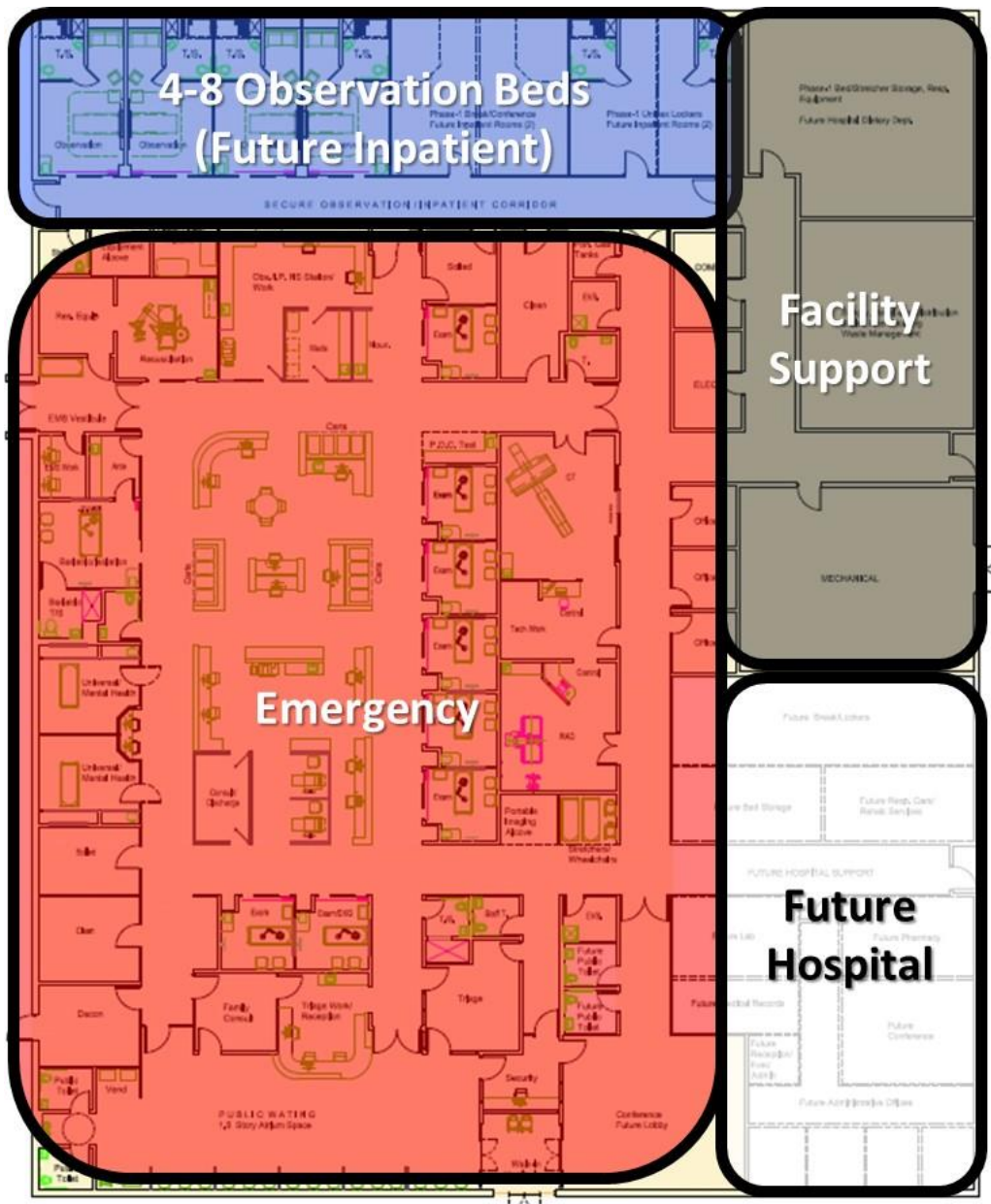
The initial building concept (see diagram left) would contain the spaces in support of the freestanding ED (FSED) including mechanical and electrical support, building receiving, etc. The Observation Beds would be designed to inpatient standards.

The future building (see diagram below), as licensed inpatient hospital, would need additional required spaces that could be added as new construction or built into “shell space” that could be created in the initial construction. The “option for additional space” show to the right is just noting that additional outpatient functions could always be added to the building.



The proposed Emergency Department (ED) and Extended Stay Hospital is planned to provide emergency and extended stay services for the region of Valencia County, New Mexico. If a patient stays longer than 24 hours the facility will need to meet the minimum requirements for hospitals in New Mexico.

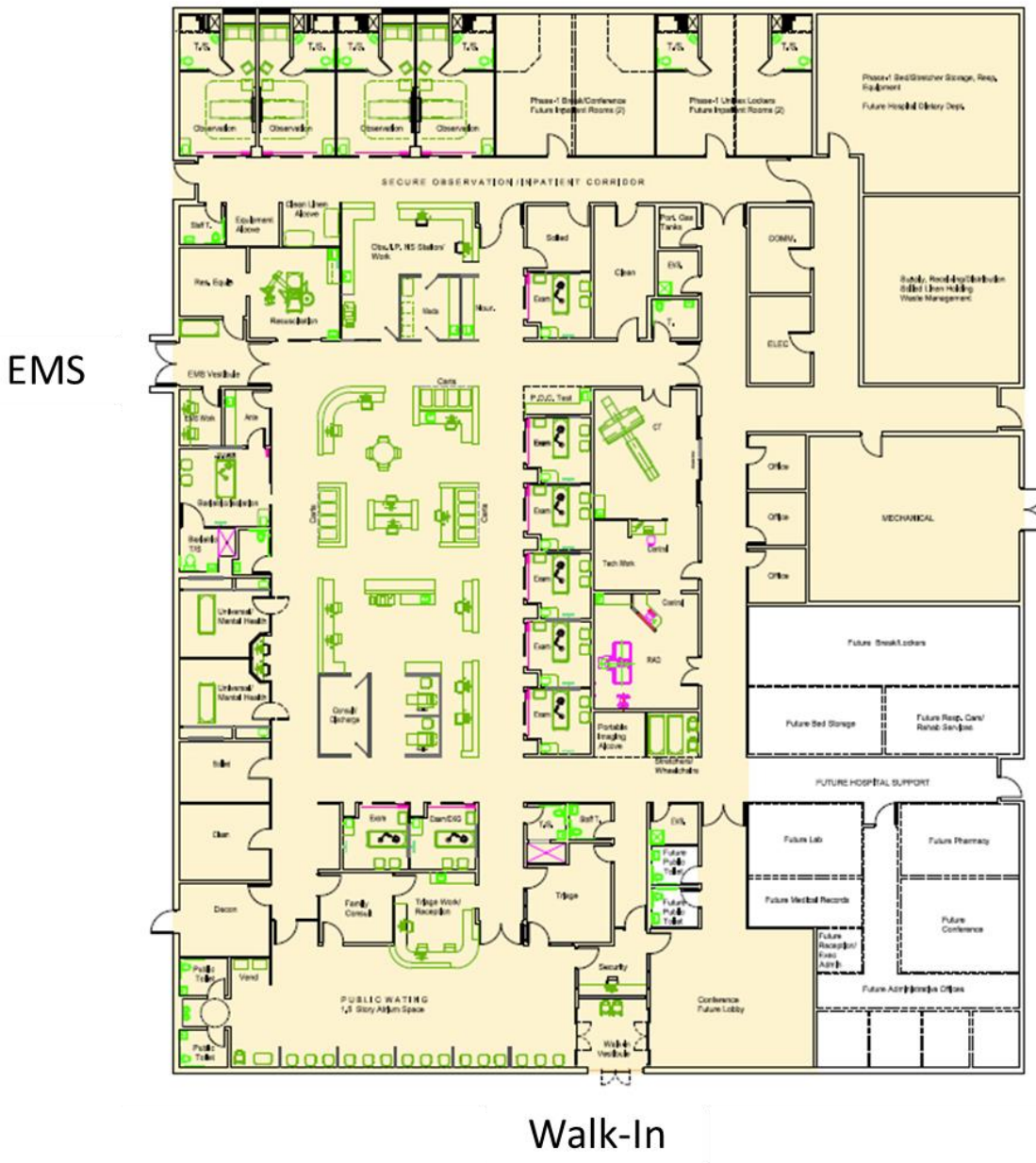
The phased implementation for the new 28,000 square foot facility could include a 12-bed Emergency Department complete with diagnostic imaging capabilities and 4-8 observation beds built to New Mexico Hospital Standards.





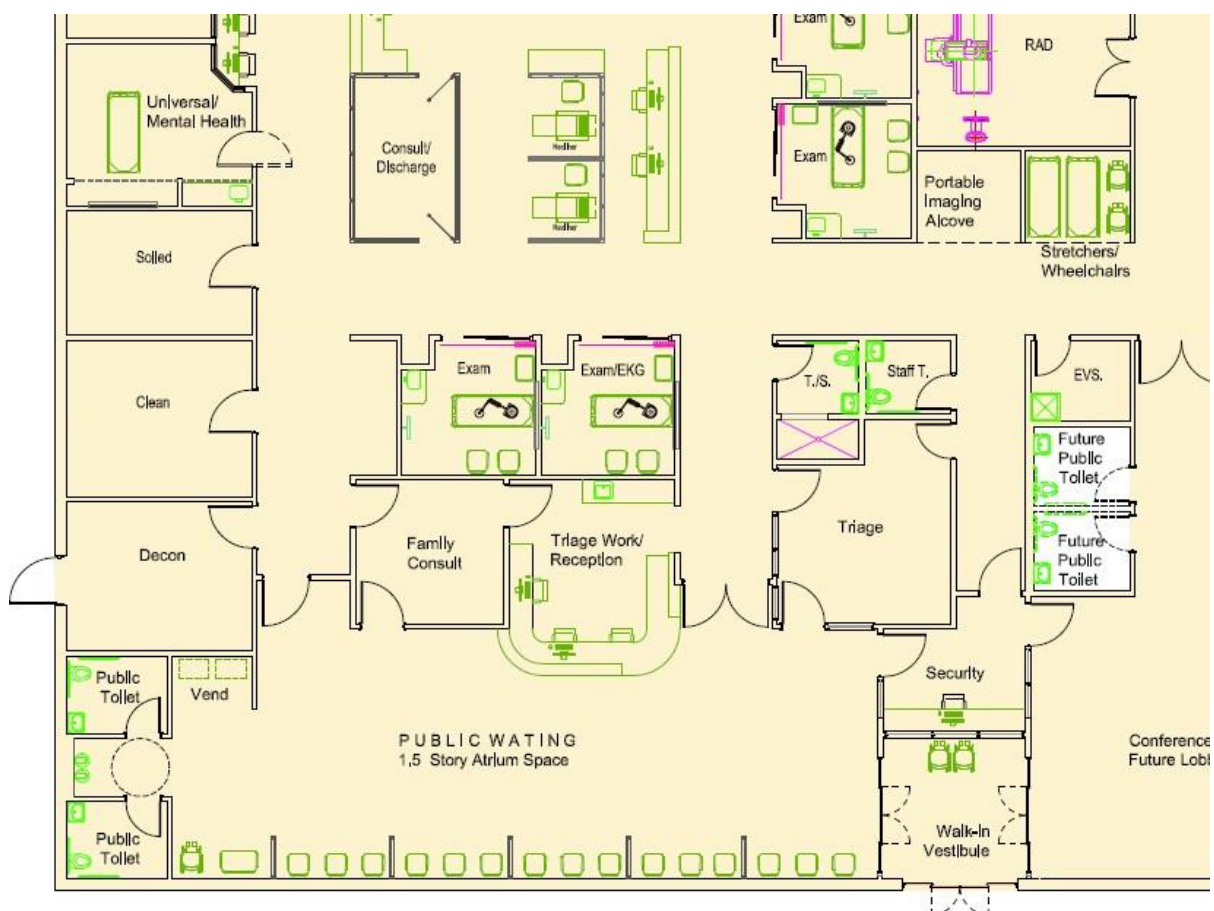
**EMERGENCY DEPARTMENT**

The Emergency Department (ED) could consist of 12 treatment spaces including 8 Universal Treatment rooms, a Resuscitation Room, a Bariatric/Isolation room and 2 Universal Mental/Behavioral Health rooms organized around a central Nurses station in a racetrack configuration.



The walk-in vestibule could direct patient and visitors to the greeter station, strategically located to provide quick access for patients and visual supervision of the waiting room for staff. The waiting room could provide comfortable seating for approximately 18 visitors with wheelchair and bariatric access. Two public restrooms, family consult room and a vending area are also provided. A security station is planned that will have visual access to both the ED waiting area and the future Hospital entrance vestibule and lobby.

Upon arrival patients will be escorted to the triage area for assessment or immediately to one of the Universal Treatment spaces. The treatment space closest to the triage area will also serve as the EKG room. A 2-bay Results Pending area is located immediately adjacent to the central nurses workstation would allow patients awaiting test results or discharge to wait in a safe area. Adjacent to the results waiting area is a consult room with dual access from the results waiting area and the clinical ED.

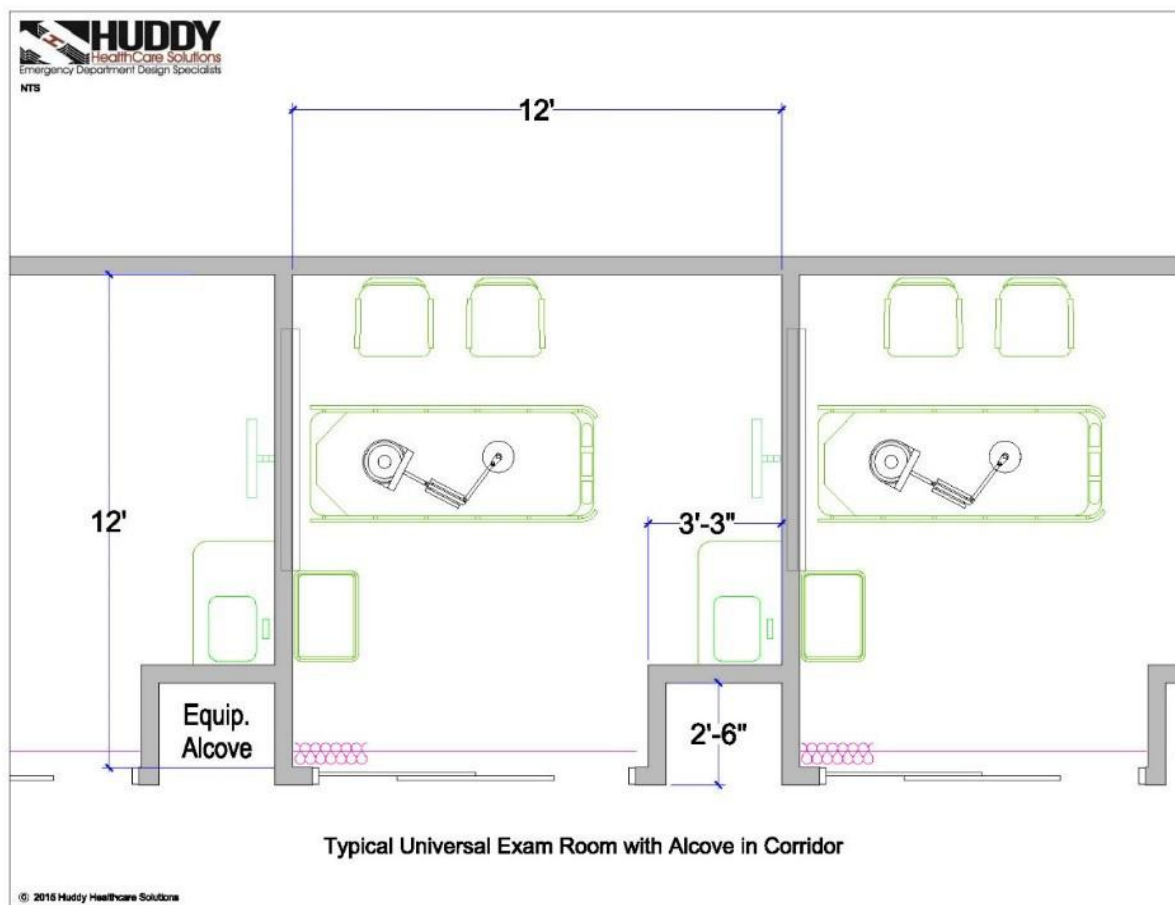


A central control area could be planned to accommodate the Charge Nurse, Secretary and Unit Clerk. This workstation would be centrally located to monitor incoming patients from both the walk-in and the EMS vestibules. Additionally, the workstation for the main ED could consist of 6 computer workstations, work counters, registration work station and handwashing sink. Other spaces in the central core could include 3 under counter cart storage areas, printer station, team huddle area and physician workstations. In addition to the 12 treatment spaces, other spaces around the central core would include the Isolation room ante room, clean and soiled utility spaces, point-of-care testing station, portable Imaging equipment, stretcher alcoves and patient toilets. A glassed-in medication prep room with adjoining nourishment station could be strategically located adjacent to the Main ED Core and the Observation nurses' workstation.



### Universal Treatment Room

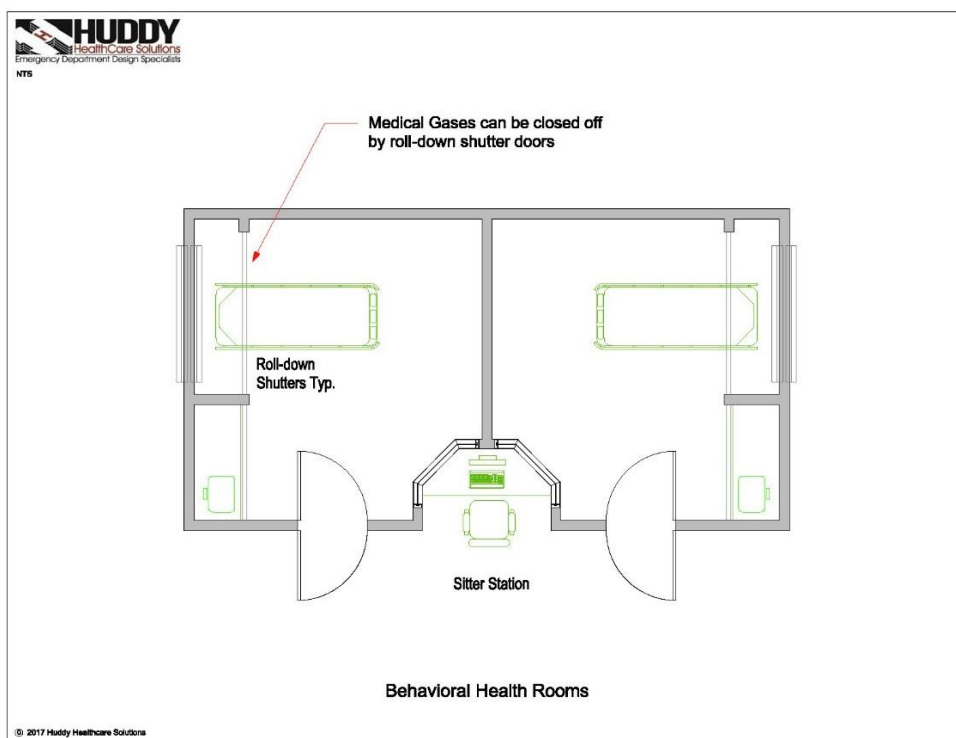
Universal Treatment spaces could be approximately 140 NSF each. Each room could be planned with full medical gases stretcher, overhead exam light, base cabinet with handwashing sink, 2 side chairs, equipment/supply cart with other portable instruments and equipment as needed to assure proper care and treatment and wall mounted Television. The configuration of the room places the patient parallel to the corridor assuring quick access to the patients by clinical staff. This assures that the patient is focused on the wall-mounted flat-screen television and not the nurse station. The family zone is located at the back of the room providing adequate space for family members while separating them from the clinical care team. Each room is equipped with a glass breakaway sliding door with cubicle curtain for added privacy. When feasible, each room has an equipment alcove (facing the corridor) that helps to reduce clutter in the corridors. These alcoves can also serve as computer cart charging/staging stations.



### Behavioral Health Safe Room

The Behavioral Safe Rooms are designed to provide maximum patient care and privacy while maintaining a high level of security in a safe environment. Tamperproof medical gas headwalls, fixed equipment and work counter with hand washing sink is positioned in each room so maximum security can be maintained when the rolling screen is deployed. A sitter station with full visual access into each room is located in the Staff Work Core. Both access doors are solid with single view panels and will be equipped with controlled access security hardware and alarms. (Per the NM Healthcare Regulations)

Sample of Roll-Down Shutters for Conversion to Tamperproof Rooms



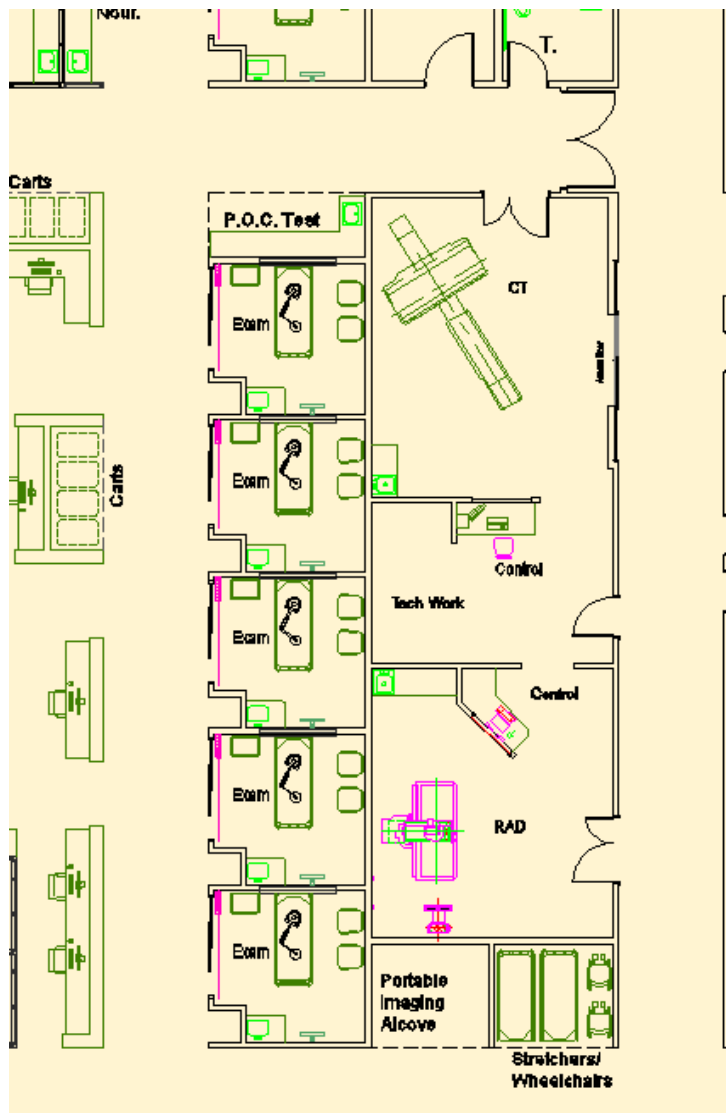
**Resuscitation Room**

A Resuscitation room is planned for approximately 250 NSF. The room is configured with sliding glass door at the front (facing the Work Core).

The placement of the stretcher is centered in the room with overhead booms providing lighting, medical gas and other monitoring equipment. Space within the room is provided for equipment and supply carts as needed to assure proper care and treatment. A dedicated equipment room is immediately adjacent to the resuscitation room.

**IMAGING**

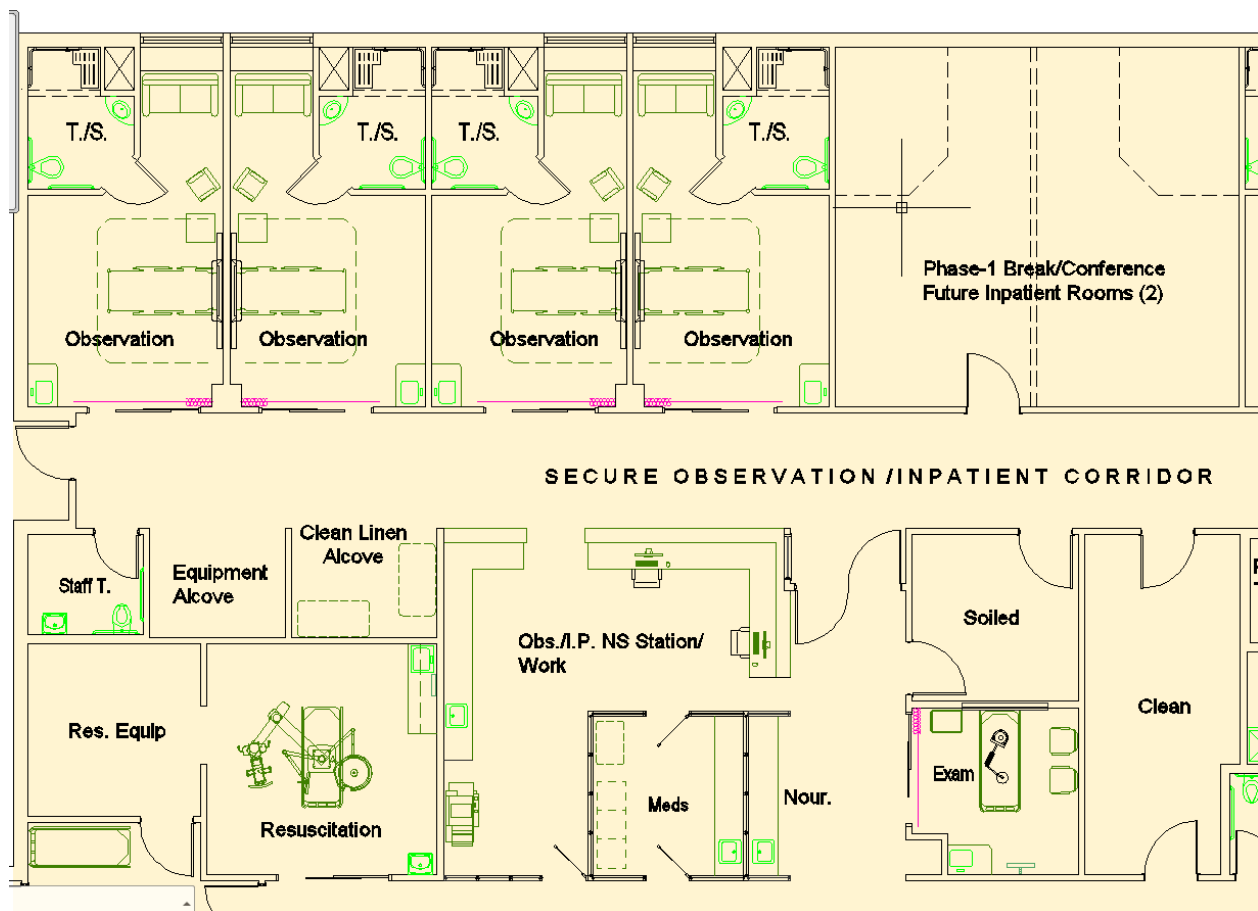
Computed Tomography (CT) and X-Ray (RAD) rooms are provided with direct access from the Main ED. The CT room, with associated control room, is strategically located to provide quick access from the resuscitation room and EMS vestibule. Control spaces for CT and RAD are located back-to-back to provide staffing efficiency.



**OBSERVATION**

The 4-8 inpatient bed rooms are planned for future extended stay patients with 4 of these rooms initially planned for Observation patients. These 4 rooms will be constructed to meet hospital in-patient standards including private toilet/shower rooms. The remaining 4 rooms could be used initially for conference space and staff unisex lockers. Each observation room is planned to have sliding glass doors for improved visual monitoring from the nurse work area.

The Observation/Future Inpatient Nurse Station is located to provide direct visual supervision to the observation bed rooms. The observation nurse station is planned to share the medication room with the Main ED. Support space for Observation include clean and soiled utility rooms, clean linen alcove, Equipment alcove and staff toilet.



### **EMS ACCESS**

Ambulance access is provided through the EMS vestibule. The vestibule is immediately adjacent to the Resuscitation room and provides space for stretcher staging. An EMS work area is provided next to the EMS vestibule that supports 2 computer work stations.

A Decontamination shower room could be strategically located on the same side of the facility as the EMS vestibule and close to the main walk-in entrance providing quick access for both EMS and walk-in patients that need to decontaminate.

### **ED & EXTENDED CARE FACILITY SUPPORT**

As previously noted, select spaces/area within the facility are planned to be shelled-in for future inpatient licensing. Spaces in direct support of the ED and Observation to be initially implemented included:

- Staff Break/Conference room. This area is temporarily located in space allocated for 2 Future Extended stay Rooms.
- Staff Unisex Lockers. This area is temporarily located in space allocated for 2 Future Extended stay Rooms with Patient toilet/Shower rooms initially fitted up for staff use.
- Bed/Stretcher Storage and Respiratory Equipment. This area is temporarily located in space allocated the future Dietary Department.
- Communication/I.T. room
- Electrical Room
- Materials Management: Supply, receiving/Distribution, Clean/Soiled Linen Holding and Waste Management.
- Mechanical Room
- ED Offices
- Conference room. This area is temporarily located in space allocated for the Future Hospital Lobby.



## Licensed Hospital Requirements

Approximately 3,835 departmental square feet (DGSF) of shelled space or future expansion is planned in support of a licensed inpatient hospital. Based on Title-7 Chapter 7 part 2 NMAC 2004, for the State of New Mexico requires:

- Administrative Support:
  - Hospital Administrator,
  - Quality Improvement,
  - Disaster & Emergency Management,
  - Nursing Administrator,
  - Chief of Clinical Staff
  - Infection Control and
  - Employee Health,
- Inpatient Unit:
  - Private rooms with private Toilet/Shower,
  - Nurse Station,
  - Unit Support Spaces
- Active Medical Staff,
- 24 Hour Nursing Services (on duty at all times),
- 24 Hour Dietary Services,
- Pharmacy,
- Lab,
- Medical Records,
- Radiological Services,
- Physical Plant:
  - Emergency Power Generator,
  - Provisions for Oxygen/Medical Gases,
  - Sanitary Disposal,
  - Provisions for Clean and Soiled Linen,
  - Supply, Receiving and Distribution
  - Mechanical/Electrical rooms/spaces,
- Facilities Management
  - Environmental Services,
  - Materials Management,
  - Engineering, Facilities Maintenance and
  - Information Technology (I.T.)

### **Summary**

The proposed facility design could be planned to provide both Emergency and Observation services (in the short term) or a licensed hospital from the outset if all components are constructed initially. This flexibility allows the health provider to define how they will provide efficient patient throughput while assuring maximum security and patient satisfaction.

A health provider would need to analyze the cost of building and operating a facility of this size, based on their expected staffing/provider coverage, services, applicable equipment, and space/facility needs to be able to define the probability of creating a successful return on their investment.

KSA/Huddy believes that the programming and planning a flexible facility may allow a health system to phase in a licensed “hospital” by initially creating a freestanding emergency department facility with some observation beds designed to inpatient standards, but not initially licensed as inpatient beds. Then, should volumes grow an inpatient service needs start to grow, the observation beds could become licensed beds and the facility expanded to meet hospital standards.

8. Appendix

i. Kick-Off and Data Presentation

MARKET ASSESSMENT AND CLINICAL SERVICES NEEDS STUDY

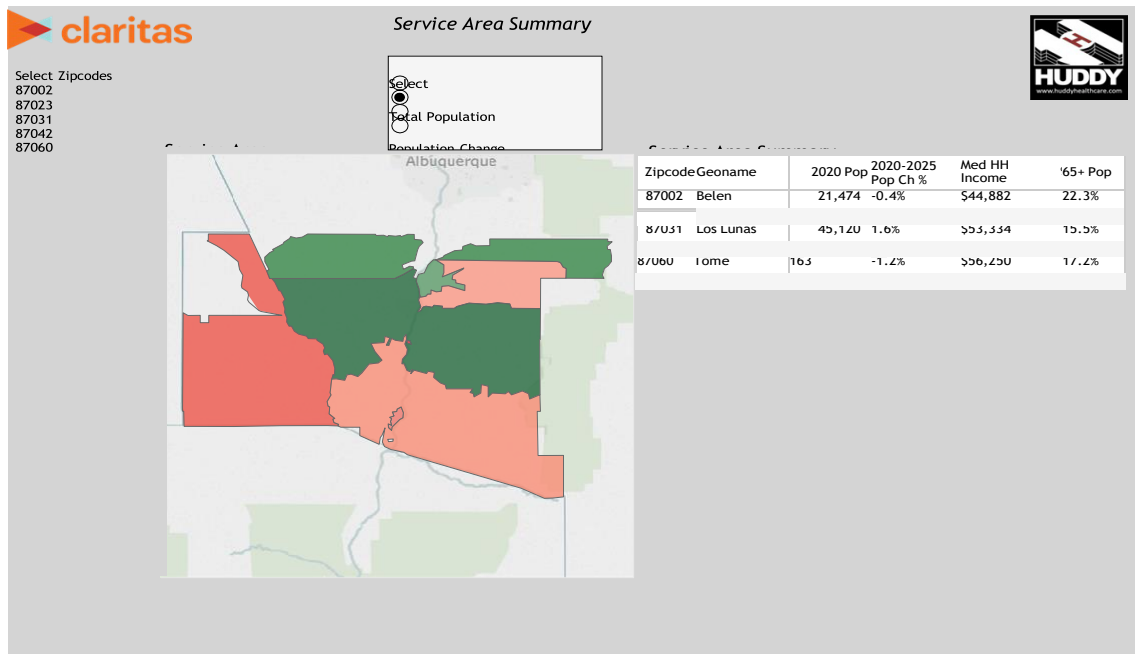


Summary of Facility Options given Market Share Research

June 6, 2021



ii. Demographic Information



iii. Data and Programming Update Presentation

# MARKET ASSESSMENT AND CLINICAL SERVICES NEEDS STUDY



*Update on Data Analytics, Volume Projections and Facility Programming Impacts*

29 July 2021

**KSA**



iv. Healthcare Provider Presentation and Findings

# MARKET ASSESSMENT AND CLINICAL SERVICES NEEDS STUDY



*Update on Determined Data Analytics, Volume Projections and Facility Programming Impacts for Health Providers*

30 August 2021

**KSA**



v. Board of County Commissioners Presentation and Findings

# MARKET ASSESSMENT AND CLINICAL SERVICES NEEDS STUDY

*Summary of Data Analytics, Volume Projections and Programming  
Impacts for Valencia County-Based Healthcare Facility*

1 December 2021

