

RECORDING REQUESTED
BY AND WHEN RECORDED
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LARRY WALKER
Auditor/Controller - Recorder

R Regular Mail

City Clerk's Office
City of Redlands
Post Office Box 3005
Redlands, California 92373

Doc#: 2003-0906764

Titles: 1 Pages: 128



Fees	0.00
Taxes	0.00
Other	0.00
PAID	\$0.00

**Fees Not Required
Per Government Code
Section 6103**

DEVELOPMENT AGREEMENT NO. 16

BETWEEN

CITY OF REDLANDS

AND

**REDLANDS COMMUNITY HOSPITAL,
A CALIFORNIA NONPROFIT PUBLIC BENEFIT CORPORATION**

(Ordinance No. 2563)

DEVELOPMENT AGREEMENT

This Development Agreement (hereinafter "Agreement") is entered into effective on the date it is recorded with the San Bernardino County Recorder (hereinafter the "Effective Date") by and between the CITY OF REDLANDS (hereinafter the "CITY"), and REDLANDS COMMUNITY HOSPITAL, a California nonprofit public benefit corporation (hereinafter "HOSPITAL").

RECITALS

WHEREAS, CITY is authorized to enter into binding development agreements with persons having legal or equitable interests in real property for the development of such property, pursuant to Section 65864 et seq. of the Government Code; and,

WHEREAS, CITY has adopted rules and regulations for consideration of development agreements, pursuant to Section 65865 of the Government Code; and,

WHEREAS, HOSPITAL has a legal or equitable interest in certain real property and may acquire a legal or equitable interest in certain additional real property (the "Property" as hereinafter defined) located in the CITY; and,

WHEREAS, HOSPITAL intends to add certain facilities and improvements to its existing facilities in response to legal, demographic, economic, and technological changes and has adopted a certain twenty-five year facilities master plan responsive thereto; and,

WHEREAS, HOSPITAL'S facilities master plan can be implemented under the terms of that certain Conditional Use Permit No. 355 (Revision No. 9) and Variance No. 611, approved by CITY'S Planning Commission November 14, 2000, and as may be amended and further revised from time to time at HOSPITAL'S request; and,

WHEREAS, HOSPITAL has requested CITY to enter into a development agreement and proceedings have been taken in accordance with Section 65864 et seq. of the Government Code and the rules and regulations of CITY; and,

WHEREAS, by electing to enter into this Agreement, CITY shall bind future City Councils of CITY by the obligations specified herein and limit the future exercise of certain governmental and proprietary powers of CITY; and,

WHEREAS, the assurances provided by this Agreement are necessary in order to provide the certainty which will allow HOSPITAL to make the long-term commitments involved in expanding its facilities and operations in the CITY; and,

WHEREAS, the terms and conditions of this Agreement have undergone extensive review by CITY, its Planning Commission and City Council and have been found to be fair, just and reasonable; and,

WHEREAS, all of the procedures of the California Environmental Quality Act (Public Resources Code Section 21000 et seq. have been met with respect to this Agreement; and,

WHEREAS, this Agreement is consistent with the CITY's General Plan; and,

WHEREAS, all actions taken and approvals given by CITY have been duly taken or approved in accordance with all applicable legal requirements for notice, public hearings, findings, votes, and other procedural matters; and,

WHEREAS, development of the Property and implementation of the HOSPITAL'S facilities master plan in accordance with this Agreement will provide substantial benefits to CITY and will further important policies and goals of CITY; and,

WHEREAS, this Agreement will eliminate uncertainty in planning and implementation of HOSPITAL'S approvals for development of the Property pursuant to its facilities master plan, provide for the orderly additional development of the Property, ensure flexibility for phased installation of necessary additional improvements, and generally serve the purposes for which development agreements under Sections 65864, et seq. of the Government Code are intended; and,

WHEREAS, HOSPITAL has incurred and will in the future incur substantial costs in order to assure further development of the Property in accordance with this Agreement; and,

WHEREAS, the Planning Commission of the CITY has considered this Agreement after a duly-noticed public hearing and has made written findings and recommended its adoption to the City Council; and,

WHEREAS, the City Council has reviewed and hereby approves the provisions of this Agreement, adopts the findings of the Planning Commission, and further finds that this Agreement is in conformance with the CITY General Plan and that its implementation is in the best interests of CITY and the health, safety and welfare of its residents.

NOW, THEREFORE, in consideration of the above recitals and of the mutual covenants hereinafter contained and for other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the parties agree as follows:

OPERATIVE PROVISIONS

1. DEFINITIONS AND EXHIBITS.

1.1 Definitions. The following terms when used in this Agreement shall be defined as follows:

1.1.1 "Agreement" means this Development Agreement.

1.1.2 "CITY" means the City of Redlands, a municipal corporation organized and existing under the laws of the State of California.

1.1.3 "CUP" means the Conditional Use Permit No. 355 (Revision 9) and Variance No. 611, approved by CITY'S Planning Commission on November 14, 2000, and attached hereto as Exhibit "B," for HOSPITAL'S development of the Property consistent with HOSPITAL'S facilities master plan referenced therein, and shall include, without limitation, any further amendments or revisions thereto as may be approved by CITY prior to the Effective Date.

1.1.4 "Development," "development," and "develop" mean the improvement of the Property for the purposes of completing the structures, improvements and facilities comprising the Project including, but not limited to: grading; the construction of infrastructure and public facilities related to the Project whether located within or outside the Property; the construction, demolition, reconstruction and redevelopment of buildings and structures; and the installation of landscaping.

1.1.5 "Development Agreement Regulations" means the regulations adopted by the CITY pursuant to Section 65865 of the Government Code establishing procedures and requirements for the consideration of development agreements which are contained in Chapter 18.220 of the Redlands Municipal Code.

1.1.6 "Development Approvals" means all permits and other entitlements for use subject to approval or issuance by CITY in connection with development of the Property including, but not limited to:

- (a) CUP;
- (b) Other conditional use permits, site plans and variances;
- (c) Tentative and final subdivision and parcel maps, if any;
- (d) Grading and building permits; and,
- (e) Occupancy permits.

1.1.7 “Development Exaction” means any requirement of CITY in connection with or pursuant to any Land Use Regulation or Development Approval for the dedication of land, the construction of public improvements or public facilities, or the payment of fees in order to lessen, offset, mitigate or compensate for the impacts of development on the environment or other public interests.

1.1.8 “Development Plan” means the facilities master plan to be implemented under the CUP and the other Existing Land Use Regulations applicable to development of the Property.

1.1.9 “Effective Date” means the date this Agreement is recorded with the San Bernardino County Recorder.

1.1.10 “Existing Land Use Regulations” means all Land Use Regulations in effect on the Effective Date, including without limitation the CUP.

1.1.11 “HOSPITAL” means Redlands Community Hospital, a California Nonprofit Public Benefit Corporation, and its successors in interest to all or any part of the Property.

1.1.12 “Land Use Regulations” means all ordinances, resolutions, codes, rules, regulations and official policies of CITY governing the development, improvement and use of land, including, without limitation: the permitted use of land; the density or intensity of use; subdivision requirements; the maximum height and size of proposed buildings; Development Exactions; regulations regarding the rate, time or sequence of development; and the design, improvement and construction standards and specifications applicable to the development of the Property. “Land Use Regulations” includes, without limitation, any CITY ordinance or regulation adopted by initiative or referendum.

1.1.13 “Mortgagee” means a mortgagee of a mortgage, a beneficiary under a deed of trust, or any other secured lender, and their successors and assigns.

1.1.14 “Project” means the development of the Property as provided by the Development Plan as such Development Plan may be further defined, enhanced or modified pursuant to the provisions of this Agreement.

1.1.15 “Property” means the real property described on Exhibit “A” in which HOSPITAL has a legal or equitable interest at the time of final adoption of the ordinance approving this Agreement.

1.1.16 “Subsequent Development Approvals” means all Development Approvals required subsequent to the Effective Date in connection with development of the Property.

1.1.17 “Subsequent Land Use Regulations” means any Land Use Regulations adopted and effective after the Effective Date of this Agreement.

1.2 Exhibits. The following documents are attached to, and by this reference made a part of, this Agreement:

Exhibit "A" - Legal Description of the Property.

Exhibit "B" - CUP.

2. GENERAL PROVISIONS.

2.1 Binding Effect of Agreement. The Property is hereby made subject to this Agreement. Development of the Property is hereby authorized and shall be carried out in accordance with the terms of this Agreement.

2.2 Ownership of Property. HOSPITAL represents and covenants that it is the owner of a legal or equitable interest in the Property.

2.3 Term. The term of this Agreement shall commence on the Effective Date and shall continue for a period of thirty (30) years thereafter unless this term is modified, extended or terminated pursuant to the provisions of this Agreement.

2.4 Assignment. HOSPITAL shall have the right to sell, assign or transfer the Property in whole or in part (provided that no such partial transfer shall violate the Subdivision Map Act, Government Code Section 66410 et seq.) to any person, partnership, joint venture, limited liability company, firm or corporation at any time during the term of this Agreement. Any such sale, assignment or transfer may include the assignment of those rights, duties and obligations arising under or from this Agreement which are applicable to the Property or part thereof being assigned, transferred or sold. No sale, transfer, or assignment of any right or interest under this Agreement shall be made unless made together with the sale, transfer, or assignment of all or a part of the Property. The express written assumption of any or all of the obligations of HOSPITAL under this Agreement by such assignee, transferee or purchaser shall relieve HOSPITAL of its legal duty to perform such obligations under this Agreement. Any purchaser, assignee or transferee of HOSPITAL shall have all of the rights, duties and obligations of HOSPITAL under this Agreement insofar as such rights, duties and obligations are applicable to the Property or part thereof purchased, assigned or transferred.

2.5 Amendment or Cancellation of Agreement. This Agreement may be amended or cancelled in whole or in part only by written consent of all parties in the manner provided for in Government Code Section 65868. This provision shall not limit any remedy of CITY or HOSPITAL as provided by this Agreement.

2.6 Termination. This Agreement shall be deemed terminated and of no further effect upon the occurrence of any of the following events:

- (a) Expiration of the stated term of this Agreement as set forth in Section 2.3.
- (b) Entry of a final judgment setting aside, voiding or annulling the adoption of the ordinance approving this Agreement or otherwise invalidating this Agreement.
- (c) The adoption of a referendum measure repealing the ordinance approving this Agreement.

Termination of this Agreement shall not affect or constitute termination of any other Development Approvals approved for the Property.

2.7 Notices.

(a) As used in this Agreement, notice includes, but is not limited to, the communication of notice, request, demand, approval, statement, report, acceptance, consent, waiver, appointment or other communication required or permitted hereunder.

(b) All notices shall be in writing and shall be considered given either: (i) when delivered in person to the recipient named below; or (ii) on the date of delivery shown on the return receipt after deposit in the United States mail in a sealed envelope as either registered or certified mail with return receipt requested, and postage and postal charges prepaid, and addressed to the recipient named below; or (iii) on the date of delivery after transmission by electronically confirmed facsimile to the recipient named below. All notices shall be addressed as follows:

If to CITY: City of Redlands
 35 Cajon Street
 P.O. Box 3005
 Redlands, California 92373
 Fax: (909) 798-7510
 Attention: City Manager

With a copy to: City of Redlands
 35 Cajon Street
 P.O. Box 3005
 Redlands, California 92373
 Fax: (909) 798-7595
 Attention: City Attorney

If to HOSPITAL: Redlands Community Hospital
 350 Terracina Blvd., P.O. Box 3391
 Redlands, CA 92373
 Fax: (909) 335-6497
 Attention: President

With a copy to: McPeters McAlearney Shimoff & Hatt
A Professional Corporation
4 W. Redlands Blvd, 2nd Floor
P.O. Box 2084
Redlands, CA 92373
Fax: (909) 792-6234
Attention: James R. Harper, Esq.

(c) Either party may, by notice given at any time, require subsequent notices to be given to another person or entity, whether a party or an officer or representative of a party, or to a different address, or both. Notices given before actual receipt of notice of change shall not be invalidated by the change.

3. DEVELOPMENT OF THE PROPERTY.

3.1 Rights to Develop. HOSPITAL shall have a vested right to develop the Property in accordance with, and to the maximum extent provided in, the Development Plan. Specifically, HOSPITAL shall have a vested right to develop the Property to the maximum extent allowed under the M-F (Medical Facilities) Zone provided that the development standards and performance standards of such zone and the CUP, as applicable, are satisfied. Except as otherwise provided in this Agreement, the permitted uses of the Property, the density and intensity of use, the maximum height and size of proposed buildings, provisions for reservation and dedication of land for public purposes and construction standards and specifications applicable to development of the Property shall be those set forth in the Development Plan.

3.2 Effect of Agreement on Land Use Regulations. Except as otherwise provided under the terms of this Agreement, the Land Use Regulations applicable to development of the Property shall be the Existing Land Use Regulations, and no Subsequent Land Use Regulation shall be applicable to the Project. If there is any conflict between any Existing Land Use Regulation and any other provision of this Agreement, such other provision of this Agreement shall be controlling.

3.3 Phasing and Timing of Development. The parties acknowledge that, although HOSPITAL may add improvements and develop the Project in various phases, HOSPITAL cannot at this time predict when or the rate at which the Project or any phases thereof will be developed. Such decisions depend upon numerous factors that are not within the control of HOSPITAL, such as legal, demographic, economic, technological, insurance, functionality of existing facilities, and other similar factors. Since the California Supreme Court held in Pardee Construction Co. v. City of Camarillo (1984) 37 Cal.3d 465, that the failure of the parties therein to provide for the timing of development resulted in a later adopted initiative restricting the timing of development to prevail over such parties' agreement, it is the parties' intent to cure that deficiency by acknowledging and providing that HOSPITAL shall have the right to develop the Property in such phases and increments and in such order and at such rate and at such times as HOSPITAL deems appropriate within the exercise of its subjective business judgment. In the event any Subsequent Land Use Regulation is enacted which relates to the rate, timing or

sequencing of development of property within the CITY, CITY agrees that such Subsequent Land Use Regulation shall not apply to the Project. In addition to and not in limitation of the foregoing, CITY agrees that no moratorium or other limitation affecting subdivision maps, building permits or other entitlements for use within the CITY or any part of the CITY shall apply to the Project.

3.4 Duration of Development Approvals. Notwithstanding any provision of the Existing Land Use Regulations, all Development Approvals shall remain valid and effective for all purposes during the term of this Agreement unless HOSPITAL consents in writing to earlier termination.

3.5 Subsequent Development Approvals Implementing the Development Plan. Completion of development in accordance with the Development Plan may require the approval and issuance by the CITY of Subsequent Development Approvals, including without limitation zone changes, grading permits, building permits, and occupancy permits. CITY acknowledges and agrees that all such Subsequent Development Approvals required to implement and complete development in accordance with the Development Plan shall be approved consistent with the vested rights granted to HOSPITAL by this Agreement. In acting on such Subsequent Development Approvals, CITY shall act promptly, reasonably and in accordance with the Development Plan. No later than thirty (30) days after receipt of an application for any Subsequent Development Approval, CITY shall notify HOSPITAL in writing whether the application is complete, specifying any information required to make the application complete. Whenever an application for a Subsequent Development Approval does not require an environmental impact report under the California Environmental Quality Act, Public Resources Code Section 21000 *et seq.* ("CEQA"), CITY shall approve and issue any such Subsequent Development Approval within one hundred five (105) days after CITY accepts an application therefor as complete, provided such application complies with the Development Plan. When an application for a Subsequent Development Approval requires an environmental impact report under CEQA, CITY shall approve and issue any such Subsequent Development Approval within one (1) year after CITY accepts an application therefor as complete, provided such application complies with the Development Plan.

3.6 Changes and Amendments to Existing Development Approvals. The parties acknowledge that refinement and further development of the Project may require Subsequent Development Approvals which change the Development Plan. In the event HOSPITAL finds that a change in the Development Plan is necessary or appropriate, HOSPITAL shall apply for a Subsequent Development Approval to effectuate such change and CITY shall promptly process and act on such application in accordance with the Existing Land Use Regulations, except as otherwise provided by this Agreement. If approved, any such change in the Development Plan shall be deemed incorporated herein, and may be further changed from time to time as provided in this Section. Unless otherwise required by law, a change to the Development Plan shall be deemed "minor" and not require an amendment to this Agreement provided such change does not:

- (a) Alter the permitted uses of the Property as a whole; or,

(b) Materially increase the density or intensity of use of the Property as a whole; or,

(c) Increase the maximum height and size of permitted buildings.

3.7 Reservations of Authority. Notwithstanding any other provision of this Agreement, the following Subsequent Land Use Regulations shall apply to the development of the Property:

(a) Generally applicable processing fees and charges imposed by CITY to cover the actual costs to CITY of processing applications for Development Approvals or for monitoring compliance with any Development Approvals granted or issued. Such processing fees and charges shall not exceed the reasonable estimated costs of providing such services.

(b) Regulations which are not in conflict with the Development Plan. Any Land Use Regulation which increases the costs of development (except for development fees imposed as provided by this Agreement) and any Land Use Regulation, whether adopted by initiative or otherwise, limiting the rate or timing or sequencing of development of the Property shall be deemed to conflict with the Development Plan and shall therefore not be applicable to the development of the Property.

(c) Regulations which are in conflict with the Development Plan provided HOSPITAL has given written consent to the application of such regulations to development of the Property.

(d) Development fees imposed on City approval of a "development project," as defined by Government Code Section 66000 et seq., and necessary to cover 100% of such development's pro rata share of the cost of any public infrastructure or facility required as a result of City approval of such "development project".

3.8 Development Exactions. All Development Exactions currently applicable to the Project are included in the Development Plan. CITY shall not impose any Development Exaction on development in accordance with the Development Plan except as set forth therein or as authorized under subsection (d) of Section 3.7 above. HOSPITAL may challenge any Development Exaction by appropriate judicial action.

3.9 Regulation by Other Public Agencies. It is acknowledged by the parties that other public agencies not within the control of CITY possess authority to regulate aspects of the development of the Property separately from or jointly with CITY and this Agreement does not limit the authority of such other public agencies. CITY shall support any application by HOSPITAL to any other public agency for any permit or approval which is required for the Project. Within fifteen (15) days of any request, CITY shall provide to HOSPITAL or to such other public agencies information possessed by CITY and necessary for processing such applications.

3.10 Assessment District or Other Financing. HOSPITAL may, at its sole election, request that CITY initiate and complete proceedings under the Municipal Improvement Act of 1911, the Municipal Improvement Act of 1913, the Improvement Bond Act of 1915, the Landscaping and Lighting Act of 1972, the Mello-Roos Community Facilities Act of 1982, or any and all other available financing mechanisms to provide public financing for all or parts of the Project and/or public improvements relating thereto. If so requested by HOSPITAL, CITY shall cooperate with HOSPITAL and use CITY'S best efforts in taking all necessary steps to cause the applicable district or other entity to be formed and to issue bonds for such purposes.

4. CONFLICTS OF LAW.

4.1 Conflict with State or Federal Laws or Action of Other Governmental Jurisdiction. In the event that State or Federal laws or regulations, enacted after the Effective Date of this Agreement or the action by any governmental jurisdiction other than the CITY, prevent or preclude compliance with one or more of the provisions of this Agreement, such provisions of this Agreement shall be modified or suspended as may be necessary to comply with such State or Federal laws or regulations or non-City governmental action; provided, however, that this Agreement shall remain in full force and effect to the extent it is not inconsistent with such laws, regulations or non-City governmental action and to the extent such laws, regulations or non-City governmental action do not render such remaining provisions impractical to enforce.

4.2 Notice. Any party which determines that it cannot perform any act authorized or required by this Agreement due to a conflict described in Section 4.1 shall, within fifteen (15) days of making such determination, provide all other parties with written notice stating the conflict with the provisions of this Agreement.

4.3 Modification Conference. The parties shall, within thirty (30) days after notice is provided in Section 4.2, hereof, meet and confer in good faith in a reasonable attempt to modify this Agreement to comply with such law, regulation or non-City governmental action.

4.4 City Council Hearing. Within thirty (30) days after the modification conference, regardless of whether the parties reach an agreement on the effect of such law or regulation upon this Agreement, the matter shall be scheduled for hearing before the City Council. Notice of such hearing shall be given pursuant to Sections 65090 and 65091 of the Government Code. The City Council, at such hearing, shall consider the exact modification or suspension which shall be necessitated by such law, regulation or non-City governmental action. HOSPITAL shall have the right to offer oral and written testimony at the hearing. No modification or suspension of this Agreement shall be effective unless approved by the affirmative vote of not less than a majority of the authorized voting members of the City Council and by HOSPITAL.

4.5 Cooperation in Securing Permits or Approvals. CITY shall use its best efforts to assist HOSPITAL in the timely securing of any permits or approvals which may be required as a result of such modifications to, or suspensions of, all or any part of this Agreement.

4.6 Challenge Regarding New Law or Regulation. HOSPITAL or CITY shall have the right to challenge by appropriate judicial proceedings any such new law, regulation or non-City governmental action preventing compliance with the terms of this Agreement. In the event that such challenge is successful, this Agreement shall remain unmodified and in full force and effect.

5. LIMITATION ON NEW GENERAL TAXES AND SPECIAL TAXES.

During the term of this Agreement, CITY shall not levy or collect any new general tax or special tax on the Property or any business conducted on the Property. New general taxes and new special taxes, as used in this Section, shall include any general tax or special tax which had not been adopted and become effective prior to the Effective Date of this Agreement. HOSPITAL shall be entitled to an exemption from any such new general tax or new special tax or shall be entitled to a credit equal to the full amount otherwise payable as such new general tax or new special tax. The limitations of this Section shall not prevent the CITY from levying or collecting any lawfully adopted increase in any general tax or special tax applicable to the Property or businesses conducted on the Property on the Effective Date, provided such increase is generally applicable throughout the CITY and does not discriminate against the Property or any business conducted on the Property.

6. RESTRICTION ON SPECIAL DISTRICTS.

During the term of this Agreement, no assessment district or special tax district, including all or any part of the Property, will be created by the CITY or any agency or instrumentality of the CITY, nor shall all or any part of the Property be annexed to any existing assessment district or special tax district, unless HOSPITAL agrees in writing to such creation or annexation and the terms and conditions of any assessments or special taxes to be levied thereunder.

7. ANNUAL REVIEW.

7.1 Procedure. CITY shall, every twelve (12) months during the term of this Agreement, review the extent of good faith compliance by HOSPITAL with the terms of this Agreement in accordance with Government Code Section 65865.1 and the Development Agreement Regulations and as further provided in this Section. HOSPITAL shall have the duty to demonstrate its good faith substantial compliance with the terms of this Agreement at such annual review. HOSPITAL shall furnish such evidence of good faith compliance as the CITY in the exercise of its reasonable discretion may require. Either party may address any requirements of this Agreement during the review. However, ten (10) days' written notice of any requirement to be addressed shall be made by the requesting party. If at the time of review an issue not previously identified in writing is required to be addressed, the review at the request of either party shall be continued to afford sufficient time for analysis and preparation. CITY shall not terminate or modify this Agreement except upon substantial evidence showing a failure of HOSPITAL to perform a material duty or obligation under this Agreement which has not been

cured by HOSPITAL as provided under Section 9.1 of this Agreement. In the event this Agreement is terminated pursuant to this Section or any other provision of law, all rights of HOSPITAL under this Agreement shall terminate; provided, however, all rights of HOSPITAL under any other Development Approval, the Existing Land Use Regulations and any development permit or approval issued or granted by any other governmental agency shall not be affected or diminished in any way by such termination of this Agreement.

7.2 Information to Be Provided HOSPITAL. CITY shall deposit in the mail to HOSPITAL a copy of all staff reports, exhibits and other evidence concerning performance of this Agreement a minimum of ten (10) calendar days prior to any such review or action upon this Agreement by the Director of Community Development, Planning Commission or the City Council.

7.3 Failure to Perform Periodic Review. The failure of the CITY to review at least annually HOSPITAL'S compliance with the terms and conditions of this Agreement shall not constitute or be asserted by either party as a breach by the other party of this Agreement.

8. ESTOPPEL CERTIFICATES.

Either party may at any time, and from time to time, deliver written notice to the other party requesting that the other party certify in writing that to the knowledge of the certifying party:

(a) This Agreement is in full force and effect and is a binding obligation of the parties.

(b) This Agreement has not been amended or modified and, if so amended, identifying the amendments.

(c) No default in the performance of the requesting party's obligations under this Agreement exists or, if in default, the nature and extent of any default.

A party receiving a request hereunder shall execute and return the certificate within fifteen (15) days following receipt thereof. The City Manager shall have the right to execute any certificate requested by HOSPITAL on behalf of CITY.

9. DEFAULT AND REMEDIES.

9.1 General Provisions. Subject to extensions of time by mutual consent in writing, or as otherwise provided herein, failure or delay by either party to perform any term or provision of this Agreement constitutes a default under this Agreement. In the event of default under this Agreement or any of its terms or conditions, the party alleging such default shall give the alleged defaulting party not less than thirty (30) days notice in writing, specifying in detail the nature of the alleged default and, when appropriate, the manner in which that default may be satisfactorily cured. During any such thirty (30) day cure period, the party charged shall not be considered in default for purposes of termination or the institution of legal proceedings.

After proper notice and expiration of said thirty (30) day cure period without cure, or if such cure cannot be completed within such thirty (30) day period, without commencement of cure within such period and diligent effort to effect cure thereafter, the other party to this Agreement, at its option, may institute legal proceedings to enforce this Agreement or give notice of termination of this Agreement.

Failure or delay in giving notice of default pursuant to this Section 9.1 shall not constitute a waiver of any default, nor shall it change the time of default. Except as otherwise expressly provided in this Agreement, any failure or delay by either party in asserting any of its rights or remedies as to any default shall not operate as a waiver of any default or of any such rights or remedies or deprive either such party of its right to institute and maintain any actions or proceedings which it may deem necessary to protect, assert or enforce any such rights or remedies.

9.2 Cumulative Remedies. Each of the parties hereto may pursue any remedy at law or equity available for the breach of any provision of this Agreement. Any party may initiate any judicial action or proceeding to cure, correct or remedy any default, to enforce any covenant or agreement herein, or to enjoin any threatened or attempted violation of this Agreement, including without limitation actions or proceedings requesting declaratory relief, specific performance and relief in the nature of mandamus. All remedies shall be cumulative and not exclusive of one another, and the exercise of any one or more of the remedies shall not constitute a waiver or election with respect to any other available remedy. The parties acknowledge and agree that specific performance and other non-monetary relief are appropriate remedies for the enforcement of this Agreement and shall be available to all parties.

9.3 Attorneys' Fees and Costs. In any action or proceeding brought by any party to interpret or enforce any provision of this Agreement, or otherwise arising under this Agreement, the prevailing party shall be entitled to reasonable attorneys' fees (including reasonable in-house counsel fees of CITY or HOSPITAL at private rates prevailing in San Bernardino County) and all costs, expenses and disbursements in connection with such action or proceeding, including the cost of reasonable investigation, preparation and professional expert consultation and arbitration fees and costs, which sums may be included in any judgment or decree entered in such action in favor of the prevailing party.

10. MORTGAGEE PROTECTION.

The parties hereto agree that this Agreement shall not prevent or limit HOSPITAL, in any manner, at HOSPITAL'S sole discretion, from encumbering the Property or any portion thereof or any improvement thereon by any mortgage, deed of trust or other security device securing financing with respect to the Property. CITY acknowledges that the lenders providing such financing may require certain Agreement interpretations and modifications and agrees upon request, from time to time, to meet with HOSPITAL and representatives of such lenders to negotiate in good faith any such request for interpretation or modification. CITY will not unreasonably withhold its consent to any such requested interpretation or modification provided such interpretation or modification is consistent with the intent and purposes of this Agreement.

Any Mortgagee of the Property shall be entitled to the following rights and privileges:

(a) Neither entering into this Agreement nor a breach of this Agreement shall defeat, render invalid, diminish or impair the lien of any mortgage on the Property made in good faith and for value.

(b) The Mortgagee of any mortgage or deed of trust encumbering the Property, or any part thereof, which Mortgagee, has submitted a request in writing to the CITY in the manner specified herein for giving notices, shall be entitled to receive written notification from CITY of any default by HOSPITAL in the performance of HOSPITAL'S obligations under this Agreement.

(c) If CITY timely receives a request from a Mortgagee requesting a copy of any notice of default given to HOSPITAL under the terms of this Agreement, CITY shall provide a copy of that notice to the Mortgagee concurrently with the sending of notice of default to HOSPITAL. The Mortgagee shall have the right, but not the obligation, to cure, or to commence to cure, the default during the cure period allowed HOSPITAL under this Agreement.

(d) Any Mortgagee who comes into possession of the Property, or any part thereof, pursuant to foreclosure of the mortgage or deed of trust, or deed in lieu of such foreclosure, shall take the Property, or part thereof, subject to the terms of this Agreement. Notwithstanding any other provision of this Agreement to the contrary, no Mortgagee shall have an obligation or duty under this Agreement to perform any of HOSPITAL'S obligations or other affirmative covenants of HOSPITAL hereunder, or to guarantee such performance; provided, however, that to the extent that any covenant to be performed by HOSPITAL is a condition precedent to the performance of a covenant by CITY, the performance thereof shall continue to be a condition precedent to CITY'S performance hereunder.

11. MISCELLANEOUS PROVISIONS.

11.1 Recordation of Agreement. This Agreement and any amendment or cancellation thereof shall be recorded with the San Bernardino County Recorder by the City Clerk within the period required by Section 65868.5 of the Government Code.

11.2 Entire Agreement. This Agreement sets forth and contains the entire understanding and agreement of the parties, and there are no oral or written representations, understandings or ancillary covenants, undertakings or agreements which are not contained or expressly referred to herein. No testimony or evidence of any such representations, understandings or covenants shall be admissible in any proceeding of any kind or nature to interpret or determine the terms or conditions of this Agreement.

11.3 Severability. If any term, provision, covenant or condition of this Agreement shall be determined invalid, void or unenforceable, the remainder of this Agreement shall not be affected thereby and shall remain in full force and effect unless amended by mutual written consent of the parties.

11.4 Interpretation and Governing Law. This Agreement and any dispute arising hereunder shall be governed and interpreted in accordance with the laws of the State of California. This Agreement shall be construed as a whole according to its fair language and common meaning to achieve the objectives and purposes of the parties hereto, and the rule of construction to the effect that ambiguities are to be resolved against the drafting party shall not be employed in interpreting this Agreement, all parties having been represented by counsel in the negotiation and preparation hereof.

11.5 Section Headings. All section headings and subheadings are inserted for convenience only and shall not affect any construction or interpretation of this Agreement.

11.6 Rules of Construction. As used herein, the singular of any word includes the plural and the masculine gender includes the feminine.

11.7 Consent. Where a consent or approval of a party is required or necessary under this Agreement, such consent or approval shall not be unreasonably withheld.

11.8 Time of Essence. Time is of the essence in the performance of the provisions of this Agreement as to which time is an element.

11.9 Waiver. No waiver of any provision of this Agreement shall be effective unless in writing and signed by a representative of the party against whom enforcement of a waiver is sought. No waiver of any right or remedy in respect of any occurrence or event shall be deemed a waiver of any right or remedy in respect of any other occurrence or event.

11.10 No Third-Party Beneficiaries. This Agreement is made and entered into for the sole protection and benefit of the parties and their successors and assigns. No other person shall have any right of action based upon any provision of this Agreement.

11.11 Force Majeure. Neither party shall be deemed to be in default where failure or delay in performance of any of its obligations under this Agreement is caused by floods, earthquakes, other acts of God, fires, wars, riots or similar hostilities, strikes and other labor difficulties beyond the party's control, (including the party's employment force), government regulations, court actions (such as restraining orders or injunctions), or other causes beyond the party's control. If any such events shall occur, the time for performance by either party of any of its obligations hereunder shall be extended by the parties for the period of time that such events prevented such performance.

11.12 Mutual Covenants. The covenants contained herein are mutual covenants and also constitute conditions to the concurrent or subsequent performance by the party benefited thereby of the covenants to be performed hereunder by such benefited party.

11.13 Successors in Interest. The burdens of this Agreement shall be binding upon, and the benefits of this Agreement shall inure to, all successors in interest and assigns of the parties to this Agreement.

11.14 Counterparts. This Agreement may be executed by the parties in counterparts, which counterparts shall be construed together and have the same effect as if all of the parties had executed the same instrument.

11.15 Project as a Private Undertaking. It is understood and agreed by and between the parties hereto that the development of the Project is a private development, that neither party is acting as the agent of the other in any respect hereunder, and that each party is an independent contracting entity with respect to the terms, covenants and conditions contained in this Agreement. No partnership, joint venture or other association of any kind is formed by this Agreement. The only relationship between CITY and HOSPITAL is that of a government entity regulating the development of private property and the owner of such property.

11.16 Further Actions and Instruments. Each of the parties shall cooperate with and provide reasonable assistance to the other to the extent contemplated hereunder in the performance of all obligations under this Agreement and the satisfaction of the conditions of this Agreement. Upon the request of either party at any time, the other party shall promptly execute, with acknowledgment or affidavit if reasonably required, and file or record such required instruments and writings and take any actions as may be reasonably necessary under the terms of this Agreement to carry out the intent and to fulfill the provisions of this Agreement or to evidence or consummate the transactions contemplated by this Agreement.

11.17 Covenant of Good Faith and Fair Dealing. Neither party shall do anything which shall have the effect of harming or injuring the right of the other party to receive the benefits of this Agreement. Each party shall refrain from doing anything which would render its performance under this Agreement impossible or impracticable. Each party shall do everything which this Agreement contemplates that such party shall do to accomplish the objectives and purposes of this Agreement.

11.18 Integrated Project. CITY acknowledges and agrees, by executing this Agreement for the Project as a whole, that the Project is and shall be considered a single, integrated development project and that each component of the Project is dependent upon the completion and occupancy of each other component, and that the viability of each component of the Project is and shall be dependent upon the completion and occupancy of each other component and the full performance of this Agreement.

11.19 Authority to Execute.

11.19.1 CITY. By the execution hereof, CITY confirms and acknowledges that CITY, acting through its City Council and the City Planning Commission, have complied in full with the requirements of Section 65864 et seq. of the Government Code and the Development Agreement Regulations for public hearing and the giving of notice of intention to consider adoption of this Agreement, and that this Agreement has been approved by ordinance as required by Section 65867.5 of the Government Code. CITY warrants and represents that the CITY has given all notices, held all hearings and complied with all other legal requirements and procedures required to make this Agreement a valid and binding agreement.

11.19.2 HOSPITAL. Persons executing this Agreement on behalf of HOSPITAL warrant and represent that they have the authority to execute this Agreement and represent that they have the authority to bind HOSPITAL to the performance of its obligations hereunder.

11.20 No Conflict with Current Law. CITY represents that there are no rules, regulations, ordinances or policies of CITY as of the date of execution of this Agreement that would interfere with the completion or use of the Project.

11.21 Indemnification. If any claim, action, or proceeding is filed against the CITY or its agents, officers or employees to attach, set aside, void or annul, the approval by the CITY of this Agreement, HOSPITAL shall defend (with attorneys selected and directed by HOSPITAL), indemnify and hold harmless CITY and its agents, officers and employees. CITY shall promptly notify HOSPITAL of any such claim, action or proceeding, and shall cooperate fully in the defense. If CITY fails to promptly notify HOSPITAL of such claim, action or proceeding or if CITY fails to cooperate fully in the defense, HOSPITAL shall not thereafter be responsible to defend, indemnify or hold harmless CITY. Nothing contained in this Section prohibits CITY from participating in the defense of any such claim, action or proceeding provided the CITY bears its own attorneys' fees and costs and defends in good faith. HOSPITAL shall not be required to pay or perform any settlement of any such claim, action or proceeding unless the settlement is approved by HOSPITAL.

11.22 Liability Insurance. In addition to its obligations under the provisions of Section 11.21, HOSPITAL agrees that any policy of liability insurance (which policy may include coverage of bodily injury liability and property damage liability) which HOSPITAL maintains in force with respect to the construction of the Project shall contain an additional insured endorsement naming CITY, its elected officials, officers, agents and employees as additional insureds. Such insurance shall be primary and non-contributing with respect to any insurance or self-insurance maintained by the CITY. Coverage shall be evidenced by a Certificate of Insurance in a form satisfactory to CITY, which shall be delivered to CITY prior to the commencement by HOSPITAL of any construction on the Property.

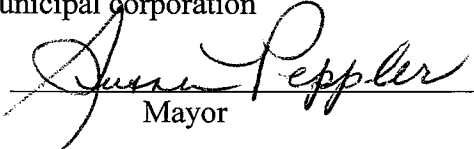
END OF AGREEMENT
SIGNATURE PROVISIONS FOLLOW

IN WITNESS WHEREOF, the parties hereto have executed this Agreement on the day and year set forth below.

CITY:

CITY OF REDLANDS,
a municipal corporation

Dated: December 2, 2003

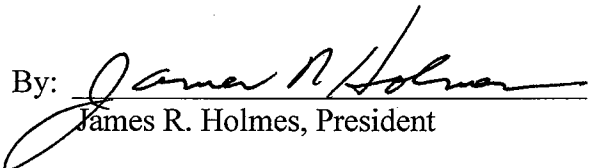
By: 
Mayor

ATTEST:

By: 
CITY CLERK, CITY OF REDLANDS

HOSPITAL:

REDLANDS COMMUNITY HOSPITAL,
A California nonprofit public benefit
corporation

By: 
James R. Holmes, President

ALL-PURPOSE ACKNOWLEDGMENT

STATE OF CALIFORNIA)
COUNTY OF SAN BERNARDINO) SS
CITY OF REDLANDS)

By the authority granted under Chapter 4, Article 3, Section 1181, of the California Civil Code, and Chapter 2, Division 3, Section 40814, of the California Government Code, on December 2, 2003, before me, Beatrice Sanchez, Deputy City Clerk, on behalf of Lorrie Poyzer, City Clerk of the City of Redlands, California, personally appeared Susan Pepler and Lorrie Poyzer { X} personally known to me - or - { } proved to me on the basis of satisfactory evidence to be the persons whose names) are subscribed to the within instrument and acknowledged to me that they executed the same in their authorized capacities and that by their signatures on the instrument the persons, or the entity upon behalf of which the persons acted, executed the instrument.

WITNESS my hand and official seal.

LORRIE POYZER, CITY CLERK



By: Beatrice Sanchez
Beatrice Sanchez, Deputy City Clerk
(909)798-7531

CAPACITY CLAIMED BY SIGNER(S)

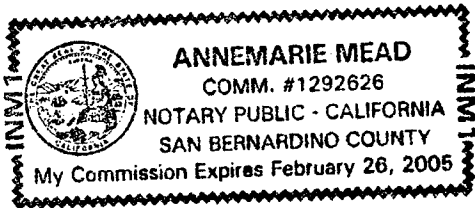
- { } Individual(s) signing for oneself/themselves
{ } Corporate Officer(s)
Title(s)
Company
{ } Partner(s)
Partnership
{ } Attorney-In-Fact
Principal(s)
{ } Trustee(s)
Trust
{x } Other
Title(s): Mayor and City Clerk
Entity Represented: City of Redlands, a municipal corporation

THIS CERTIFICATE MUST BE ATTACHED TO THE DOCUMENT DESCRIBED BELOW:
Title or Type of Document: Redlands Community Hospital - Development Agreement
Signer(s) Other Than Named Above: James R. Holmes

STATE OF CALIFORNIA)
 : ss.
COUNTY OF SAN BERNARDINO)

On October 27, 2003, before me, ANNEMARIE MEAD, notary public, personally appeared James R. Holmes, personally known to me to be the person whose name is subscribed to the within instrument and acknowledged to me that he executed the same in his authorized capacity, and that by his signature on the instrument the person, or entity upon behalf of which the person acted, executed the instrument.

WITNESS my hand and official seal.



Annemarie Mead

STATE OF CALIFORNIA)
 : ss.
COUNTY OF _____)

On _____, 2003, before me, _____, notary public, personally appeared _____, personally known to me (or proved to me on the basis of satisfactory evidence) to be the person(s) whose name is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his signature on the instrument the person(s), or entity(s) upon behalf of which the person(s) acted, executed the instrument.

WITNESS my hand and official seal.

EXHIBIT A
To Redlands Community Hospital Development Agreement

Legal Description of Property

PARCEL ONE:

350 Terracina Blvd.
Redlands, CA 92372
APN No. 0172-131-23, 25, 26

PARCEL NO. 1 OF PARCEL MAP 7782, IN THE CITY OF REDLANDS, COUNTY OF SAN BERNARDINO, STATE OF CALIFORNIA, AS PER MAP RECORDED IN BOOK 78 OF PARCEL MAPS, PAGES 50 AND 51, IN THE OFFICE OF THE COUNTY RECORDER OF SAID COUNTY.

PARCEL TWO:

Brookside Avenue
Redlands, CA 92373
APN 0172-131-24

PARCEL NO. 2 OF PARCEL MAP 7782, IN THE CITY OF REDLANDS, COUNTY OF SAN BERNARDINO, STATE OF CALIFORNIA AS PER MAP RECORDED IN BOOK 78 OF PARCEL MAPS, PAGES 50 AND 51, IN THE OFFICE OF THE COUNTY RECORDER OF SAID COUNTY.

PARCEL THREE:

220 Terracina Blvd.
Redlands, CA 92372
APN Nos. 0172-121-05, 06

ALL OF LOT 13 AND THAT PORTION OF LOT 12 OF TERRACINA BLUFF LOTS, IN THE CITY OF REDLANDS, COUNTY OF SAN BERNARDINO, STATE OF CALIFORNIA, AS PER MAP RECORDED IN BOOK 9 PAGE 38 OF MAPS, IN THE OFFICE OF THE COUNTY RECORDER OF SAID COUNTY, DESCRIBED AS FOLLOWS:

BEGINNING AT THE MOST NORTHERLY CORNER OF LOT 12;

THENCE SOUTHEASTERLY ALONG THE SOUTHERLY LINE OF CRESCENT BOULEVARD 44 FEET;

THENCE AT RIGHT ANGLES ON A LINE PARALLEL WITH THE MOST WESTERLY LINE OF SAID LOT 12, 44 FEET DISTANT THEREFROM TO THE SOUTHERLY LINE OF SAID LOT 12;

THENCE ALONG THE SOUTHWESTERLY LINE OF LOT 12 TO THE SOUTHWESTERLY CORNER OF SAID LOT;

THENCE NORTHEASTERLY ALONG THE DIVIDING LINE BETWEEN LOTS 12 AND 13, TO THE SOUTHERLY LINE OF CRESCENT BOULEVARD, TO THE POINT OF BEGINNING.

PARCEL FOUR:

**204 Terracina Blvd.
Redlands, CA 92372
APN: 0172-121-04**

THAT PORTION OF LOTS 14 AND 15, ACCORDING TO MAP OF TERRACINA BLUFF LOTS, IN THE CITY OF REDLANDS, COUNTY OF SAN BERNARDINO, STATE OF CALIFORNIA, AS PER PLAT THEREOF RECORDED IN BOOK 9 OF MAPS, PAGE 38, RECORDS OF SAID COUNTY, DESCRIBED AS FOLLOWS:

BEGINNING AT A POINT ON THE SOUTHEASTERLY LINE OF SAID LOT 14, WHICH IS 350 FEET SOUTHWESTERLY FROM THE CENTER LINE OF CRESCENT BOULEVARD;

THENCE NORTHWESTERLY AT RIGHT ANGLES TO THE SOUTHEASTERLY LINE OF SAID LOT 14, 160 FEET TO THE NORTHWESTERLY LINE OF SAID LOT 15;

THENCE AT RIGHT ANGLES NORTHEASTERLY ALONG SAID NORTHWESTERLY LINE OF SAID LOT 15, 350 FEET TO THE CENTER LINE OF CRESCENT BOULEVARD

THENCE SOUTHEASTERLY ALONG THE CENTER LINE OF CRESCENT BOULEVARD, 160 FEET TO THE POINT OF INTERSECTION OF THE SOUTHEASTERLY LINE OF SAID LOT 14, EXTENDED NORTHEASTERLY;

THENCE SOUTHWESTERLY ALONG THE SOUTHEASTERLY LINE OF SAID LOT 14, AND ITS EXTENSION, 350 FEET TO THE POINT OF BEGINNING.

SAVING AND EXCEPTING FROM THE ABOVE DESCRIBED PROPERTY, THE FOLLOWING PORTION THEREOF:

BEGINNING AT A POINT ON THE NORTHWESTERLY LINE OF SAID LOT 15, WHICH IS SOUTH 38°2' WEST 204.6 FEET FROM THE MOST NORTHERLY CORNER OF SAID LOT;

THENCE SOUTH 38° 2' WEST 95.4 FEET ALONG NORTHWESTERLY LINE OF SAID LOT 15;

THENCE SOUTH 51° 58' EAST 39.32 FEET;

THENCE NORTH 12° 40' EAST 52.08 FEET;

THENCE NORTH 18° 39' EAST 51.27 FEET TO THE POINT OF BEGINNING.

PARCEL FIVE:

**PROPERTY AT THE CORNER OF
TERRACINA BLVD. AND BROOKSIDE ROAD
REDLANDS, CA 92373
APN 0172-141-19**

THAT PORTION OF LOTS 21 & 22 TERRACINA BLUFF LOTS, IN THE CITY OF REDLANDS, COUNTY OF SAN BERNARDINO, STATE OF CALIFORNIA, AS PER PLAT RECORDED IN BOOK 9 OF MAPS, PAGE 38, RECORDS OF SAID COUNTY, DESCRIBED AS FOLLOWS:

BEGINNING ON THE NORTHWESTERLY LINE OF SAID LOT 21, 231.5 FEET SOUTHWESTERLY FROM THE INTERSECTION OF THE WESTERLY LINE OF TERRACINA (FORMERLY CRESCENT BLVD.) AND THE SOUTHERLY LINE OF FERN AVENUE; THENCE NORTHEASTERLY ALONG SAID NORTHWESTERLY LINE OF SAID LOT 21 TO SAID INTERSECTION; THEN SOUTHEASTERLY ALONG THE EASTERLY LINE OF SAID LOTS 21 & 22; 145 FEET; THENCE SOUTHWESTERLY AND AT RIGHT ANGLES TO TERRACINA BOULEVARD AND PARALLEL TO THE NORTHWESTERLY LINE OF SAID LOT 22, 178.85 FEET; THENCE NORTHWESTERLY IN A STRAIGHT LINE, 35.46 FEET, MORE OR LESS, TO THE POINT OF BEGINNING.

NOTE: TERRACINA BOULEVARD WAS REDUCED IN WIDTH FROM 100 FEET TO 80 FEET BY RESOLUTION OF THE SAN BERNARDINO COUNTY BOARD OF SUPERVISORS ON JUNE 7, 1893, IN BOOK "A" OF ROAD BOOKS, PAGE 196.

EXCEPTING THEREFROM THE NORTHERLY 7 FEET IN FERN AVENUE, AS CONVEYED TO THE CITY OF REDLANDS BY DEED RECORDED APRIL 21, 1967, IN BOOK 6807, PAGE 849, OFFICIAL RECORDS.

PARCEL SIX:

**244 TERRACINA BLVD.
REDLANDS, CA 92373
APN 0172-121-14**

ALL OF LOTS 10 AND 11 AND THE SOUTH 36 FEET OF LOT 12, TERRACINA BLUFF LOTS, IN THE CITY OF REDLANDS, COUNTY OF SAN BERNARDINO, STATE OF CALIFORNIA, AS PER MAP RECORDED IN BOOK 9 OF MAPS, PAGE 38, IN THE OFFICE OF THE COUNTY RECORDER OF SAID COUNTY.

PARCEL SEVEN:

**250 TERRACINA BLVD.
REDLANDS, CA 92373
APN 0172-121-10, 11**

LOTS 8 AND 9 OF TERRACINA BLUFF LOTS, IN THE CITY OF REDLANDS, COUNTY OF SAN BERNARDINO, STATE OF CALIFORNIA, AS PER PLAT RECORDED IN BOOK 9 OF MAPS, PAGE 38, RECORDS OF SAID COUNTY.