

## Florida Hospital Wauchula Grant Agreement

THIS AGREEMENT ("Agreement") by and between the Hardee County Industrial Development Authority (the "IDA"), a dependent special district and Adventist Health System/Sunbelt, Inc. d/b/a Florida Hospital Heartland Division ("FHHD") and Florida Hospital Wauchula ("FHW"), a privately held company, is set forth as follows:

### RECITALS

WHEREAS, the IDA, a dependent Special District was created by the Florida Legislature to foster and promote economic development in Hardee County, Florida, activated by resolutions 84-10 and 96-31 of the Hardee County Board of County Commissioners; and,

WHEREAS, Exhibit B, Economic Development Terms contained within Resolution 08-19, adopted by the BOCC on August 14, 2008 as a part of the Development Order of the South Ft. Meade Mine specifically provides at section 9 thereof as follows:

*"D. Funds may be utilized to investigate and create an economic development catalyst project such as an airport, commerce park, industrial park, alternative energy research center or health care complex, etc., to name a few examples. Other forms of government infrastructure such as schools, jails, public buildings and libraries are not considered to be intended uses of funds contributed by Developer pursuant to these Terms. However, community centers and civic centers that have visitor/tourism connectivity may be appropriate."*

WHEREAS, the BOCC approved the Sustainable Hardee Visioning Plan on March 7, 2013 by Resolution 2013-22. Hardee County has identified five areas of review and analysis through a series of community meetings to prepare the Visioning report and to provide guidance for future projects and decisions. These areas are: Economic Development, Land Use/Recreation/Open Space/Environment, Quality of Life/Housing, Education/Workforce and Infrastructure; and,

WHEREAS, the BOCC adopted Resolution 15-25 on September 3, 2015 expressing support for Florida Hospital Wauchula and its relocation and construction project finding the construction of a new medical care facility in Hardee County would benefit the local economy and create new jobs and educational training opportunities; and,

WHEREAS, on July 16, 2015 the IDA approved an expenditure in the total amount of \$2,000,000.00 to be awarded in relation to the project with a specific allocation of \$1,300,000.00 to FHW; and,

WHEREAS, the parties believe it is in the best public interest to enter into this Agreement for the reasons set forth above; and,

## **AGREEMENT**

NOW, THEREFORE, in consideration of the mutual promises herein, the parties agree as follows:

### **1. RECITALS:**

The above stated recitals are hereby incorporated by reference.

### **2. IDA COMMITMENTS:**

By separate agreement, the IDA shall provide \$700,000.00 to the City of Wauchula for site acquisition/improvements related to the relocation and construction of the new facility.

The IDA shall disburse \$1,300,000.00 to FHW as follows:

- a. \$500,000.00 at “ground breaking”
- b. \$500,000.00 at project “roof dry in”
- c. \$300,000.00 upon issuance of Certificate of Occupancy

to be used for engineering/design, relocation expenses, equipment upgrades, capital improvements and/or ancillary infrastructure.

The IDA shall accept the deed for the conveyance described below in paragraph 3b.

### **3. FLORIDA HOSPITAL WAUCHULA COMMITMENTS:**

- a. FHW shall construct and relocate a new healthcare complex to the location on US Highway 17 provided by the City of Wauchula "COW" through separate agreement. The new healthcare complex shall be approximately 50,000 sq. ft., 25 bed, critical care access facility. FHW shall begin construction in 2016 with occupancy no later than December 31, 2017.
- b. FHW shall transfer for \$1.00 to the IDA, marketable fee simple title to parcel ID #09-34-25-0000-07520-0000 and all fixtures thereon upon occupancy of the new facility. This transfer shall be "as is" and subject only to a covenant that such property shall not be used for any activity, business or enterprise that would or could compete with FHW and or its physician practices.
- c. FHW shall at grant closeout provide an executive summary describing the allocation and use of grant funds.
- d. FHW commits to facilitate intellectual and business assistance in creating jobs related to healthcare and/or education with ensuing IDA development plans for the existing facility.

### **8. USE AND RETENTION OF LOCAL SUPPLIERS**

FHW will use reasonable efforts to use qualified Hardee County, Florida-based suppliers to provide products and services under this Agreement.

### **10. DEFAULTS AND REMEDIES**

Each of the following acts, omissions or occurrences of "FHW" shall constitute an act of default under this agreement:

- a. **FAILURE TO PERFORM**

If "FHW" fails to perform any of its commitments set forth in this agreement, all funds distributed pursuant to this Agreement will be subject to an immediate refund to the IDA.

## 12. GENERAL PROVISIONS

### 1. AUTHORITY

Each party represents that it has obtained all necessary authority to enter into this Agreement.

### 2. RELATIONSHIP OF PARTIES

The parties will perform their respective obligations under this Agreement as independent contractors and not as agents, employees, partners, joint ventures, or representatives of the other party. No party can make representations or commitments that bind any other party.

### 3. LIMITATION OF LIABILITY

In no event will any party be liable to any other party for any indirect, special, punitive, exemplary, incidental or consequential damages. This limitation will apply regardless of whether or not the other party has been advised of the possibility of such damages.

### 4. TERM

The term of this Agreement commences on the Effective Date of the Agreement and continues until acceptance of the deed conveying the existing hospital property or December 31, 2017, whichever is earlier.

### 5. TERMINATION FOR CAUSE

Either party may terminate this Agreement for Cause upon thirty (30) days prior written notice to the other party. "Cause" is any failure to perform a material obligation under this Agreement within the specified time.

### 6. DISPUTE RESOLUTION AND APPLICABLE LAW

#### a. INFORMAL MEETINGS

The parties' representatives will meet as needed to implement the terms of this Agreement and will make a good faith attempt to informally resolve any disputes.

**b. MEDIATION**

In the event a dispute arises under this agreement, either party may request the matter be mediated prior to filing suit in accordance with Florida law.

**c. APPLICABLE LAW AND VENUE**

This Agreement is made and entered into in the State of Florida, and this Agreement and all disputes arising out of or relating thereto shall be governed by the laws of the state of Florida, without regard to any otherwise applicable conflict of law rules or requirements that would require or permit the application of the law of another jurisdiction.

The parties agree that any action, suit, litigation or other proceeding arising out of or in any way relating to this Agreement, or the matters referred to herein, shall be commenced exclusively in the Circuit Court in and for Hardee County, Florida and hereby irrevocably and unconditionally consent to the exclusive jurisdiction of this court for the purpose of prosecuting and/or defending such litigation.

**13. PUBLICITY**

The parties agree to cooperate fully to coordinate with each other in connection with all press releases and publications regarding this Agreement.

**14. NO WAIVER OF SOVEREIGN IMMUNITY**

Nothing in this agreement may be construed to be a waiver of the sovereign immunity of any government entity to suit.

**15. MISCELLANEOUS PROVISIONS**

**1. COUNTERPARTS**

This Agreement may be executed simultaneously in two or more counterparts, each of which shall be deemed an original, and it shall not be necessary in establishing proof of this Agreement to produce or account for more than one such counterpart.

## 2. MERGER

This document constitutes the final entire agreement between the parties and supersedes any and all prior oral or written communication, representation or agreement relating to the subject matter of this Agreement.

## 3. SEVERABILITY

Any term in this Agreement prohibited by, or unlawful or unenforceable under, any applicable law or jurisdiction is void without invalidating the remaining terms of this said Agreement. However, where the provisions of any such applicable law may be waived, they are hereby waived by a party, as the case may be, to the fullest extent permitted by the law, and the affected terms are enforceable in accordance with the parties' original intent.

## 4. CONFIDENTIALITY

The parties hereto agree to observe confidentiality in accordance with section 288.075 Fl. Statute and any other applicable provisions of the law.

## 5. SURVIVAL OF PROMISES

Notwithstanding any expiration, termination or cancellation of this Agreement, the rights and obligations pertaining to payment or repayment of funds, confidentiality, disclaimers and limitation of liability, indemnification, and any other provision implying survivability will remain in effect after this Agreement ends.

## 6. BINDING EFFECT

This Agreement and all terms, provisions and obligations set forth herein shall be binding upon and shall inure to the benefit of the parties and their

successors and assigns and shall be binding upon and shall inure to the benefit of the parties and their respective successors and assigns and all other agencies, departments, divisions, governmental entities, public corporations and other entities which shall be successors to each of the parties or which shall succeed to or become obligated to perform or become bound by any of the covenants, agreements or obligations hereunder of each of the parties hereto.

## 7. SUCCESSORS AND ASSIGNS

FHW may assign its rights and obligations under this Agreement, with written consent of the IDA which may not be unreasonably withheld.

## 8. FORCE MAJEURE

The parties shall not be required to perform any obligation under this Agreement or be liable or responsible for any loss or damage resulting from its failure to perform so long as performance is delayed by force majeure or acts of God, including but not limited to strikes, lockouts or labor shortages, embargo, riot, war, revolution, terrorism, rebellion, insurrection, flood, natural disaster, or interruption of utilities from external causes.

## 9. NOTICE

All notices, requests, demands and other communications will be in writing and will be deemed given and received (i) on the date of delivery when delivered by hand, (ii) on the following business day when sent by confirmed simultaneous telecopy or email, (iii) on the following business day when sent by receipted overnight courier, or (iv) three (3) business days after deposit in the United States Mail when mailed by registered or certified mail, return receipt requested, first class postage prepaid, as follows:



If to the IDA to:  
William R. Lambert Jr. – Director  
107 East Main Street  
Wauchula, FL 33873  
(863)773-4915 fax  
[bill.lambert@hardeemail.com](mailto:bill.lambert@hardeemail.com)  
[info@hardeemail.com](mailto:info@hardeemail.com)

With Copy to:  
Kenneth B. Evers  
424 West Main Street  
Wauchula, FL 33873  
(866)547-4362 fax  
[office@hardeelaw.com](mailto:office@hardeelaw.com)

If to Florida Hospital Wauchula to:  
Eric Stevens

#### 10. ATTORNEYS' FEES

In any action or proceeding to enforce or interpret this agreement or any provision hereof, the prevailing party shall be entitled to an award of its reasonable attorneys' fees, including but not limited to bankruptcy and appellate proceedings.

#### 11. EFFECTIVE DATE

The effective date of this agreement is October 1, 2014.

The parties have caused this Economic Development Agreement to be executed by their duly authorized representatives as of the date first specified above.

Hardee County Industrial Development Authority

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By: Vanessa Hernandez, Chairperson

Florida Hospital Wauchula

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By: