

# LOUDON COUNTY COMMISSION

## REGULAR MEETING

June 03, 2002

- (1) Public Hearing
- (2) Opening Of Meeting
- (3) Roll Call
- (4) Agenda Adopted
- (5) Hospital Lease and Contract Approved  
EXHIBIT A
- (6) Minutes Adopted For May 09, 2002
- (7) Audience Comments On Agenda And Non-Agenda Items  
EXHIBITS B & C
- (8) Lenoir City Waterline Extension Denied  
EXHIBITS D & E
- (9) Budget Report
- (10) Centre 75 Park Maintenance Approved  
RESOLUTION 060302-F, EXHIBIT F
- (11) Swimming Pool Restrictions Approved  
RESOLUTION 060302-G, EXHIBIT G
- (12) Building Commission Report
- (13) Hwy 70 Illegal Dumping Questioned
- (14) Early Voting In Lenoir City Approved
- (15) Justice Center Report
- (16) Pending Litigation Report
- (17) Hayes vs. Loudon County Denied To Appeal
- (18) Notaries Approved
- (19) Adjournment

# LOUDON COUNTY COMMISSION

STATE OF TENNESSEE  
COUNTY OF LOUDON

## PUBLIC HEARING

June 03, 2002  
6:00 PM

(1)  
Public Hearing

1. A resolution amending the zoning resolution of Loudon County, Tennessee, Article 4, supplementary provisions applying to specific districts, amending section 4-070, swimming pool restrictions, pursuant to Tennessee Code Annotated Section 13-7-105.  
**No one came forward to speak.**

## REGULAR MEETING

(2)  
Opening Of  
Meeting

**BE IT REMEMBERED** that the Board of Commissioners of Loudon County convened in regular session in Loudon, Tennessee on the 3<sup>rd</sup> day of June, 2002.

The **Honorable Roy Bledsoe** called the meeting to order.

Sheriff Tim Guider opened Court and led the Pledge of Allegiance to the Flag of the United States of America and Mr. Hank McGhee gave the invocation.

(3)  
Roll Call

Present were the following Commissioners: **Randolph, Thomas, Jenkins, Maples, Bledsoe, Masingo, Duff, Park and Harold.** (9)

Thereupon **Chairman Bledsoe** announced the presence of a quorum. Also present was the **Honorable George Miller, County Executive and County Attorney Harvey Sproul.**

(4)  
Agenda  
Adopted

**Chairman Bledsoe** requested the June 03, 2002 agenda be adopted.

A motion was made by **Commissioner Duff** with a second by **Commissioner Park** to move item E1 "*Consideration of recommendation from Hospital Committee*" to next item on the agenda and adopt agenda as presented and amended.  
Upon voice vote the motion **Passed** unanimously.

(5)  
Hospital Lease  
and Contract  
Approved

A motion was made by **Commissioner Duff** with a second by **Commissioner Park** to adopt the Hospital Lease Agreement between Fort Sanders-Loudon Medical Center and Covenant Health.

**Attorney Sproul** explained that the copy of the proposed agreement (including the form of the proposed lease as an exhibit to the agreement) was an early draft that had been sent to the commission so that the members could have it in time to review it for the meeting, and that there would be some changes in grammar and wording, but no changes of any of the important elements or the meaning of the agreement.

Comments and endorsements of the proposed lease were made by the following:

Hospital Committee Chairman, **Commissioner Duff**

Hospital Committee member, **Attorney Sproul**

Hospital Committee member, **Executive Miller**

Hospital Committee member and representative of Fort Sanders-Loudon medical staff,  
**Dr. Bud Guider**

Hospital Committee member and Covenant Health Board member, **Dr. Arun Deean**  
Covenant Health CEO, **Mr. Tony Spezia**

Fort Sanders-Loudon Administrator, **Mr. Keith Altshuler**

After questions and discussion, upon roll call vote the following commissioners voted **Aye:**  
**Randolph, Maples, Thomas, Masingo, Bledsoe, Jenkins, Duff, Park and Harold:** (9).

The following commissioners voted **Nay:** (0).

Thereupon the chairman announced the motion **Passed:** (9-0).

Commission member(s) not present: (0).

**Exhibit A**

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(6)  
Minutes  
Adopted For  
May 09, 2002

**Chairman Bledsoe** requested the May 09, 2002 County Commission Special Called Meeting minutes be approved and accepted.

A **motion** was made by **Commissioner Masingo** with a second by **Commissioner Thomas** to adopt minutes as presented.

Upon voice vote the motion **Passed** unanimously.

(7)  
Audience  
Comments On  
Agenda And  
Non-Agenda  
Items

**Chairman Bledsoe** asked for any visitor wishing to address the commission regarding items on the planned agenda to come forward.

**Mr. Richard Vest**, Chair of Loudon County Election Commission, came forward to speak in favor of early voting satellite in Lenoir City.

**Ms. Pat Hunter**, Loudon County resident, came forward to request that all resolutions to be considered at this meeting be read aloud and requested financial details on proposed 321 waterline extension.

**Mr. Paul Baird**, Loudon County resident, came forward to ask questions regarding monthly budget report and why it was not on the agenda.

**Mr. David Twiggs**, Loudon County resident, came forward to speak in favor of election commission's proposed budget for early voting satellite in Lenoir City.

**Mrs. Alice Vest**, wife of chair of Loudon County Election Commission, came forward to speak in favor of early voting satellite in Lenoir City.

**Ms. Shirley Reno**, Loudon County resident, came forward to speak in favor of proposed 321 waterline extension.

**Ms. Pat Hunter**, Loudon County resident, came forward to speak and submitted a written copy to be included as part of the minutes.

**Exhibit B**

**Ms. Aileen Longmire**, Loudon County resident, came forward to speak and submitted a written copy to be included as part of the minutes.

**Exhibit C**

**Commissioner Jenkins**, responded to questions directed toward him regarding an early voting satellite in Lenoir City.

**Mr. Marvin Thompson**, Loudon County resident, came forward to ask questions regarding funding for early voting satellite. **Commissioner Jenkins** answered questions.

**Commissioner Harold** noted that the budget is printed quarterly and can be viewed in Budget Director's office or the County Court Clerk's office.

**Executive Miller** agreed with **Commissioner's Harold's** comments.

(8)  
Lenoir City  
Waterline  
Extension  
Denied

A **motion** was made by **Commissioner Park** with a second by **Commissioner Duff** to form a joint venture with the City of Lenoir City for Phase 1 of the proposed Highway 321 waterline extension, contingent upon receiving grant monies for the project.

After much discussion, upon roll call vote the following commissioners voted **Aye: Maples (conflict of interest declaration), Jenkins, Duff and Park: (4).**

The following commissioners voted **Nay: Randolph, Thomas, Masingo, Bledsoe, Harold (5).**

Thereupon the chairman announced the motion **Denied : (4-5).**

Commission member(s) not present: **(0).**

**Exhibit D**

**Commissioner Randolph** provided a memo to be included as part of the minutes.

**Exhibit E**

(9)  
Budget Report

**Mrs. Nancy Richesin**, Budget and Finance Director, stated that the financial statement is on file for viewing at the County Court Clerk's office and announced that budget meetings will be soon scheduled for discussion and review.

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**Mr. Pat Phillips**, Loudon County Economic Development Agency, requested discussion and possible action on the following item:

(10)  
Centre 75 Park  
Maintenance  
Approved

1. Consideration of adopting a resolution directing specific lease payments at Centre 75 to be allocated for general park maintenance

A **motion** was made by **Commissioner Jenkins** with a second by **Commissioner Thomas** to adopt this resolution.

Upon roll call vote the following commissioners voted **Aye: Randolph, Maples, Thomas, Masingo, Bledsoe, Jenkins, Duff and Harold: (8).**

The following commissioners voted **Nay: Park (1).**

Thereupon the chairman announced the motion **Passed: (8-1).**

Commission member(s) not present: **(0).**

**Resolution 060302-F**

**Mr. Russ Newman**, Office of Planning and Community Development, requested discussion and action on the following item:

(11)  
Swimming  
Pool  
Restrictions  
Approved

1. Consideration of adopting a resolution amending the zoning resolution of Loudon County, Tennessee, Article 4, supplementary provision applying to specific districts, amending section 4-070, swimming pool restrictions, pursuant to Tennessee Code Annotated Section 13-7-105

A **motion** was made by **Commissioner Jenkins** with a second by **Commissioner Randolph** to adopt this resolution.

Upon voice vote the motion **Passed: (8-1)**, with Park voting Nay.

**Resolution 060302-G**

(12)  
Building  
Commission  
Report

**Mr. Russ Newman** gave the Building Commission Report.

Permits issued: 50

Fees: \$ 6,617.40

Estimated value: \$10,104,250.00

(13)  
Hwy 70 Illegal  
Dumping  
Questioned

**Commissioner Duff** asked questions regarding illegal dump site on Highway 70. Planner Russ Newman stated that his office will examine the site and take action accordingly.

(14)  
Early Voting  
In Lenoir City  
Approved

A **motion** was made by **Commissioner Park** with a second by **Commissioner Maples** to approve up to \$15,000 for an early voting satellite in Lenoir City.

A **motion** was made by **Commissioner Randolph** with a second by **Commissioner Thomas** to amend motion to be carried over to June 24, 2002 meeting.

Upon roll call vote the following commissioners voted **Aye: Randolph, Thomas, Jenkins, Masingo, Bledsoe and Harold: (6).**

The following commissioners voted **Nay: Maples, Duff and Park (3).**

Thereupon the chairman announced the amendment to the motion **Passed: (6-3).**

Commission member(s) not present: **(0).**

After much discussion upon roll call vote the following commissioners voted **Aye** to approve the motion as amended: **Masingo and Duff (2).**

The following commissioners voted **Nay: Randolph, Thomas, Jenkins, Bledsoe, Harold and Maples (6).**

The following commissioner voted **"Abstain": Park (1).**

Thereupon the chairman announced the motion as amended **Failed: (2-6-1).**

After further discussion a **motion** was made by **Commissioner Maples** with a second by **Commissioner Harold** to approve \$15,704.00 in 2002-2003 budget for an early voting satellite location in Lenoir City.

Upon roll call vote the following commissioner voted **Aye: Randolph, Thomas, Jenkins, Maples, Masingo, Bledsoe, Duff, Harold (8).**

The following commissioners voted **Nay: (0).**

The following commissioners were **Absent: Park (1)**

Thereupon the chairman announced the motion **Passed: (8-0-1).**

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(15)  
Justice Center  
Report

**Commissioner Park** stated that construction is progressing well at the Justice Center and Jail.

(16)  
Pending  
Litigation  
Report

**Loudon County Attorney Harvey Sproul** reported on the following items:

1. A new workman's comp claim has been filed against Loudon County.
2. The trial for Tennessee Wastemovers, Inc vs. Loudon County is scheduled for August 6 - 7, 2002.
3. El Camino Theatre Club
4. Hayes vs. Loudon County.

(17)  
Hayes vs.  
Loudon  
County Denied  
To Appeal

A **motion** was made by **Commissioner Duff** to appeal Hayes vs. Loudon County. Motion **Died** due to lack of second.

(18)  
Notaries  
Approved

**Commissioner Masingo** requested consideration of approving the following Notary applications:

J. Edward Murphy  
Delores Graves

Todd Robert Miller  
Debra Kay Greene

James H. Harris

A **motion** was made by **Commissioner Masingo** with a second by **Commissioner Harold** to approve these notary applications.

Upon voice vote the motion **Passed** unanimously.

(19)  
Adjournment

There being no further business, a **motion** being duly made and seconded, the June 03, 2002 meeting stood adjourned at 10:00 p.m.

  
CHAIRMAN

ATTEST:

  
COUNTY COURT CLERK

  
COUNTY EXECUTIVE



## AGREEMENT

THIS AGREEMENT is made and entered into between **Loudon County, Tennessee**, a political subdivision of the State of Tennessee, acting through its Board of County Commissioners ("County") and **Fort Sanders-Loudon Medical Center**, a Tennessee nonprofit, public benefit corporation ("Hospital").

### BACKGROUND

County and Hospital are currently parties to a Lease Agreement dated December 21, 1988, pursuant to which Hospital leases from County an acute care hospital facility, known as Fort Sanders-Loudon Medical Center, located in Loudon County, Tennessee (the "Current Lease"). By action duly taken by the County's Board of Commissioners on June 3, 2002, County has approved the entering into of an agreement and arrangement with Hospital pursuant to which Hospital shall construct a new hospital facility in Loudon County and lease such facility from the County.

**NOW, THEREFORE**, in consideration of the premises and the mutual covenants and agreements of the parties as set forth below, County and Hospital hereby agree as follows:

1. **Identification of Site.** Hospital, in its sole discretion, shall locate, identify, select, determine the size and dimensions, and agree with the seller(s) upon the purchase terms of an appropriate site within Loudon County, Tennessee ("Land"), for the construction and operation of a new hospital facility ("New Facility"). Hospital, acting as County's agent, shall be responsible for arranging for County to acquire fee simple title to the Land; provided, however, that Hospital shall pay all costs of acquisition of the Land (including purchase price and buyer closing costs). The terms of purchase of the Land will be determined in Hospital's sole discretion. County acknowledges that Hospital, or its designee, shall have the right, exercisable in its discretion, to enter into one or more real estate option agreements, pursuant to which Hospital or its designee shall acquire an option to purchase one or more tracts of real property as a potential site for location of the New Facility, containing such terms and conditions as the Hospital or its designee deems reasonable, including, without limitation, identifying the party holding the option as a party other than County, so long as such option permits Hospital to arrange for the County to acquire fee title to the real property pursuant to exercise of the option in accordance with the provisions of this Paragraph 1. Hospital shall also have the right, exercisable in its sole discretion, to acquire or lease or cause an affiliate of Hospital to acquire or lease, one or more parcels or tracts of real property adjacent to or nearby the Land for the purpose of constructing, owning or operating thereon one or more medical office buildings, ambulatory surgery centers, diagnostic centers, clinics, other related health care/medical facilities or for any other purpose determined by Hospital or its affiliate; provided that nothing herein shall be construed to require that Hospital or its affiliate make such acquisitions or construct, own or operate any such health care/medical facilities or buildings. The fee simple title to or leasehold

Exhibit A

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interest in any such adjacent properties or any leasehold interest therein shall be held by Hospital or its designated affiliates.

2. **Lease of Land.** Upon acquisition of the Land by County, County and Hospital shall enter into a lease (the "New Lease") in the form attached as Exhibit A, pursuant to which the Land shall be leased from the County by Hospital and upon which Hospital shall construct the New Facility which, together with the Land, shall be the leased premises.

3. **County Cooperation.** The County shall cooperate with and actively support and assist Hospital's efforts to (i) identify the Land, (ii) file and obtain a certificate of need ("CON") for the New Facility, (iii) obtain all necessary County approvals, including changes in zoning and variances in zoning and other land use restrictions and (iv) obtain any necessary easements and other appurtenant rights. Collectively, such requirements are referred to in this Agreement as the Initial Requirements. County acknowledges that Hospital shall not be obligated to arrange for County to acquire fee title to the Land unless and until all Initial Requirements have been met to the satisfaction of Hospital. County acknowledges that this includes, but is not limited to, a CON being finally issued and approved by the Tennessee Health Facilities Commission. A CON shall be deemed to be finally issued and approved when Hospital's CON application has been approved by the Commission and the time for appeal shall have expired without an appeal having been taken or, in the event an appeal is taken, all appeals shall have been finally resolved and the result of such appeals shall be the upholding of the Commission's decision to issue and approve the CON.

4. **Current Lease.** Hospital and County hereby agree to the following amendments and modifications to the Current Lease:

(a) In the event this Agreement shall be terminated in accordance with the provisions of Paragraph 11 below, the term of the Current Lease shall expire on the later of (i) the date of termination of this Agreement or (ii) December 31, 2003.

(b) In the event County and Hospital enter into the New Lease, the term of the Current Lease shall expire on the earlier of (i) the date that the New Facility shall be opened for business by Hospital or (ii) the date of termination of the New Lease.

(c) Hospital's obligations under Article VIII of the Current Lease (relating to the ambulance service for Loudon County) shall terminate on December 31, 2003 (unless an earlier date is mutually agreed upon by the parties), notwithstanding extension of the term of the Current Lease beyond such date. All County Assets and Personal Property (as such terms are defined in the Current Lease) related to the ambulance service shall revert to and become the property of County upon termination of Hospital's obligation to operate the ambulance service. All cash, accounts receivable and liabilities of Hospital related to the ambulance service existing or accrued as of December 31, 2003, shall remain the property and obligation of Hospital.

(d) Prior to December 31, 2003, Hospital shall have the right to subcontract its obligation to operate the ambulance service to an experienced, professional ambulance service company, pursuant to a subcontract that shall be approved by County, which approval shall not

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be unreasonably withheld. Upon termination of Hospital's obligation to operate the ambulance service under (c) above, such subcontract shall be assigned to County, and County shall assume Hospital's rights and obligations thereunder. If such subcontract does not exist at December 31, 2003, then Hospital shall continue to manage (but not own) the ambulance service pursuant to a separate interim management contract to be negotiated in good faith and entered into by Hospital and County which shall have a term ending on the earlier of (i) the date County enters into a contract with a third party to own, operate or manage its ambulance service or (ii) December 31, 2005.

(e) Hospital shall reimburse the County for the cost of any subsidy or loss incurred by County in connection with the operation of the ambulance service after December 31, 2003, up to an amount not to exceed Three Hundred Thousand Dollars (\$300,000.00). County shall provide Hospital with evidence of such loss or subsidy payment, and Hospital shall reimburse County for such amount within thirty (30) days after receipt of such evidence of payment.

(f) In the event the New Lease is executed and the New Facility is opened for business by Hospital, then the parties to the Current Lease hereby agree that the following provisions of the Current Lease shall not be applicable and shall be deemed deleted as of the Termination Date (as defined in the Current Lease): Sections 6.2, 6.4, 6.5 and Subsections 6.3(b), 6.3(c) and 6.3(d).

The provisions of this Paragraph 4 shall supersede any contrary provisions contained in the Current Lease. Hospital may transfer any equipment, improvements or other assets that are to revert to or be retained by the County under the Current Lease upon termination from the hospital facility that is the subject of the Current Lease to the New Facility without violating the terms of the Current Lease. County hereby waives any right to such assets upon termination of the Current Lease.

5. **Exclusive Dealing.** During the term of this Agreement, the County shall not, directly or indirectly, through any representative or otherwise, solicit or entertain offers from, negotiate with, or in any manner encourage (including by way of furnishing or disclosing non-public information), discuss, accept, consider or recommend any proposal by any other person or entity relating to the construction and/or leasing of a new hospital facility in Loudon County.

6. **Confidentiality.** Except as and to the extent required by law, neither Hospital nor the County shall disclose or use, and each shall cause its respective representatives not to disclose or use, any Confidential Information (as defined below) of the other party furnished, or to be furnished, by such other party or such party's representatives in connection with this Agreement or the New Lease at any time or in any manner other than in connection with their evaluation, approval and performance of this Agreement and the New Lease. For purposes of this Paragraph 6, "Confidential Information" means any information furnished orally or in writing (in any form or medium) by a party other than that which (i) is generally available to or known by the public other than as a result of improper disclosure by a party hereto, (ii) is obtained by Hospital or the County from a source other than the party to which such information relates or such party's representatives, provided that such source was not bound by a duty of



confidentiality to such party or another party with respect to such information or (iii) is necessary or appropriate in making any filing or obtaining any consent or approval required for consummation of the transactions described in this Agreement or in connection with legal proceedings. Hospital and the County shall promptly return any Confidential Information in their possession to the other party and certify in writing to such party that it has done so, if this Agreement is terminated as set forth below. Notwithstanding the preceding, Hospital shall have the right to disclose any Confidential Information to Covenant Health and its affiliates.

7. **Consents.** Hospital and the County shall cooperate with each other and proceed, as promptly as is reasonably practicable, to seek to obtain all necessary consents and approvals from lenders, governmental authorities and other third parties, and to endeavor to comply with all other legal or contractual requirements for performance of this Agreement or preconditions to the execution of the New Lease.

8. **Term.** This Agreement shall begin upon the date executed by the parties and shall automatically expire, without action by either party, upon termination of the New Lease for any reason. Notwithstanding the preceding, this Agreement may be terminated prior to the execution of the New Lease by any party in accordance with the terms of Paragraph 11 below.

9. **Entire Agreement.** The Agreement, including all exhibits, constitutes the entire agreement between the parties, superseding all prior oral or written agreements, understandings, representations and warranties and courses of conduct and dealing between the parties on the subject matter hereof other than the Current Lease. In the event of any conflict between the terms of this Agreement and the Current Lease, the terms of this Agreement shall control. Except as otherwise provided herein, this Agreement may be amended or modified only by a writing executed by all of the parties.

10. **Governing Law.** This Agreement shall be governed by and construed in accordance with the internal laws of Tennessee.

11. **Termination.** This Agreement may be terminated prior to the execution of the New Lease: (1) by mutual written consent of Hospital and the County or (2) upon written notice by Hospital or the County to the other party if the Land has not been acquired by County and a CON has not been finally obtained by Hospital within one (1) year from the date of execution of this Agreement; provided, that, such one-year period shall be tolled and extended for that period of time during which (i) there is litigation or any other legal or administrative proceeding instituted or pending (including any and all appeals) that challenges the County's authority or right to execute, deliver or perform its covenants and agreements under this Agreement, including execution of the New Lease, or seeks to set aside or enjoin either of the parties from consummating the transactions contemplated by this Agreement or the New Lease, (ii) any appeal of the Tennessee Health Facilities Commission's decision to approve or disapprove the issuance of a CON is pending or has not otherwise been finally resolved or (iii) any moratorium or similar restriction is in place or in force regarding the filing, issuance or approval of a CON by the Tennessee Health Facilities Commission. Upon termination of this Agreement, the parties shall have no further obligations hereunder, except as stated in Paragraph 6, which shall survive any such termination, and as may be provided in the New Lease.

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12. **County Representations.** County represents and warrants to Hospital that (i) County has the power and authority to enter into this Agreement and the transactions hereby contemplated and to carry out and perform its obligations hereunder; (ii) County's Board of County Commissioners has, by all necessary and appropriate proceedings, approved the form and substance of this Agreement and the New Lease and has duly authorized their execution, delivery and performance by the County, and such proceedings are either not subject to veto or appeal, or the time therefore has elapsed and such proceedings have not been repealed, amended or supplemented as of the date hereof and (iii) upon due execution and delivery, this Agreement will be a valid and binding obligation of the County, enforceable in accordance with its terms, subject only to bankruptcy and other similar laws affecting the rights of creditors in the exercise of judicial discretion in appropriate cases.

13. **Representations of Hospital.** Hospital hereby represents and warrants to County that (i) it has the power and authority to enter into this Agreement and the transactions contemplated hereby and to carry out and perform its obligations hereunder; (ii) Hospital's board of directors has, by all necessary and appropriate actions, approved the form and substance of this Agreement and the New Lease and has duly authorized its execution, delivery and performance by Hospital and (iii) upon due execution and delivery by the parties, this Agreement will be a valid and binding obligation of Hospital, enforceable in accordance with its terms, subject only to bankruptcy and other similar laws affecting the rights of creditors in the exercise of judicial discretion in appropriate cases.

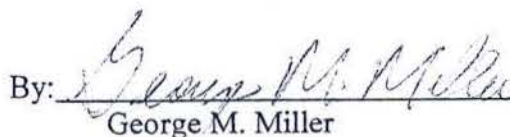
IN WITNESS WHEREOF, the parties have executed this Agreement effective as of the 19<sup>th</sup> day of June, 2002.

LOUDON COUNTY COMMISSION, FOR AND  
ON BEHALF OF LOUDON COUNTY,  
TENNESSEE

ATTEST:



By:

  
George M. Miller

Title: County Executive

FORT SANDERS-LOUDON MEDICAL CENTER

By:

  
Keith Altshuler

Title: Acting Chief Administrative Officer



In order to induce County into executing, delivering and performing this Agreement, the undersigned, being the sole member of Hospital, hereby executes and delivers this Agreement for the express and limited purpose of guaranteeing the full and timely performance of all obligations of Hospital under this Agreement, effective as of the day and date first above written.

COVENANT HEALTH

By:   
Anthony L. Spezia

Title: President and Chief Executive Officer



**EXHIBIT A  
LEASE**

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**LEASE AGREEMENT**

**among**

**LOUDON COUNTY, TENNESSEE**

**FORT SANDERS-LOUDON MEDICAL CENTER**

**AND**

**COVENANT HEALTH**

Dated as of \_\_\_\_\_

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## LEASE AGREEMENT

This Lease Agreement ("Lease") is made and entered into between **Loudon County, Tennessee** ("Lessor"), a county organized and existing as a governmental unit under the laws of the State of Tennessee, and **Fort Sanders-Loudon Medical Center**, a not-for-profit corporation organized and existing under the laws of the State of Tennessee (the "Lessee") and **Covenant Health**, a not-for-profit corporation organized and existing under the laws of the State of Tennessee and the sole member of Lessee ("Covenant").

### Recitals

1. The County Commission of the Lessor has determined that a new hospital facility should be constructed in Loudon County in order to provide Loudon County residents with convenient access to a modern, up-to-date health care facility and that the best way to accomplish such objectives is by means of this Lease.

2. Lessee and Covenant are each Tennessee not-for-profit corporations, organized for charitable purposes, and are recognized as organizations exempt from federal income taxation under Section 501(a) of the Internal Revenue Code of 1986, as amended, by virtue of the provisions of Section 501(c)(3) of the Code.

3. The Lessor, pursuant to its powers under the Constitution and the laws of the State of Tennessee, including ordinances, resolutions and other legislative proceedings of its Governing Body, has the authority and desires to exercise such powers by leasing the Leased Premises, as herein defined, to Lessee, on the terms and conditions herein set forth.

NOW, THEREFORE, in consideration of the foregoing recitals and the mutual promises and agreements between the Lessor and the Lessee hereinafter set forth, it is hereby agreed as follows:

### ARTICLE I Definitions

*Section 1.1. Definitions.* The following terms are defined terms under this Lease (including recitals) and shall have the following meanings given to them, unless the context and use clearly indicates a different intent and meaning:

"*Advisory Committee*" shall have the meaning set forth in *Section 14.13*.

"*Agreement*" means the agreement between Lessor and Lessee dated \_\_\_\_\_, 2002, pursuant to which Lessee agreed to pay for, or reimburse Lessor for, the costs of acquiring the Land.

"*Authorized Lessee Representative*" means the person at any relevant time designated to act on behalf of the Lessee by written certificate furnished to the Lessor containing the specimen



signature of such person and signed on behalf of the Lessee by its President or other officer authorized by its Board of Directors or Covenant. Such certificate may designate an alternate or alternates. The Authorized Lessee Representative shall be authorized to act for and on behalf of the Lessee under this Lease, as the Lessee's agent, for the purpose of taking any actions under this Lease, including, without limitation, the giving or receiving of any notices, approvals or consents.

*"Authorized Lessor Representative"* means the person at any relevant time designated to act on behalf of the Lessor by written certificate furnished to the Lessee containing the specimen signature of such person and signed by the County Executive. Such certificate may designate an alternate or alternates. All approvals by Lessor under this Lease shall be deemed given if given in a writing signed by the Authorized Lessor Representative. The Authorized Lessor Representative shall be authorized to act for and on behalf of the Lessor under this Lease, as the Lessor's agent, for the purpose of taking any actions under this Lease, including, without limitation, the giving or receiving of any notices, approvals or consents.

*"CMS"* means the United States Department of Health and Human Services, Centers for Medicare and Medicaid Services.

*"Code"* means the federal Internal Revenue Code of 1986, as amended, or the provisions of any successor code with respect to the federal taxation of income of individuals, corporations and other organizations, as applicable.

*"Commencement Date"* means the time and date the Lease Term commences, being 12:01 a.m., local time, \_\_\_\_\_, 2002.

*"Construction Plans"* shall have the meaning set forth in *Section 3.1*.

*"Contingencies"* shall have the meaning set forth in *Section 3.6*.

*"County Executive"* means, at any relevant time, the duly elected and incumbent County Executive of the Lessor or such other public official who, under applicable law, has succeeded to the office of or is then exercising the powers of such County Executive.

*"Department"* means the Tennessee Department of Health.

*"Design Plans"* shall have the meaning set forth in *Section 3.1*.

*"Designated Services"* means those hospital services listed in Exhibit B to this Lease.

*"Developmental Approvals"* shall have the meaning set forth in *Section 3.2*.

*"Governing Body"* means the Loudon County Commission or such successor body as may be provided by law.



"*Hospital Affiliate*" means any entity that directly or indirectly, through one or more intermediaries, controls, is controlled by, or is under common control with Lessee, where "control" means the possession, directly or indirectly, or the power to direct or cause the direction of the management policies of an entity whether through the ownership of voting securities, membership, by contract or otherwise.

"*Hospital Facility*" means the hospital facility to be constructed by Lessee pursuant to and in accordance with the terms of this Lease.

"*Land*" means the real estate and interests in real estate described in Exhibit A to this Lease.

"*Lease*" means this Lease Agreement and any future amendments and supplements hereto.

"*Lease Term*" means the duration of the leasehold estates created in this Lease, including the initial term and any renewal periods.

"*Lease Year*" means initially the time period commencing on the Commencement Date of this Lease and ending on December 31 of the year in which the Commencement Date occurs, and thereafter, the period of time commencing January 1 of each year and ending on December 31 of such year.

"*Leased Premises*" means the Land and the Hospital Facility.

"*Lessee*" means Fort Sanders-Loudon Medical Center.

"*Lessor*" means Loudon County, Tennessee.

"*Lessor's Interest*" shall mean all of Lessor's rights and interest in this Lease and the Leased Premises.

"*Operating Approvals*" means all licenses, permits, certificates and authorizations necessary for Lessee to initially open and operate the Hospital Facility, including, without limitation, (i) issuance of a certificate of need by the Tennessee Health Facilities Commission, (ii) issuance of a license by the Department's Board for Licensing Health Care Facilities, (iii) obtaining, if necessary, a provider number from CMS, and (iv) issuance of a certificate of occupancy.

"*Permitted Encumbrances*" means, as of any particular time, with respect to the Leased Premises (i) this Lease and (ii) easements and restrictions of record as of the Commencement Date.

"*Plans*" means the Design Plans and the Construction Plans.

"*Total Costs*" shall have the meaning set forth in *Section 3.7*.



*Section 1.2. Alternative Forms of Defined Terms.* The use of the singular form of any word herein shall also include the plural form and vice versa. The use of the neuter form of any word herein shall also include the masculine and feminine forms, and the masculine form shall include the feminine and neuter forms and vice versa.

## **ARTICLE II**

### **Representations and Warranties**

*Section 2.1 Representations by the Lessor.* The County makes the following representations and warranties to Lessee and Covenant:

(i) Lessor is a duly created and validly existing county and political subdivision of the State of Tennessee.

(ii) Under the provisions of the Constitution and applicable laws of the State of Tennessee, Lessor has the power and authority to enter into this Lease and the transactions hereby contemplated and to carry out and perform its obligations hereunder.

(iii) The Governing Body has, by all necessary and appropriate proceedings, approved the form and substance of this Lease and has duly authorized its execution, delivery and performance by Lessor. Such proceedings are either not subject to veto or appeal or the time therefor has elapsed and such proceedings have not been repealed, amended or supplemented as of the date hereof.

(iv) Upon its due execution and delivery by all other parties hereto, this Lease will be a valid and binding obligation of Lessor, enforceable in accordance with its terms, subject only to bankruptcy and other similar laws affecting the rights of creditors and the exercise of judicial discretion in appropriate cases.

(v) Neither the Lessor's execution and delivery of this Lease nor the Lessor's performance of its obligations under this Lease will (i) violate any provision of the Constitution or laws of the State of Tennessee, (ii) violate any ordinance, rule or regulation, or (iii) conflict with or violate, in any material respect, any representation, warranty, covenant, agreement or other obligation binding upon the Lessor or the Leased Premises.

(vi) There are no judicial or administrative proceedings pending or, to the best of the Lessor's knowledge, threatened, challenging directly or indirectly (i) the validity of the proceedings by the Lessor's Governing Body authorizing the Lessor's execution, delivery and performance of this Lease, (ii) the validity of this Lease, or (iii) the Lessor's power and authority to perform its obligations under this Lease in accordance with its provisions.

(vii) Lessor owns the Land in fee simple with title thereto unencumbered by any encumbrance, obligation, covenant or restriction which would prevent or interfere with Lessee's use of the Leased Premises or the construction of the Hospital Facility as contemplated by this Lease.



*Section 2.2. Representations by the Lessee and Covenant.* Lessee and Covenant make the following representations and warranties to County:

(i) Each of Covenant and the Lessee (i) is a nonprofit public benefit corporation organized and existing under the laws of the State of Tennessee and exempt from federal income taxation under Section 501(a) of the Code.

(ii) Each of Covenant and the Lessee has the power to enter into this Lease and carry out its obligations hereunder and, by all proper corporate action, has been duly authorized to enter into, execute and deliver this Lease.

(iii) Upon its due execution and delivery by all other parties hereto, this Lease will be a valid and binding obligation of Covenant and the Lessee to the extent provided in the Lease, enforceable in accordance with its terms, subject only to bankruptcy and other similar laws affecting the rights of creditors and the exercise of judicial discretion in appropriate cases.

(iv) Neither the Lessee's or Covenant's execution and delivery of this Lease nor Lessee's or Covenant's performance of its obligations under this Lease will (i) violate any provision of the Constitution or laws of the State of Tennessee or (ii) conflict with or violate, in any material respect, any representation, warranty, covenant, agreement or other obligation of the Lessee or Covenant.

(v) There are no judicial or administrative proceedings pending or, to the best of Covenant's or the Lessee's knowledge, threatened, challenging directly or indirectly (i) the validity of the proceedings of the Lessee or Covenant authorizing the execution, delivery and performance of this Lease, (ii) the validity of this Lease, or (iii) Covenant's or the Lessee's power and authority to perform its obligations under this Lease in accordance with its provisions.

### **ARTICLE III**

#### **Construction of Hospital Facility**

*Section 3.1. Design and Construction Plans.* Lessee, through an architect of its selection, shall cause to be prepared with respect to the Hospital Facility (i) schematic design plans that do not include detailed construction plans or specifications ("Design Plans") and (ii) construction plans and specifications that conform with the Design Plans and with all applicable building codes and other governmental requirements ("Construction Plans"). Design Plans and Construction Plans are collectively referred to as "Plans." Lessee shall submit the Plans to Lessor for approval, which approval shall not be unreasonably withheld, delayed or conditioned by Lessor. Plans shall be deemed approved by Lessor unless, within thirty (30) days after Lessor receives such Plans, Lessor delivers written notice to Lessee specifying all reasons for disapproval of such Plans. Lessor shall not refuse to approve any Plan unless such Plan fails to meet industry standards or fails to comply with the requirements of this Lease. If Lessor disapproves of the Design Plans or Construction Plans, it shall specify in writing the reasons for such disapproval and the parties shall engage in a good faith effort without delay to resolve all



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disapproved aspects of such Plans. Once approved by the parties, no material changes shall be made in such Plans without the prior written approval of Lessor and Lessee, which approval shall not be unreasonably withheld, delayed or conditioned, except that Lessee shall be permitted to make any changes to the Plans pursuant to *Section 3.2* of this Lease and shall be permitted to approve any change orders necessary to facilitate construction of the Hospital Facility. Lessee agrees that the Plans shall provide for space that may be utilized in the future for the provision of obstetrical and gynecological services in the Hospital Facility.

*Section 3.2. Developmental Approvals.* Lessee shall apply for and use diligent efforts to obtain all applicable governmental zoning, zoning variances, development plans, site plans, environmental impact or related approvals, consents, permits and authorizations as are necessary for the construction and licensing of the Hospital Facility, including, without limitation, approval of the Plans by the Department ("Developmental Approvals"). Lessee shall pay all impact and other governmental fees, special assessments and charges related to obtaining the Developmental Approvals. Lessor shall assist and cooperate with Lessee in obtaining the Developmental Approvals. Lessee shall have the right to make changes in any Plans after approval by Lessor if necessary to obtain Developmental Approvals.

*Section 3.3. Building Permits.* Lessee shall be responsible for obtaining all governmental permits, consents and approvals with respect to the construction of the Hospital Facility that are necessary for the construction of such facility ("Building Permits"), and shall apply for and use diligent efforts to obtain all Building Permits. Lessor shall assist and cooperate with Lessee's efforts in obtaining such Building Permits.

*Section 3.4. Construction of Health Facility.* Subsequent to the approval of the Plans by the parties, and obtaining all Developmental Approvals and Building Permits, Lessee shall construct the Hospital Facility in conformity with the Plans in a good and workmanlike manner with use of new materials, in compliance with all applicable governmental requirements and by use of workers, a contractor or contractors selected by Lessee.

*Section 3.5. Operating Approvals.* Lessee shall be responsible for obtaining all Operating Approvals prior to commencement of operations at the Hospital Facility.

*Section 3.6. Contingencies.* For purposes of this Section, the term "Contingencies" means the approval of the Plans and obtaining all Developmental Approvals and Building Permits. If all of such Contingencies have not been eliminated or resolved within three hundred sixty-five (365) days from and after the Commencement Date, then at any time thereafter until all of the Contingencies are eliminated or resolved to Lessee's satisfaction, Lessee (unless such failure was caused primarily by Lessee's willful failure to perform any of its obligations under this Lease) may terminate this Lease pursuant to *Section 11.2*. Lessee's obligation under this Lease to construct and operate the Hospital Facility is expressly contingent upon the prior elimination or resolution of all Contingencies.

*Section 3.7. Construction Costs.* The maximum amount that Lessee shall be obligated to expend for the acquisition of the Land and the construction and equipping of the Hospital Facility shall be Twenty-Two Million Dollars (\$22,000,000.00) ("Total Costs"). Total Costs do



not include the costs of construction of physician office buildings or other ancillary structures (estimated at \$3,000,000), shall be determined by the Lessee and shall include, but not be limited to, site identification costs, land acquisition costs, costs of obtaining a certificate of need, all Developmental Approvals, Building Permits and Operational Approvals, all site preparations and construction costs, costs of equipment, furnishings and fixtures, legal, accounting and consulting fees, capitalized interest and financing costs and start-up costs. The parties agree that it is their intent that Total Costs include all costs of any nature whatsoever incurred by Lessee in connection with acquisition of the Land and the construction and opening of the Hospital Facility. Prior to commencing construction of the Hospital Facility, Lessee shall in good faith project Total Costs, and Lessee shall deliver written notice of such projected Total Costs to Lessor. As construction progresses and the obligation to pay such costs comes due, Lessee shall be responsible for paying all such costs. Lessee may, in its discretion, waive any requirement that the general contractor or any subcontractor provide a performance or other bond.

*Section 3.8. Mechanics' Liens.* Lessee shall not allow the creation or attachment, or to remain undischarged, any lien, encumbrance or other charge arising out of any work done or materials or supplies furnished by any contractor, subcontractor, mechanic, laborer or materialman which might be or become a lien or encumbrance or other charge against or upon the Leased Premises. Lessee shall not allow the sufferance of any other matter or thing whereby the estate, rights, title and interest of Lessee or Lessor in the Leased Premises might be impaired. If any claim or lien or notice of claim or lien on account of an alleged debt of Lessee, or any notice of lien by a person engaged by Lessee or Lessee's contractor to work on the Leased Premises, shall be filed against or upon the Leased Premises, Lessee shall cause the same to be discharged of record by payment, deposit, bond, order of a court of competent jurisdiction or otherwise within thirty (30) days from and after the date that Lessee becomes aware of such filing or notice.

*Section 3.9. Insurance.* Throughout the performance of the construction of the Hospital Facility, Lessee shall maintain or require its contractors to maintain (i) commercial general liability insurance coverage of no less than \$1.0 million per occurrence for personal injury, bodily injury, death or property damage; \$2.0 million in the aggregate for multiple occurrences of personal injury, bodily injury, death or property damage and an additional \$2.0 million of umbrella coverage, or the equivalent thereof; (ii) builder's risk insurance for full replacement of the construction work; and (iii) workers' compensation insurance as required by applicable law. Lessor shall be named as an additional insured on policies described in (i) and (ii). Upon written request, Lessee shall provide Lessor with evidence (certificates of insurance or copies of policies) of the maintenance of the insurance coverage required by this *Section 3.9*.

*Section 3.10. Access.* At all times during construction of the Hospital Facility, Lessor's Authorized Representative and Lessor's other agents, at their own risk, shall have access to the Leased Premises for purposes of observing the work in progress, subject to the condition that performance of the construction work shall not be interfered with by such access and observation. Lessor shall not be obligated to observe or inspect such construction work.

*Section 3.11. Force Majeure.* The time periods set forth in this *Article III* shall be extended for periods of time equal to periods of delay caused by matters beyond the reasonable



control of Lessor or Lessee, as the case may be, including, but not limited to, interference by governmental authorities, civil disturbance, strikes, lockouts, labor disputes, fire, casualty, severe weather, acts of God and unavoidable delays, including injunctions, the inability to procure labor or materials, failure of power, war, fire, terrorist acts or other casualty or reason of a similar or dissimilar nature.

*Section 3.12. Lessor Cooperation.* Lessor shall cooperate with and actively support and assist Lessee's efforts to eliminate or satisfy all Contingencies within the period prescribed by *Section 3.6*.

#### **ARTICLE IV** **Demising Clause; Title Insurance**

*Section 4.1. Demise of the Leased Premises.* In consideration of and subject to the rentals and other terms and conditions herein specified, and otherwise in accordance with the provision of this Lease, Lessor hereby demises and leases the Leased Premises to Lessee.

*Section 4.2. Title Insurance or Opinion.* Lessee may, at its expense, obtain a policy or policies of title insurance in such amount as Lessee deems appropriate in its sole discretion or an opinion of counsel acceptable to Lessee that the Lessor has good and merchantable title to the Leased Premises subject only to Permitted Encumbrances. Lessor shall cooperate fully with Lessee with respect to Lessee's obtaining such title insurance or opinion of counsel. Lessor shall also have the right to obtain an owner's title insurance policy in its discretion.

#### **ARTICLE V** **Commencement Date; Delivery and Acceptance of Possession; Lease Term; and, Surrender of Possession**

*Section 5.1. Effective Date.* This Lease shall become effective upon its execution by all parties hereto.

*Section 5.2. Delivery and Acceptance of Possession.* Lessor shall deliver possession of the Land to Lessee and the Lease Term shall commence on the Commencement Date, and Lessee shall accept possession of the Leased Premises upon such delivery.

#### *Section 5.3. Lease Term.*

*5.3.1. Initial Term.* This Lease shall have an initial term beginning on the Commencement Date and ending at 11:59 p.m., local time, on the twentieth (20<sup>th</sup>) anniversary of the December 31 immediately following the date all Operating Approvals have been obtained by Lessee. Lessee shall notify Lessor if and when such date occurs.

*5.3.2. Renewal Terms.* The Lessee shall have the option to extend this Lease for two (2) additional terms of five (5) years each. The Lessee may exercise its option to extend the Lease for the first renewal term by giving written notice thereof to the Lessor at least six (6) months prior to the expiration of the initial term and its option to extend the Lease for the second



renewal term by giving written notice thereof to the Lessor at least six (6) months prior to the expiration of the first renewal term of this Lease.

*Section 5.4. Surrender of Possession Upon Expiration or Termination.* Upon the expiration of this Lease or its termination for any reason herein permitted, the Lessee shall promptly surrender possession of the Leased Premises to the Lessor, broom clean, free of debris, in good order, condition and state of repair, excepting, however, reasonable use, ordinary wear and tear, taking by condemnation, eminent domain or other process, and destruction or damage by fire or other unavoidable casualty, failing which the Lessor may restore the Leased Premises to such condition and state of repair and the Lessee shall pay the cost of such restoration. In the event that the Lessor shall permit the Lessee to hold over after expiration of this Lease, such holding over shall constitute a tenancy from year-to-year only and shall be considered as a renewal or extension of this Lease; and, during such year-to-year tenancy and for the period of such tenancy, the Lessee shall be bound by all of the provisions of this Lease insofar as, and to the extent that, the same may be pertinent.

*Section 5.5. Removal of Lessee's Property.* All equipment, supplies, medical, business and other records and intangible personal property of Lessee located in or on the Leased Premises shall be and remain the property of Lessee. All other existing furnishings, beds, trade fixtures and other personal property located in or on the Leased Premises on the termination date shall become the property of Lessor upon termination of this Lease. Lessee shall have the right at any time and from time to time during the Lease Term and for a period of thirty (30) days after termination of this Lease to remove any and all of its property; provided that such right shall not be deemed or construed to permit or allow Lessee to remove so much of such property prior to the end of the Lease Term without the prompt replacement thereof with similar property of comparable or better quality or otherwise render the Hospital Facility unsuitable for the use authorized and permitted by this Lease. At the end of the Lease Term, Lessee shall have the right to remove all of its property from the Leased Premises; provided that Lessee repairs any damage occasioned by such removal.

## **ARTICLE VI**

### **Rent and Additional Consideration**

*Section 6.1. Rents Payable.* During each Lease Year of the initial or any renewal term of this Lease, the Lessee shall pay as rent the sum of One Hundred Dollars (\$100.00), which rent shall be due within thirty (30) days following commencement of each Lease Year. If it so elects, Lessee may prepay in lump sum all or any portion of the rent due during the initial term or, after exercise of its option to renew, any renewal term.

*Section 6.2. Additional Consideration.* As additional consideration, Lessee shall pay or expend additional amounts as required by this *Section 6.2*.

*6.2.1. Minimum Expenditures.* During the Lease Term, expend a minimum of Twenty Million Dollars (\$20,000,000.00) for any one or more of the following purposes:



(i) Capital expenditures and capital improvements for the Hospital Facility, physician office building and related facilities located in Loudon County, Tennessee, including, but not limited to, expenditures for facility repairs or improvements, additions or upgrades of equipment through lease or purchase arrangements, installation, acquisition or licensing of information system improvements including software, maintaining or meeting accreditation and licensing requirements and making technological improvements.

(ii) Recruiting physicians to and retaining physicians, including hospital-based physicians, in Loudon County, Tennessee, and/or its surrounding areas, including, without limitation, the provision of financial assistance through income guaranties, subsidies, coverage payments and incurring or reimbursing expenses related to recruitment;

(iii) Supporting other community benefit projects designed to promote the health, wellness and welfare of Loudon County residents.

(iv) Lessee shall use reasonable efforts to expend at least \$2,000,000 during the first three (3) years of the Lease Term (and an aggregate of \$3,000,000 during the entire Lease Term) for the purposes described in (ii) or (iii) above. Any expenditures incurred by Lessee from and after April 1, 2002, shall apply toward Lessee's obligations under this *Subsection 6.2.1*.

No portion of such \$20,000,000 shall be used by Lessee to cover operating losses or any costs incurred by Lessee in providing care to Medicare, Medicaid (TennCare), indigent or uninsured patients.

It shall be the sole responsibility of the Board of Directors of Lessee to authorize and approve the purpose of any expenditures by the Lessee under this *Subsection 6.2.1* in its sole and absolute discretion. Upon request of the Lessor, made no less often than annually, Lessee shall provide Lessor with an accounting of all expenditures made pursuant to this *Subsection 6.2.1* as of the end of the Lease Year immediately preceding the date of such request by Lessor.

*6.2.2. Cost of Repairs.* During the Lease Term, pay all costs and expenses of maintenance and repair of the Leased Premises when and as the same shall be due and payable.

*6.2.3. Taxes.* During the Lease Term, pay, as part of the cost of operating and maintaining the Leased Premises, all taxes and assessments, if any, that may be levied against the same; provided, however, that the Lessor shall cooperate with Lessee in any manner reasonably requested by Lessee to assist Lessee in its efforts to take steps that may reasonably be required at any time and from time to time to continue to maintain, if practicable, the exemption of the Leased Premises in their entirety from any and all taxation. Lessor agrees in the event any taxes or other assessments shall be assessed against Lessee at any time during the Lease Term, that Lessee is a nonprofit corporation, exempt from federal income taxes under Section 501(c)(3) of the Code or any comparable successor provision of federal law, then Lessor shall pay Lessee on an annual basis an amount equal to all taxes and other assessments assessed against Lessee by Lessor as taxes or other assessments during such year as compensation for Lessee's providing hospital care to the Lessor's indigent and uninsured populations.



6.3. *Continuing Obligations.* In the event the Lessee fails to make any of the payments required in this *Section 6.3*, the item so in default shall continue as an obligation of the Lessee until the amount in default shall have been fully paid and such payment obligation shall survive the expiration of the Lease Term or the termination hereof by Lessor for a default by Lessee.

6.4. *Hospital Affiliates.* Lessor acknowledges and agrees that any expenditure made by any Hospital Affiliate during the Lease Term that meets any of the purposes set forth in *Subsection 6.2.1* shall qualify as having been made by Lessee under *Section 6.2* to the same extent as if directly expended by Lessee.

## ARTICLE VII Warranties and Covenants

*Section 7.1. Warranties and Covenants of Lessor.* The Lessor warrants, covenants and agrees to and with Lessee and Covenant as set forth in this *Section 7.1*.

7.1.1. *Quiet Possession.* If the Lessee shall keep and perform the covenants in this Lease on its part to be kept and performed, the Lessee shall peaceably and quietly hold, occupy and enjoy the Leased Premises during the term of this Lease or any extension or renewal thereof, without any hindrance or molestation by the Lessor or any person or persons lawfully claiming under it.

7.1.2. *Lessee Control.* Except as otherwise expressly provided in this Lease, full administrative control and operation of the Leased Premises shall be vested in the Lessee and not subject to Lessor's oversight and review.

— 7.1.3. *Services.* Except as otherwise expressly provided in this Lease, the Lessor shall not be required to construct or install any facilities, improvements or equipment in or on the Leased Premises or offer any particular hospital service or care at the Hospital Facility.

7.1.4. *Alterations.* Lessee shall have the right from time to time at its sole cost and expense to make repairs, restorations, replacements, additions, alterations and changes, whether structural or nonstructural, in or to the Leased Premises.

7.1.5. *Environmental Laws.* The Lessor warrants that it is not aware of any noncompliance with any environmental laws concerning the Land, including, without limitation, the presence or absence of asbestos, petroleum products, hazardous wastes, illegal substances, toxic substances, and all other pollutants and contaminants.

7.1.6. *Competition.* During the Lease Term, Lessor shall not own, lease (as lessor or lessee) or operate any licensed hospital facility in Loudon County other than the Leased Premises.



*Section 7.2. Warranties and Covenants of Lessee.* The Lessee warrants, covenants and agrees to or with Lessor as set forth in this *Section 7.2.*

*7.2.1. Use of Leased Premises.* The Lessee shall use and occupy the Leased Premises solely for and shall faithfully and exclusively administer, operate and maintain the Hospital Facility as a primary care hospital or the equivalent thereof, without discrimination as to race, creed, color, sex, national origin or disability.

*7.2.2. Compliance With Laws.* The Lessee shall administer, operate and maintain the Leased Premises in accordance with the terms of this Lease; and, in the discharge of its obligations hereunder, shall, in all material respects, conform to and abide by all present and future applicable laws, ordinances, rules, regulations, requirements, and orders of all governmental authorities or agencies having jurisdiction over the Leased Premises or the operations of the Lessee; provided, however, that nothing herein contained shall require the Lessee to comply with, observe, and conform to any such law, ordinance, rule, regulation, requirement or order so long as the validity thereof or the applicability thereof shall be contested in good faith; and, provided further, however, that the terms and conditions of this Lease shall not be altered by any ordinance, resolution or other proceedings of the Governing Body without the prior written consent of the Lessee, except as required by law. Except as herein otherwise expressly provided, all costs of administration, operation and maintenance of the Leased Premises shall be the exclusive obligation of the Lessee and shall be discharged by the Lessee at its sole expense. Notwithstanding the preceding, immaterial violations of any law, rule, regulation or ordinance that does not directly, materially and adversely affect the ability of Lessee to operate the Hospital Facility shall not be deemed a violation of this Subsection.

*7.2.3. Financial Information.* For each year during the Lease Term of this Lease, Lessee will, upon request within one hundred twenty (120) days after the end of its fiscal year, provide the Lessor with a copy of (i) the annual financial statements filed by Lessee with its Medicare cost reports and (ii) information from the Lessee's auditors' examination of Lessee's contractual adjustments, discounts, and charity and bad debt expense and the balance sheet accounts (reserves) for contractual adjustments, discounts, and charity and bad debt expense, including the methods used by Lessee in arriving at such expenses and reserves, the consistency in methodology used from year to year, and the reasonableness of such reserve requirements. Any costs incurred by Lessee, beyond its normal and customary auditing costs and expenses, in obtaining such information from its auditors and reporting same as required herein will be reimbursed by the Lessor within ninety (90) days of Lessee's submission of a statement therefor. Lessor shall keep such information confidential and make no public disclosure thereof, except as required by law or valid court order.

*7.2.4. Waste.* The Lessee shall use and occupy the Leased Premises in a careful, safe, and proper manner and for lawful purposes only and shall commit no waste and shall suffer no waste to be committed thereon.

*7.2.5. Casualty Insurance.* The Lessee shall, at its expense and at all times, keep the Leased Premises insured against loss or damage by fire or other casualty by a policy or policies of full extended coverage insurance in a company or companies of good standing and



qualified to write such insurance in the State of Tennessee or a suitable program of self-insurance. Such insurance or self-insurance program shall be for an amount not less than the full insurable value of the Leased Premises; including completed improvements and additions thereto or any separable portion thereof as determined by Lessee. Lessor shall be an additional named insured under any such casualty insurance policy, provided all proceeds from such policy shall be used as required by this Subsection 7.2.5. If, at any time during the Lease Term, the Leased Premises are destroyed or damaged and such destruction or damage was covered by or attributable to a casualty covered by such insurance or self-insurance program, as required by this Subsection, Lessee shall use its reasonable best efforts, exercised promptly and diligently, to repair such damage and reconstruct and restore the Leased Premises as soon as reasonably practicable and as near to their former condition as practicable at Lessee's expense, using the proceeds of such insurance or self-insurance program exclusively for such purposes, and this Lease shall continue in full force and effect. Lessee shall not be required to expend any sums in excess of the proceeds of such insurance or self-insurance program for the repair, reconstruction, or restoration of the Leased Premises. If it is reasonably practicable to do so, Lessee shall continue the operation of the Hospital Facility during the period the damage, destruction, repair, reconstruction, or restoration continues; provided, however, if, during such period, it is not reasonably practicable to operate the Hospital Facility, the Lessee may cease operations of the Hospital Facility until the repairs are made and the reconstruction and restoration completed.

7.2.6 *General Liability Insurance.* Lessee shall further, at its expense and at all times, maintain insurance or one or more suitable self-insurance programs to cover such risks and in such amounts as, in its judgment, are adequate to protect it and its properties and operations. Lessor shall be named as an additional insured under such policy.

7.2.7. *Professional Liability Insurance.* Lessee, at its expense and at all times, shall either procure and maintain a policy or policies of professional liability insurance from a company or companies of good standing qualified to write such insurance in the State of Tennessee or maintain a suitable program of self-insurance in an amount not less than that maintained by Covenant for other hospital facilities operated by Covenant or its affiliates.

7.2.8. *Maintenance and Repairs.* The Lessee shall, at its own cost and expense, keep the Leased Premises in good repair and order, reasonable wear and tear excepted, and in as reasonably safe condition as its operations will permit and make all necessary repairs thereto, interior and exterior, structural and nonstructural, ordinary as well as extraordinary, and foreseen as well as unforeseen, and all necessary replacements or renewals, subject in all respects to the receipt by the Lessee of all necessary governmental permits and approvals therefor; provided, however, that nothing herein contained shall be construed to prevent the Lessee from discontinuing the use and operation of any non-essential part of the Leased Premises if in its judgment it is no longer cost effective to use and operate such part.

7.2.9. *Assignment or Subletting.* The Lessee shall not sublease the Leased Premises or any part thereof, assign this Lease or permit a transfer, by operation of law or any process or court proceedings, of the Lessee's interest in the Leased Premises, without having obtained in each case the prior consent of the Governing Body to be evidenced by its duly adopted and effective resolution, except that the prior consent of the Governing Body shall not



be required with respect to (i) an assignment to or merger or consolidation with any other non-profit corporation, the sole member of which is Covenant (or its successor), or which is affiliated with or controlled, directly or indirectly, by Covenant or (ii) any sublease for patient or employee convenience activities such as, but not limited to, gift shops, snack shops, barber or beauty shops, health care provider accommodations, flower shops, counseling or pastoral services, laundry services, pharmacy, and living accommodations for persons providing services within the Leased Premises, or for services related to the operation of the Hospital Facility such as, but not limited to, physician's offices, pathology, radiology, physical medicine, anesthesiology, electrocardiology and emergency room operations; provided, however, no such transfer, assignment or sublease shall conflict with the covenants of the Lessee under this Lease or relieve the Lessee of its obligations hereunder for payment of rent or from any other of the conditions, obligations, agreements and covenants of this Lease or with respect to any portion of the Leased Premises so transferred, assigned or subleased.

*7.2.10. Notification.* Recognizing the need to safeguard the Lessor's interest in the Leased Premises and in the operation of the Hospital Facility, the Lessee shall immediately notify the Lessor of any legal process or other notification concerning any judicial proceedings, including bankruptcy, or any proceeding of a quasi-judicial nature before any administrative board, commission, or other body which, in the reasonable exercise of the Lessee's judgment, would jeopardize such interest of the Lessor.

*7.2.11. Utilities.* The Lessee shall pay all charges for utility services furnished to the Leased Premises.

*7.2.12. Lessor Access.* The Lessee shall allow the Authorized Lessor Representative or such person's designee free access to the Leased Premises at all reasonable times for the purpose of examining the same; provided each access does not interfere with Hospital Facility operations or patient care.

*7.2.13. Accreditation.* The Lessee shall at all times conduct the operation of the Hospital Facility (other than facilities not subject to accreditation) in a manner acceptable to the Joint Commission on Accreditation of Health Care Organizations or such other accrediting organization utilized by Lessee and approved by CMS; provided, however, that Lessee need not comply with this Subsection if and to the extent that the Lessee's governing body shall have determined in good faith, evidenced by a resolution of such governing body, that such compliance is not in Lessee's best interests and that lack of such compliance would not materially impair the Lessee's ability to comply with the other requirements applicable to Lessee under this Lease.

*7.2.14. Board Representation.* During the Lease Term, at Lessor's option, the Lessor shall have the right to require that Lessee's board of directors shall have at least one member who shall be nominated for election by the Lessor's Authorized Representative. Such nomination shall consist of the submission of no less than three (3) nominees to the Lessee's board of directors (or nominating committee if so designated by Lessee) from which the Lessee's board of directors shall elect one (1) member. Any director elected shall be required to meet and comply with all requirements and qualifications for board membership as set forth in the bylaws of the



Lessee and in any applicable policies of the Board. Such member shall be subject to removal on the same basis as any other director, but his/her vacancy shall be filled in accordance with the terms of this Subsection.

7.2.15. *Indigent Patients.* During the Lease Term, the Lessee agrees to provide treatment to indigent patients in accordance with the policies and practices of Covenant. The Lessor shall have no obligation to fund any portion of the costs incurred by Lessee in providing such care through the use of county taxes, provided Lessor will pass through to Lessee any federal or state funds paid to Lessor for such purpose.

7.2.16. *Designated Services.* As of the commencement of operation of the Hospital Facility, Lessee shall, at a minimum, offer the Designated Services at the Hospital Facility, provided Lessee shall retain the right to cease to provide any Designated Service if, in Lessee's reasonable judgment, the provision of such service is no longer necessary or economically viable due to (i) demographic changes, (ii) changes in need for the delivery of health care services, (iii) financial circumstances, including changes in reimbursement rates, (iv) insufficient volumes or admissions, (v) lack of qualified physician or other professional staffing, or (vi) national developments in the hospital industry. Lessee shall provide the Committee with no less than sixty (60) days prior written notice of any decision to cease the provision of any Designated Service pursuant to this Subsection except in cases where such action must be taken by Lessee in less than sixty (60) days due to exigent circumstances.

## **ARTICLE VIII**

### **Condemnation**

In the event of a taking of all or any portion of the Leased Premises by condemnation, eminent domain or other process, the Lessor shall waive any rights which it may have to any portion of the proceeds of the award for such taking. Such proceeds shall be deposited in such lawful manner as the Lessee shall direct and the same, at the direction of the Lessee, shall be expended, to the extent possible, for the replacement of any portion of the Leased Premises so taken. The Lessor, upon being notified of any action or proceeding to take all or any portion of the Leased Premises, shall immediately notify the Lessee of the pendency of such action or proceeding. If, after such taking of any portion of the Leased Premises, the remaining portion is determined by the Lessee to be insufficient for further operation of the Hospital Facility, this Lease shall terminate without penalty to either party hereto as of the effective date of such taking, and Lessee shall be entitled to retain the entire award for damages or compensation resulting from such condemnation proceedings by Lessee pursuant to this Lease. A sale or transfer of all or any portion of the Leased Premises by Lessor to any authority having the power of eminent domain, either under threat of condemnation or while condemnation proceedings are pending, shall be deemed a taking under the power of eminent domain for all purposes of this Article.



**ARTICLE IX**  
**Defaults and Remedies**

*Section 9.1. Events of Default by Lessee.* The following shall be "events of default" under this Lease and the terms "event of default" or "default" shall mean, whenever they are used in this Lease, any one or more of the following events:

*9.1.1. Lessee's Failure to Pay Rent.* Lessee shall default in the payment of any rental due under *Section 6.1* of this Lease, and such default shall have continued for a period of thirty (30) days after the same shall become payable.

*9.1.2. Lessee's Other Failures.* Lessee shall breach, neglect or fail to perform or observe any warranties, covenants, representations, provisions or agreements made by or required to be performed by Lessee under the terms of this Lease other than the failure to pay rent under *Section 6.1*, and Lessee shall, within thirty (30) days after written notice thereof by Lessor, fail to commence appropriate action in good faith to cure such failure and thereafter prosecute the same to completion with due diligence.

*9.1.3. Insolvency.* The Lessee shall have admitted in writing it is insolvent or shall have filed a petition asserting it is a bankrupt or shall have made an assignment for the benefit of its creditors.

*9.1.4. Appointment of Receiver.* Possession of the Lessee's assets shall be taken by a receiver or trustee.

*9.1.5. Abandonment.* The Lessee shall have abandoned the entire Leased Premises.

*Section 9.2. Events of Default by Lessor.* Lessor shall breach, neglect or fail to perform or observe any warranties, covenants, representations, provisions, or agreements made or required to be performed by Lessor under the terms of this Lease and shall, within thirty (30) days after written notice thereof by Lessee, fail to commence appropriate action in good faith to cure such failure and thereafter prosecute the same to completion with due diligence

*Section 9.3. Remedies Upon Default.*

*9.3.1 No Termination.* Upon any event of default by Lessee or Lessor under this Lease, other than Lessee's abandonment of the Leased Premises, the nondefaulting party shall have no right to terminate this Lease, nor shall Lessor have the right to exclude the Lessee from possession of the Leased Premises, relet the Leased Premises or reenter and take possession of the Leased Premises. Instead, the parties hereby agree that each party's remedies upon default of the other party that is not cured within the period provided under the terms of this Lease shall be limited to instituting an action at law to collect actual monetary damages sustained from such default and/or instituting an action at equity to obtain injunctive relief (excluding relief preventing Lessee's use of the Leased Premises or exercise of its rights under this Lease); provided, further, that a nondefaulting party shall have the right to cure any defaulting party's

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default at the defaulting party's expense and to do or cause to be done any act or thing necessary to cure such default. Upon written notification to the defaulting party of the cost thereof, the defaulting party shall pay promptly to the nondefaulting party the amount of all such costs incurred.

*Section 9.4. Provisions Applicable to Both Parties.*

*9.4.1. Attorney's Fees and Litigation Expenses.* In the event a party should default under any of the provisions of this Lease and the other party should employ attorneys or incur other expenses for the enforcement or performance or observance of any obligation or agreement on the part of either party contained in this Lease, the defaulting party agrees that it will on demand therefor reimburse the other for the reasonable fees of such attorneys and such other expenses so incurred.

*9.4.2. Waiver and Breach.* In the event any agreement contained in this Lease should be breached by either party and thereafter waived by the other party, such waiver shall be limited to the particular breach so waived and shall not be deemed to waive any other breach hereunder.

**ARTICLE X**

**Mortgage of Leasehold; Subordination of Lessor's Interest**

*Section 10.1. Right to Mortgage.* Lessee shall have the continuing right during the Lease Term once or more often, without obtaining Lessor's consent or approval, such consent and approval being hereby given, to mortgage, pledge or otherwise encumber Lessee's interest in this Lease, including Lessee's leasehold estate hereunder and all right, title and interest of Lessee under this Lease and in any of Lessee's assets, property or equipment located or utilized in the Hospital Facility (any and all of which are referred to as a "Leasehold Mortgage"), the holder of such Leasehold Mortgage being herein referred to as a "Lender." During the term of this Lease, Lessor shall not mortgage, pledge or otherwise encumber its interest in the Leased Premises except for Permitted Encumbrances and to the extent required by *Section 10.2*.

*Section 10.2. Subordination.* Lessor does hereby subordinate Lessor's Interest (being Lessor's fee simple interest in the Leased Premises, including the Land) and its lien rights, if any, in and to any of Lessee's assets, property or equipment to the lien of any such Lender. Lessor shall promptly execute an appropriate form of subordination agreement and/or mortgage, in form and content satisfactory to Lender, that evidences and acknowledges such subordination and Lender's mortgage and lien rights in Lessor's Interest.

*Section 10.3. Enforcement.* Lender or its assigns may enforce such Leasehold Mortgage and acquire Lessee's leasehold estate created under this Lease and Lessor's Interest in any lawful way, and pending foreclosure of such Leasehold Mortgage may, without further consent of Lessor, sell and assign Lessor's Interest and Lessee's leasehold estate hereby created in satisfaction of Lessee's obligation under the Leasehold Mortgage. An event of default shall not



be deemed to exist solely by reason of Lender's enforcement of the Leasehold Mortgage in the manner provided in this Section. 1502

*Section 10.4. Notice of Default.* If Lessee has encumbered Lessee's leasehold estate created under this Lease by a Leasehold Mortgage and the Lender has given Lessor written notice of the creation thereof, then Lessor at the same time as it gives notice of default of this Lease to Lessee, shall, in addition, give the same notice to the Lender, and no such notice shall be deemed to have been given to Lessee unless and until a copy thereof shall have been so given to such Lender. The Lender, its agents, receivers, trustee and anyone claiming under such Lender upon the receipt of any such notice shall have the immediate right to enter upon the Leased Premises and take possession thereof and to remedy any default in the payment of money and/or other default within the period allowed Lessee for rectification thereof, and this Lease shall remain in full force and effect during and throughout the period specified in this Section, the rights and remedies provided Lessor under *Article IX* shall not be exercised by Lessor after Lessee shall default or be deemed to have defaulted under this Lease unless said Lender shall have failed to rectify the same within the aforesaid period of time allowed said Lender for rectification thereof as hereinafter set out; it being understood that (i) a default of this Lease which cannot be cured by the payment of money shall be deemed to have been rectified within the period allowed said Lender by the terms hereof if rectification thereof and such correction thereafter shall be commenced within the period and thereafter prosecuted with reasonable diligence to completion; (ii) if the Lender cannot reasonably take the action required to cure such default without being in possession of the Leased Premises, the time within which the Lender has to rectify such default, as hereinabove set out, shall be deemed extended to include the period of time required by it to obtain such possession, including possession by a receiver, with due diligence; and (iii) the time within which such Lender shall be required to obtain possession of the Leased Premises (including possession by a receiver) shall be deemed extended by the number of days of delay occasioned by judicial restriction against the initiation of proceedings to obtain such possession or occasioned by any other circumstances beyond such Lender's reasonable control. All notices by Lessor to a Lender pursuant to this Section or pursuant to any other provision of this Lease shall be given by registered or certified mail, postage prepaid, return receipt requested, addressed to such Lender at the address last specified to Lessor by such Lender.

*Section 10.5. Lender Payments.* All payments so made and all things so done and performed by said Lender within the period allowed such Lender for rectification of Lessee's default, as set forth in *Section 10.4*, shall be as effective to prevent a forfeiture of the rights of Lessee under this Lease as the same would have been if done and performed by Lessee instead of by Lender. Any Leasehold Mortgage executed by Lessee may be conditioned as to provide, as between the Lender and Lessee, that the Lender, on making good and rectifying any such default on the part of Lessee, shall be thereby subrogated to any and all rights of Lessee under this Lease. No Lender shall be considered or become liable to Lessor as an assignee of this Lease or otherwise until such time as said Lender shall by foreclosure or other appropriate proceedings in the nature thereof or as a result of any other action or remedy provided for by such Lender acquire Lessee's leasehold estate created hereunder.



## ARTICLE XI Termination

*Section 11.1. Surrender by Lessor.* Lessee shall have the right to surrender its interest in the Lease and the Leased Premises and terminate this Lease without cause or other basis and without liability or further obligation under this Lease by giving no less than one hundred eighty (180) days prior written notice to the Lessor.

*Section 11.2. Termination by Lessee.* Lessee shall have the right to terminate this Lease in the event all Contingencies have not occurred within three hundred sixty-five (365) days from and after the Commencement Date (unless nonoccurrence was caused primarily by Lessee's failure to perform any of its obligations under this Lease), by giving no less than thirty (30) days prior written notice of termination to the Lessor. Upon termination of this Lease pursuant to this *Section 11.2*, Lessor shall be obligated to (i) at its option, either convey all of its rights, title and interest in the Land by warranty deed to the Lessee or reimburse Lessee for all costs incurred by Lessee in connection with the acquisition of the Land, including, without limitation, all costs incurred by the Lessee in obtaining or meeting all Initial Requirements, as such term is defined in the Agreement, and (ii) in the event that the failure to eliminate or resolve any Contingency was caused primarily by Lessor's failure to perform any of its obligations under this Lease, Lessor shall reimburse Lessee for all reasonable costs incurred by Lessee in its efforts to eliminate or resolve all Contingencies.

*Section 11.3. Reversion of Leased Premises to Lessor.* Except as otherwise provided in this Lease, upon expiration of the Lease Term or upon surrender of this Lease by Lessee pursuant to *Section 11.1*, the Leased Premises shall revert to the Lessor; provided that all equipment, supplies, medical, business or other records and intangible personal property of the Lessee located in or on the Leased Premises may be removed after termination by the Lessee in accordance with *Section 5.5*.

*Section 11.4. Retention of Leased Premises by Lessee.* Notwithstanding the provisions of *Section 11.3*, in the event that at the time of expiration of the Lease Term or surrender of this Lease by Lessee pursuant to *Section 11.1*, Lessor does not hold fee simple title to the Leased Premises, the Leased Premises shall revert to and/or become owned in fee simple by the Lessee without any further act or deed on the part of the Lessee or the Lessor.

## ARTICLE XII Estoppel Certificates

From time to time and within twenty (20) days after a request in writing therefore from the other party, Lessor and Lessee agree to execute and deliver to the other party, or to such other addressee or addressees as may be designated in the written request in form and substance reasonably satisfactory to both Lessor and Lessee (herein called "Estoppel Certificate"), certifying, if correct, that this Lease is in full force and effect, that this Lease has not been assigned, modified, supplemented or amended (except as disclosed in such certificate), to the extent of the party's direct knowledge that neither party is in default under the provisions of this



Lease and as to such matters as may be reasonably requested. Estoppel Certificates may be executed by the Lessor's or Lessee's Authorized Representative, as appropriate.

### ARTICLE XIII Notices

Any notice or notification specified hereunder to be given to the Lessee or the Lessor shall be deemed effective upon the earlier of actual delivery or three (3) days following the date such notice shall have been mailed by United States certified or registered mail, postage prepaid, addressed to the Lessee or to the Lessor, respectively, as follows or to such other address as a party may designate by notice under this Article:

If to Lessor: County of Loudon, Tennessee  
100 River Road, #106  
Loudon, Tennessee 37774  
Attn: George M. Miller, County Executive

If to Lessee: Fort Sanders-Loudon Medical Center

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Attn: Chief Administrative Officer

If to Covenant: Covenant Health  
100 Fort Sanders West Boulevard  
Knoxville, Tennessee 37922  
Attn: President and Chief Executive Officer

### ARTICLE XIV Miscellaneous

*Section 14.1. Guarantee.* Covenant hereby guarantees the full and prompt performance by Lessee of all of its obligations hereunder. Furthermore, Covenant will not sell, transfer or otherwise dispose of all or any significant portion of its assets without requiring such buyer or transferee to join in writing in the foregoing guarantee. Covenant's obligations under this Lease are limited to those set forth in this Section. At such time as all financial obligations of Lessee that are guaranteed by Covenant are fully paid and satisfied or provision for full payment and satisfaction has been made to the reasonable satisfaction of Lessor, the provisions of this *Section 14.1* shall cease to be effective.

*Section 14.2. Acceptance of Federal Funding.* The Lessor and the Lessee shall have full power and authority, jointly or severally, to accept federal funds for the improvement of the Leased Premises.

*Section 14.3. Severability.* In the event any provision of this Lease shall be held invalid or unenforceable by any court of competent jurisdiction, such holding shall not invalidate or render unenforceable any other provision hereof or such otherwise invalid provision under



circumstances other than those under which it was determined to be invalid, except to the extent that such provision is wholly dependent for its operation upon the part declared to be invalid, and to that extent the provisions hereof are agreed and declared to be severable.

*Section 14.4. Immunity of Officers and Directors, Etc.* No recourse shall be had on any obligation, covenant or agreement in this Lease against any past, present or future incorporator, official, officer, director, or employee of the Lessor or the Lessee, as such, either directly or indirectly, under any rule of law or equity, statute or constitution, or by the enforcement of any assessment or penalty or otherwise, and all such liability of any such incorporators, officials, officers, directors, or employees as such, is hereby expressly waived and released as a condition of and consideration for the execution and delivery of this Lease.

*Section 14.5. Amendments and Modifications.* This Lease shall not be amended or modified except by a written instrument signed by the duly authorized representatives of each of the parties hereto.

*Section 14.6. Captions.* The titles of articles, sections or subsections herein are solely for the convenience of the parties and shall not be used to explain, limit, expand, modify, simplify, or aid in the interpretation of the provisions of this Lease.

*Section 14.7. Assignments.* Except as herein otherwise expressly provided, no party hereto may assign or otherwise transfer its rights or delegate its obligations hereunder without the prior written consent of the other parties hereto.

*Section 14.8. Entire Agreement.* This Lease constitutes the entire agreement between the parties hereto with respect to the subject matter hereof and the transactions hereby contemplated. Any prior understandings, proposals, or representations of any kind shall not be binding upon either party except to the extent incorporated in this Lease.

*Section 14.9. Governing Law.* This Lease shall be governed by and construed in accordance with the Constitution, laws and regulations of the State of Tennessee without regard to provisions with respect to conflicts or choices of law. —

*Section 14.10. Execution in Counterparts.* This Lease may be executed in several counterparts, each of which shall be an original and all of which shall constitute but one and the same instrument.

*Section 14.11. Memorandum of Lease.* The parties agree to execute and file of record, on or within ten (10) days after the Commencement Date, a memorandum of lease evidencing the existence of this Lease, the Lease Term and the Land herein leased.

*Section 14.12. Survivability.* To the extent any covenant, obligation or right of a party is to or may be performed or exercised after termination of this Lease, such obligation or right shall survive termination.



*Section 14.13. Hospital Advisory Committee.* A special hospital advisory committee ("Advisory Committee"), not to exceed thirteen (13) members unless otherwise mutually agreed by the parties, shall be established by the Lessor for the purpose of (i) reviewing the activities of the Lessee and making recommendations to the chief administrative officer of the Lessee regarding the operations of the Hospital Facility and (ii) monitoring the activities of the Lessee for and on behalf of the Lessor. The Advisory Committee will serve only in an advisory capacity and shall have none of the powers of the Board of Directors of the Lessee. Unless otherwise mutually agreed by the parties, the Advisory Committee shall be comprised of ten (10) residents of Loudon County, who shall be appointed by the County Executive and approved by the Governing Body, and the chief administrative officer of the Lessee, the chief of the medical staff of the Lessee, and the president of Covenant. The elected members of the Advisory Committee shall be arranged in three (3) panels that are as nearly equal in number as practicable with each member elected for no more than two (2) consecutive three (3) year terms. The officers of the Advisory Committee shall be the chairman, vice chairman and secretary and shall be elected by the Advisory Committee. The chairman shall preside at meetings of the Advisory Committee and shall consult with the chief administrative officer of the Lessee with regard to recommendations for operations of the Hospital Facility. The vice chairman shall preside at all meetings of the Advisory Committee in absence of the chairman, and the secretary shall be responsible for recording and keeping of an accurate record of all business of the Advisory Committee. Meetings of the Advisory Committee shall be set by the Advisory Committee but, except in exigent circumstances, will occur no more often than quarterly.

*Section 14.14. Annual Report.* On or prior to April of each calendar year, the Lessee shall prepare and submit to the Advisory Committee a written report of the funds expended by the Lessee pursuant to *Subsection 6.2.1* of this Lease during the preceding calendar year.

IN WITNESS WHEREOF, the parties hereto have caused this Lease to be executed by their respective duly authorized officer or official as of this \_\_\_\_ day of \_\_\_\_\_, 2002.

LOUDON COUNTY COMMISSION FOR  
AND ON BEHALF OF LOUDON COUNTY,  
TENNESSEE

ATTEST:

By: \_\_\_\_\_  
George M. Miller  
Title: County Executive

FORT SANDERS-LOUDON MEDICAL CENTER

By: \_\_\_\_\_  
Keith N. Altshuler  
Title: Acting Chief Administrative Officer

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COVENANT HEALTH

1984

By: \_\_\_\_\_  
Anthony L. Spezia  
Title: President and Chief Executive Officer

STATE OF TENNESSEE

COUNTY OF LOUDON

Before me, a Notary Public in the State and County aforesaid, personally appeared George M. Miller, with whom I am personally acquainted and who, upon oath, acknowledged himself to be the incumbent County Executive of Loudon County, a political subdivision of the State of Tennessee, and that he as such incumbent County Executive of Loudon County, being authorized so to do, executed the foregoing instrument for the purposes therein contained, by signing his name as incumbent County Executive of Loudon County, Tennessee.

WITNESS my hand and official seal at office this \_\_\_\_ day of \_\_\_\_\_, 2002.

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

My commission expires: \_\_\_\_\_

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STATE OF TENNESSEE )

COUNTY OF KNOX )

Personally appeared before me, a Notary Public in the State and County aforesaid, Keith N. Altshuler, with whom I am personally acquainted, or proved to me on the basis of satisfactory evidence, and who, under oath, acknowledged herself to be the Acting Chief Administrative Officer of Fort Sanders-Loudon Medical Center, the within-named bargainor, and that he as such Acting Chief Administrative Officer being authorized so to do, executed the foregoing instrument for the purposes therein contained, by signing the name of the corporation by himself as Acting Chief Administrative Officer.

WITNESS my hand and official seal at office this \_\_\_\_ day \_\_\_\_\_, 2002.

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

My commission expires: \_\_\_\_\_

STATE OF TENNESSEE )

COUNTY OF KNOX )

Personally appeared before me, a Notary Public in the State and County aforesaid, Anthony L. Spezia, with whom I am personally acquainted, or proved to me on the basis of satisfactory evidence, and who, under oath, acknowledged himself to be the President and Chief Executive Officer of Covenant Health, the within-named bargainor, a nonprofit corporation, and that he as such President and Chief Executive Officer being authorized so to do, executed the foregoing instrument for the purposes therein contained, by signing the name of the corporation by himself as President and Chief Executive Officer.

WITNESS my hand and official seal at office this \_\_\_\_ day of \_\_\_\_\_, 2002.

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

My commission expires: \_\_\_\_\_

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EXHIBIT A  
Description of Land

C:\WINDOWS\Temporary Internet Files\Content.IE5\07A34LEL\Agreement(Combined).doc  
06/17/02

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EXHIBIT A

Designated Services

- ◆ Inpatient Acute Med/Surg Services
- ◆ Critical Care Services
- ◆ Emergency Care Service
- ◆ Surgery Services
- ◆ Diagnostic Imaging
- ◆ Cardiopulmonary
- ◆ Rehabilitation Services
- ◆ Pharmacy services
- ◆ Patient Education
- ◆ Laboratory Services



My name is Pat Hunter and I am a Loudon County resident, and property owner.

Chairman Bledsoe: I am requesting that my comments be made a part of the Minutes of this meeting. I oppose the amendments to the sexually oriented adult business regulations as adopted by Loudon County Commission at the Special Called, May 9, 2002 meeting.

During the Public hearing of May 9, 2002, Specially Called Loudon County Commission Meeting, I posed several questions to the planning official concerning the amendments to the adult business regulations, and later during the "Audience Comments on Non-Agenda Items" I specifically requested Commission adopt the most stringent set of regulations possible to curb the proliferation of this type of adult businesses in Loudon County.

I urged Commission to adopt stringent regulations with regard to the hours of operations of an adult business and I read verbatim from the latest Tennessee County Government Handbook, 7<sup>th</sup> Edition, by The University of Tennessee, County Technical Assistance Service.

Under the caption of Regulation of Adult-Oriented Entertainment and Massage, page 210, states in part **"There is another general state law which governs hours of operation of adult-oriented establishments that is codified at T.C.A. 7-51-1401 et. seq. This law prohibits these businesses, except those offering only live stage shows, from opening before 8:00 a.m. or remaining open after midnight Monday through Saturday. On Sunday and legal holidays they must remain closed. Local governments may establish shorter hours of operation, but may not extend the hours. The act also contains regulations regarding the structure and type of lighting in viewing booths, and specifies penalties for violations."**

Why didn't the county planner or county attorney advise and include these provisions governing the hours of operations and penalties for violations to the adult business amendments? When does Commission plan to take action to correct this matter, after the second (2<sup>nd</sup>), third (3<sup>rd</sup>) adult business opens for business? When?

In my opinion, the MINUTES as written by County Executive George Miller's Administrative Assistant under his supervision and direction, do not accurately reflect my comments, and that of certain other citizens speaking in opposition to the issue of the adult business amendments.

Exhibit B



I shared questions, concerns and opposition to the lax adult business amendments, and if I left anybody with the opinion to the contrary, I am here to state differently. The United States Supreme Court has rejected the notion that nude dancing is a First Amendment right protected by freedom of speech and ruled that regulation of this type of adult business is necessary for the control of secondary effects among these are - prostitution, sexual assaults, and other criminal activity. In my opinion, the newly adopted adult business amendments do not go far enough to protect the health, safety, and welfare of the citizenry of this county.

Lastly, there is the issue of enforcement when an adult business is in violation of the county rules and regulations. I would hope Loudon County officials and judicial officials administer county government rules, regulations, and Tennessee State statutes in a fair and equitable manner to all citizens, and not to a chosen few.

Pat Hunter

June 3, 2002, Loudon County Commission Meeting

1719



June 3, 2002 County Commission Meeting

My name is Aileen Longmire, a resident and taxpayer of Loudon County. I attended the May 9, 2002 Special Called County Commission Meeting. I spoke on 2 items on the planned agenda. In reading a draft copy of the minutes of that meeting prepared by County Executive George Miller and his office, I feel they do not reflect accurately what I said and my opposition to both of these issues.

1. I spoke on item 4 during the Public Hearing.

Consideration of amendment to Loudon County Zoning Resolution for Sections 4.210: Sexually Oriented Adult Businesses and 5.046 General Industrial District (M1) 02-04-69-RGZ-CO

Minutes state---Ms. Longmire, Loudon County resident, came forward to ask questions regarding the amendment.

I hope that I was very clear by the questions and issues I raised that I was very much in opposition of this amendment as it was presented to Commission for passage. There is approximately 2000 acres zoned (M1) General Industrial near where I live. I questioned if there would be a limit on how many Adult Businesses could locate in one area or was it unlimited? County Attorney Harvey Sproul said there was no limit but when I asked if the amendment could be fine tuned to include a limit and tighten guidelines to discourage these type businesses from locating in our community, he said it could be fine tuned. Other places have found ways to keep these type businesses out---why can't Loudon County? Attorney Sproul, Commissioners, and County Planner Russ Newman all agreed that these type businesses lower property values and bring in prostitution, drugs and more crime. I heard several people at this public hearing speak out against this item but the minutes do not reflect it.

2. Consideration of granting authority to County Executive George Miller and County Attorney Harvey Sproul in lawsuit settlement Negotiations. Draft minutes read-----Ms. Aileen Longmire a Loudon County resident came forward to ask questions regarding this item. I did ask questions but was strongly opposed to Commissioners granting this power to County Executive Miller and County Attorney Sproul. I questioned how many lawsuits were we talking about. No one answered my question. I asked how much taxpayer money were we talking about spending. No one answered this question either. In my opinion it would be giving Miller and Sproul a blank check of taxpayer money and too much power with little or no oversight from Commission.

Exhibit C



I think if a citizen and taxpayer take their time to attend a meeting and voice their opinion or ask questions or whatever, there should be an accurate account of their input on record for that meeting. I wish to make this statement a part of this meeting's minutes and am providing a written copy for that purpose to the Chair and County Executive.  
Thank You

Aileen Longmire

*Aileen Longmire*



PHASE 1

Lenoir City Utilities Board  
Water Department  
May 2002

Proposed water system improvements for Northeast Loudon County:  
The following proposal and estimated costs were prepared by Lamar Dunn  
& Associates.

Line Section #1:

Beginning at Watt Road and extending down Hickory Creek Road to Hwy  
321 at Eaton Crossroads.

Description

Install 19,000 feet of 16 inch ductile iron pipe

Cost Estimate

\$1,720,921

Exhibit D



LINE SECTION #1



1723



## PHASE 2

Lenoir City Utilities Board  
Water Department  
May 2002

Proposed water system improvements for Northeast Loudon County:  
The following proposal and estimated costs were prepared by Lamar Dunn & Associates.

### Line Section #2:

Beginning at Hickory Creek Road and Hwy 321 extending on Hwy 95 to the Little Mountain Storage Tank.

#### Description

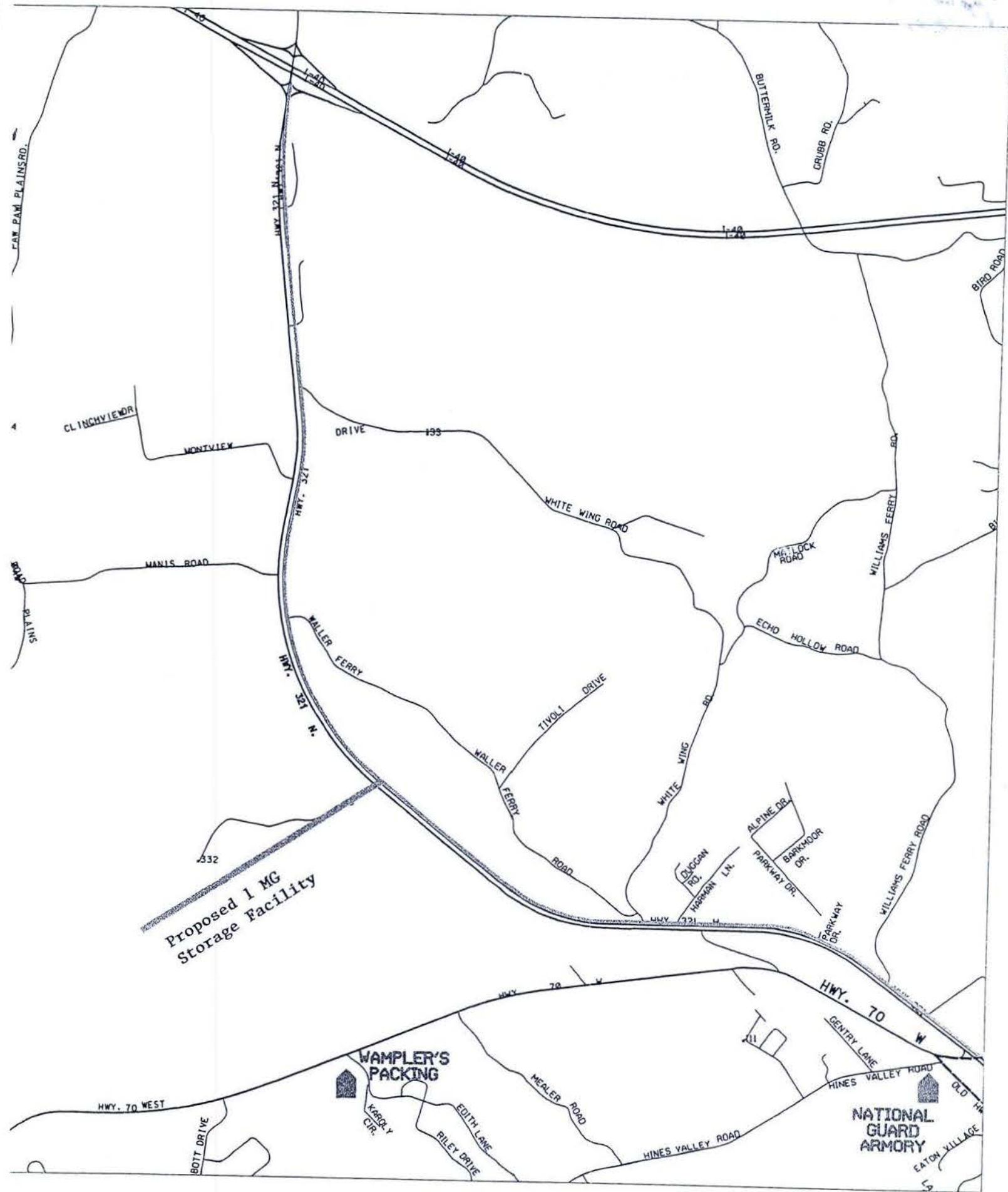
Install 7,200 feet of 12 inch PVC pipe and  
make connections to tank

#### Cost Estimate

**\$394,000**



LINE SECTION #2



1725



1040

### PHASE 3

Lenoir City Utilities Board  
Water Department  
May 2002

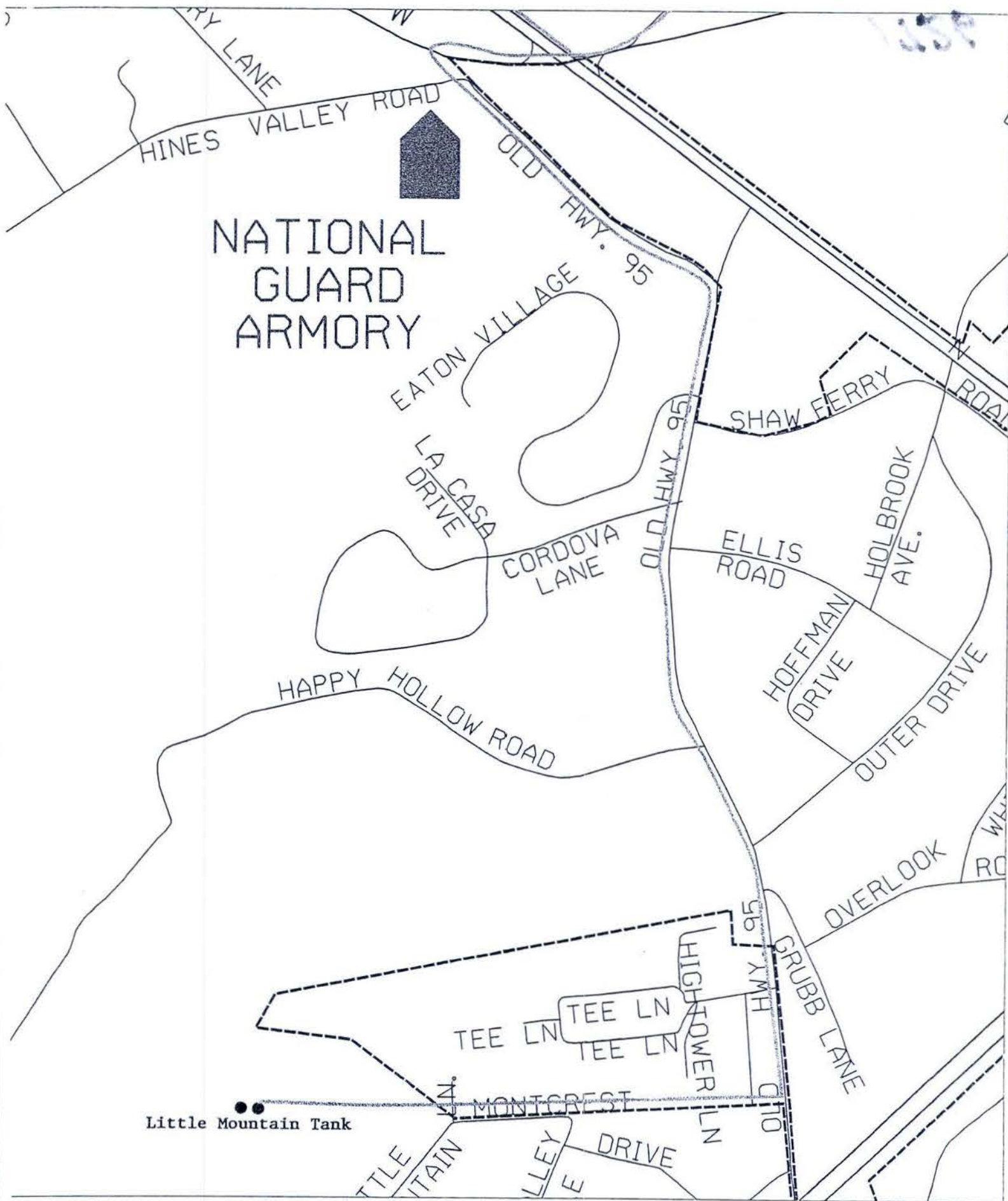
Proposed water system improvements for Northeast Loudon County:  
The following proposal and estimated costs were prepared by Lamar Dunn & Associates.

**Line Section #3:**

Beginning at Hickory Creek Road and Hwy 321 extending on 321 to I-40.

<u>Description</u>	<u>Cost Estimate</u>
Install 18,000 feet of 16 inch ductile iron pipe	\$1,170,000
Install a 1 million gallon storage facility	949,579
Install 6,500 feet of 12 inch PVC pipe to tie to existing facilities	<u>359,500</u>
<b>Estimated Total</b>	<b>\$2,479,079</b>







## MEMO

**Date:** June 3, 2002  
**To:** County Commissioners, County Executive, and County Attorney  
**From:** Commissioner Lynda Randolph  
**RE:** Proposal Regarding Water Line Extension on 321/95 Corridor

---

Loudon County has a history of partnering with Lenoir City and Loudon to secure economic development. These partnerships have involved the financial participation of the County.

In the past these joint efforts have had a common factor. We were able to recoup our investment or have a facility that added to enrichment or livability of our community.

The proposal to share in the cost of the extension of a water line in the 321/95 corridor between Eaton Cross Roads and I-40 should be considered by the County Board after a careful evaluation of what the benefits to the County will be.

I do believe there are potential benefits to Loudon County from participation in this project. However, I do believe we should establish criteria outlining the justification of our participation just like we did with the PILOT agreement with the City of Loudon regarding the Kimberly Clark expansion.

As I understand the proposal the County is being asked to provide approximately \$1 million to assist the City of Lenoir City and the Lenoir City Utility Board in installing a 16" water line along the 321/95 corridor between Eaton Cross Roads and I-40.

This proposal needs to have many questions addressed before the County Commission can make an informed decision. These questions include, but certainly not limited to, the following.

Exhibit E

1. What is the geographical area that will be serviced from this line?
2. Does LCUB plan to recoup the investment cost of this line from front footage and acreage charges from the area when development occurs?
3. If such charges are to be made, will Loudon County receive a proportional return on its investment?
4. The requested action will not only make land more attractive for development, it will result in increased land values for the undeveloped property in the area. Therefore, if such charges and fees are not being contemplated, why not?
5. Will the resulting increase in water consumption result in Loudon County being asked to financially participate in the expansion of the Water Treatment Plant?
6. Will the extension of a 16" water line to essentially the county border result in tax base development occurring just across the county line to the benefit of neighboring counties and to the detriment of Loudon County?
7. In agreeing to participate in this project, are we unofficially agreeing to participate in sewer line extensions?
8. In agreeing to the Urban Growth Boundaries we accepted the justification of the cities that the areas where tax base development was most likely to occur should be with the respective cities' Urban Growth Boundary. What assurance will we receive that the area within the Urban Growth Boundary along the 321/95 corridor will be as represented?

I do believe there are many reasons why we should partner with the public water and sewer providers in Loudon County to secure the type of development we envision for Loudon County. However, in order to commit to the expenditure of County funds for utility infrastructure extensions, we need appropriate agreements to ensure our investment results in the development we desire.

There are five (5) other public water and sewer systems serving portions of Loudon County. We must establish the criteria by which we will evaluate requests for assistance from the First Utility District of Knox County, Loudon Utilities, Martel Utility District, TASS and the TVPOA before its appropriate to anything over and above the Resolution of Intent previously adopted by the County Commission.

Since we as a County Commission have no real practical experience in the water and sewer utility business it is recommended that we invite representatives of the water and sewer utilities in Loudon County to meet with a Committee of the County Commission to develop the criteria by which will provide assistance.



**RESOLUTION 060302-F**

A RESOLUTION ADOPTED BY THE LOUDON COUNTY  
COMMISSISON DESIGNATING LEASE PAYMENTS FROM  
CENTRE 75 TO BE USED FOR PARK MAINTENACE

*Whereas*, the City of Loudon and Loudon County have entered into an intergovernmental agreement to participate in funding of infrastructure improvements for Centre 75 Business Park at Interstate 75 and Hwy. 72; and

*Whereas*, lease payments are currently generating approximately \$7,000/year from existing agriculture and billboard leases; and

*Whereas*, periodic maintenance requirements are necessary to maintain landscaping and lawn maintenance of the park in an appropriate and reasonable manner.

*Now, Therefore, Be It Resolved*, that the Legislative Body of the County of Loudon designates lease payments generated from agriculture and billboard leases to a Centre 75 Park Maintenance Fund for general site maintenance.

*Be It Finally Resolved* that this Resolution shall take effect upon approval of a similar intended Resolution by the City of Loudon authorizing the use of lease payments for site maintenance, the public welfare requiring it.

Adopted: June 3, 2002

\_\_\_\_\_  
CHAIRMAN

ATTEST:

  
COUNTY COURT CLERK

\_\_\_\_\_  
COUNTY EXECUTIVE

1730

**A RESOLUTION AMENDING THE ZONING RESOLUTION OF LOUDON COUNTY, TENNESSEE, ARTICLE 4, SUPPLEMENTARY PROVISIONS APPLYING TO SPECIFIC DISTRICTS, AMENDING SECTION 4-070. SWIMMING POOL RESTRICTIONS, PURSUANT TO TENNESSEE CODE ANNOTATED SECTION 13-7-105**

**WHEREAS**, Loudon County, in accordance with Chapter 7 §13-7-201 through §13-7-204 of the Tennessee Code Annotated, may from time to time, amend any regulation of or within any district, or any other provision of any zoning resolution; and

**WHEREAS**, the Loudon County Regional Planning Commission has forwarded its recommendation regarding the amendment to the Zoning Resolution of Loudon County, Tennessee; and

**WHEREAS**, a notice of public hearing and a description of the ordinance appeared in the Loudon County News-Herald on May 19-20, 2002, consistent with the provisions of Tennessee Code Annotated §13-7-203; and

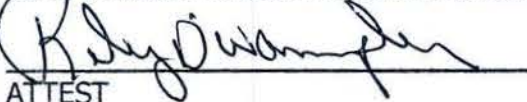
**WHEREAS**, the promotion of public health, safety, general welfare and most appropriate land uses are stated purposes of the Zoning Resolution of Loudon County, Tennessee;

**NOW, THEREFORE, BE IT RESOLVED** that the Zoning Resolution of Loudon County, Tennessee be amended as follows (*amendments are in bold and italicized*):

**Section 4.070. Swimming Pool Restrictions:**

The swimming pool area shall be walled or fenced ***with a locked gate*** so as to prevent uncontrolled access by children and pets from the street or adjacent properties. Said fence or wall shall not be less than ***five (5)*** feet in height and maintained in good condition.

BE IT FINALLY RESOLVED, that this Resolution shall take effect immediately, the public welfare requiring it.

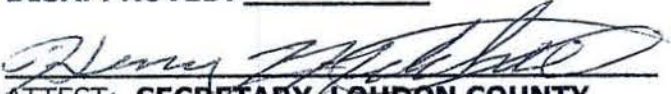
ATTEST 

LOUDON COUNTY CHAIRMAN  
DATE: \_\_\_\_\_

APPROVED: LOUDON COUNTY EXECUTIVE

The vote on the question of approval of this Resolution by the Regional Planning Commission is as follows:

APPROVED: 9-0  
DISAPPROVED: \_\_\_\_\_

  
ATTEST: SECRETARY, LOUDON COUNTY  
REGIONAL PLANNING COMMISSION  
Dated: May 21, 2002