

FILED

APR 19 2012

LAWRENCE M. MARON, J.S.C.

LAW OFFICE OF WALTER M. LUERS, LLC
Suite C203
23 West Main Street
Clinton, New Jersey 08809
Telephone: 908.894.5656
Attorneys for Plaintiff

<p>EDWARD MECKA, Plaintiff, v. HUDSON HEALTHCARE, INC. Defendant.</p>	<p>SUPERIOR COURT OF NEW JERSEY LAW DIVISION: HUDSON COUNTY DOCKET NO. <u>L-1961-12</u> CIVIL ACTION ORDER TO SHOW CAUSE</p>
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THIS MATTER being brought before the Court by Law Offices of Walter M. Luers, LLC, attorney for Plaintiff Edward Mecka, seeking relief by way of summary action pursuant to R. 4:67-1(a), based upon the facts set forth in the verified complaint and supporting papers filed herewith; and the Court having determined that this matter may be commenced by order to show cause as a summary proceeding pursuant to N.J.S.A. 47:1A-6 and for good cause shown,

IT IS on this 19 day of APRIL, 2012 ORDERED that the Defendant Hudson Healthcare, Inc. show cause on the 11 day of MAY, 2012 before the Honorable LAWRENCE MARON, J.S.C., Superior Court, at the 595 Newark Avenue, Jersey City, New Jersey at 9 o'clock in the AM noon or as soon thereafter as counsel can be heard, why judgment should not be entered:

A. Declaring, pursuant to the Uniform Declaratory Judgment Act, N.J.S.A. 2A:16-50, et seq., that Defendant violated OPRA and/or the common law right of access by not providing the documents requested by Plaintiff;

BATCH #	<u>242</u>
RECEIVED DATE	<u>4/12/12</u>
CA / EK / MO / CG	
CK/CG ACCT. #	<u>1138</u>
AMOUNT	<u>30⁰⁰</u>
PAYOR	

B. Ordering Defendant to grant Plaintiff access to the requested records;

C. Awarding Plaintiff's costs and reasonable attorneys' fees; and

D. For such other or further relief as this Court deems just and equitable.

And it is further *ORDERED* that:

1. A copy of this order to show cause, verified complaint and all supporting affidavits or certifications submitted in support of this application be served upon Defendant personally or by certified mail, return receipt requested, within 7 days of the date hereof, in accordance with R. 4:4-3 and R. 4:4-4, this being original process.

2. The Plaintiff must file with the Court their proof of service of the pleadings on the Defendants no later than three (3) days before the return date.

3. Defendants shall file and serve its written answer to the verified complaint as well as its opposition papers to this order to show cause and the relief requested in the verified complaint and proof of service of the same by MAY 1, 2012. The answer and opposition papers must be filed with the Clerk of the Superior Court in the county listed above and copies of the papers must be sent directly to the chambers of

Lawrence Maron, J.S.C.

4. The Plaintiff must file and serve any written reply to the Defendants' order to show cause opposition by MAY 7, 2012. The reply papers must be filed with the Clerk of the Superior Court in the county listed above and a copy of the reply papers must be sent directly to the chambers of Lawrence Maron, J.S.C.

5. If the Defendants do not file and serve opposition to this order to show cause, the application will be decided on the papers on the return date and relief may be granted by default, provided that the Plaintiff files a proof of service and a proposed form of order at least three days prior to the return date.

6. If the Plaintiff has not already done so, a proposed form of order addressing the relief sought on the return date (along with a self-addressed return envelope with return address and postage) must be submitted to the Court no later than three (3) days before the return date.

7. Defendants take notice that the Plaintiff has filed a lawsuit against you in the Superior Court of New Jersey. The verified complaint attached to this order to show cause states the basis of the lawsuit. If you dispute this complaint, you, or your attorney, must file a written answer and opposition papers and proof of service before the return date of the order to show cause. These documents must be filed with the Clerk of the Superior Court in the county listed above. A list of these offices is provided. Include a \$135 filing fee payable to the "Treasurer, State of New Jersey." You must also send a copy of your answer and opposition papers to the Plaintiff's attorney whose name and address appear above, or to the Plaintiff, if no attorney is named above. A telephone call will not protect your rights; you must file and serve your answer and opposition papers (with the fee) or judgment may be entered against you by default.

8. If you cannot afford an attorney, you may call the Legal Services office in the county in which you live. A list of these offices is provided. If you do not have an attorney and are not eligible for free legal assistance you may obtain a referral to an

attorney by calling one of the Lawyer Referral Services. A list of these numbers is also provided.

9. The Court will entertain argument, but not testimony, on the return date of the order to show cause, unless the Court and parties are advised to the contrary no later than 3 days before the return date.

L. Maron

LAWRENCE M. MARON, J.S.C.

LAW OFFICE OF WALTER M. LUERS, LLC
Suite C203
23 West Main Street
Clinton, New Jersey 08809
Telephone: 908.894.5656
Attorneys for Plaintiff

<p>EDWARD MECKA, Plaintiff, v. HUDSON HEALTHCARE, INC. Defendant.</p>	<p>SUPERIOR COURT OF NEW JERSEY LAW DIVISION: HUDSON COUNTY</p> <p>DOCKET NO. <u>L 001961 12</u></p> <p>CIVIL ACTION</p> <p>VERIFIED COMPLAINT</p>
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Plaintiff Edward Mecka, by and through his undersigned counsel Law Offices of Walter M. Luers, LLC, complaining of the Defendant, alleges as follows:

THE PARTIES

1. Plaintiff resides at [REDACTED] Hoboken, New Jersey.
2. Defendant Hudson Healthcare, Inc. (“HHI”) is a corporation having its principal offices at 308 Willow Avenue, Hoboken, New Jersey.

JURISDICTION AND VENUE

3. The Court has subject matter jurisdiction of this action pursuant to *N.J.S.A 47:1A-6* and the common law.
4. Venue is proper in this court pursuant to *R. 4:3-2(a)(2)* because the relevant events occurred in this County, the Defendant is located in this County and the Plaintiff resides in this County.

FACTUAL ALLEGATIONS

5. On February 24, 2012, Plaintiff submitted a written records request to Defendant. (Plaintiff's OPRA request is attached as Exhibit 1 to his Certification, which is being filed concurrently herewith) (hereinafter, "Mecka Cert."). In that records request, Plaintiff asked for (1) a copy of a resolution passed by the HHI Board of Directors; (2) minutes from an HHI Board of Directors meeting and (3) a list of those who attended the Board of Directors meeting.

6. Defendant, through counsel, responded to Plaintiff's records request by way of a February 27, 2012 e-mail. (Mecka Cert. Exhibit 2). In the response, Defendant asserted that it was not a "public agency" as defined by the Open Public Records Act ("OPRA"), *N.J.S.A. 47:1A-1.1* and that it considered Plaintiff's request "invalid."

7. In a March 19, 2012 letter to Defendant's counsel, Plaintiff, through an attorney (not the attorney who currently represents Plaintiff), argued that HHI is indeed an OPRA "public agency" and urged Defendant to reconsider its denial of Plaintiff's records request. (Mecka Cert. Exhibit 3).

8. Defendant's counsel, on March 26, 2012, responded to the March 19, 2012 letter. (Mecka Cert. Exhibit 4). In his response, Defendant's counsel reiterated Defendant's position that it is not an OPRA "public agency."

9. HHI was created by an ordinance of the City of Hoboken, which authorized the creation of a non-profit entity to manage the Hoboken University Medical Center.

10. HHI's three founding members were Frank Cisela, Esq., Harvey Holzberg, and Ronald Devito.

11. Frank Cisela was authorized and paid by Hoboken to form HHI. Ronald Devito was the CFO of the Hoboken Municipal Authority prior to HHI's formation, and Harvey Holzberg was a commissioner of the hospital that Hoboken took over and was selected by Hoboken to become its CEO.

FIRST COUNT
(Open Public Records Act)

12. Plaintiff repeats and incorporates by reference each and every allegation contained in paragraphs 1-11 of the Complaint as though fully set forth at length herein.

13. In its February 27, 2012 and March 26, 2012 responses, Defendant denied Plaintiff access to requested records on the grounds that it is not an OPRA "public agency."

14. Defendant HHI is an OPRA "public agency" because it was created by agents of the City of Hoboken. HHI is also controlled by another public agency, the Hoboken Municipal Hospital Authority.

15. Defendant HHI violated OPRA by not providing copies of the documents Plaintiff requested.

SECOND COUNT
(Common Law Right of Access)

16. Plaintiff repeats and incorporates by reference each and every allegation contained in paragraphs 1-15 of the Complaint as though fully set forth at length herein.

17. Plaintiff has a common law right to disclosure of the records requested by him.

18. Plaintiff has a legitimate private interest and wholesome public interest in the requested records.

19. Defendant's interests in privacy and confidentiality, if any, do not exceed Plaintiff's and the public's interest in disclosure.

WHEREFORE, Plaintiff respectfully requests that this Court enter judgment against Defendant:

A. Declaring, pursuant to the Uniform Declaratory Judgment Act, *N.J.S.A. 2A:16-50, et seq.*, that Defendant HHI is an OPRA "public agency" and violated OPRA by denying access to the records Plaintiff requested;

B. Declaring, pursuant to the Uniform Declaratory Judgment Act, *N.J.S.A. 2A:16-50, et seq.*, that Defendant HHI violated Plaintiff's common law right of access by not providing the documents requested by Plaintiff;

C. Ordering Defendant HHI to grant Plaintiff access to the requested records;

D. Awarding Plaintiff's costs and reasonable attorneys' fees; and

E. For such other or further relief as this Court deems just and equitable.

CERTIFICATION PURSUANT TO R. 4:5-1

I certify that the dispute about which I am suing is not the subject of any other action pending in any other court or a pending arbitration proceeding to the best of my knowledge and belief. Also, to the best of my knowledge and belief no other action

of arbitration proceeding is contemplated. Further, other than the parties set forth in this complaint, I know of no other parties that should be made a part of this lawsuit. In addition, I recognize my continuing obligation to file and serve on all parties and the Court an amended certification if there is a change in the facts stated in this certification.

CERTIFICATION PURSUANT TO R. 1:38-7(b)

I certify that confidential personal identifiers have been redacted from documents now submitted to the Court, and will be redacted from all documents submitted in the future.

DESIGNATION OF TRIAL COUNSEL

Pursuant to R. 4:25-4, Walter M. Luers, Esq. is designated as trial counsel on behalf of Plaintiff.

Respectfully Submitted,

LAW OFFICE OF WALTER M. LUERS, LLC

By: 

Walter M. Luers, Member
Suite C203
23 West Main Street
Clinton, New Jersey 08809
Telephone: 908.894.5656
Facsimile: 908.894.5729

DATED: April 10, 2012

EDWARD MECKA, Plaintiff, v. HUDSON HEALTHCARE, INC. Defendant.	SUPERIOR COURT OF NEW JERSEY LAW DIVISION: HUDSON COUNTY DOCKET NO. <u>L 001961 12</u> CIVIL ACTION
--	---

BRIEF IN SUPPORT OF PLAINTIFF'S ORDER TO SHOW CAUSE

LAW OFFICES OF WALTER M. LUERS, LLC
Suite C203
23 West Main Street
Clinton, New Jersey 08809
Telephone: 908.894.5656
Attorneys for Plaintiff

On the brief:

Walter M. Luers

TABLE OF CONTENTS

TABLE OF AUTHORITIES..... ii

PRELIMINARY STATEMENT..... 1

STATEMENT OF FACTS 1

LEGAL ARGUMENT 2

 POINT I: This action should proceed in a summary manner..... 2

 POINT II: The requested documents should be disclosed under OPRA. 3

 A. Standard of Review..... 3

 B. Defendant HHI is a “Public Agency” 4

 C. The Documents Requested By Plaintiff Are Subject to OPRA 7

 POINT III: Award of reasonable attorneys’ fees..... 8

TABLE OF AUTHORITIES

Cases

Asbury Park Press v. Ocean County Prosecutor’s Office,
374 N.J. Super. 312 (Law Div. 2004) 4

Fair Share Housing Center, Inc. v. New Jersey State League of Municipalities,
207 N.J. 489 (2011)..... 3, 4, 7

Libertarian Party of Cent. New Jersey v. Murphy,
384 N.J. Super. 136 (App. Div. 2006)..... 3

MAG Entertainment, LLC v. Division of Alcoholic Beverage Control,
375 N.J. Super. 534 (App. Div. 2005)..... 2, 3

Mason v. Hoboken, 196 N.J. 51, 79 (2008) 8

Times of Trenton Publ’g Corp. v. Lafayette Yard Cmty. Dev. Corp.,
183 N.J. 519 (2005) 4

Statutes

N.J.S.A. 30:9-23.15 et seq. 1

N.J.S.A. 30:9-23.17..... 1

N.J.S.A. 47:1A-1..... 3, 4, 6

N.J.S.A. 47:1A-1.1..... 1, 3, 5, 7

N.J.S.A. 47:1A-6..... 2, 3, 8

Rules

R.4:67-2(a) 2

PRELIMINARY STATEMENT

Defendant Hudson Healthcare, Inc. (“HHI”) is a domestic, nonprofit corporation under contract with the Hoboken Municipal Hospital Authority to act as the “manager” of the Hoboken University Medical Center in accordance with the Municipal Hospital Authority Law, *N.J.S.A. 30:9-23.15 et seq.*

The question presented to the Court is whether HHI is a “public agency” as defined by the Open Public Records Act (“OPRA”), *N.J.S.A. 47:1A-1.1*. As shown below, because HHI was created and is controlled by public agencies, it is absolutely a public agency within the definition of OPRA.

STATEMENT OF FACTS

At its July 12, 2006 meeting,¹ the Hoboken City Council introduced (and subsequently enacted on August 9, 2006) an ordinance to establish the Hoboken Municipal Hospital Authority in accordance with the Municipal Hospital Authority Law. The ordinance’s stated purpose was to have the newly created Authority acquire St. Mary Hospital (now known as the Hoboken University Medical Center), which was closing its doors after 143 years. During the July 12, 2006 meeting, Hoboken City Councilman Ruben Ramos read into the record a letter from Mayor David Roberts. (Certification of Edward Mecka, Exhibit 5) (hereinafter “Mecka Cert.”).

On August 9, 2006, the City awarded several no-bid contracts for professional services related to the transfer of St. Mary Hospital’s assets to the Authority. (Mecka Cert. Exh. 6). Among them was a not-to-exceed \$75,000 award to Frank Ciesla, Esq. to, among other tasks, create the “formation documents” for the nonprofit entity that was going to act as “manager” of

¹ The first eight pages of the July 12, 2006 City Council meeting minutes, which are the only pages relevant to the ordinance’s enactment, are attached as Exhibit 5 to Plaintiff’s certification.

the hospital pursuant to *N.J.S.A. 30:9-23.17*.

In apparent anticipation of this contract award, Mr. Ciesla incorporated Defendant Hudson Healthcare, Inc. on August 7, 2006. (Mecka Cert. Exhibit 7). In the Certificate of Incorporation, Mr. Ciesla named himself and Harvey Holzberg as two of the three members of HHI's Board of Directors. On October 10, 2007, HHI adopted the version of bylaws presently in use today (Mecka Cert. Exhibit 8) and authorized the October 18, 2007 amendment of its Certificate of Incorporation. (Mecka Cert. Exhibit 9.)

On February 24, 2012, Plaintiff submitted a written records request to HHI for a resolution passed by its Board of Directors as well as minutes and a list of attendees of a Board of Directors meeting. (Mecka Cert. Exhibit 1.) In a February 27, 2012 e-mail, HHI's lawyer denied Plaintiff's records request based on his assertion that HHI was not a "public agency" as defined by OPRA. (Mecka Cert. Exhibit 2.) On March 19, 2012, Plaintiff, through an attorney, argued that HHI was indeed an OPRA "public agency" and urged Defendant to reconsider its position. (Mecka Cert. Exhibit 3.) That request was rejected by Defendant's counsel on March 26, 2012. (Mecka Cert. Exhibit 4.)

LEGAL ARGUMENT

POINT I: THIS ACTION SHOULD PROCEED IN A SUMMARY MANNER.

"A person who is denied access to a government record by the custodian of the record, . . . may institute a proceeding to challenge the custodian's decision by filing an action in Superior Court." *N.J.S.A. 47:1A-6*. Once instituted, "[a]ny such proceeding shall proceed in a summary or expedited manner." *Id.* Here, because OPRA authorizes actions under it to proceed in a summary manner, the order to show cause should be granted so this matter may proceed in a summary manner. *R.4:67-2(a)*.

In *MAG Entertainment, LLC v. Division of Alcoholic Beverage Control*, 375 N.J. Super. 534 (App. Div. 2005), the Court analyzed how the Court’s rules regarding summary proceedings should be applied to OPRA proceedings. In *MAG Entertainment*, the Court discussed *R.4:67-2(a)*, and stated that if the Court is “satisfied with the sufficiency of the application, [it] shall order the defendant to show cause why final judgment should not be rendered for the relief sought. *Id.* at 551. This is because OPRA specifically requires such actions to proceed in an “expedited” or “summary manner.” *N.J.S.A. 47:1A-6*. The *MAG* Court observed that OPRA actions are “inherently summary by nature and expedited in manner.” *Id.* at 551.

This action involves an OPRA claim and an identical claim under the common law right of access. The critical issue in this case is whether, under *Fair Share Housing Center, Inc. v. New Jersey State League of Municipalities*, 207 N.J. 489 (2011) and *N.J.S.A. 47:1A-1.1*, HHI is a “public agency” within the definition of OPRA. Because Plaintiff’s claims regarding HHI are based on documentary evidence that has been submitted to the Court, the facts underlying this action cannot reasonably be disputed. We do not anticipate that discovery will be required. Any factual issues that may arise can be resolved by evidence submitted through certifications of affidavits by the parties. Therefore, in light of the foregoing and Legislature’s directive that OPRA actions proceed in a summary manner, we request that the Court sign the Order to Show Cause so that this action may proceed in a summary manner.

POINT II: THE REQUESTED DOCUMENTS SHOULD BE DISCLOSED UNDER OPRA.

A. Standard of Review

As the Court knows, OPRA mandates that “government records shall be readily accessible for inspection, copying, or examination by the citizens of this State, with certain

exceptions, for the protection of the public interest, and any limitations on the right of access accorded [under OPRA] as amended and supplemented, shall be construed in favor of the public's right of access." *Libertarian Party of Cent. New Jersey v. Murphy*, 384 N.J. Super. 136, 139 (App. Div. 2006) (citing *N.J.S.A. 47:1A-1*). "The purpose of OPRA 'is to minimize the evils inherent in a secluded process.'" *Times of Trenton Publ'g Corp. v. Lafayette Yard Cmty. Dev. Corp.*, 183 N.J. 519, 535 (2005) (quoting *Asbury Park Press v. Ocean County Prosecutor's Office*, 374 N.J. Super. 312, 329 (Law Div. 2004)). As recently stated by the New Jersey Supreme Court in *Fair Share Housing Center*, 207 N.J. at 489, "[t]hose who enacted OPRA understood that knowledge is power in a democracy, and that without access to information contained in records maintained by public agencies citizens cannot monitor the operation of our government or hold public officials accountable for their actions."

B. Defendant HHI is a "Public Agency"

OPRA's definition of a public agency "is broadly written so that a wide variety of entities fall within the compass of that term." *Fair Share Housing, Fair Share Housing*, 207 N.J. at 503. Moreover, OPRA expressly requires that "any limitations on the right of access accorded by [OPRA] shall be construed in favor of the public's right of access." *N.J.S.A. 47:1A-1*. Thus, OPRA's definition of a "public agency" is to be broadly construed in order to maximize citizens' access to records.

On August 9, 2006, the City of Hoboken determined that it was necessary for the City to have "proper representation . . . for the creation of the Municipal Hospital Authority **and it's (sic) Not For Profit Management.**" (Mecka Cert. Exhibit 6) (emphasis added). To meet this necessity, the City contracted with Attorney Frank Ciesla to create the management company's "formation documents." In apparent anticipation of the City's resolution, Mr. Ciesla

incorporated HHI and named himself as one of the three initial members of the Board of Directors. (*Id.*, Exhibit 7.) Contrary to the assertions made in HHI's attorney's March 26, 2012 letter denying that HHI is a public agency, the City of Hoboken, through its agent Frank Ciesla, created HHI. Under *Fair Share Housing* nothing more is required for this Court to conclude that HHI is an OPRA public agency.

Also relevant to *Fair Share Housing*'s analysis is Hoboken Mayor David Robert's letter that was read into the record at the July 12, 2006 City Council meeting. (Mecka Cert. Exhibit 5, p. 3). In his letter, Mayor Roberts stated:

We have already begun implementing this vision [i.e. that Hoboken "soon will have one of the finest medical facilities in the State with the latest in medical technology"] with the appointment of the highly respected and professional administrator Harvey Holzberg as President and CEO. Mr. Holzberg comes with a resume of outstanding success and accomplishments and we strongly believe that he will put St. Mary Hospital on an even greater path to remain in Hoboken for another 140 years. (Mecka Cert. Exhibit 5, p. 3) (emphasis supplied).

Remarkably, even though neither HHI nor the Hospital Authority yet existed when the mayor authored his letter, the City of Hoboken (*i.e.* the "we" in Mayor Roberts' letter) appointed Mr. Holzberg to the positions of "President and CEO." Not only did Hoboken cause the creation of HHI by specifically authorizing Mr. Ciesla to do so through an official resolution of Hoboken, Hoboken named its highest officer.

Which entity gained Mr. Holzberg as its president and CEO by way of the City's appointment? HHI's Amended Certificate of Incorporation is signed by Mr. Holzberg in his capacity as "President/Chief Executive Officer." (Exhibit 9). And, Mr. Holzberg was appointed as one of HHI's initial Directors when the original Certificate of Incorporation was filed on August 7, 2006. Mr. Holzberg, like Mr. Ciesla, acted as City's agent for the purposes of creating

HHI.

In his March 26, 2012 letter, HHI's counsel asserts that "HHI is not governed by the [Hospital] Authority and/or the City of Hoboken." Yet, whether or not a government agency governs or controls an entity is not relevant to whether the entity is an OPRA "public agency." *N.J.S.A. 47:1A-1.1* includes within the definition of public agency "any division, board, bureau, office, commission, or other instrumentality." Following that phrase is "any **independent** authority, commission, instrumentality or agency" (emphasis added). The fundamental principle of statutory interpretation that language be read so that no part is redundant and the OPRA principle that "any limitations on the right of access accorded by [OPRA] shall be construed in favor of the public's right of access," *N.J.S.A. 47:1A-1*, require that the second phrase be read with the word. "independent" modifying each of the following words.

Therefore, OPRA's definition of "public agency" includes agencies and instrumentalities that are independent, and thus not under the control, of the political subdivisions that created them.

Even if this Court were to read OPRA to require "control," which it should not, HHI's By-Laws contain a long list of important powers that are reserved to the Hoboken Municipal Hospital Authority, including (1) the power to approve HHI's chief executive officer and chief financial officer; (2) the power to remove those officers; (3) the power to approve those officers' contracts and conditions of employment; (4) the power to approve HHI's management plan, including the monitoring of financial activities; (5) the power to "approve the minimum provisions that shall be set forth in [HHI's] management contract with the Authority; (6) the power to approve and monitor HHI's budgets for the hospital it is supposed to manage and to approve and monitor HHI's own budget; (7) the power to authorize HHI to acquire or dispose

any of the hospital's assets; and (8) the power to approve new HHI debt. (Mecka Cert. Exhibit 8 at p. 2). Indeed, in the Authority's operating agreement with HHI, the Authority retained broad powers over HHI. The Authority also required HHI to appoint Messrs. Holzberg and Devito as HHI CEO and CFO, respectively. (Mecka Cert. Exhibit 10 at Section 2.2.8).

C. The Documents Requested By Plaintiff Are Subject to OPRA

Here, the documents sought by Plaintiff are "government records" within the meaning of OPRA. Under OPRA, a "government record":

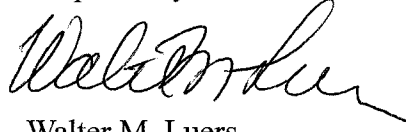
means any paper, written or printed book, document, drawing, map, plan, photograph, microfilm, data processed or image processed document, information stored or maintained electronically or by sound-recording or in a similar device, or any copy thereof, that has been made, maintained or kept on file in the course of his or its official business by any officer, commission, agency or authority of the State or of any political subdivision thereof, including subordinate boards thereof, or that has been received in the course of his or its official business by any such officer, commission, agency, or authority of the State or of any political subdivision thereof, including subordinate boards thereof. *N.J.S.A. 47:1A-1.1.*

Here, there is no doubt that the documents requested by Plaintiff are public records. Plaintiff asked for copies of a Board of Directors resolution, meeting minutes and a meeting attendance list. Since the HHI is a "public agency," the documents maintained by it are "government records" within the definition of OPRA. *Fair Share Housing*, 207 N.J. at 508.

POINT III: AWARD OF REASONABLE ATTORNEYS' FEES.

If the Court orders Defendant HHI to produce the documents at issue, the Court should find that Plaintiff is the prevailing party and, under the common law and OPRA's fee-shifting provisions, award Plaintiff a reasonable attorneys' fee and costs. *N.J.S.A. 47:1A-6; Mason v. Hoboken*, 196 N.J. 51, 79 (2008) (concluding that catalyst theory applies to fee awards under both OPRA).

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Walter M. Luers", written in a cursive style.

Walter M. Luers

Exhibit 1

(February 24, 2012 Records Request)

Edward J. Mecka
2 Marine View Plaza, Suite 20E
Hoboken, New Jersey 07030
201-448-4900 E-mail: edmecka@gmail.com
[Http://www.edmecka.com](http://www.edmecka.com)

February 24, 2012

Custodian of Records
Hudson Healthcare, Inc.
308 Willow Avenue
Hoboken, New Jersey 07030 (Via fax only to ~~(201) 418-2206~~ 201-418-1011)

Joseph J. DiPasquale, Esq.
Trenk, DiPasquale, Webster, Della Fera & Sodono, P.C.
347 Mount Pleasant Avenue, Suite 300
West Orange, NJ 07052 (Via fax to (973) 243-8677 and email
jdipasquale@trenklawfirm.com)

Dear Custodian:

Please accept this letter as a request for government records in accordance with the Open Public Records Act (OPRA) and the common law right of access.

Please respond and send all responsive documents via e-mail to edmecka@gmail.com. Also, I would appreciate it if you would acknowledge your receipt of this letter. If you have any questions, please call Edward Mecka at 201-448-4900.

Records requested:

- 1) A copy of the HHI Board of Directors resolution appointing the new HHI legal counsel when Scarinci Hollenbeck, LLC resigned on July 15, 2011.**
- 2) The agenda for the July 15, 2011 Hudson Healthcare, Inc. Board of Directors meeting.**
- 3) The attendance list for the July 15, 2011 Hudson Healthcare, Inc. Board of Directors meeting and if no such attendance list exist, a copy of the minutes of the meeting.**

Thank you,
Edward Mecka
(voice - 201-448-4900)

Exhibit 2

(February 27, 2012 E-mailed Response)

 **Fw: OPRA Request - February 24, 2012**

edmecka@gmail.com <edmecka@gmail.com>
Reply-To: edmecka@gmail.com
To: Richard Gutman esq <rickggg@yahoo.com>

Mon, Feb 27, 2012 at 1:08 PM

HHI's response.

Sent via BlackBerry from T-Mobile

From: "Joseph Maddaloni, Jr." <JMaddaloni@trenklawfirm.com>
Date: Mon, 27 Feb 2012 12:06:05 -0500
To: edmecka@gmail.com <edmecka@gmail.com>
Subject: FW: OPRA Request - February 24, 2012

Joseph Maddaloni, Jr.

Partner

Trenk, DiPasquale, Webster, Della Fera & Sodono, P.C. | www.trenklawfirm.com

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Direct [973.323.8655](tel:973.323.8655) | Firm [973.243.8600](tel:973.243.8600) | Fax [973.243.8677](tel:973.243.8677) | jmaddaloni@trenklawfirm.com

West Orange | Red Bank

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From: Joseph Maddaloni, Jr.
Sent: Monday, February 27, 2012 12:05 PM
To: 'Ed Mecka '
Cc: Joseph J. DiPasquale
Subject: OPRA Request - February 24, 2012

Mr. Mecka:

Our firm is counsel to Hudson Healthcare, Inc. ("HHI"). Your latest Open Public Records Act ("OPRA") request dated February 24, 2012, seeking certain information regarding the operation of HHI has been referred to me for review and response. Consistent with our earlier response to your January 6, 2012 OPRA request, please note that HHI is a private, not for profit corporation. HHI is not a political subdivision of the state, nor is it an instrumentality within or created by a political subdivision of the state or any authority, commission or agency thereof. HHI is not a "public agency" that possesses "government records"

within the scope and reach of OPRA. Consequently, your request for "government records" from HHI is invalid.

Best regards,

Joseph Maddaloni, Jr.

Partner

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From: Ed Mecka [<mailto:edmecka@gmail.com>]

Sent: Friday, February 24, 2012 1:51 PM

To: Joseph J. DiPasquale

Subject: HHI - OPRA 02-24-2012

Dear Mr. DiPasquale:

Please accept the attached OPRA request for HHI documents.

Thank you,

Edward Mecka



HHI-OPRA_02-24-2012.docx

18K

Exhibit 3

(Plaintiff's Attorney's March 19, 2012 Letter)

 **Edward Mecka OPRA request to HHI**

Richard Gutman <rickggg@yahoo.com>
Reply-To: Richard Gutman <rickggg@yahoo.com>
To: "jmaddaloni@trenklawfirm.com" <jmaddaloni@trenklawfirm.com>
Cc: "edmecka@gmail.com" <edmecka@gmail.com>

Mon, Mar 19, 2012 at 3:56 PM

Richard Gutman
55 Warfield Street
Montclair, NJ 07043-1116
[973-744-6038](tel:973-744-6038) (voice & fax)

March 19, 2012

Joseph Maddoloni, Jr.
Trenk, DiPasqualie, Webster, Della Fera & Sonono, P.C.
[973-243-8677](tel:973-243-8677) (fax)
jmaddaloni@trenklawfirm.com

Dear Mr. Maddoloni:

I represent Edward Mecka regarding his February 24, 2012, Open Public Records Act request to Hudson Healthcare, Inc.

In your February 27, 2012 denial of access letter, you stated that HHI is not an OPRA "public agency" because "HHI is not . . . an instrumentality . . . created by a political subdivision of the state or any authority, commission or agency thereof." But the City of Hoboken created HHI to manage Hoboken Municipal University Medical Center for the Hoboken Municipal Hospital Authority. Times v. Lafayette Yard Community Development Corporation, 183 N.J. 519, 534-6 (2005).

Please inform me as soon as possible as to whether HHI grants Mr. Mecka access to the requested records.

Very truly yours,

Richard Gutman

Exhibit 4

(Defendant's Attorney's March 26, 2012 Response)

 **Edward Mecka OPRA request to HHI****Joseph Maddaloni, Jr.** <JMaddaloni@trenklawfirm.com>

Mon, Mar 26, 2012 at 3:23 PM

To: Richard Gutman <rickggg@yahoo.com>

Cc: "edmecka@gmail.com" <edmecka@gmail.com>, "Joseph J. DiPasquale" <JDiPasquale@trenklawfirm.com>

Mr. Gutman:

I am in receipt of your correspondence regarding Mr. Mecka's OPRA request, which was submitted to our client Hudson Healthcare, Inc. ("HHI"), and I apologize for not responding sooner. Your contention that the "City of Hoboken created HHI to manage Hoboken Municipal University Medical Center for the Hoboken Municipal Hospital Authority" is incorrect. While the City of Hoboken did create the Hoboken Municipal Hospital Authority ("the Authority"), neither the City of Hoboken nor the Authority created or established HHI. Rather, HHI is a not-for-profit corporation formed under the laws of the State of New Jersey, and is tax exempt pursuant to section 501(c)(3) of the Internal Revenue Code. HHI operated and managed the day-to-day operations of Hoboken University Medical Center ("the Hospital") pursuant to a Master Manager and Operator Agreement, originally dated February 1, 2007, between HHI and the Authority, which set forth HHI's rights, duties, and responsibilities in the management and operation of the Hospital. HHI did not own any of the assets of the Hospital, all of which belonged to the Authority. Also, HHI did not have the right, power or authority to issue bonds or to otherwise spend or disburse public funds. Rather, HHI's operating budget was supported in large part from the fees generated by the hospital for medical services provided. Further, HHI is not governed by the Authority and/or the City of Hoboken. Rather, HHI is governed by its own independent, five-member Board of Directors, comprised of HHI's Chief Executive Officer and Chief Financial Officer, as well as an appointee of the Governor, and two Community Directors.

As you can see from the foregoing, the creation and operation of HHI is vastly different from the redevelopment authority that is the subject of the Court's decision in Times v. Lafayette Yard Community Development Corporation, 183 N.J. 519 (2005). Most significantly, the Board of Directors of Lafayette Yard Community Development Corporation ("LYCDC") were appointed and controlled by the Mayor and the City Council, which is not the case regarding HHI. Further, LYCDC had the authority to issue bonds and to secure public financing that was backed by the full faith and credit of the City of Trenton. Id. at 522-25, 530-31. HHI had no such authority. Thus, unlike LYCDC, HHI is not "controlled in large measure by a municipality and is not supported by the municipality's taxing power" such that HHI is performing a "governmental function."

This, in our opinion, places HHI outside of the scope of OPRA's requirements. Thus, it is our contention that HHI is not a "public agency" that possesses "government records" within the scope and reach of OPRA. Consequently, Mr. Mecka's request for "government records" from HHI is invalid.

Best regards,

Joseph Maddaloni, Jr.

Partner

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From: Richard Gutman [mailto:rickggg@yahoo.com]

Sent: Monday, March 19, 2012 3:57 PM

To: Joseph Maddaloni, Jr.

Cc: edmecka@gmail.com

Subject: Edward Mecka OPRA request to HHI

[Quoted text hidden]

Exhibit 5

(Partial Minutes of July 12, 2006 City Council Meeting)

MEETING OF JULY 12, 2006

MINUTES OF A MEETING OF THE COUNCIL OF THE CITY OF HOBOKEN, NEW JERSEY, HELD IN THE COUNCIL CHAMBERS, CITY HALL, HOBOKEN, NEW JERSEY, WEDNESDAY, JULY 12, 2006 AT 7:00 PM

Prior to the beginning of the regular council meeting, at 6:35 PM, the council entered into an executive (closed) session.

06-496

---By Councilman Ramos:

WHEREAS, Members of the Hoboken City Council wish to enter Executive Session to discuss matters pursuant to N.J.S.A. 10:4-12(b); and

WHEREAS, pursuant to N.J.S.A. 10:4-13 a resolution is required stating the general nature of the subject to be discussed and as precisely as possible, the time when and the circumstances under which the discussion in the Executive Session can be disclosed to the public; and

WHEREAS, the general nature of the subject(s) to be discussed at this meeting is as follows:

Potential litigation and contract negotiations

BE IT RESOLVED, that the City Council shall at this time 6:35 pm, July 12, 2006, enter into Executive Session to discuss the matters as outlined above, and-

BE IT FURTHER RESOLVED, that it can be disclosed to the public as follows:

Upon final disposition of the matter.

Seconded by Councilman Giacchi.

---Adopted by the following vote: YEAS: 8 - NAYS: 0 - ABSENT: 1

---Yeas: Council persons Cammarano, Castellano, Del Boccio, Giacchi, LaBruno, Ramos, Russo and President Campos.

---Nays: None.

---Absent: Cricco.

The City Council came out of closed session at 6:58 p.m. and took a brief recess.

President Campos opened the meeting at 7:05 p.m. and stated, "I would like to advise all those present that notice of this meeting has been provided to the public in accordance with the provisions of the Open Public Meeting Act, and that notice was furnished to The Jersey Journal and The Hoboken Reporter, The Bergen Record, The Newark Star - Ledger and also placed on the bulletin board in the lobby of City Hall."

The Council President then called for the Salute to the Flag.

The Clerk then called the roll:

PRESENT: Council persons Cammarano, Castellano, Del Boccio, Giacchi, LaBruno, Ramos, Russo and President Campos.

ABSENT: Cricco.

RESOLUTIONS

Presented and Read

The City Clerk asked for nominations for the position of City Council President. Only one nomination was received. Then a motion was made to close nominations by Councilman Russo and seconded by Councilman Ramos and voted for unanimously by all in attendance.

06-497

---By Councilman Campos:

RESOLVED, that Richard DelBoccio be and is hereby appointed President of the Hoboken City Council for a one year term expiring June 30, 2007.

---Motion duly seconded by Councilman Cammarano.

---Adopted by the following vote: YEAS: 8 - NAYS: 0 - ABSENT: 1

---Yeas: Council persons Cammarano, Campos, Castellano, Del Boccio, Giacchi, LaBruno, Ramos and Russo.

---Nays: None.

---Absent: Cricco.

The City Clerk then administered the oath of office for Council President Del Boccio.

The City Clerk asked for nominations for the position of City Council Vice-President. Only one nomination was received. Then a motion was made to close nominations by Councilman Campos and seconded by Councilman Russo and voted for unanimously by all in attendance.

06-498

---By Councilman Ramos:

RESOLVED, that Terry La Bruno be and is hereby appointed Vice-President of the Hoboken City Council for a one year term expiring June 30, 2007.

---Motion duly seconded by Councilman Giacchi.

---Adopted by the following vote: YEAS: 8 - NAYS: 0 - ABSENT: 1

---Yeas: Council persons Cammarano, Campos, Castellano, Giacchi, LaBruno, Ramos, Russo and President Del Boccio.

---Nays: None.

---Absent: Cricco.

The City Clerk then administered the oath of office for Council Vice-President LaBruno.

At this time a motion was made by Councilman Campos and seconded by Councilman Ramos and voted for unanimously by all in attendance to suspend the order of the agenda.

06-499

At this time Councilman Ramos read a letter into the record from Mayor David Roberts as follows:

Dear City Council Members:

Tonight, you and I – along with Governor Jon Corzine, Senator Bernard F. Kenny, Jr., Assemblywoman Joan Quigley, the State Legislature, the Hudson County Legislative Delegation, the doctors, nurses and staff at St. Mary Hospital and all of the residents of the City of Hoboken have arrived at an historic moment in Hoboken's history.

Tonight, when you pass the ordinance creating an Authority that will run St. Mary Hospital and pave the way for its acquisition by the City of Hoboken; it marks the culmination of one of the greatest team efforts of government and community to achieve a public benefit for the whole community.

All of those I just mentioned, along with many others who gave their support and hard work and commitment, contributed to the effort of saving the hospital and ensuring that the residents of Hoboken and the surrounding communities will be provided with on-going quality health care and soon will have one of the finest medical facilities in the State with the latest in medical technology.

We have already begun implementing this vision with the appointment of the highly respected and professional administrator Harvey Holzberg as President and CEO. Mr. Holzberg comes with a resume of outstanding success and accomplishments and we strongly believe that he will put St. Mary Hospital on an even greater path to remain in Hoboken for another 140 years.

I wish to express my appreciation to all the City Council members, who have contributed their hard work to save the hospital and bring about this legislative initiative to accomplish the goal.

Again, I wish to thank Governor Corzine, our friend Senator Kenny and Assemblywoman Joan Quigley for tirelessly working for the past year to create the legislation

which has contributed to the successful conclusion of this City's initial journey into the field of health care. I remind all that we must continue the same resolve in our support of the Hospital to make sure that it succeeds. Never before in my recollection has the entire community galvanized its efforts in such a way that we can all proudly say "We Saved St. Mary Hospital!"

Sincerely,

MAYOR DAVID ROBERTS

06-500

---By all the city council members present:

WHEREAS, pursuant to the Municipal Hospital Authority Law, any city may, by ordinance, establish a municipal hospital authority as a body corporate and politic and an agency and instrumentality of such city, for the purpose of acquiring and operating an hospital located in such city; and

WHEREAS, the City Council of the City of Hoboken, in the County of Hudson, New Jersey (the "City") desires to make application to the Local Finance Board for the formation of a municipal hospital authority pursuant to N.J.S.A. 40A:5A-4 in order for such authority to acquire and operate St. Mary Hospital; and

WHEREAS, the City Council of the City believes that:

- (a) it is in the public interest to accomplish such purpose;
- (b) said purpose or improvements are for the health, welfare, convenience or betterment of the inhabitants of the City;
- (c) the amounts to be expended for such purpose or improvements are not unreasonable or exorbitant; and
- (d) the proposal is an efficient and feasible means of providing services for the needs of the inhabitants of the City and will not create an undue financial burden to be placed upon the City;

NOW THEREFORE, BE IT RESOLVED by the City Council of the City of Hoboken, in the County of Hudson, New Jersey as follows:

Section 1. The application to the Local Finance Board is hereby approved, and the City's administrator, chief financial officer, special counsel and auditor, along with other representatives of the City, are hereby authorized to prepare such application, to file such application with the Local Finance Board and to represent the City in matters pertaining thereto.

Section 2. The Clerk is hereby directed to prepare and file a copy of the proposed resolution with the Local Finance Board as part of such application.

Section 3. The Local Finance Board is hereby respectfully requested to consider such application and to record its findings, recommendations and/or approvals as provided by the applicable New Jersey Statute.

Before the vote was taken the following spoke regarding the resolution: Joan Quigley, New Jersey Assemblywoman; Don Pellicano, 1000 Hudson Street; Helen Hirsch, 98 Park Avenue; Steve Baulman, 1107 Washington Street.

---Motion duly seconded by all the city council members present.

---Adopted by the following vote: YEAS: 8 - NAYS: 0 - ABSENT: 1

---Yeas: Council persons Cammarano, Campos, Castellano, Giacchi, LaBruno, Ramos, Russo and President Del Boccio.

---Nays: None.

---Absent: Cricco.

ORDINANCES

Introduction and First Reading

06-501
DR-263

AN ORDINANCE OF THE CITY OF HOBOKEN IN THE COUNTY OF HUDSON, STATE OF NEW JERSEY AUTHORIZING THE ESTABLISHMENT OF THE HOBOKEN MUNICIPAL HOSPITAL AUTHORITY. (DR-263)

WHEREAS, for over 143 years, St. Mary Hospital has been providing affordable and convenient healthcare services to the residents of the City of Hoboken, in the County of Hudson (the "City"); and

WHEREAS, the City has been advised by St. Mary Hospital that it intends to close and that it has submitted a Certificate of Need to the New Jersey Department of Health and Senior Services for permission to do so; and

WHEREAS, it is hereby declared that a serious public emergency exists affecting the health, safety and welfare of the people of the City resulting from the fact that St. Mary Hospital may close, unless the City takes certain actions; and

WHEREAS, the Legislature of the State of New Jersey (the "State") has recently enacted the Municipal Hospital Authority Law, which authorizes cities to acquire certain existing urban hospitals and to operate them; and

WHEREAS, it is the purpose of this ordinance to form such an authority to acquire St. Mary Hospital in order to ensure that the citizens of the City continue to have access to affordable healthcare, to maintain and improve the health and welfare of its citizens and to the extent deemed necessary by the City, for such facilities to obtain the financial support and other resources from the City that are needed to operate; and

WHEREAS, the formation of such an authority, the acquisition by such authority of St. Mary Hospital and the operation thereof by such authority is hereby declared to be a public use and purposes; and

WHEREAS, the City Council now desires to create, through the provisions of the Municipal Hospital Authorities Law, a municipal hospital authority to acquire and operate St. Mary Hospital.

NOW THEREFORE BE IT ORDAINED by the Mayor and City Council of the City of Hoboken, in the County of Hudson, New Jersey, as follows:

SECTION 1. Creation: Pursuant to Section 4 of the Municipal Hospital Authority Law, there is hereby created a body corporate and politic and an agency and instrumentality of the City known as the Hoboken Municipal Hospital Authority (the "Municipal Hospital Authority").

SECTION 2. membership: The Municipal Hospital Authority shall consist of eleven (11) members, consisting of one (1) Class I member, two (2) Class II hospital members, six (6) Class III public members and two (2) Class IV members. The Class I member shall be the Mayor of the City or his designee, ex-officio. The Class II hospital members shall serve on, and be appointed by, the medical staff executive committee of the hospital, to terms concurrent with their membership on the executive committee, and who need not be residents of the City. The Class III public members shall be appointed by the Mayor of the City, with the advice and consent of the City Council. None of the Class III public members shall be officers or employees of the City, the Municipal Hospital Authority or of the management entity which is required to manage the hospital. At least four of the Class III public members shall be residents of the City. At least two of the Class III public members shall have special expertise as follows: one shall have extensive expertise in finance of private or nonprofit organizations, and one shall have extensive expertise in nonprofit organizational management. The Class III public members shall serve for terms of five years and until their respective successors have been appointed and qualified; except that of the six members first appointed by the Mayor, (i) one Class III public member shall serve for an initial term ending on June 30, 2007; (ii) one Class III public member shall serve for an initial term ending on June 30, 2008, (iii) one Class III public member shall serve for an initial term ending on June 30, 2009; (iv) one Class III public member shall serve for an initial term ending on June 30, 2010; and (v) two Class III public members shall serve for an initial term ending on June 30, 2011. All subsequent terms of Class III public members shall be for five years and shall be staggered in accordance with the above-referenced schedule. The terms of all Class III public members shall begin on July 1 and end on June 30, except that (A) the terms of office of the initial Class III public members shall begin on the date(s) such members are appointed and qualified, and (B) the term of office of any Class III public member shall terminate if such member no longer meets the above qualifications. The hospital's chief executive officer or a designee thereof shall serve as a nonvoting Class IV member. The Commissioner of Community Affairs of the State of New Jersey shall appoint one individual as a nonvoting Class IV member. Any vacancy occurring in the office of member, from any cause, shall be filled in the same manner as the original appointment, but for the unexpired term.

A certificate of the appointment or reappointment of each Class III public member shall be filed with the Municipal Clerk, and that certificate shall be conclusive evidence of the due and proper appointment of that member. A member shall receive no compensation for services, but shall be entitled to reimbursement from the Municipal Hospital Authority for actual expenses necessarily incurred in the discharge of the duties of member. The powers of the Municipal Hospital Authority shall be vested in the members thereof in office from time to time. Five voting members shall constitute a quorum for the purpose of conducting business and exercising powers and all other purposes. Action may be taken by the Municipal Hospital Authority upon the affirmative vote of the majority, but not less than five of the voting members present, unless in any case the bylaws of the Municipal Hospital

Authority shall require a larger number. The Municipal Hospital Authority shall select a chairman and a vice-chairman from among the Class III public members, and it may employ an executive director who may be its secretary.

For inefficiency or neglect of duty or misconduct in office, a member may be removed by the governing body or officer by which he was appointed; but a member may be removed only after the member has been given a copy of the charges at least ten (10) days prior to the hearing thereon and has had the opportunity to be heard in person or by counsel. In the event of a removal of a member, a record of the proceedings, together with the charges and findings thereon, shall be filed in the office of the Municipal Clerk.

SECTION 3. All ordinances or parts of ordinances inconsistent herewith are hereby repealed. If any section, subsection, sentence, clause, phrase or portion of this ordinance is for any reason held invalid or unconstitutional by a Court of competent jurisdiction, such portion shall be deemed a separate, distinct and independent provision, and such holding shall not affect the validity of the remaining portions hereof.

SECTION 4. Since this ordinance is legislative in nature, there shall be the codification of same in the General Ordinance Book of the City.

SECTION 5. A certified copy of this ordinance shall be filed in the Office of the Division of Revenue in the Department of Treasury and in the Office of the Division of Local Government Services in the Department of Community Affairs.

SECTION 6. This ordinance shall take effect after second reading and publication as required by law.

---All city council members present moved that the ordinance pass its first reading as read and be laid on the table for public inspection to be further considered for final passage at a meeting of the Council to be held on AUGUST 9, 2006 at 7:00 PM.

---Motion duly seconded by all city council members present.

---Adopted by the following vote: YEAS: 8 - NAYS: 0 - ABSENT: 1

---Yeas: Council persons Cammarano, Campos, Castellano, Giacchi, LaBruno, Ramos, Russo and President Del Boccio.

---Nays: None.

---Absent: Cricco.

PUBLIC HEARING and FINAL VOTE ON ORDINANCES

Second Reading / Public Hearing and Final Vote

AN ORDINANCE TO AMEND AND SUPPLEMENT CHAPTER 192 OF THE CODE OF THE CITY OF HOBOKEN ENTITLED PARKING FOR HANDICAPPED (Deletions: 617 Bloomfield St.; 209 Willow Ave.; 98 Adams St.; 63 Jefferson St.; 460 5th St.; 87 Jefferson St.; 933 Washington St.; 59 13th St.; 509 Jackson St.; 300 Adams St.; 103 Jefferson St.). (DR-259)

President Del Boccio directed the City Clerk to announce that the Council would consider for final passage the aforesaid ordinance and all persons interested at this time would be given an opportunity to be heard concerning said ordinance which was read in full.

No person present desiring to be heard and no written protests or objections received, President Del Boccio asked for a motion to close the hearing.

Councilman Campos moved that the hearing be closed.

Motion duly seconded by Councilman Cammarano.

---Adopted by the following vote: YEAS: 8 - NAYS: 0 - ABSENT: 1

---Yeas: Council persons Cammarano, Campos, Castellano, Giacchi, LaBruno, Ramos, Russo and President Del Boccio.

---Nays: None.

---Absent: Cricco.

Council President Del Boccio then instructed the City Clerk to call the Final Vote for the above Ordinance.

---Adopted by the following vote: YEAS: 8 - NAYS: 0 - ABSENT: 1

---Yeas: Council persons Cammarano, Campos, Castellano, Giacchi, LaBruno, Ramos, Russo and President Del Boccio.

---Nays: None.

---Absent: Cricco.

AN ORDINANCE TO AMEND AND SUPPLEMENT CHAPTER 192 OF THE CODE OF THE CITY OF HOBOKEN ENTITLED PARKING FOR HANDICAPPED (Approvals: 62 Monroe St.; 606 Hudson St.). (DR-260)

President Del Boccio directed the City Clerk to announce that the Council would consider for final passage the aforesaid ordinance and all persons interested at this time would be given an opportunity to be heard concerning said ordinance which was read in full.

No person present desiring to be heard and no written protests or objections received, President Del Boccio asked for a motion to close the hearing.

Councilman Campos moved that the hearing be closed.

Motion duly seconded by Councilman Russo.

---Adopted by the following vote: YEAS: 8 - NAYS: 0 - ABSENT: 1

---Yeas: Council persons Cammarano, Campos, Castellano, Giacchi, LaBruno, Ramos, Russo and President Del Boccio.

---Nays: None.

---Absent: Cricco.

Council President Del Boccio then instructed the City Clerk to call the Final Vote for the above Ordinance.

---Adopted by the following vote: YEAS: 8 - NAYS: 0 - ABSENT: 1

---Yeas: Council persons Cammarano, Campos, Castellano, Giacchi, LaBruno, Ramos, Russo and President Del Boccio.

---Nays: None.

---Absent: Cricco.

Exhibit 6

(August 18, 2006 Published Public Notice)

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Public Notice

County: Hudson
Printed In: Jersey Journal, Jersey City
Printed On: 2006/08/18

Public Notice:

PUBLIC NOTICE
CITY OF HOBOKEN
HUDSON COUNTY, N.J.

AWARD OF A PROFESSIONAL
SERVICES CONTRACT

Take notice that the City Council of the City of Hoboken on August 9, 2006 has authorized the execution of a professional services contract, without competitive bidding as a professional service under the provisions of the Local Public Contract Law (N.J.S.A. 40A:115(1)(a)(i))

RESOLUTION AUTHORIZING THE HIRING OF CONSULTANTS TO COMPLETE THE SAINT MARY TRANSFER OF ASSETS

WHEREAS, it is necessary for the city of Hoboken to undertake certain tasks in order to properly review all pertinent documentation with regard to asset transfer from Bon Secour's/St. Mary Hospital to Hoboken and to the, to be created, Municipal Hospital Authority; and

WHEREAS, certain professionals including Financial Analyst, Funding Specialist and Due Diligence legal review and Labor Contracts review are necessary; and

WHEREAS, proper representation is necessary for the creation of the Municipal Hospital Authority and it's Not For Profit Management require additional legal expertise; and


WHEREAS, funds for these purposes are going made available to the City of Hoboken, at no expense to the City of Hoboken, by the Saint Mary Hospital Foundation; and

WHEREAS, specific controls include;

1. Due Diligence Legal Counsel- Gluck Walrath
For a sum not to exceed Fifty Thousand (\$50,000.00) dollars.
2. Labor Counsel- Scarinci & Hollenbeck, LLC
For a sum not to exceed Fifty Thousand (\$50,000.00) dollars.
3. Formation Documents and Interim Legal Counsel- Frank Ciesla, Esq.
to the Acquiring Entity-For a sum not to exceed Seventy Five Thousand (\$75,000.00) dollars.
4. Financial Analyst-Donohue, Girona & Doria
For a sum not to exceed Fifty Thousand (\$50,000.00) dollars.
5. Funding Specialist-N W Financial
For a sum not to exceed Seventy Five Thousand (\$75,000.00) dollars.

NOW, THEREFORE, BE IT RESOLVED that:

1. The above recitals are incorporated herein as thought fully set forth at length.

- 
2. The council hereby authorized the Mayor, or his designee to execute any and all documents and take any and all actions necessary to complete and realize the intent and purpose of this resolution.
 3. The City Clerk has published a brief notice stating the name of the contractor, nature of the contract, duration of the contract, the services performed and amount of the contract in one newspaper authorized by law to publish the City's legal advertisements as required by N.J.S.A. 40A:11-5(1)(a).
 4. A copy of this resolution shall be published and the City Clerk shall keep a copy of this contract in accordance to N.J.S.A. 40A:11-1 et seq.
 5. The funding for these contracts will be paid on behalf of the City of Hoboken by the Saint Mary Hospital Foundation.
- Meeting Date: August 9, 2006.

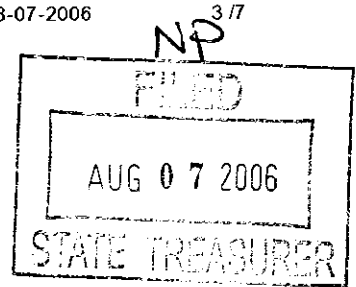
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Exhibit 7

(HHI's August 7, 2006 Certificate of Incorporation)



**CERTIFICATE OF INCORPORATION
OF
HUDSON HEALTHCARE, INC.**

This is to certify that there is hereby organized a nonprofit corporation under and by virtue of N.J.S.A. 15A:1-1 et seq., the New Jersey Nonprofit Corporation Act.

1. The name of the Corporation is Hudson Healthcare, Inc. (hereinafter the "Corporation").
2. The purpose for which this nonprofit Corporation is organized and operated is not for pecuniary profit but exclusively for charitable purposes within the meaning of section 501(c)(3) of the Internal Revenue Code of 1986, or the corresponding provision of any future United States tax law (hereinafter referred to as the "Code"). The charitable purposes to which the Corporation shall be devoted are the promotion of health. The Corporation shall be a support organization as defined in Section 509(a)(3) of the Code, shall be operated consistent with the requirements of the New Jersey Municipal Hospital Authority Law, N.J.S.A. 30:23-15 et seq., as amended from time to time, and shall be organized, and at all times thereafter be operated, exclusively for the benefit of, to perform the functions of, or to carry out the purposes of, the Hoboken Municipal Hospital Authority (the "Authority"), a governmental unit described in Section 170(b)(1)(A) of the Code. The Corporation shall meet these purposes primarily through the provision of management services and related services to the municipal hospital operated by the Authority.
3. The Corporation shall have no members.
4. In order to accomplish its purpose, the Corporation shall have all powers hereinafter set forth, subject to the limitations and restrictions on the exercise of said powers set forth in Paragraphs 5 and 13 below:

(a) In general, to do any and all acts and things, and to exercise any and all powers which it may now or hereafter be lawful for the Corporation to do or exercise under and pursuant

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to the laws of the State of New Jersey for the purpose of accomplishing any purposes for which the Corporation was formed.

(b) To receive, administer, hold and invest funds for the charitable purpose of the Corporation, and to that end take and hold by bequest, devise, gift, grant, purchase, lease, or otherwise, either absolutely or jointly with any other person, persons, or corporation, or any other entity, any property, real, personal, tangible, or intangible or any undivided interest therein, without limitation as to amount or value; to sell, convey, transfer, gift or otherwise dispose of any such funds or property and to invest, reinvest, or deal with the principal or the income thereof in such manner as, in the judgment of the Directors, will best promote the purpose for which the Corporation is formed, without any limitation except those that may be contained in the instrument under which such property or funds are received, in this Certificate of Incorporation, the Bylaws or any laws applicable thereto.

(c) To issue its own bonds, notes, debentures, certificates of indebtedness, certificates of interest, or other exchanges therefor or in payment thereof or otherwise to make payment therefor; to give collateral for funds borrowed.

(d) To become a member in any corporation or association not for profit, and to exercise such powers as the governing instruments of such corporations and associations provide, and to control any such corporation as a subsidiary or otherwise.

(e) To create corporations for profit, own and hold or dispose of in any manner shares of stock, other equity securities and debt instruments in such corporations and to control any such corporation as a subsidiary or otherwise.

5. No part of the net earnings of the Corporation shall inure to the benefit of, or be distributable to, its Directors, officers, or other private persons, except that the Corporation shall be authorized and empowered to pay reasonable compensation for services rendered and to make payments and distributions in furtherance of the exempt purposes of the Corporation. No

substantial part of the activities of the Corporation shall be the carrying on of propaganda, or otherwise attempting to influence legislation, and the Corporation shall not participate in, or intervene in (including the publishing or distribution of statements) any political campaign on behalf of any candidate for public office. Notwithstanding any other provisions of this Certificate of Incorporation, the Corporation shall not carry on any other activities not permitted to be carried on (a) by a corporation exempt from federal income tax under Section 501(c)(3) of the Code or (b) by a corporation contributions to which are deductible under Section 170(c)(1) of the Code.

6. The address of the Corporation's initial registered office is 308 Willow Avenue, Hoboken, New Jersey, 07030, and the name of the Corporation's initial registered agent at such address is Harvey Holzberg.

7. There shall be three (3) Directors on the initial Board of Directors, the names, addresses and terms of such Directors being the following:

- (a) Ronald DiVito
2524 Monarch Bay Drive
Las Vegas, Nevada 89128
- (b) Harvey Holzberg
100 Constitution Way
Jersey City, New Jersey 07305
- (c) Frank R. Ciesla
308 New York Boulevard
Sea Girt, New Jersey 07850

Thereafter, the Directors shall be elected as provided in the Bylaws of the Corporation.

8. The name and address of the incorporator is Frank R. Ciesla, Esq., Giordano, Halleran & Ciesla, P.C., 125 Half Mile Road, P.O. Box 190, Middletown, New Jersey, 07748.

9. The duration of this Corporation shall be perpetual.

10. Upon the dissolution of the Corporation the Board of Directors shall, after paying or making provision for the payments of all of the liabilities of the Corporation, distribute all of the

assets of the Corporation to the Authority to the extent such organization qualifies at the time as a governmental unit under Section 170(b)(1)(A) of the Code. If the Authority does not so qualify, then the Board of Directors shall dispose of all of the assets of the Corporation exclusively for the purposes of the Corporation in such a manner as the Board determines, or to such organization or organizations organized and operated exclusively for charitable, educational, or scientific purposes and qualifying at the time as an exempt organization or organizations under Section 501(c)(3) of the Code, as the Board of Directors determines. Any such assets not so disposed of shall be disposed of by the Superior Court of New Jersey of the County in which the principal office of the Corporation is then located, exclusively for such charitable purposes as the court shall determine or to such organizations which, at the time, qualify as an exempt organization or organizations under Section 501(c)(3) of the Code, as the court shall determine.

11. The Directors and Officers of the Corporation shall not be personally liable to the Corporation for damages due to a breach of any duty owed to the Corporation, except that no Officer or Director is hereby relieved from liability for a breach of duty based upon an act or omission (a) in breach of such person's duty of loyalty to the Corporation, (b) not in good faith or involving a knowing violation of law, or (c) resulting in receipt by such person of an improper personal benefit. Neither the amendment or repeal of this provision, nor the adoption of any provision of this Certificate of Incorporation inconsistent with this provision, shall eliminate or reduce the protection offered by this provision to a Director or Officer of the Corporation in respect to any matter which occurred, or any cause of action, suit or claim which, but for this provision, would have accrued or arisen, prior to such amendment, repeal or adoption.

12. Any one or more Directors who are not serving as Directors by virtue of their office or by virtue of their appointment as a Director by the Governor of the State of New Jersey may be removed without cause by a majority of the votes cast by the Directors entitled to vote for the

election of Directors as set forth in the Bylaws of the Corporation. A Director who serves by virtue of their appointment by the Governor of the State of New Jersey may be removed by the Governor with or without cause

13. The Authority shall exercise the powers as set forth in the New Jersey Municipal Hospital Authority Law, N.J.S.A. 30:23-15 et seq., as may be amended from time to time, in the manner set forth in the Bylaws of the Corporation:

IN WITNESS WHEREOF, the incorporator, being over the age of eighteen years has signed this Certificate this 7 day of August, 2006.

WITNESS:

INCORPORATOR:

Louise Titus
Louise Titus

By: Frank R. Ciesla
Frank R. Ciesla, Esq.

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Exhibit 8

(HHI's bylaws)

**BYLAWS
OF
HUDSON HEALTHCARE, INC.
A Nonprofit Corporation**

ARTICLE I

NAME

The name of this Corporation shall be Hudson Healthcare, Inc., hereinafter the
"Corporation".

ARTICLE II

PURPOSES

~~The purpose for which this nonprofit Corporation is organized and operated is not for~~
pecuniary profit but exclusively for charitable purposes within the meaning of section 501(c)(3)
of the Internal Revenue Code of 1986, or the corresponding provision of any future United States
tax law (hereinafter referred to as the "Code"). The charitable purposes to which the Corporation
shall be devoted are the promotion of health. The Corporation shall be organized, and at all
times thereafter be operated, exclusively for the benefit of, to perform the functions of, or to
carry out the purposes of, or in accordance with the Municipal Hospital Authority Law, P.L.
2006, Ch. 46 to manage Hoboken University Medical Center, an acute care hospital owned and
operated by the Hoboken Municipal Hospital Authority (the "Authority"), a governmental unit
described in Section 170(b)(1)(A) of the Code. The Corporation shall meet these purposes
primarily through the provision of management services and related services.

ARTICLE III

POWERS RESERVED BY THE HOBOKEN MUNICIPAL HOSPITAL AUTHORITY

The Corporation provides management services to a municipal hospital pursuant to a contract with the Hoboken Municipal Hospital Authority. The following powers are specifically reserved to the Authority pursuant to the requirements of the New Jersey Municipal Hospital Authority Law, P.L. 2006, Ch. 46:

- a. To approve the individuals that the Corporation proposes to designate as the Chief Executive Officer and the Chief Financial Officer of the municipal hospital managed by the Corporation; to remove such individuals from office, and to approve contracts or other arrangements setting forth terms and conditions of employment for those positions.
- b. To approve the management plan for the municipal hospital to be operated by the Authority, including monitoring and review methods of financial activities.
- c. To approve the minimum provisions that shall be set forth in the Corporation's management contract with the Authority.
- d. To approve and monitor the annual budgets of the municipal hospital operated by the Authority and of the Corporation and any amendments thereto.
- e. To authorize the Corporation to engage in or enter into any transaction providing for the acquisition or disposition of the assets of the municipal hospital operated by the Authority, unless authorized in the municipal hospital's annual budget.
- f. To approve the incurrence of debt or expenses by the municipal hospital operated by the Authority, unless authorized in the municipal hospital's annual budget.

ARTICLE IV

BOARD OF DIRECTORS

Section 1. Powers and Duties. Subject to the powers and authority reserved to the Authority pursuant to the New Jersey Municipal Hospital Authority Law, the corporate powers of the Corporation shall be vested in a Board of Directors consisting of at least five (5) members, which shall have charge, control, and management of the property, business and affairs of the Corporation. The Board of Directors of the Corporation is hereby referred to as the "Board" and its members as "Directors".

Section 2. Qualifications of Directors. The Corporation's Chief Executive Officer and Chief Financial Officer shall serve as Directors by virtue of their office. One additional Director shall be appointed by the Governor of the State of New Jersey, who shall serve at the pleasure of the Governor. Two additional Directors shall be elected by majority vote of the Board of Directors, which must include approval by a majority of the Directors not including the Chief Executive Officer or Chief Financial Officer.

Section 3. Approval, Appointment, Election and Vacancies. The Directors who serve by virtue of their service as President and Treasurer/Chief Financial Officer of the Corporation shall be approved by the Authority and shall serve until they resign or are removed by the Authority. Any appointment of a replacement to fill a vacancy in these positions shall be approved by the Authority. The Director appointed by the Governor of the State of New Jersey shall serve until they resign or are removed by the Governor. Any vacancy in this position shall be filled by the Governor. The two Community Directors shall be elected by a majority vote of the Board of Directors, which must include approval by a majority of the Directors not including the Chief Executive Officer and Chief Financial Officer. Each Community Director shall serve for a three year term. Any vacancies in the Community Director positions shall be filled by a majority vote

of the Board of Directors, which must include approval by a majority of the Directors not including the Chief Executive Officer and Chief Financial Officer. A Director appointed or elected to fill a vacancy occurring during a former Director's term of office shall serve for the remainder of such former Director's term.

Section 4. Resignation and Removal. A Director may resign at any time by tendering his resignation in writing to the President or Secretary of the Corporation, which resignation shall become effective upon the date specified therein or if no date is specified therein, upon receipt by the Corporation at its principal place of business. A Director appointed by the Authority may be removed by a majority vote of the Authority. A Director appointed by the Governor may be removed by the Governor. A Community Director elected by a majority vote of the Board of
Directors may be removed by a majority vote of the Board of Directors, and must include approval by a majority of the Directors not including the Chief Executive Officer and Chief Financial Officer.

ARTICLE V

MEETINGS OF THE BOARD

Section 1. Annual and Regular Meetings. The Annual Meeting of the Board shall be held at such date, time and place as specified by resolution of the Board to conduct the necessary business of the Corporation. Regular meetings of the Board will be held as deemed necessary by the Board on such days and at such times and place as the Board shall direct. The Board may by resolution prescribe the time and place for the holding of regular meetings and may provide that the adoption of such resolution shall constitute notice of such regular meetings.

Section 2. Special Meetings. Special meetings may be called by the President of the Corporation, or on the written request of not less than three members of the Board. The purpose

of the special meeting shall be stated in the written notice of the meeting and only business set forth in the notice may be conducted at a special meeting.

Section 3. Quorum. A quorum for transaction of business at any annual, regular or special meeting shall consist of a majority of the Board members. A majority of the votes present (which must include approval by a majority of the Directors not including the Chief Executive Officer and Chief Financial Officer) shall decide all questions and be considered the act of the Board, except as otherwise specifically provided by these Bylaws.

Section 4. Notice. Except as provided in section 1 above, notice of all meetings of the Board shall be given by or under the direction of the Secretary and given at least five days before the date of the meeting to each Director by mail to the appropriate address appearing on the books of the Corporation, by telephone, or by telegraph. All notices shall state the place, date and hour of the meeting. Notices of special meetings shall also state the purpose, and only the business set forth in the notice may be conducted at a special meeting. A Director may waive notice of any meeting by signing a waiver of notice either before or after the meeting. The attendance of a Director at any meeting without protesting the lack of notice prior to the conclusion of the meeting shall constitute a waiver of notice.

Section 5. Manner of Acting. Unless otherwise provided by law or by these Bylaws, action by a majority of the quorum present at any duly organized meeting shall constitute lawful action by the Board, regardless of the number of Directors voting. Any vote shall be binding only if approved by a majority of the Directors not including the Chief Executive Officer and Chief Financial Officer. A majority of Directors present, even though less than a quorum, may adjourn any meeting. Directors may participate in a meeting of the Board by means of conference telephone or similar equipment through which all persons participating in the meeting can hear each other and participation at a meeting in this manner shall constitute presence in

person at the meeting. Any action which may be taken at a meeting of the Board may be taken without a meeting if a consent in writing, setting forth the action so taken, shall be signed by all Directors entitled to vote with respect to the subject matter thereof, either prior to or subsequent to taking such action.

ARTICLE VI

OFFICERS

Section 1. Number. The officers of the Corporation shall be:

- a. President
 - b. Treasurer/Chief Financial Officer
 - c. Secretary
-

Section 2. Assistant Officers. The Board may appoint assistant officers to aid the principal officers. The assistant officers may be appointed at such times and for such terms as the Board shall deem necessary for the proper management of the Corporation. Assistant officers shall perform such duties as may be delegated to them respectively by the principal officers they are appointed to aid and as may be assigned to them by the Board.

Section 3. Election. The President and Treasurer/Chief Financial Officer shall be recommended by the Board of Directors, via a majority vote of the Board) to the Authority and shall be approved by the Authority. The Secretary shall be elected by the Board of Directors at the Annual meeting. Officers shall serve for one year terms. Each elected officer shall hold office from the date of approval by the Authority (in the case of the President and Treasurer/Chief Financial Officer) or their election (in the case of the Secretary) until a successor shall have been elected (and approved by the Authority, if required) , unless he shall sooner resign or be removed.

Section 4. Vacancies. In the event of a vacancy in an officer's position not otherwise provided for in these Bylaws, such vacancy may be filled by election by the Board. Any election of an officer to fill a vacancy in the offices of President and/or Treasurer/Chief Financial Officer shall be subject to the approval of the Authority. When the incumbent of an office is unable to perform the duties thereof or when there is no incumbent of an office, the duties of the office shall, unless otherwise provided by the Board or these Bylaws, be performed by the next office in the following sequence: President, Treasurer/Chief Financial Officer, Secretary, assistant officers, if any.

Section 5. Resignation and Removal. Any officer may resign at any time by giving ~~written notice to the President or to the Secretary and, unless otherwise specified therein, the~~ acceptance of such resignation shall not be necessary to make it effective. Any elected officer may be removed at any time, with or without cause, by a majority vote of the entire Board.. Any removal of the President and/or the Treasurer/Chief Financial Officer shall be subject to the approval of the Authority.

Section 6. President. The President shall be the Chief Executive Officer of the Corporation and shall have general supervision over its business and affairs, subject at all times to the authority and control of the Board. He shall sign and execute in the name of the Corporation duly authorized deeds, leases, mortgages, bonds, obligations, contracts and other instruments. He shall present a report of the conditions and affairs of the Corporation at the annual meeting. He shall have and perform such other responsibilities and duties as may be required of him by these Bylaws or as may be assigned to him from time to time by the Board.

Section 7. Treasurer/Chief Financial Officer. The Treasurer/ Chief Financial Officer shall be responsible for oversight of financial matters of the Corporation. He shall perform such other duties as from time to time may be assigned by the President or the Board. If required by

the Board, the Treasurer/Chief Financial Officer shall give a bond, at the Corporation's expense, for the faithful discharge of his duties in such sum and with such surety as the Board shall determine.

Section 8. Secretary. The Secretary shall supervise the keeping of the minutes of the meetings of the Board in one or more books provided for that purpose; assure that the minutes of all meetings of the Board are prepared and filed with the records of the corporation; assure that all notices are given in accordance with the provisions of the Bylaws and as required by law; be custodian of the corporate records and of the seal of the Corporation; assure that the seal of the Corporation is affixed to all documents, the execution of which on behalf of the Corporation under its seal is authorized in accordance with the provisions of these Bylaws; and in general perform all duties incident to the office of Secretary and such other duties as from time to time may be assigned by the President or the Board.

Section 9. Dual Positions. One person may hold two or more offices except that one person may not hold both the offices of President and Secretary.

Section 10. No officer shall have the authority to enter into any contracts, obligations or undertakings on behalf of the Corporation in any matter unless the same are within the expenditure limits for various budget categories approved by the Authority in the annual budget.

ARTICLE VII

MISCELLANEOUS

Section 1. Fiscal Year. The fiscal year of the Corporation shall end on December 31st. The method of accounting for the Corporation shall be as the Board of Directors shall at any time determine.

Section 2. Parliamentary Procedure. Meetings shall be conducted in accordance with these Bylaws and Robert's Rules of Order revised.

Section 3. Corporate Seal. The corporate seal shall be in such form as the Board of Directors shall approve, and such seal, or a facsimile thereof, may be impressed on, affixed to or in any manner reproduced upon instruments of any nature required to be executed by officers of the Corporation.

ARTICLE VIII

INDEMNIFICATION

To the extent permitted by law, the Corporation shall indemnify its past or present Directors and officers, and their heirs, executors, and administrators, against any and all expenses actually and necessarily incurred by them in connection with the defense or settlement of any actual or threatened action or suit or proceeding in which they, or any of them, are made a party, by reason of their being or having been a Director or officer of the Corporation, except in relation to matters as to which any such Director or officer shall be adjudged in such action, suit or proceeding to be liable for willful misconduct in the performance of duty and to such matters as shall be settled by agreement predicated on the existence of such liability. The termination of any action, suit or proceeding by judgment, order, settlement, or conviction upon a plea of nolo contendere or its equivalent shall not, of itself, create a presumption that the person engaged in willful misconduct. The right of the Director or officer to indemnification by the Corporation shall be in addition, and not exclusive of, all other rights to indemnification to which he otherwise may be entitled.

The Corporation shall, as allowed by law, pay expenses incurred by a Director or officer in connection with an action, suit or proceeding in advance of the final disposition of the action, suit or proceeding if such payment is authorized by the Board of Directors, and upon receipt of an undertaking by or on behalf of the Director or officer to repay the amount unless it shall

ultimately be determined that the Director or officer is entitled to be indemnified by these Bylaws or by law.

The Board by resolution shall indemnify, under comparable terms and limitations, employees and agents of the Corporation with respect to activities within the scope of their services as members of committees, officials, or agents of the Corporation, as allowed by law.

ARTICLE IX

DUALITY OF INTEREST

Except for contracts between this Corporation and the Authority, any contract or other transaction which may in unique circumstances be entered into between this Corporation and one or more Directors, officers, or employees, or between this Corporation and any other

corporation, firm, association or other entity in which one or more of the Directors, officers, or employees are directors, trustees, or officers or have a significant financial or influential interest, may be declared void or voidable by the Board unless all of the following conditions are met:

a. The relevant and material facts as to such Director's, officer's, or employee's interest in such contract or transaction and as to any common directorship, officership, or financial or influential interest were disclosed in good faith in advance by such Director, officer, or employee to the Board, and such facts are reflected in the minutes of the Board meeting; and

b. The relevant and material facts, if any, known to such interested Director, officer or employee with respect to such contract or transaction which might reasonably be construed to be adverse to the corporation's interest were disclosed in good faith in advance by such Director, officer, or employee to the Board; and such facts are reflected in the minutes of the Board meeting; and

c. Such interested Director, officer, or employee has, as determined by the judgment of the Board: (1) made the disclosures and fully responded to questions concerning the

matters referenced in (a) and (b) above; (2) fully met the burden of proof at the time such contract or transaction is authorized that the contract or transaction is fair and reasonable to this Corporation, and (3) not otherwise significantly influenced the action of the Board with respect to the contract or transaction; and all such determinations by the Board are reflected in the minutes of the Board meeting; and

d. The Board authorized such contract or transaction: (1) by a vote of at least a majority of the Directors present at a meeting at which a quorum was present; and (2) such interested Director, officer or employee was not present at such time as the vote was taken nor counted in determining the presence of a quorum or in determining the majority vote.

The Board may adopt duality of interest policies for the Corporation with respect to: (1)
regular annual statements and periodic supplements thereto by Directors, officers, and employees disclosing any existing and potential dualities of interest; and (2) limitations on permitted external positions and interests.

ARTICLE X

AMENDMENTS

These Bylaws and the Certificate of Incorporation of the Corporation may be altered, amended or repealed by the affirmative vote of a two-thirds majority of the Directors present, which must include approval by a majority of the Directors not including the Chief Executive Officer and Chief Financial Officer. Any such alteration, amendment or repeal may be subject to the approval of the Authority before becoming final if said approval is required by law.

ARTICLE XI

DISSOLUTION

Upon the dissolution of the Corporation the Board of Directors shall, after paying or making provision for the payments of all of the liabilities of the Corporation, distribute all of the

assets of the Corporation to the Authority to the extent such organization qualifies at the time as a governmental unit under Section 170(b)(1)(A) of the Code. If the Authority does not so qualify, then the Board of Directors shall dispose of all of the assets of the Corporation to an organization or organizations organized and operated exclusively for charitable, educational, or scientific purposes and qualifying at the time as an exempt organization or organizations under Section 501(c)(3) of the Code. Any such assets not so disposed of shall be disposed of by the Superior Court of New Jersey of the County in which the principal office of the Corporation is then located, exclusively for such charitable purposes as the court shall determine or to such organizations which, at the time, qualify as an exempt organization or organizations under Section 501(c)(3) of the Code, as the court shall determine.

ARTICLE XII

GENDER AND NUMBER

Whenever the context requires, the gender of all words used herein shall include the masculine, feminine and neuter, and the number of all words shall include the singular and plural thereof.

Adopted: October 10, 2007

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OFFICER'S CERTIFICATE

The Board of Directors of Hudson Healthcare, Inc. (the "Board"), by the undersigned officer, and the undersigned officer individually, hereby certifies that:

Attached is a copy of the resolution of the Board duly adopted at a telephonic meeting of such Board held on May 27, 2009, approving and authorizing the following: (1) the First Amendment to the Consulting Services Agreement between Hudson Healthcare, Inc. and Harvey A. Holzberg, LLC; (2) the Employment Agreement between Hudson Healthcare, Inc. and Spiros Hatiras; and (3) the First Amendment to the Consulting Services Agreement between Hudson Healthcare, Inc. and Medical Support Systems, Inc. Said resolution was adopted in accordance with the procedural rules specified in the Bylaws of Hudson Healthcare, Inc., and said resolution has not been amended, modified or repealed and is in full force and effect on the date hereof.

IN WITNESS WHEREOF, the undersigned officer of Hudson Healthcare, Inc has hereunto set his hand and affixed the corporate seal of Hudson Healthcare, Inc. this 27th day of May 2009.



Andrew Greene, Secretary

Attach corporate seal below:

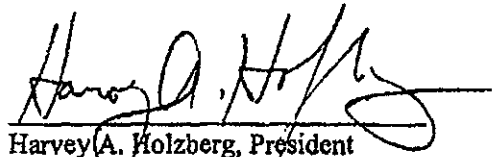
EXHIBIT A

OFFICER'S CERTIFICATE

The Board of Directors of Hudson Healthcare, Inc. (the "Board"), by the undersigned officer, and the undersigned officer individually, hereby certifies that:

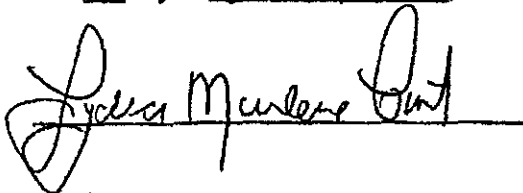
Attached is a copy of the resolution of the Board duly adopted at a meeting of such Board held on October 10, 2007, approving and authorizing the adoption of amendments to the Certificate of Incorporation and Bylaws of Hudson Healthcare, Inc. as well as approving and authorizing the filing of an Amended & Restated Certificate of Incorporation of Hudson Healthcare, Inc. with the Treasurer of the State of New Jersey. Said resolution was adopted in accordance with the procedural rules specified in the Bylaws of Hudson Healthcare, Inc., and said resolution has not been amended, modified or repealed and is in full force and effect on the date hereof. A true copy of the Amended & Restated Certificate of Incorporation and the Bylaws is attached.

IN WITNESS WHEREOF, the undersigned officer of Hudson Healthcare, Inc. has ~~hereunto set his hand and affixed the corporate seal of Hudson Healthcare, Inc.~~ this 10th day of October, 2007.


Harvey A. Holzberg, President

Attach corporate seal below:

Sworn to and subscribed before me
this 10th day of October, 2007.

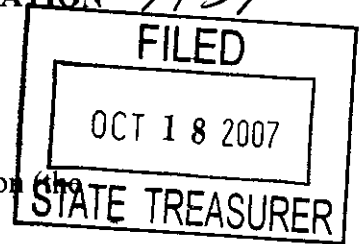


LYDIA MARLENE FONT
Notary Public, State of New Jersey
Commission ID #2263158
My Commission Expires January 18, 2012

Exhibit 9

(HHI's October 18, 2007 Amended Certificate of Incorporation)

AMENDED & RESTATED CERTIFICATE OF INCORPORATION
OF
HUDSON HEALTHCARE, INC.



HUDSON HEALTHCARE, INC., a New Jersey nonprofit corporation (the
"Corporation"), having its principal office at 308 Willow Avenue, Hoboken, New Jersey 07030

hereby certifies that:

0100966555

1. The Corporation desires to amend and restate its Certificate of Incorporation as currently in effect as hereinafter provided. The amendments contained in this amended and restated Certificate of Incorporation were adopted in conformity with the applicable provisions N.J.S.A. 15A:9-2 and N.J.S.A. 15A:9-5 of the New Jersey Nonprofit Corporation Act (the "Act"), including all relevant requirements of voting and approval.

2. The Certificate of Incorporation of the Corporation is hereby amended and restated in its entirety as follows:

1. The name of the Corporation is Hudson Healthcare, Inc. (hereinafter the "Corporation").

2. The purpose for which this nonprofit Corporation is organized and operated is not for pecuniary profit but exclusively for charitable purposes within the meaning of section 501(c)(3) of the Internal Revenue Code of 1986, or the corresponding provision of any future United States tax law (hereinafter referred to as the "Code"). The charitable purposes to which the Corporation shall be devoted are the promotion of health. The Corporation shall be organized, and may, among other activities, thereafter be operated, to perform the functions, in accordance with the Municipal Hospital Authority Law, P.L. 2006, Ch. 46, to manage and operate Hoboken University Medical Center, an acute care hospital owned and operated by Hoboken Municipal Hospital Authority (the "Authority"), a governmental unit described in Section 170(b)(1)(A) of the Code.

3. The Corporation shall have no members.

4. In order to accomplish its purpose, the Corporation shall have all powers hereinafter set forth, subject to the limitations and restrictions on the exercise of said powers set forth in Paragraphs 5 and 13 below:

(a) In general, to do any and all acts and things, and to exercise any and all powers which it may now or hereafter be lawful for the Corporation to do or exercise under and pursuant to the laws of the State of New Jersey for the purpose of accomplishing any purposes for which the Corporation was formed.

(b) To receive, administer, hold and invest funds for the charitable purpose of the Corporation, and to that end take and hold by bequest, devise, gift, grant, purchase, lease, or otherwise, either absolutely or jointly with any other person, persons, or corporation, or any other entity, any property, real, personal, tangible, or intangible or any undivided interest therein, without limitation as to amount or value; to sell, convey, transfer, gift or otherwise dispose of any such funds or property and to invest, reinvest, or deal with the principal or the income thereof in such manner as, in the judgment of the Directors, will best promote the purpose for which the Corporation is formed, without any limitation except those that may be contained in the instrument under which such property or funds are received, in this Certificate of Incorporation, the Bylaws or any laws applicable thereto.

(c) To issue its own bonds, notes, debentures, certificates of indebtedness, certificates of interest, or other exchanges therefor or in payment thereof or otherwise to make payment therefor; to give collateral for funds borrowed.

(d) To become a member in any corporation or association not for profit, and to exercise such powers as the governing instruments of such corporations and associations provide, and to control any such corporation as a subsidiary or otherwise.

5. No part of the net earnings of the Corporation shall inure to the benefit of, or be distributable to, its Directors, officers, or other private persons, except that the Corporation shall

be authorized and empowered to pay reasonable compensation for services rendered and to make payments and distributions in furtherance of the exempt purposes of the Corporation. No substantial part of the activities of the Corporation shall be the carrying on of propaganda, or otherwise attempting to influence legislation, and the Corporation shall not participate in, or intervene in (including the publishing or distribution of statements) any political campaign on behalf of any candidate for public office. Notwithstanding any other provisions of this Certificate of Incorporation, the Corporation shall not carry on any other activities not permitted to be carried on (a) by a corporation exempt from federal income tax under Section 501(c)(3) of the Code or (b) by a corporation contributions to which are deductible under Section 170(c)(1) of the Code.

6. The address of the Corporation's initial registered office is 308 Willow Avenue, Hoboken, New Jersey, 07030, and the name of the Corporation's initial registered agent at such address is Harvey Holzberg.

7. There shall be three (3) Directors on the initial Board of Directors, the names, addresses and terms of such Directors being the following:

- (a) Ronald DiVito
2524 Monarch Bay Drive
Las Vegas, Nevada 89128
- (b) Harvey Holzberg
100 Constitution Way
Jersey City, New Jersey 07305
- (c) Frank R. Ciesla
308 New York Boulevard
Sea Girt, New Jersey 07850

Thereafter, the Directors shall be elected as provided in the Bylaws of the Corporation.

8. The name and address of the incorporator is Frank R. Ciesla, Esq., Giordano, Halleran & Ciesla, P.C., 125 Half Mile Road, P.O. Box 190, Middletown, New Jersey, 07748.

9. The duration of this Corporation shall be perpetual.

10. Upon the dissolution of the Corporation the Board of Directors shall, after paying or making provision for the payments of all of the liabilities of the Corporation, distribute all of the assets of the Corporation to the Authority to the extent such organization qualifies at the time as a governmental unit under Section 170(b)(1)(A) of the Code. If the Authority does not so qualify, then the Board of Directors shall dispose of all of the assets of the Corporation to an organization or organizations organized and operated exclusively for charitable, educational, or scientific purposes and qualifying at the time as an exempt organization or organizations under Section 501(c)(3) of the Code. Any such assets not so disposed of shall be disposed of by the Superior Court of New Jersey of the County in which the principal office of the Corporation is then located, exclusively for such charitable purposes as the court shall determine or to such organizations which, at the time, qualify as an exempt organization or organizations under Section 501(c)(3) of the Code, as the court shall determine.

11. The Directors and Officers of the Corporation shall not be personally liable to the Corporation for damages due to a breach of any duty owed to the Corporation, except that no Officer or Director is hereby relieved from liability for a breach of duty based upon an act or omission (a) in breach of such person's duty of loyalty to the Corporation, (b) not in good faith or involving a knowing violation of law, or (c) resulting in receipt by such person of an improper personal benefit. Neither the amendment or repeal of this provision, nor the adoption of any provision of this Certificate of Incorporation inconsistent with this provision, shall eliminate or reduce the protection offered by this provision to a Director or Officer of the Corporation in respect to any matter which occurred, or any cause of action, suit or claim which, but for this provision, would have accrued or arisen, prior to such amendment, repeal or adoption.

12. Any one or more Directors who are not serving as Directors by virtue of their office or by virtue of their appointment as a Director by the Governor of the State of New Jersey may be removed without cause by a majority of the votes cast by the Directors entitled to vote for the

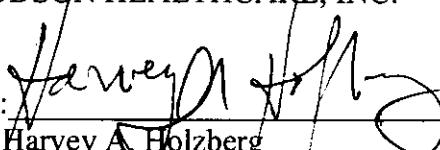
election of Directors as set forth in the Bylaws of the Corporation. A Director who serves by virtue of their appointment by the Governor of the State of New Jersey may be removed by the Governor with or without cause

13. The Authority shall exercise the powers as set forth in the New Jersey Municipal Hospital Authority Law, N.J.S.A. 30:23-15 et seq., as may be amended from time to time, in the manner set forth in the Bylaws of the Corporation:

IN WITNESS WHEREOF, HUDSON HEALTHCARE, INC. has caused its duly authorized officer to execute this Amended and Restated Certificate of Incorporation this 10th day of October, 2007.

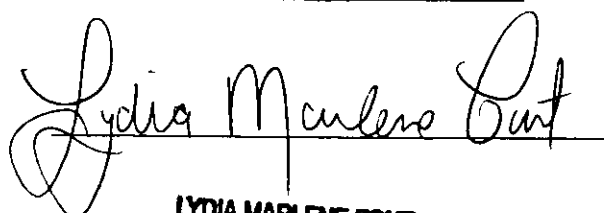
HUDSON HEALTHCARE, INC.

By:


Harvey A. Holzberg
President/Chief Executive Officer

Attach corporate seal below:

Sworn to and subscribed before me
this 10th day of October, 2007.



LYDIA MARLENE FONT
Notary Public, State of New Jersey
Commission ID #2283156
My Commission Expires **January 18, 2012**
::ODMA\PCDOCS\GNCDOCS

**CERTIFICATE OF ADOPTION
OF
AMENDED AND RESTATED CERTIFICATE OF INCORPORATION
OF
HUDSON HEALTHCARE, INC.
(Pursuant to N.J.S.A. 15A: 9-5)**

The undersigned corporation, having adopted the annexed Amended and Restated Certificate of Incorporation, pursuant to N.J.S.A. 15A: 9-5, hereby certifies that:

1. The name of the corporation is HUDSON HEALTHCARE, INC. (the "Corporation").
2. The Corporation has no members.
3. The Amended and Restated Certificate of Incorporation of the Corporation was approved at a telephonic meeting of its Board of Directors held on October 10, 2007, at which a quorum was present, and five of the Corporation's five Directors unanimously voted in favor of the approval and adoption of the Amended and Restated Certificate of Incorporation and its filing with the Treasurer of the State of New Jersey.

IN WITNESS WHEREOF, HUDSON HEALTHCARE, INC. has caused this Certificate of Adoption of Amended and Restated Certificate of Incorporation to be executed by its duly authorized officer on this 10th day of October, 2007.

HUDSON HEALTHCARE, INC.

By: _____

Harvey A. Holzberg

President/Chief Executive Officer

Attach corporate seal below:

Sworn to and subscribed before me
this 10th day of October, 2007.

Lydia Marlene Font

\\ODMA\PCDOCS\GHCDOS\607296\1

LYDIA MARLENE FONT
Notary Public, State of New Jersey
Commission ID #2283156
My Commission Expires January 18, 2012

EXHIBIT 10
(Management Agreement)

MASTER MANAGER AND OPERATOR AGREEMENT

by and between

The Hoboken Municipal Hospital Authority

and

Hudson Healthcare, Inc.

Dated February 1, 2007

Table of Contents

	Page
1. Agreement to Manage; Definitions.....	1
2. Facility Governance and Manager Services.....	5
3. Required Disclosures.....	13
4. Budgets; Financial Reports.....	14
5. The Ownership of Facility Documents.....	18
6. Hospital Staff; Administrator or CEO.....	18
7. Deposit of Facility Revenues; Disbursements from the Revenue Fund.....	20
8. Representations, Warranties and Covenants of Manager.....	21
9. Bids, Discounts, Rebates and Group Services.....	23
10. Insurance.....	23
11. Indemnification; Liability.....	25
12. Compliance with Governmental Orders.....	25
13. Non-discrimination.....	26
14. Compensation of Manager.....	26
15. Management Term.....	26
16. Termination.....	26
17. Events of Default.....	28
18. Relationship Between Parties: No Third Party Beneficiaries.....	30
19. Notices.....	30
20. Subordination.....	31
21. Miscellaneous.....	31
EXHIBIT A FACILITY DESCRIPTION.....	37
EXHIBIT B ANNUAL BUSINESS PLAN AND BUDGET.....	38
EXHIBIT C KEY PERSONNEL.....	39
EXHIBIT D MANAGEMENT COSTS.....	40
EXHIBIT E MANAGER'S REPORTS.....	41
EXHIBIT F THE AUTHORITY'S INSURANCE REQUIREMENTS.....	43
EXHIBIT G HIPAA BUSINESS ASSOCIATE ADDENDUM.....	45
EXHIBIT H FORMAT FOR MANAGER'S REPORTS.....	49
EXHIBIT I APPROVED CAPITAL CONSTRUCTION PROJECTS TO BE FINANCED BY BONDS.....	50

MASTER MANAGER AND OPERATOR AGREEMENT

THIS MASTER MANAGER AND OPERATOR AGREEMENT (this "Agreement") made this 1st day of February, 2007 (the "Execution Date") by and between the Hoboken Municipal Hospital Authority (the "Authority") a public body, created by the City of Hoboken pursuant to the Municipal Hospital Authority Law, P.L. 2006, c.46 (the "Act") and Hudson Healthcare, Inc., a New Jersey non-profit corporation, (hereinafter, the "Manager").

WITNESSETH:

WHEREAS by ordinance dated August 20, 2006, the City of Hoboken created the Hoboken Municipal Hospital Authority (the "Authority") to acquire the assets of a hospital located within the City of Hoboken; and

WHEREAS the Authority has entered into an asset transfer agreement with Bon Secours Health System of New Jersey, Inc. for the acquisition of a 334-bed general acute care hospital known as St. Mary Hospital located at 308 Willow Avenue, Hoboken, New Jersey 07030 (the "Hospital") and

WHEREAS the Authority desires to arrange for the management and operation of the Facility (as defined herein) consistent with N.J.S.A. 30:9-23.20(a); and

WHEREAS the Manager is a newly formed entity, organized in compliance with N.J.S.A. 30:9-23:17 whose assets are expected to consist of this Agreement, as well as the various agreements between the Manager and individuals and entities with which the Manager contracts for the performance of services under this Agreement;

WHEREAS the Manager employs or otherwise has contracted with personnel who have a history of successfully operating hospitals within New Jersey and desires to manage and operate the Facility to be acquired by the Authority; and

WHEREAS the Authority desires that the Manager manage and operate the Facility on the terms and conditions set forth herein;

NOW THEREFORE, in consideration of the foregoing and the terms and conditions hereinafter contained, the parties, intending to be legally bound hereby, do hereby agree as follows:

1. Agreement to Manage; Definitions.

1.1 Agreement to Manage. The Authority hereby engages the Manager, and the Manager accepts such engagement, to manage and operate the facility, on the terms and subject to the conditions set forth herein.

1.2 Definitions.

1.2.1 "Administrator" or "Chief Executive Officer" shall have the meaning described in Section 6.2.

1.2.2 "Annual Business Plan and Budget" shall have the meaning described in Section 4.1.

1.2.3 "Approved Annual Business Plan and Budget" shall have the meaning described in Section 4.1.

1.2.4 "Approved Schedule of Accounts" shall mean the chart of accounts proposed by the Manager in connection with an Annual Business Plan and Budget and approved by the Authority, as may be modified by the written mutual agreement of the Manager and the Authority from time to time.

1.2.5 "Authority" shall have the meaning set forth in the Recitals.

1.2.6 "Bond Resolution" means the resolution of the Authority adopted on December 20, 2006, entitled "RESOLUTION AUTHORIZING THE ISSUANCE OF HOSPITAL REVENUE BONDS, NOTES AND OTHER OBLIGATIONS OF THE HOBOKEN MUNICIPAL HOSPITAL AUTHORITY", as may be supplemented and amended.

1.2.7 "Bond Documents" means the Bond Resolution and the Trust Indenture, as amended and supplemented.

1.2.8 "Bonds" means Bonds, as defined in the Bond Resolution.

1.2.9 "Code" means the Internal Revenue Code of 1986, as amended, including any regulations promulgated thereunder.

1.2.10 "Bond Resolution" means the resolution of the Authority adopted on December 20, 2006, entitled "RESOLUTION AUTHORIZING THE ISSUANCE OF HOSPITAL REVENUE BONDS, NOTES AND OTHER OBLIGATIONS OF THE HOBOKEN MUNICIPAL HOSPITAL AUTHORITY", as may be supplemented and amended.

1.2.11 "Business Day" shall mean any day excluding a Saturday, Sunday and any other day which shall be in the State of New Jersey a legal holiday or a day on which banking institutions are authorized by law or executive action to close.

1.2.12 "Competing Facility" shall mean any ambulatory care facility, hospital, or other health care related business principally providing acute care to patients.

1.2.13 "ERISA" shall mean the Employee Retirement Income Security Act of 1974, as amended, and the rules and regulations promulgated thereunder.

1.2.14 "Entity" shall mean any general partnership, limited partnership, corporation, nonprofit corporation, limited liability company, limited liability partnership, joint venture, trust, business trust, cooperative, association or other comparable business entity.

1.2.15 "Facility" shall mean collectively, that certain Hospital currently known as St. Mary Hospital, which it is intended by the Hoboken Municipal Hospital Authority to be renamed the Hoboken University Medical Center, located at 308 Willow Avenue, Hoboken, New Jersey and such real and personal property utilized for its operations and such other facilities as are set forth in Exhibit A or that the Authority shall determine by resolution.

1.2.16 "Facility Documents" shall include all books, records, computer discs and similar materials containing information, invoices and other documents received, or maintained by the Manager with respect to the facility pursuant to this Agreement.

1.2.17 "Fiscal Year" means the calendar year commencing on January 1 and ending the following December 31 or with respect to any period at the beginning or end of the term of this Agreement, that portion of the calendar year included within the term.

1.2.18 "Governmental Requirements" shall mean, collectively, any federal, state or municipal law, ordinance, regulation, order, permit or approval applicable to the Authorityship, development, servicing, use, operation, marketing, reporting by or reimbursement of the Facility.

1.2.19 INTENTIONALLY OMITTED

1.2.20 "Hospital" means the institution currently known as St. Mary Hospital, located at 308 Willow Avenue, Hoboken, licensed and classified as a general hospital by the New Jersey Commissioner of Health and Senior Services pursuant to N.J.S.A. 26:2H-1 et seq. and N.J.A.C. 8:43G-1 et seq., which is to be renamed Hoboken University Medical Center.

1.2.21 "Immediate Family" shall mean, with respect to any Person (hereinafter defined) who is an individual, such individual's spouse, parents, children (natural or adopted), grandchildren, grandparents, parents-in-law.

1.2.21 "including" shall mean "including, but not limited to."

1.2.22 "Key Personnel" shall mean the individuals or positions (not yet filled) set forth in Exhibit C hereto and any additions or replacements proposed by the Manager thereto which have been approved by the Authority.

1.2.23 "Local Finance Board" means the Local Finance Board in the Division of Local Government Services in the Department of Community Affairs.

1.2.24 "Management Commencement Date" shall mean the date Manager assumes responsibilities for the management and operation of the Facility. The parties anticipate that the Management Commencement Date will be February 1, 2007.

1.2.25 "Management Term" shall mean the period during which Manager is required to provide Management Services under the terms and conditions of this Agreement. The Management Term shall commence on the Management Commencement Date and shall continue for a five (5) year period thereafter, unless sooner terminated in accordance with the provisions of this Agreement. The Management Term may be extended for one additional five (5) year period by written agreement of the parties,

1.2.26 "Manager Services" shall have the meaning set forth in Section 2.2.

1.2.27 "Manager's Operating Account" means the account established by the Authority for the Manager for payment of Operating Expenses (as defined herein).

1.2.28 "Operating Budget" shall have the meaning as defined in Section 4.1.2 hereof.

1.2.29 "Person" shall mean any individual or Entity, and the heirs, executors, administrators, legal representatives, successors and assigns of such Person where the context so permits.

1.2.30 "Reimbursable Expenses" shall mean all expenses incurred by the Manager in operating the Facility under the terms of this Agreement identified on Exhibit D attached hereto.

1.2.31 "Tax Exempt Bonds" means Tax-Exempt Obligations, as defined in the Bond Resolution.

1.2.32 "Third Party" shall mean any Person who is not a party to this Agreement or a Related Party of any party to this Agreement.

1.2.33 "Third Party Payors" shall mean, collectively, Medicare, Medicaid, Blue Cross and/or Blue Shield, private insurers and other Persons who presently or in the future maintain Third Party Payor Programs.

1.2.34 "Third Party Payor Programs" shall mean, collectively, all third party payor programs in which the Authority presently or in the future may participate, including, without limitation, Medicare, Medicaid, Blue Cross and/or Blue Shield, other so-called "managed care" plans, other private insurance plans and employee assistance programs.

1.2.35 "Trust Indenture" shall mean that certain Indenture of Trust by and between the Authority and Commerce Bank, National Association, as Trustee, as amended and supplemented.

2. Facility Governance and Manager Services.

2.1 The Authority shall at all times exercise control over the assets and operations of the Facility and the Manager shall perform its responsibilities as described in this Agreement in accordance with policies and directives adopted by the Authority from time to time. By entering into this Agreement, the Authority does not delegate to the Manager any of the powers, duties and responsibilities vested in the Authority by law. The Authority may direct the Manager to implement existing policies for the Facility and may adopt as policy for the Facility recommendations and/or proposals made by the Manager.

2.1.1 The Authority shall function as the hospital governing body responsible for establishing hospital-wide policy, establishing and enforcing rules, regulations and bylaws for the use or operation of the Facility or the conduct of its activities, monitoring the performance of contracted services, including, but not limited to, the services provided by the Manager, maintaining quality of care, and providing institutional management and planning.

2.1.2 The Authority shall retain the following elements of control over the operation of the Facility:

(1) The Authority or its agents shall have independent access to the books and records of the Facility;

(2) The Authority shall control the acquisition and disposition of assets, the incurring of debts and expenses, and the taking on of liabilities not normally associated with the day-to-day operation of a hospital;

(3) The Authority shall have the power to adopt policies affecting the delivery of health care services, which may be recommended by the Manager;

(4) The Authority shall monitor the provision of services by the Manager to ensure that such services are provided safely and effectively;

(5) The Authority shall have the right, in its sole discretion, to determine whether any contract proposed or executed between the Manager and any service provider complies with IRS Revenue Procedure 97-13, which sets forth guidelines with regard to management and service contracts in facilities financed by Tax Exempt Bonds and is attached as Exhibit 2.1.2, and to disapprove or terminate any contract for non-compliance; and

(6) The Authority shall have the right to revise or amend the Annual Business Plan and Budget pursuant to applicable law.

2.1.3 The Authority shall on the first Business Day of each month, transfer from the Operating Fund to the Manager's Operating Account 1/12 of the Annual Business Plan and Budget as adjusted in accordance with the monthly reports produced pursuant to Section 4.6.1.

2.2 Manager shall perform all the duties necessary to supervise, direct and control the day-to-day operations of the Facility, shall directly contract for services necessary for the day-to-day operation of the Facility, and shall operate the Hospital as a general acute care hospital (collectively, "Manager Services"). Without limiting the generality of the foregoing, the Manager shall:

2.2.1 Negotiate and enter into exclusive contracts with physicians and/or physician groups for the provision of certain professional medical services at the Hospital. An exclusive contract achieves the following advantages: (a) it improves the turnaround time for the interpretation of tests and the provision of medical services; (b) it provides a more unified quality of professional services; (c) it ensures that specialized services are available twenty-four (24) hours per day, seven (7) days per week; (d) it provides for a consistency of professional services; (e) it lowers costs and provides for standardization of procedures and centralized administration; (f) it permits better scheduling of the use of Hospital facilities and Hospital staff; (g) it facilitates the purchase and maintenance of equipment; (g) it improves supervision and training of the support staff and working relations between the staff and physicians; (h) it ensures that physicians perform a sufficient number of procedures to maintain and upgrade their skills and maintain high standards of professional quality of care; (i) it ensures the Hospital's compliance with the accreditation and licensing requirements of the Joint Commission on the Accreditation of Healthcare Organizations, the Centers for Medicare and Medicaid Services, the New Jersey Department of Health and Senior Services, and other regulatory agencies; and (j) it avoids the difficulty of obtaining such benefits without an exclusive contract and the potential for disruption arising from an open staff.

2.2.2 Negotiate and enter into non-exclusive contracts with physicians and/or physician groups for the provision of certain professional medical services at the Hospital;

2.2.3 Negotiate and enter into contracts of an exclusive or non-exclusive nature with non-physicians for the provision of certain services at the Hospital;

2.2.4 Subject to Section 4 below regarding budget, employ, supervise, and train all physician and non-physician employees, including the administrative staff of the Hospital; promote, direct, assign and discharge such employees at the discretion of the Manager; and verify that all services provided by licensed independent practitioners and other personnel will be performed within the scope of their competence and privileges and pursuant to all applicable licensure and certification requirements for such personnel;

2.2.5 Retain such attorneys, accountants, consultants or others as Manager deems reasonably necessary to fulfill its obligations under this Agreement and/or in regard to obtaining and maintaining its status as required by this Agreement or law;

2.2.6 Enter into the collective bargaining agreements unions representing existing Facility employees;

2.2.7 To fulfill those obligations under the Asset Transfer Agreement specifically assigned to the Manager and to assist the Authority in fulfilling the obligations, as requested by the Authority, under the Asset Transfer Agreement;

2.2.8 Appoint the Chief Executive Officer and the Chief Financial Officer for the Hospital subject to the approval of the Authority consistent with N.J.S.A. 30:9-23.20(d) and pursuant to Agreements between the Manager, Harvey A. Holzberg, LLC and Medical Support System, Inc. The Chief Executive Officer shall be Harvey Holzberg and the Chief Financial Officer shall be Ronald DiVito. Harvey Holzberg shall serve as the Chief Executive Officer consistent with the attached agreement between Manager and Harvey Holzberg, LLC, which is hereby approved by the Authority. Ronald DiVito shall serve as the Chief Financial Officer consistent with the attached agreement between Manager and Medical Support Systems, Inc., which is hereby approved by the Authority. Any replacement of the individuals serving in the capacity of Chief Executive Officer and Chief Financial Officer shall require approval by the Authority. Further, although not required by statute, the hiring of any other executive personnel, including, but not limited to, a Chief Operating Officer and the salary paid to such executive personnel shall be subject to the review and approval of the Authority. Notwithstanding the foregoing, by executing this Agreement, the Authority hereby approves Ronald DiVito serving as acting/interim Chief Executive Officer under the circumstances set forth in Section 6.7 of this Agreement;

2.2.9 Subject to the Authority's reasonable review and approval, prepare the personnel policies and procedures (the "Personnel Policies and Procedures") of the Facility. Maintain in accordance with all applicable laws, rules, ordinances and regulations and amend from time to time, with the prior written approval of the Authority, salary scales, personnel policies (including, but not limited to the Personnel Policies and Procedures) and appropriate employee benefits for all employees;

2.2.10 Maintain and supervise operating procedures, systems and controls for the Facility;

2.2.11 Enter into a contract for the preparation and issuance, by the subcontractor, of appropriate bills on behalf of the Authority for services and materials furnished by the Facility; to require the subcontractor to (a) use its best efforts on behalf of the Authority to collect accounts receivable and monies owed to the Facility; (b) design and maintain accounting, billing, patient and collection records; and (c) prepare and file insurance, Medicare, Medicaid and any and all other necessary or desirable

applications, reports and claims related to revenue production. The Manager, on behalf of the Authority, shall, itself or through contractual arrangements also negotiate all contracts with Third Party Payors and will present them to the Authority for review and execution. The Manager, on behalf of the Authority, shall, itself or through contractual arrangements also negotiate all third party payor contracts and will present them to the Authority for review and execution. The Manager shall have the authority to subcontract such billing, collection and negotiation services, with the subcontracts assigned to the Authority, or successor nonprofit at the direction of the Authority upon termination of this Agreement.

2.2.12 Maintain and preserve on behalf of the Authority all necessary certificates of need, licenses, permits and approvals to operate the Facility so as to comply with all applicable Governmental Requirements and to make the Facility eligible for participation in the Medicare and Medicaid programs and be accredited by the Joint Commission on the Accreditation of Health Care Organizations ("JCAHO"), as such programs are currently structured and as they may be amended from time to time, and any successor programs thereto, and to make the Facility eligible for reimbursement from private insurers or Third Party Payors, provided that the Manager shall not be required to spend its own funds to do so and provided further, in the event the programs are amended or reimbursement programs are added, any additional costs resulting from the amendments or additional programs shall be considered Reimbursable Expenses and shall be included in the Annual Business Plan and Budget. For the Facility, the Manager shall coordinate all licensure, certificate and accreditation applications and renewals and the coordination of surveys or corrective action plans performed in connection therewith. The Manager shall provide the Authority with copies of all licensure and/or certification surveys conducted at the Facility immediately upon receipt, but in no event later than three (3) business days after the Manager receives them;

2.2.13 Handle community relations for the Facility;

2.2.14 Prepare the accounting, budgeting and regular financial reports that are required by this Agreement, and keep the books and records of the Facility at all times open and accessible to any of the officers of the Authority or any of its duly authorized representatives, and make available for the Authority's certified public accountants appropriate information on a calendar year basis for use in any financial or other reports of the Authority;

2.2.15 Plan, supervise and cause to be conducted a program of regular maintenance and repair to ensure that the Facility, both inside and outside, is in a good state of repair and preservation.;

2.2.16 Provide, consistent with all laws applicable to the operation of the Facility and with the generally accepted administration and operational standards acceptable for comparable fully accredited hospitals, and at the cost and expense of the Authority pursuant to an Approved Annual Business Plan and Budget, all equipment, furnishings, food, beverages, medical, cleaning and other supplies and other personal property

required or necessary for the proper operation, repair and maintenance of the Facility in an economical and efficient manner, whether by lease or purchase, provided that title to any equipment or supplies held in the Manager's name will be transferred to the Authority at the request of the Authority;

2.2.17 Coordinate the orderly payment of all Reimbursable Expenses;

2.2.18 Make available to the Authority for its review and approval at the Facility any and all policy and procedure manuals needed with reference to the operation of the Facility and propose revisions to said manuals as is needed from time to time to ensure that the Facility complies with all applicable local, state and federal laws and regulations;

2.2.19 Coordinate with the Authority in obtaining and maintaining insurance coverage for the Facility and the Authority pursuant to the terms of Section 10.1;

2.2.20 Obtain and maintain the Manager's Insurance pursuant to the terms of Section 10.4;

2.2.21 Enter into a group purchasing affiliate member agreement with BSHSI;

2.2.22 Assist the Authority in maintaining participation in the Medicare and Medicaid programs for the Facility, including assisting in preparing and filing cost reports, supporting data and other materials required in connection with any reimbursements under any Third Party Payor Agreements, solely as they relate to any period during the Management Term.;

2.2.23 Negotiate and administer contracts with vendors who subcontract with the Manager to provide services at the Hospital, with all such contracts being assignable to the Authority upon termination of this Agreement or to the successor non-profit at the direction of the Authority;

2.2.24 Discharge at the sole expense of the Authority such duties and obligations of the Authority applicable to the operation of the Facility (the "Authority Bond Covenant Requirements") that are set forth in a summary of all of the Authority's Bond Covenant Requirements (the "Bond Covenant Summary"). The Authority Bond Covenant Requirements and the Bond Covenant Summary may be amended and supplemented by the Authority. The Authority acknowledges and agrees that the Manager shall (i) rely solely on the requirements set forth in the Bond Covenant Summary, as amended and supplemented, in discharging the Authority's Bond Covenant Requirements, as amended and supplemented; and (ii) have no obligation to discharge any of the Authority's Bond Covenant Requirements, as amended and supplemented, other than those contained in, and as set forth, in the Bond Covenant Summary, as amended and supplemented;

2.2.25 Shall, without limitation, prepare and oversee all marketing efforts, and all dealings with all patients in accordance with all applicable laws, rules, ordinances and

regulations. The Manager shall (i) execute as the Manager on behalf, and in the name, of the Authority, and maintain copies of, all Admission Agreements and applicable consents between the Authority and said patients of the Facility, and (ii) use best efforts to perform the services required thereunder and to enforce the provisions thereof, in each case, in accordance with all applicable laws, rules, ordinances and regulations; and

2.2.26 Generally be responsive to and cooperative with reasonable directions from the Authority.

2.2.27 Pursuant to the Asset Transfer Agreement, the Authority and the Manager (collectively, "4204 Buyer") have agreed to assume the obligations of a "buyer" under Section 4204 of ERISA and the Transferor assumed the obligations of a "seller" under Section 4204 of ERISA. Manager shall: (i) be the employer of all personnel working at the Hospital who are classified as employees; (ii) enter into a collective bargaining agreement with District 1199J, National Union of Hospital and Health Care Employees, AFSCME, AFL-CIO (the "Union") for Hospital health care employees and be a participating employer with respect to the District 1199J, New Jersey Health Care Employers Pension Plan (the "Pension Fund"); and (iii) make contributions to the Pension Fund for substantially the same number of contribution base units for which Transferor had an obligation to contribute with respect to the Hospital before the sale thereof to the Authority. The Authority and the Manager agree that it is their intention that such obligation shall be assumed by any successor to the Manager. In addition, for a period of five (5) plan years, starting with first plan year beginning after the Closing, Manager, as an operating expense of the Facility or other cost which is borne by the Authority, shall provide to the Pension Fund a bond or escrow in the amount required under and subject to the provisions of Section 4204(a)(1)(B) of ERISA. The Authority shall reimburse the Manager for the cost of obtaining any bond, surety bond, or other collateral required by ERISA Section 4204 in connection with the assumption by the Manager of the pension withdrawal obligations of the Transferor. Further, the Authority agrees to provide the Manager with sufficient funds to provide an escrow or any collateral necessary for the Manager to obtain a bond, surety bond or other collateral as required under ERISA Section 4204 in connection with the assumption by the Manager of the pension obligations set forth above. The Manager will continue to be a party to a collective bargaining agreement with the Union and be obligated to contribute to the Pension Fund for the duration of this Agreement (and any successor agreement), unless otherwise approved by the Authority. Manager shall not take any action which results in either a complete or partial withdrawal from the Pension Fund under ERISA Sec. 4201 et seq. without the Authority's express written consent. Should the Manager take any action which has been approved by the Authority, that results in the assertion of either a complete or partial withdrawal from the Pension Fund under ERISA Sec. 4201 et seq., the Authority hereby agrees to indemnify Manager for all costs related thereto, including the defense of any such claims, the payment of such withdrawal liability, the posting of any required bonds and all related legal fees and costs. The Authority reserves the right to defend any such claims at its sole cost and expense. Should the Manger take any action not approved by the Authority, that results in the either a complete or partial withdrawal from the Pension Fund under ERISA Sec. 4201 et seq., the Manager hereby

agrees to indemnify the Authority for all costs related thereto, including the defense of any such claims, the payment of such liability, the posting of any required bonds and all related legal fees and costs. The Manager reserves the right to defend any such claims at its sole cost and expense.

2.2.28 The Manager shall be reimbursed by the Authority for all costs incurred by the Manager in carrying out the Manager's duties and obligations as set forth in this Agreement, including but not limited to those duties and obligations set forth in this Section 2.2.

2.3 In carrying out the Management Services described in Section 2.2 above, the Manager shall:

2.3.1 Use, maintain and operate the Facility as a general acute care hospital during the Management Term;

2.3.2 Use its best efforts to maximize the use and occupancy of the Facility;

2.3.3 Create a marketing plan for the Facility, incorporating recommendations made by the Manager and approved by the Authority in connection with the Transition Plan which shall include, without limitation, a program designed to inform both healthcare professionals and members of the public in the general geographic area served by the Facility of the services that the Facility provides, including presentations and open houses as are necessary to inform the public and other healthcare professionals. The Manager shall also prepare and distribute appropriate booklets, brochures and pamphlets as is reasonably necessary to properly inform healthcare professionals and the public of the applicable state and federal reimbursement programs, the availability of services under such programs at the Facility and other relevant limitations or benefits applicable thereto;

2.3.4 Comply in all material respects with all provisions in this Agreement and, solely to the extent set forth in the Bond Covenant Summary, with all provisions of the Authority's Bond Covenant Requirements as set forth in Section 2.2.21. Additionally, in order to comply with legal requirements for tax exempt bonds, the Manager shall not enter into or renew any contract that does not comply with the private use restrictions within Revenue Procedure 97-13, attached as Exhibit 2.1.2;

2.3.5 Not create or suffer to be created any lien, encumbrance or charge upon the Facility, upon the revenues of the Facility or any part thereof, or upon the moneys pledged to make payment due under the Authority's Bond Covenant Requirements without the advance written consent of the Authority;

2.3.6 To the extent funded by the Authority, cause to be discharged or make adequate provisions to satisfy and discharge all lawful claims and demands that relate solely to, or arise solely out of, acts or omissions that occur during the Management Term, for labor, materials, supplies or other items which, if not satisfied, may become

liens upon the Facility or any part thereof or its revenues, provided that the Manager shall not be required to satisfy or discharge the abovementioned liens, any such encumbrances, charges, claims or demands so long as the validity thereof is being contested in good faith and/or by appropriate legal proceedings.

2.3.7 Establish and maintain on a continuing basis the Facility's quality assurance program in order to provide objective measurements of the quality of health care provided at the Facility, and in connection therewith, utilize appropriate techniques and inspections. The Manager shall establish quality control standards designed to ensure quality patient care at the Facility and will take reasonable steps to review the quality of care given, including but not limited to making periodic visits to or inspections of the Facility;

2.3.8 Prepare, implement and maintain a life safety policy and procedure manual for the Facility complying with all applicable Governmental Requirements and otherwise in accordance with the Approved Annual Business Plan and Budget;

2.3.9 Establish, implement and maintain at the Facility a "Patients Rights Policy" in accordance with applicable Governmental Requirements;

2.3.10 Establish, implement and maintain a risk management program at the Facility which shall include, among other things, performing periodic safety checks, establishing a Facility safety committee responsible for reviewing incidents at the Facility involving patients, staff or visitors and establishing appropriate corrective action plans;

2.3.11 Make available to the Facility for consultation and advice, when necessary, specialists in such fields as accounting, budgeting, dietary services, janitorial and housekeeping, management, maintenance, nursing, personnel, pharmacy operations, purchasing, quality assurance, policies and procedures, and third party reimbursements;

2.3.12 Keep the Authority fully informed as to the Manager's management of the Facility and make such recommendations to the Authority as the Manager deems necessary or appropriate;

2.3.13 Pay from the Manager's Operating Account(s), to the extent funded by the Authority, all Reimbursable Expenses;

2.3.14 Recommend to the Authority in connection with the Proposed Annual Business Plan and Budget (as defined below) the Approved Schedule of Accounts together with a schedule of fees, charges and rates for the services rendered by and for the use and occupancy of the Facility, or any part thereof, such that there shall inure to the Authority in each Fiscal Year an amount sufficient to: (a) pay all of the current expenses of operation, maintenance and repair of the Facility; (b) make all payments required under the Authority's Bond Covenant Requirements; and (c) satisfy requirements set forth in the Authority's Bond Covenant Requirements. The Manager shall not implement or amend the schedule of fees, charges and rates for the services

rendered by the Facility without the advance written consent of the Authority, except those charges for services which have been historically increased at regular levels in the normal course of business or pursuant to an automatic increase utilizing the Consumer Price Index;

2.3.15 Give prompt written notice to the Authority if debt service ratios, required revenues or other statistical benchmarks ("Financial Indicators") referenced by any of the Authority's Bond Covenant Requirements, fall below the thresholds required, such notice to include (a) the Manager's evaluation of the operations of the Facility, its operating statistics, rate structure and financial data, and (b) a listing of any material changes in operations, procedures and charges necessary to assure that the applicable financial indicators will be satisfied;

2.3.16 Operate and maintain the Facility in substantial compliance with the requirements of any statute, ordinance, rule, regulation or order of any governmental, accreditation or regulatory body having jurisdiction over the Facility and with all orders and requirements of the local board or fire underwriters or any other body which may exercise similar function;

2.3.17 Use best efforts to operate the Facility in accordance with the Annual Approved Business Plan and Budget; and

2.3.18 INTENTIONAL OMITTED.

2.3.19. Intentionally Omitted.

2.3.20. The Manager agrees that the activities of the Manager in managing and operating the Facility shall be subject to review by the appropriate agencies which licenses the Facility, such as the Department of Health and Senior Services, accredits the Facilities, such as the Joint Commission on Accreditation of Healthcare Organizations, or otherwise reviews or audits the activities of the Facility as a condition of receiving reimbursement from the Medicare Program, the Medicaid Program, Third Party Payors, the Uncompensated Care Program, or any grant programs in which the Facility participates.

2.3.21 The Manager agrees that the Manager shall obtain all the necessary licenses and certification necessary to provide the services set forth in this Agreement. Such licenses or certifications shall include but not be limited to those licenses required by the Department of Banking and Insurance to provide billing and collection services to the Facility, as well as those licenses or certifications to the extent required by the Division of Consumer Affairs, to provide the staffing in operating the Facility.

3. Required Disclosures.

The Manager shall provide written notice to the Authority immediately upon becoming aware of the occurrence of any of the following:

3.1 **Restrictions on Program Participation.** The Facility or any person involved in the operation of the Facility is being prohibited or otherwise restricted with respect to participation in federal or state benefit program, or has any action taken by an accreditation agency which would jeopardize the accreditation of the Facility;

3.2 **Material Events.** An event that materially affects the Facility or the Manager's ability to carry out its responsibilities hereunder;

3.3 **Investigations: Claims.** Any governmental or accreditation entity making any inquiries regarding the operations of any Facility or initiating an investigation of any Facility or its agents, or any party making a claim against the Facility, other than claims for payment arising in the ordinary course of business, or any other person or entity filing or asserting any claim or cause of action against Operator or the Manager in respect of the Facility or the operation thereof; and

3.4 **Third Party Recommendations.** Receipt by the Manager of recommendations made by a Facility's auditor or any other consultant engaged to evaluate the operation or business of any Facility.

4. **Budgets; Financial Reports.**

4.1 **Submission of Proposed Annual Business Plan and Budget.** For the Fiscal Year beginning on the Management Commencement Date and ending on December 31, 2007 (the "Initial Fiscal Year"), and for each Fiscal Year thereafter during the Management Term, the Manager shall submit to the Authority for its approval, not to be unreasonably withheld or delayed, an annual business plan and budget (the "Proposed Annual Business Plan and Budget") covering the Reimbursable Expenses, proposed capital expenditures to be made with respect to the Facility, and any payments to be made by the Manager on behalf of the Authority together with any material changes to the Personnel Policies and Procedures. The Manager shall submit the Proposed Annual Business Plan and Budget for the Initial Fiscal Year not later than 45 days after the execution of this Agreement; provided that during the sixty (60) day period following the Management Commencement Date, Manager shall have the right to propose modifications of the Annual Business Plan and Budget for the Initial Fiscal Year to reflect deferred or hidden maintenance issues discovered by the Manager during such period and the Authority agrees not to unreasonably withhold their consent to any proposed modifications. Until the Annual Business Plan and Budget for the Initial Fiscal Year has been approved by the Authority, the Manager shall use the existing operating budgets for the Facility for calendar year 2006 which the Authority has delivered to the Manager for comparison reporting and all other purposes, which existing budgets are attached hereto as Exhibit B. For years other than the Initial Fiscal Year, the Manager shall submit the Proposed Annual Business Plan and Budget in accordance with time frames set forth under applicable law and in the Bond Documents, attached hereto as Exhibit 7.1. Each Proposed Annual Business Plan and Budget shall be in form reasonably acceptable to the Authority and shall include the following:

4.1.1 Physical Condition and Capital Expenditures. A commentary on the physical condition of the facility and an outline of a program of capital expenditures and major repairs as may be required by applicable law ("Mandatory Capital Expenditure") or desirable in Manager's best reasonable business judgment for the next Fiscal Year (or the remainder of the initial Fiscal Year of this Agreement) on both a month by month and a per annum basis in which each proposed expenditure will be designated as either mandatory or desirable. The Authority may approve or reject, in its discretion, each proposed capital expenditure, except those required by law, which shall be approved by the Authority. The Manager shall be responsible for designating as a Mandatory Capital Expenditure any such expenditure which, if not made, would result in the Facility losing its license or JCAHO accreditation or becoming ineligible under any Third Party Payor Program applicable to the Facility, or the issuance of a formal notice that the operating license for the Facility or any substantial portion thereof will be qualified in any material respect or placed on a conditional or provisional status, revoked or suspended, or that the Authority of the Facility shall be sanctioned by the New Jersey Department of Health and Senior Services or the federal Department of Health and Human Services by way of the imposition of a monetary penalty. Manager will use its good faith efforts to cause the Proposed Annual Business Plan and Budget to conform to the Authority's Bond Covenant Requirements as provided in the Bond Covenant Summary and shall describe in reasonable detail if any portion of the Proposed Annual Business Plan and Budget does not comply with such requirements;

4.1.2 Operating Budget. An operating budget for the Facility setting forth an estimate of operating revenues, Reimbursable Expenses, any payments to be made by the Manager on behalf of the Authority, and proposed Capital Reserve Payments for the next Fiscal Year on both a month by month and a per annum basis together with an explanation of estimated payroll rates and positions for all personnel groups, non-wage cost increases, Third Party Payor rates, estimated reimbursements from Third Party Payor Programs, and all other material factors, including, but not limited to:

- (a) projected staffing patterns for the Facility;
- (b) an estimate of the level of rates and charges to patients of the Facility sufficient to generate the revenue necessary to operate the Facility and make the capital improvements and/or perform the repairs and maintenance projected in such budget;
- (c) a narrative report including details on the status of current and projected use and occupancy; and
- (d) a marketing plan, a summary of market conditions and comparables, and such other summary market statistics as the Authority may reasonably request; and

4.1.3 Projections. Projections of cash receipts and disbursements for the Facility for the next Fiscal Year on a month by month basis, based on the proposed operating and capital budgets, together with recommendations as to the use of projected cash flow in excess of short-term operating requirements and/or as to the sources and amounts of additional cash flow that may be required to meet operating requirements and capital requirements. The Manager shall explain in reasonable detail any assumptions used in projecting operational costs, insurance and general and administrative costs and proposed capital expenditures, including, without limitation, all Third Party expenditures, and Reimbursable Expenses payable to the Manager hereunder, and a comparison of projected revenues and expenses against prior year actual (including an explanation of material deviations). Such business plans and budgets shall be supplemented by such information as the Authority may reasonably request from time to time. Projections shall be updated and reconciled on a quarterly basis.

4.2 Approval. The Authority shall have thirty (30) days from receipt thereof to review a Proposed Annual Business Plan and Budget. Unless and until the Authority approves such Proposed Annual Business Plan and Budget, Manager shall use all commercially reasonable efforts to continue to operate the Facility in accordance with the last Approved Annual Business Plan and Budget until a new Annual Business Plan and Budget is approved. Manager shall use commercially reasonable efforts to avoid causing the actual costs of the operation, and management of the Facility to exceed the Approved Annual Business Plan and Budget either in total or in any one accounting category. Manager shall have general authority to allocate expenditures within categories of the approved Annual Business Plan and Budget. Manager shall secure the prior written approval of the Authority before expending, obligating the Authority for or approving any expenditure in connection with the Ownership, operation and management of the Facility that would result in the total Annual Business Plan and Budget being exceeded by \$250,000 or more; provided, however, that where emergency action is necessary to prevent imminent risk to health and safety, imminent property damage, or imminent imposition of criminal or civil sanctions against the Authority or Manager or to prevent the Facility from violating applicable licensing requirements, Manager may make, or cause to be made, expenditures not contemplated by the Annual Budget if (A) any expenditure made without the consent of the Authority is, in Manager's good faith judgment, reasonable under the circumstances and (B) Manager endeavors diligently and in good faith (1) to notify the Authority of any such emergency.

4.3 Cooperation with Independent Accountants. The Manager shall cooperate with independent accountants for the Authority, who shall be selected by the Authority, in the preparation of audited financial statements for the operation of the Facility. Such audited financial statements shall be prepared at the Authority's expense in accordance with generally accepted accounting principles consistently applied and shall be delivered to the Manager and the Authority promptly after the end of the Fiscal Year of the Facility, and in any event within the time limitations required by the Authority's Bond Documents.

4.4 Periodic Meetings. The Manager shall schedule periodic management meetings with the Authority, to be attended by representatives of both the Manager and the Authority, no less frequently than quarterly, or more frequently if requested by the Authority, and shall furnish

to the Authority quarterly written progress reports concerning the operation of the Facility. The Manager shall provide the reports set forth on Exhibit E, at the time periods set forth on Exhibit E, of the format of which reports are attached hereto as Exhibit H and such other written information that the Authority may reasonably request at such times mutually agreed to by the Authority and the Manager provided that if any requested additional reports increase the Manager's costs, the Authority shall reimburse such increased costs to the Manager.

4.5 Inspection of Books and Records. The Manager shall make available to the Authority for inspection during normal business hours, and for copying by the Authority upon request, all books and records and financial data relating to the Facility in Manager's possession or control.

4.6 Reporting. The general requirements for each Monthly Statement and each Quarterly Statement (as such terms are defined below) and for all other financial reports are set forth on Exhibit E attached hereto. Each Monthly Statement and Quarterly Statement shall include the information required by Exhibit E together with the following:

4.6.1 Monthly Reporting. The Manager shall furnish or cause to be furnished to the Authority monthly unaudited financial statements for the Facility (each, a "Monthly Statement") prepared in accordance with generally accepted accounting principles consistently applied, in the form set forth in the sample report attached hereto as Schedule 4.4, by the twentieth (20th) day after the end of each calendar month (except for the last month in each quarter, for which month the applicable Monthly Statement shall be furnished when the Quarterly Statement for that quarter is due as specified below) which shall also include:

- (a) Income statement with a comparison of actual versus budget by functional revenue and cost center;
- (b) Utilization statistics, i.e., average daily census, Third Party Payor mix, full time equivalents paid, etc.; and
- (c) Balance sheet.

4.6.2 Quarterly Reporting. The Manager shall provide the Authority within forty-five (45) days of the end of each fiscal quarter during the Management Term financial statements for the preceding quarter for the facility (the "Quarterly Statements") that also include, without limitation, the following:

- (a) Quarterly utilization statistics; and
- (b) Quarterly operating statements.

4.6.3 Annual Reporting. Within ninety (90) days after the end of each calendar year during the Management Term, the Manager shall arrange for and furnish to the Authority, at the Authority's expense, annual audited financial statements for such full or partial calendar year, prepared by a certified public accountant approved by the Authority. The annual reports shall be accompanied by a compliance certificate from the Manager indicating that the Manager is in compliance with this Agreement.

4.6.4 Additional Information. Manager shall assist in providing information required to comply with the Authority's continuing disclosure undertaking pursuant to Rule 15c2-12 of the Securities Exchange Act of 1934, as amended. Specifically, this shall include, but not be limited to, (a) notices of the occurrence of certain enumerated "material events" and (b) annual provision of audited financial statements of the Authority, together with annual updates of certain enumerated "operating data" and "financial information" relating to the Hospital operations.

5. The Ownership of Facility Documents.

All Facility Documents are and shall remain the property of the Authority and, upon termination or expiration of this Agreement for any reason whatsoever, shall be promptly turned over to the Authority. The Manager shall have the right to retain copies of Facility Documents in its files. Each party to this Agreement agrees not to destroy any Facility Documents or other material records relating to this Agreement for a period of at least seven (7) years following the expiration of the year with respect to which such Facility Documents relate, and each such party further agrees to permit the other party to have reasonable access to all such Facility Documents, including any such access requested in connection with any dispute between the parties.

6. Hospital Staff; Administrator or CEO.

6.1 Pursuant to NJSA 30:9-23.20, the Manager shall be authorized to designate the individuals (and any change thereto) who shall serve as the Chief Executive Officer and Chief Financial Officer of the Facility, with said designation (and any change thereto) subject to the approval of the Authority or the Authority shall designate such executive (or any change thereto). The Manager shall also be authorized to negotiate and enter into contracts setting forth the terms and conditions for those positions, which contracts shall be subject to the approval of the Authority.

6.2 The duties to be fulfilled by the Chief Executive Officer of the Facility shall be those duties of the Chief Executive Officer of a municipal hospital set forth in NJSA 30:9-23.15 et seq. as well as the duties set forth in the contract between the Manager and Harvey A. Holzberg, LLC, which contract has been approved by the Authority and is attached as Exhibit C to this Agreement. The Authority and Manager agree that the Chief Executive Officer who shall be designated by the Manager pursuant to the contract between the Manager and Harvey A. Holzberg, LLC shall be Harvey A. Holzberg. The duties to be fulfilled by the Chief Financial Officer of the Facility shall be those duties of the Chief Financial Officer of a municipal hospital set forth in NJSA 30:9-23.15 et seq. as well as the duties set forth in the contract between the Manager and Medical Support System, Inc., which contract has been approved by the Authority and is attached as Exhibit C to this Agreement. The Authority and Manager agree that the Chief Financial Officer who shall be designated by the Manager pursuant to the Consulting Services Agreement (the "Consulting Services Agreement") between the Manager and Medical Support System, Inc. shall be Ronald DiVito.

6.3 In entering into this Master Manager and Operator Agreement, and in approving the contracts between the Manager and Harvey A. Holzberg LLC and Medical Support System, Inc., the Authority hereby grants the individuals designated as Chief Executive Officer and Chief Financial Officer the full power and authority to manage all aspects of the day to day operations of the Facility, subject only to that approval power which has been specifically reserved to the Authority by law. The Authority hereby grants the individuals designated to serve as the Facility's Chief Executive Officer and Chief Financial Officer all power and authority necessary to fulfill the responsibilities of a hospital Chief Executive Officer and Chief Financial Officer, subject only to the Authority's exercise of those powers which have been specifically reserved to the Authority by law or by this Agreement.

6.4 The Authority agrees to indemnify and hold harmless the Manager, Harvey A. Holzberg, LLC, Medical Support System, Inc., Harvey A. Holzberg individually and Ronald DiVito individually from any liability or expenses of any kind, including, but not limited to, attorney's fees and court costs, arising out of the performance of their duties under this Agreement or under the Asset Transfer Agreement. The Authority's responsibility to indemnify the Manager, Harvey A. Holzberg, LLC, Medical Support System, Inc., Harvey A. Holzberg individually and Ronald DiVito individually shall extend to indemnification for liability arising for any claims whatsoever except for those claims arising due to gross negligence or willful misconduct of the party seeking indemnification.

6.5 All payments made by the Manager to either Harvey A. Holzberg, LLC and/or Medical Support System, Inc. shall be fully and completely reimbursed by the Authority to the Manager as an allowable expense of the Manager pursuant to this Agreement.

6.6 In the event that the individual currently serving in the capacity of Chief Executive Officer of the Facility chooses to retire or gradually reduce his working hours, he shall assist the Authority in finding an acceptable replacement and shall, to the extent practical, assist in training the replacement during a transition period.

6.7 In the event that the individual currently serving in the capacity of Chief Executive Officer of the Facility resigns, is terminated, dies or becomes incapacitated, or is otherwise unable to perform the duties of Chief Executive Officer, Ronald DiVito, who is the individual provided by Medical Support Systems, Inc. to serve as the Facility's Chief Financial Officer, shall be named as acting/interim Chief Executive Officer of the Facility. By executing this Agreement, the Authority hereby approves the designation of Ronald DiVito to serve as acting/interim Chief Executive Officer of the Facility if the individual currently serving in the capacity of Chief Executive Officer of the Facility resigns, is terminated, dies or becomes incapacitated, or is otherwise unable to perform the duties of Chief Executive Officer of the Facility.

6.8 In the event the individual currently serving in the capacity of Chief Executive Officer of Hudson resigns, is terminated, dies, or becomes incapacitated, or is otherwise unable to perform the duties of Chief Executive Officer, Hudson shall have the right to appoint individuals to serve on a national search committee which shall be charged with the responsibility of finding a replacement Chief Executive Officer. The individual serving as

acting/interim Chief Executive Officer shall be a member of the national search committee. The national search committee will conduct a national search for a replacement Chief Executive Officer and make a recommendation to the Authority regarding a suitable candidate for such position. Any appointment of a successor Chief Executive Officer shall be subject to the approval of the Authority.

7. Deposit of Facility Revenues; Disbursements from the Revenue Fund.

7.1 The Bond Documents shall govern the flow of funds for the Authority. Neither the Authority nor the Manager shall have any authority to deviate from the Bond Resolution.

7.2 The Manager, in the name of the Authority and on behalf of the Facility, shall supervise the deposit of all funds received from the operations of the Facility into the Revenue Fund defined in the Trust Indenture and shall reconcile the receipts with the claims made in accordance with section 4.6.1 of this Agreement. All revenues received by the Hospital, including, but not limited to, payments by third party payors or patients for services rendered to patients; any payments from governmental payors, cash receipts, and any payments pursuant to the Bond Documents shall belong to the Authority and shall be deposited in the Revenue Fund. The Manager will not have the ability to draw or requisition funds from the Revenue Fund. The Manager's access to funds will be limited to those funds that are transferred into the Operating Fund, as defined in the Trust Indenture and thereafter transferred to the Manager's Operating Account. Only the approved signatories consistent with the Trust Indenture shall be authorized to write checks, make withdrawals from, or make deposits into, the Operating Fund.

7.3 Pursuant to the Bond Covenant Summary, the cost of completing the approved construction projects referenced in Exhibit I to this Agreement shall be paid for from the proceeds of the bond financing to be obtained by the Authority.

7.4 The Authority acknowledges and agrees that by approving the Annual Business Plan and Budget, the Authority has approved all Reimbursable Expenses incurred by Manager for the ongoing operational expenses of the Hospital. Accordingly, the Authority must concur in any payments made by the Manager for any such Reimbursable Expenses incurred for any reason unless the expenses have been incurred due to the gross negligence or criminal misconduct of the Manager. Absent evidence of gross negligence or criminal misconduct, all Reimbursable Expenses incurred by the Manager pursuant to an approved Annual Business Plan and Budget shall be paid by the Manager and shall have the concurrence of the Authority.

7.5 As of the date of this Agreement, the Authority and the Manager have agreed that certain construction projects at the Facility shall be undertaken within the next 12 months. The Authority and the Manager agree that the Manager will act as the Authority's agent and manager of construction with regard to these projects and that the Authority will take whatever steps are necessary to appoint Manager to such position. The manager shall negotiate with the architects and other professionals in connection with construction projects, which contracts are exempt from competitive bidding under N.J.S.A. 40A:11-5. These contracts shall be presented for

approval to the Authority. All costs incurred by the Manager with regard to these projects shall be Reimbursable Expenses.

7.6 To the extent that the lease of capital equipment (via a traditional lease or a capital lease) has been approved by the Authority in a capital or operating budget prepared by the Manager, the Manager shall be authorized to enter into the lease in the Manager's name on behalf of the Authority. As a condition of entering into an equipment lease, any lease document must state that the Authority can assign the lease to another manager if the Manager and Operator Agreement between the Authority and the Manager is terminated. In addition, any UCC-1 form filed to evidence a security interest under the terms of any equipment lease must state that the obligations under the UCC-1 may be assumed by a successor manager in the event that the Management Agreement between the Authority and the Manager is terminated.

7.7 The Authority shall be given the right to verify that the items that the Manager represents as the revenues and expenses of the Authority are accurately stated.

8. Representations, Warranties and Covenants of Manager.

8.1 **Manager.** The Manager makes the following representations, warranties and covenants which are material and upon which the Authority have relied as an inducement to enter into this Agreement:

8.1.1 The Manager is a nonprofit corporation duly organized, validly existing and in good standing under the laws of the State of New Jersey, and has all necessary power to carry on its business as now being conducted, to operate its properties as now being operated, to carry on its contemplated business, to enter into this Agreement and to observe and perform its terms and is awaiting receipt of its determination by the Internal Revenue Service that it is tax-exempt for federal tax purposes;

8.1.2 The Manager has full power and authority to execute and deliver this Agreement and all related documents and to carry out the transactions contemplated herein; which actions will not with the passing of time, the giving of notice or both, result in a default under or a breach or violation of (a) the Manager's articles of incorporation or by-laws; or (b) any law, regulation, court order, injunction or decree of any court, administrative agency or governmental body, or any mortgage, note, bond, indenture, agreement, lease, license, permit or other instrument or obligation to which the Manager is now a party or by which the Manager or any of its assets may be bound or affected;

8.1.3 This Agreement constitutes a valid and binding obligation of the Manager, enforceable in accordance with its terms, except to the extent that its enforceability is limited by applicable bankruptcy, reorganization, insolvency, receivership or other laws of general application or equitable principles relating to or affecting the enforcement of creditors' rights;

8.1.4 There is no litigation, claim, investigation, challenge or other proceeding pending or, to the knowledge of the Manager, threatened against the Manager, its

properties or business, or any health care facility managed by the Manager which would materially and adversely affect either (a) the Manager's ability to manage the Facility or (b) the Authority's ability to receive Gross Revenues from the Facility. The Manager shall update this representation and warranty on the Management Commencement Date; and

8.1.5 The Manager has all licenses and permits necessary to provide the management services set forth in this Agreement in the State of New Jersey and the City of Hoboken.

8.2 The Authority. The Authority makes the following representations, warranties and covenants which are material and upon which the Manager has relied as an inducement to enter into this Agreement.

8.2.1 The Authority is a municipal hospital authority duly organized, validly existing, and in good standing under the laws of the State of New Jersey, and has all necessary power to carry on its business as now being conducted, to carry on its contemplated business, to enter into this Agreement and to observe and perform its terms;

8.2.2 The Authority has full power and authority to execute and deliver this Agreement and all related documents and to carry out the transactions contemplated herein which actions will not with the passing of time, the giving of notice, or both, result in a default under or a breach or violation of (a) the Act of the Authority's certificate of formation or operating agreement; or (b) any law, regulation, court order, injunction or decree of any court, administrative agency or governmental body, or any mortgage, note, bond, indenture, agreement, lease, license, permit or other instrument or obligation to which the Authority is now a party or by which the Authority or any of its assets may be bound or affected;

8.2.3 This Agreement constitutes a valid and binding obligation of the Authority, enforceable in accordance with its terms, except to the extent that its enforceability is limited by applicable bankruptcy, reorganization, insolvency, receivership or other laws of general application or equitable principles relating to or affecting the enforcement of creditors' rights;

8.2.4 The Authority has no knowledge of any litigation, claims, investigation, challenge or other proceeding pending or, to the knowledge of the Authority, threatened against the Authority which would materially and adversely affect (i) the Manager's ability to manage the Facility; or (ii) the Authority's ability to fully satisfy all of its obligations under this Agreement. The Authority shall update this representation and warranty, to the best of the Authority's knowledge, on the Management Commencement Date;

8.2.5 The Authority hereby covenants and agrees to provide Manager with reasonable access to its files with respect to the Facility;

8.2.6 To the Authority's knowledge: (a) the Authority is eligible to receive payment under the Medicare and Medicaid programs; (b) there is not currently pending, proceeding or investigation under Medicare or Medicaid, involving the Facility and (c) the Authority is not aware that the Facility is currently in violation of material Governmental Requirements which could adversely affect the operations of the Facility;

8.2.7 The Authority has no knowledge of written notices of material violations issued by regulatory authorities having jurisdiction over the Facility which would materially adversely impact the ability to continue to operate the Facility.

8.2.8 The Authority shall make available to the Manager the Facilities for use by the Manager in fulfilling the obligations of this Agreement as well as for use by the Manager in fulfilling obligations to obtain or maintain its status as required by this Agreement and by law.

8.2.9 By executing this Agreement, the Authority agrees to fund the capital projects as set forth in attached Exhibit I.

8.2.10 By executing this Agreement, the Authority agrees to fund the Reimbursable Expenses incurred by the Manager.

8.2.11 By executing this Agreement, the Authority agrees to entertain future capital requests, to the extent that the Authority is capable of funding such future capital requests either from the funds that it has received or through borrowings.

9. Bids, Discounts, Rebates and Group Services.

9.1 Bids. The parties agree that New Jersey's procurement laws do not apply to the Manager. The Manager shall use its best efforts to obtain contracts, materials, supplies, utilities, and services on the most advantageous terms to the Facility and is authorized to solicit bids, either formal or informal, for those items which can be obtained from more than one source.

10. Insurance.

10.1 Facility Insurance. The Manager shall coordinate with the Authority in obtaining and maintaining joint insurance policies required for the facility pursuant to the coverages, limits and other requirements set forth in Exhibit F attached hereto and incorporated herein, which may be amended or replaced from time to time as the Authority may direct, consistent with comparable facility in the area. In addition to the Authority and the Manager, the insurance shall name such party or parties, including the Authority's Bond Trustee or lender(s), if any, as insured as the Authority may reasonably request and shall include provisions, to the extent commercially available at no additional charge, that all named insureds shall be given at least thirty (30) days prior written notice of cancellation of or any material change in any insurance policy. Any insurance provided pursuant to this paragraph shall also comply with the requirements of any applicable Facility mortgage or lease and shall be an expense of the Facility. The cost of premiums for such insurance shall be an operating expense of the Facility which

shall be included in the Annual Business Plan and Budget and shall be paid from the Manager's Operating Account. The Authority hereby covenants and agrees to maintain insurance in compliance with applicable state laws, rules, ordinances and regulations. The Manager shall furnish the Authority with such evidence of the coverages and limits then in effect for the facility as may, from time to time, be reasonably requested by the Authority.

10.2 Defense by the Authority. The Authority or the Authority's insurer shall have the right, at their option (chargeable as an operating expense of a Facility), to conduct the defense of any claim, demand or suit arising out of the ownership, operation or management of any Facility. The foregoing is not intended to affect the general requirements of this Agreement with respect to the operation, maintenance and management of the Facility or with respect to the indemnity by the Manager hereunder.

10.3 Investigation and Cooperation. The Manager shall investigate and furnish the Authority with full reports, in form reasonably acceptable to the Authority, as to all incidents, accidents, claims and potential claims for damage or injury relating to the Facility or its operation and shall cooperate with the Authority's insurers in connection therewith. The Manager shall aid and cooperate in every reasonable way with respect to such claim or loss thereunder. The Manager shall notify the Authority and its insurance carrier promptly upon receiving notice of any casualty, loss, injury, claim or threatened claim, condition or other event which the Manager believes may result in a claim under any insurance policy maintained by the Authority.

10.4 Manager's Insurance. Separate from the joint insurance policies set forth above, the Manager shall maintain, and be reimbursed by the Authority, the following minimum insurance coverages and limits (the "Manager's Insurance"):

10.4.1 Worker's compensation as required by law;

10.4.2 Employer's Liability in jurisdictions where employer's liability insurance is required by law -- \$500,000 each accident; \$500,000 disease -- each employee; \$500,000 disease -- policy limit;

The minimum A.M. Best's rating of each insurer shall be A- (or the highest of such other lower rating at which such insurance is available at commercially reasonable rates, as reasonably determined by the Authority). The Manager shall furnish the Authority with certificates evidencing the aforesaid coverages, which shall include provisions to the effect that the Authority shall be given at least 30 days' prior written notice of cancellation of or any material change in any of the aforesaid policies. Notwithstanding the foregoing, in the event any of the foregoing coverage is not available to Manager and is not available to other managers of hospitals in New Jersey at commercially reasonable rates (as evidenced by specific detailed written information provided by Manager to the Authority), Manager shall not be required to carry such insurance; however, if the Authority reasonably determines that such insurance is available at commercially reasonable rates, the Authority may terminate this Agreement pursuant to Section 16.2 below if Manager does not obtain such coverage.

11. Indemnification; Liability.

11.1 The Authority's Indemnification. The Authority is directly responsible to fully satisfy all of the liabilities and obligations of the Authority to the Manager under this Agreement, including the payment of all Reimbursable Expenses and any amounts due with regard to any Deficiency and/or any Withheld Payment. To the extent permitted by law, the Authority hereby agrees to indemnify, defend and hold harmless the Manager, its directors, officers, employees and agents for, from and against any cost, loss, damage or expense (including, but not limited to, reasonable attorneys' fees and all court costs and other expenses of litigation, whether or not recoverable under local law) resulting from (i) a breach of this Agreement by the Authority, including any breach of any representation, warranty or covenant in this Agreement or failure to pay any amount, when due, owing to the Manager under this Agreement, (ii) the fraud, gross negligence or willful misconduct of the Authority, (iii) any act (or failure to act) undertaken and performed (or refused to be undertaken) by the Manager or its officers, employees or agents, in good faith within the scope of authority conferred by this Agreement, or (iv) the performance or failure to perform any acts by the Manager or its officers, employees or agents, in good faith reliance on the advice of accountants or legal counsel or in good faith reliance on the advice, instruction or approval from the Authority. Without limitation of the foregoing, the Authority's indemnification obligation includes the obligation to pay Manager pursuant to Section 7 of this Agreement.

11.2 Manager's Indemnification. The Manager hereby agrees to indemnify, defend and hold harmless the Authority for, from and against any cost, loss, damage or expense (including, but not limited to, reasonable attorneys' fees and all court costs and other expenses of litigation, whether or not recoverable under local law) resulting from (i) a breach of this Agreement by the Manager or (ii) the fraud, gross negligence or willful misconduct of the Manager or its officers in the performance of the Manager's obligations under this Agreement.

11.3 No Consequential or Punitive Damages. Notwithstanding anything to the contrary provided in this Agreement, no party shall be liable to any other hereunder for any consequential or punitive damages.

11.4 Survival. The Authority and the Manager understand, acknowledge and agree that each of them has relied on the indemnity of the other as an inducement and as a material part of the consideration for entering this Agreement. The Authority and the Manager further agree that the indemnity set forth above shall survive the expiration or termination (whether with or without cause) of the Management Term.

12. Compliance with Governmental Orders.

The Manager shall take such action as may be necessary to comply promptly with any and all governmental orders or other requirements affecting any Facility of which it has received notice, whether imposed by federal, state, county or municipal authority. Such actions shall be at the Manager's expense if caused solely by the Manager's gross negligence or willful misconduct and in all other cases, such actions shall be at the Authority's expense payable from the

applicable Manager's Operating Account or from the Operating Fund. Notwithstanding the forgoing, the Manager shall take no such action so long as the Authority is contesting, or has affirmed its intention to contest, any such order or requirement. The Manager shall notify the Authority in writing of all notices of such orders or other requirements, within forty-eight (48) hours from the time of their receipt.

13. Non-discrimination.

The Manager represents that it complies and, in the performance of its obligations under this Agreement, that it shall comply with the provisions of any applicable federal, state or local law prohibiting discrimination on the basis of age, race, color, creed, physical handicap, sex, sexual orientation, or national origin. The Manager shall advertise as an equal opportunity employer.

14. Compensation of Manager. The compensation of the Manager shall be the total of Reimbursable Expenses as of December 31 of each year including Executive Compensation (as defined herein).

15. Management Term.

The provision by the Manager of the Management Services under this Agreement shall commence on the Management Commencement Date and continue for the Management Term.

16. Termination.

16.1 Termination Without Cause. The Authority may terminate this Agreement and the Management Term at any time, including in connection with a sale of the Facility to a Third Party, "without cause", upon not less than ninety (90) days written notice to the Manager; provided, however that if this Agreement is terminated by the Authority "without cause" during the first twenty-four months of the Term, the Manager shall receive a fee (the "Termination Fee") in the following amount:

16.1.1 An amount consistent with the terms of the Agreements between the Manager and Harvey A. Holzberg, LLC and Medical Support Systems, Inc., which Agreements are subject to the approval of the Authority.

16.2 Termination For Cause by The Authority. The Authority may terminate this Agreement and the Management Term "for cause" effective immediately upon notice thereof to the Manager. In the event of a "for cause" termination, no Termination Fee shall be due. A "for cause" termination shall mean termination by the Authority solely as a result of any of the following:

16.2.1 Upon any Manager's Event of Default (as defined herein); or

16.2.2 If if the Manager loses its non-profit status under state law; or

16.2.3 Fraud on the part of the Manager; or

16.2.4 Misappropriation by the Manager of any funds from or with respect to the Facility or the Revenue Fund, the Operating Fund or the Manager's Operating Account;
or

16.2.5 Gross negligence, criminal misconduct, or other act on the part of the Manager that would result in jeopardy to the Facility's licenses, or that would result in material damage to the reputation of the Facility as a health care provider; or

16.3 Termination for Cause by Manager. The Manager may terminate this Agreement and the Management Term "for cause" effective immediately upon notice thereof to the Authority. In the event of a "for cause" termination by the Manager pursuant to Section 16.3.1, the Manager shall become entitled to receive, and the Authority shall immediately pay in full, a Termination Fee in the same amount to which the Manager would have been entitled had the "for cause" termination by the Manager been, instead, a "without cause" termination by the Authority as provided above in section 16.1. A "for cause" termination shall mean termination by the Manager as a result of the following:

16.3.1 Upon the occurrence of any of the Authority's Events of Default (as defined herein).

16.4 Final Accounting. Upon termination of this Agreement, the Manager will deliver to the Authority the following:

16.4.1 A final accounting, reflecting the balance of income and expenses of the facility as of the date of termination or withdrawal, to be delivered within sixty (60) days after such termination;

16.4.2 Any balance of any monies of the Authority held by the Manager with respect to the facility, to be delivered immediately upon such termination, less, however, any sums acknowledged by the Authority in writing to be then due and payable to the Manager; and

16.4.3 All papers, documents or computer disks or information which pertain in any way to the facility, including, without limitation, records, contracts, leases, tenant correspondence, files, receipts for deposits, marketing materials, census reports, unpaid bills and other, to be delivered immediately upon such termination.

16.5 Continuing Duty of Manager. Termination of the Management Term shall not terminate any duty of the Manager for reports, actions, or any other performance required by this Agreement for any period of time up to the effective date of the termination, and the Manager and the Authority agree to cooperate in facilitating the orderly transfer of the Facility to the Authority and to the Authority's successor manager, at the Authority's sole cost and expense, and all data and all other property of the Authority in the Manager's possession, to avoid undue

interruption in the continued operation of the Facility by the Authority and/or the Authority's successor manager of the Facility.

16.6 **Obligation to Vacate; Orderly Transition.** Upon termination of the Management Term, the Manager promptly will vacate any applicable management office space provided by the Authority for the location of the Manager's personnel. Upon termination of the Management Term, the Manager will cooperate in all respects, at the Authority's sole cost and expense, in order to minimize the impact of the change on the patients of the Facility and to effect an orderly transition of the management functions to a new manager, including, without limitation, transfer of title (if owned by the Manager or any Manager Affiliate) or assignment of lease (if leased by the Manager or any Manager Affiliate) with respect to any vehicles or equipment located on or used in connection with the Facility by the Manager on or after the date hereof (provided that the cost of purchasing or leasing such vehicles is an expense for which the Manager has been advanced funds by the Authority hereunder), assignment of any contracts that the Manager entered into on the Authority's or Hospital's behalf to the Authority, or transfer of any required licenses or permits. The Manager's obligations under Section 16.5 and this Section 16.6 shall survive the Management Term.

16.7 The Authority shall be obligated to, even after a termination for any reason, to reimburse the Manager the Reimbursable Expenses set forth in this Agreement, including those costs of meeting any of the obligations set forth in this Agreement, such as but not limited to the obligations set forth above in paragraph 16.5, as well as all other costs incurred by the Manager in terminating its employees' contracts and any other actions required by the Manager as a result of the termination of this Agreement, including the transfer of those obligations to a successor manager designated by the Authority.

17. Events of Default.

17.1 **Manager's Events of Default.** The following events shall be considered events of default by the Manager under the terms of this Agreement (each, a "Manager's Event of Default"):

17.1.1 The failure of the Manager promptly to satisfy or cause to be set aside any execution, garnishment or attachment that may impair its ability to carry out its obligations herein to the extent provided funds by the Authority; the filing by the Manager of a petition for the appointment of a receiver in liquidation of a trustee with respect to itself, or; if it makes a voluntary assignment for the benefit of creditors or files a petition in bankruptcy or insolvency or for reorganization, compromise, adjustment or other relief; or if any party other than the Manager shall file a petition for the appointment of a receiver in liquidation or a trustee with respect to the Manager or any entity the Manager controls or shall file a petition against the Manager or any entity the Manager controls in bankruptcy, insolvency or organization, compromise, adjustment or other relief relating to the relief of debtors and such petition is not vacated or set aside or stayed within 30 business days from its receiving notice thereof; or

17.1.2 If there has been a formal notice that the operating license or JCAHO accreditation for the Facility or any substantial portion thereof will be qualified in any substantial respect or placed on a conditional or provisional status, revoked or suspended, which notice is not rescinded, vacated, appealed or stayed by action of the Manager (or otherwise) within ten (10) days of its issuance or such longer period of time to cure as permitted by the notice; if a Facility shall have received formal notice that it will lose its eligibility for reimbursement under Medicare or Medicaid which notice is not rescinded, vacated or stayed or appealed by action of the Manager (or otherwise) within ten (10) days of its issuance or such longer period of time to cure as permitted by the notice; or if the Manager fails to immediately, after receipt of notice thereof, correct any deficiencies capable of such correction (or obtain waivers for such deficiencies), or fails to diligently prepare a plan of correction for any remaining deficiencies for which the Facility is cited pursuant to any accreditation, licensure and/or certification survey or fails to substantially implement the plan of correction within the time permitted for such correction; or

17.1.3 The termination of the CEO or CFO shall not be considered a default if the Manager designates an acting CEO or CFO, who is acceptable to the Authority, within sixty (60) days of such termination; or

17.1.4 Failure by the Manager to observe and perform in any material respect any covenant, condition or agreement on its part to be observed or performed under this Agreement (including, but not limited to Manager not maintaining the insurance coverage required under Section 10.4 above) or any other agreement binding on the Manager as to the Facility, and such default or failure continues for a period of thirty (30) days after written notice to the Manager from the Authority, stating the specific default or defaults; provided, however, that if such failure or default is not curable within such thirty (30) day period and the Manager has undertaken to cure the same within such thirty (30) day period, the Manager shall not be in default hereunder so long as it cures such default or failure within sixty (60) days after the original notice of default.

17.2 The Authority's Events of Default. The following events shall be considered events of default by the Authority under the terms of this Agreement (each, an "Authority's Event of Default"):

17.2.1 The failure of the Authority promptly to satisfy or cause to be set aside any execution, garnishment or attachment that may impair its ability to carry out its obligations herein; the filing by the Authority of a petition for the appointment of a receiver in liquidation of a trustee with respect to itself, or; if it makes a voluntary assignment for the benefit of creditors or files a petition in bankruptcy or insolvency or for reorganization, compromise, adjustment or other relief or if any party other than the Authority shall file a petition for the appointment of a receiver in liquidation or a trustee with respect to the Authority or shall file a petition against the Authority in bankruptcy, insolvency or organization, compromise, adjustment of other relief relating to the relief of

debtors and such petition is not vacated or set aside or stayed within 30 business days from its receiving notice thereof;

18. Relationship Between Parties: No Third Party Beneficiaries.

18.1 The relationship of the Manager to the Authority shall be that of independent contractor. Nothing herein contained shall cause the Authority to be or become partners or joint venturers with the Manager.

18.2 The Authority and the Manager agree that this Agreement is solely for their mutual benefit and that no Third Party shall be bound by or benefit from any of the provisions of this Agreement; neither shall the terms and conditions of this Agreement affect the provisions of any other agreement to which the Authority and/or the Manager may be bound, except to the extent such the Authority and the Manager may mutually agree in writing.

19. Notices.

19.1 All notices required or permitted to be sent hereunder shall be deemed to have been given for all purposes of this Agreement (a) if personally delivered, then upon receipt by the receiving party, (b) if sent via facsimile, then upon the date of receipt by a designated facsimile receiving device in the office of the receiving party, (c) if mailed, then three (3) days after being postmarked, and (d) if sent via Federal Express or similar expedited commercial carrier, then the next Business Day.

19.2 Whenever under this Agreement a notice is either received on a day which is not a Business Day or is required to be delivered on or before a specific day which is not a Business Day, the day of receipt or required delivery shall automatically be extended to the next Business Day

If to the Authority:

Hoboken Municipal Hospital Authority
Attn: George Crimmons
308 Willow Ave.
Hoboken, New Jersey 07030

With a copy to:

GluckWalrath, LLP
21 East Front Street, Suite 400
Red Bank, New Jersey 07701
Attn: Christopher Walrath, Esq.
Facsimile No. (732) 530-6770

If to Manager:

Hudson Healthcare, Inc.
C/O of Harvey A. Holtzberg
308 Willow Ave.
Hoboken, New Jersey 07030
With a copy to:

Giordano, Halleran & Ciesla, P.C.
125 Half Mile Road, P.O. Box 190
Middletown, New Jersey 07748.
Attention: Frank R. Ciesla, Esq.

or to such other address as the respective parties designated by notice given pursuant to this Section. Notices shall be deemed given when hand delivered, three days after deposit in the United States mail or one business day after sent by overnight courier service.

20. Subordination.

The Manager agrees that this Agreement is, and shall be at all times, subordinate to any mortgage, deed of trust or any other hypothecation for security which has been or which hereafter may be placed upon or against the Facility or the land or building of which they are a part and to all covenants, restrictions, easements and encumbrances now or hereafter affecting the fee, including but not limited to the Bond Documents, and that such subordination is hereby effective without any further action by the Manager. Notwithstanding the foregoing, the Manager agrees to execute within ten (10) days of request by the Authority any documents in addition to this Agreement which may be required to effectuate such subordination. In addition, the Authority shall request and shall use their good faith efforts to obtain from holders of any future mortgage, deed of trust or any other hypothecation for security, an agreement from such holder acknowledging that such subordination shall relate to such holder's ability to terminate this Agreement but shall not require that any fees be reduced or payment thereof delayed. In the event the Manager fails to timely and strictly comply with the provisions herein, the Authority at the Authority's sole option may treat the same as a default hereunder.

21. Miscellaneous.

21.1 Successors and Assigns. This Agreement shall inure to the benefit of and constitute a binding obligation upon the Authority and the Manager and their respective successors and (to the extent that assignment is permitted hereby) assigns.

21.2 Entire Agreement. This Agreement constitutes the entire agreement between the Authority and the Manager with respect to the management and operation of the Facility, and no change hereto shall be valid unless made by supplemental written agreement executed by the Authority and the Manager.

21.3 Headings. The headings used before the various parts of this Agreement are for ease of reference only and do not constitute parts of this Agreement. If any provision of this Agreement shall be declared invalid or unenforceable, the remaining terms of this Agreement

shall remain in full force and effect. This Agreement shall be governed by and construed in accordance with the laws of the State of New Jersey applicable to contracts made and to be performed therein.

21.4 Compliance with ERISA. If on the Effective Date, or any time from time to time thereafter, the Authority hereunder is subject to ERISA, upon receipt of a request therefore from the Authority, the Manager shall deliver to the Authority its written certification that the Manager is not a "party in interest" as such term is defined under ERISA with respect to such the Authority. If the Manager is a party in interest with respect to the Authority, then the Manager and the Authority shall take all measures reasonably required to avoid any "prohibited transactions" as such term is defined under ERISA.

21.5 Limited Liability.

21.5.1 The Authority's Limited Liability No officers, members, directors, employees, trustees, servants or agents of the Authority or any investment advisor of the Authority (including any assignee or successor of the Authority or of the Authority) shall be personally liable for the performance of any obligation of the Authority or of the Authority under this Agreement.

21.5.2 Manager's Limited Liability. No officers, members, directors, employees, trustees, servants or agents of the Manager or any investment advisor of the Manager (including any assignee or successor of the Manager) shall be personally liable for the performance of the Manager's obligations under this Agreement.

21.6 Confidentiality. The parties hereby acknowledge that this Agreement is subject to public disclosure under the New Jersey's Open Public Records Act ("OPRA"); provided however, that documents of the Manager which are not shared with the Authority shall not become subject to OPRA requirements.

21.7 Litigation Expense. Any claim, dispute, difference or controversy arising out of or relating to this Agreement for which recovery is sought shall be resolved in accordance with the procedures specified in this Section, which shall be the sole and exclusive procedures for the resolution of any such disputes. If such a dispute arises, the parties shall attempt in good faith to settle the dispute within thirty (30) days of the date either party notifies the other that a dispute has arisen and that arbitration will be sought in the event the dispute cannot be resolved. The Authority shall be responsible for reimbursing Manager for all litigation costs arising from Manager's provision of services under this Agreement, specifically excluding, however, costs incurred by Manager as a result of disputes and for litigation arising between the Authority and Manager. Such reimbursement of Manager by the Authority shall include but shall not be limited to, attorney's fees, witness fees, Court costs, and all other costs arising from the litigation or dispute.

21.7.1 Any dispute arising out of or relating to this Agreement, including the breach, termination or validity thereof which has not been resolved by the parties within the said thirty (30) day period shall be expeditiously settled by binding arbitration, either

by an independent Third Party mutually agreed to by the parties or, alternatively, if the parties cannot agree on an independent Third Party, the American Arbitration Association (the "AAA"). In either event, the arbitration shall be conducted in accordance with the AAA Rules for Arbitration then in effect in the State of New Jersey and shall be governed by the Federal Arbitration Act, 9 U.S.C. §-1-16, and judgment upon the award rendered by the arbitrator may be entered by any court having jurisdiction thereof. The place of arbitration shall be in Hoboken, New Jersey.

21.7.2 The statute of limitations of the State of New Jersey applicable to the commencement of a lawsuit shall apply to the commencement of an arbitration hereunder, except that no defenses shall be available based upon the passage of time during any negotiation called for by this Section.

21.7.3 The substantive law of the State of New Jersey, without regarding its principles of conflict of laws, shall apply;

21.7.4 Each Party shall bear its own fees and expenses of arbitration. Any cost incurred by a party to enforce or confirm an award of the arbitrator pursuant to the terms of this Section shall be borne by the party against whom the enforcement is sought.

21.7.5 The parties hereto (i) hereby irrevocably submit to the jurisdiction of the United States District Court for the District of New Jersey or the Hudson County Superior Court for the purpose of confirming or enforcing the award or decision, (ii) hereby waive, and agree not to assert, by way of motion, as a defense, or otherwise, in any such suit, action or proceeding, any claim that it is not subject to personal jurisdiction of the above-described court, that its property is exempt or immune from attachment or execution, that the suit, action or proceeding is brought in an inconvenient forum, that the venue of the suit, action or proceeding is improper or that this Agreement or that the subject matter hereof may not be confirmed or enforced in or by such court, and (iii) hereby waive and agree not to seek any review by any trial level court of any other jurisdiction any decision of the District Court or the Hudson County Superior Court as described in this paragraph. The parties hereto hereby consent to service of process by registered mail at the address to which notices are to be given. Each party hereby agrees that its submission to jurisdiction and its consent to service of process by mail is made for the express benefit of the other party hereto.

21.7.6 Final judgment against any party hereto in any such action, suit or proceeding may be enforced in other jurisdictions by suit, action or proceeding on the judgment, or in any other manner provided by or pursuant to the laws of such other jurisdiction in any state or federal court of the United States or of any country or place where the other party or its assets may be found.

21.7.7 To the extent permitted by law, none of the parties nor the arbitrator may disclose any part of the record of the arbitration including the papers exchanged by the parties, the evidence adduced at the hearing, including the testimony of any witness, without the prior written consent of both parties unless required in a court proceeding to

confirm or enforce the award. The only exception to this confidentiality provision is that the prevailing party may, if necessary, make public the arbitrator's award in order to confirm it in a court of competent jurisdiction and enter judgment upon it.

21.7.8 Notwithstanding anything to the contrary contained herein in this Section, this Section shall not apply with regard to (i) any equitable remedies to which any party may be entitled hereunder or (ii) any fraud claims as to which a party is seeking punitive damages.

21.8 Use of Name. No party to this Agreement shall, without the expressed written consent of the others, use in any advertising or promotional material or make any use in any other way of the name of any other party or any member of such party or their constituent members, as the case may be.

21.9 No Third Party Beneficiaries. It is the express intent and agreement of the parties hereto that nothing in this Agreement, express or implied, is intended to confer upon any person, other than the parties hereto and their respective legal representatives, successors and permitted assigns, any rights or remedies under or by reason of this Agreement.

21.10 Waiver of Trial by Jury. EACH PARTY HEREBY IRREVOCABLY WAIVES ITS RIGHT TO TRIAL BY JURY IN CONNECTION WITH ANY CLAIM, COUNTERCLAIM, CROSS CLAIM, SETOFF, DEMAND, SUIT, ACTION OR CAUSE OF ACTION BETWEEN THE PARTIES TO THIS AGREEMENT OR ANY OF THEIR RESPECTIVE RELATED PARTIES (OR ANY OFFICERS, DIRECTORS, PARTNERS, MEMBERS, MANAGERS, AGENTS, SERVANTS OR EMPLOYEES OF ANY OF THE PARTIES TO THIS AGREEMENT OR OF ANY OF THEIR RESPECTIVE RELATED PARTIES) ARISING OUT OF OR IN ANY WAY RELATING TO OR INCIDENTAL TO THIS AGREEMENT, THE RIGHTS AND OBLIGATIONS OF THE PARTIES TO THIS AGREEMENT, OR ANY TRANSACTIONS, DEALINGS, COMMUNICATIONS, ACTS OR OMISSIONS BY EITHER PARTY TO THIS AGREEMENT OR ANY OF THEIR RESPECTIVE RELATED PARTIES (OR ANY OFFICERS, DIRECTORS, PARTNERS, MEMBERS, MANAGERS, AGENTS, SERVANTS OR EMPLOYEES OF ANY OF THE PARTIES TO THIS AGREEMENT OR OF ANY OF THEIR RESPECTIVE RELATED PARTIES) IN CONNECTION WITH OR IN ANY WAY RELATED TO OR INCIDENTAL TO THIS AGREEMENT, THE FACILITY OR ANY PROPOSED FACILITY, OR THE ACQUISITION, THE OWNERSHIP, OPERATION, MANAGEMENT, LEASING, SALE OR DISPOSITION OF ANY ONE OR MORE OR ALL OF THE FACILITY OR ANY PROPOSED FACILITY, IN ALL OF THE FOREGOING CASES WHETHER NOW EXISTING OR HEREAFTER ARISING, AND WHETHER SOUNDING IN CONTRACT, TORT OR OTHERWISE. EACH PARTY AGREES THAT THE OTHER PARTY MAY FILE A COPY OF THIS WAIVER WITH ANY COURT AS WRITTEN EVIDENCE OF THE KNOWING, VOLUNTARY AND BARGAINED AGREEMENT OF EACH PARTY IRREVOCABLY TO WAIVE ANY RIGHT TO TRIAL BY JURY, AND THAT, TO THE EXTENT PERMITTED BY APPLICABLE LAW, ANY DISPUTE OR CONTROVERSY WHATSOEVER BETWEEN THE PARTIES HERETO OR ANY OF THEIR RESPECTIVE RELATED PARTIES (OR ANY OFFICERS, DIRECTORS, PARTNERS, MEMBERS, MANAGERS, AGENTS, SERVANTS

OR EMPLOYEES OF ANY OF THE PARTIES TO THIS AGREEMENT OR OF ANY OF THEIR RESPECTIVE RELATED PARTIES) SHALL INSTEAD BE TRIED BY A JUDGE SITTING WITHOUT JURY.

21.11 Relationship. The relationship of each the Authority and the Manager shall be that of independent contractor. Nothing contained in this Agreement shall be construed to create a partnership or joint venture between them or their successors in interest. No party shall borrow money in the name of, or pledge the credit of, the other. The Manager's agency established by this Agreement may not be terminated by the Authority except in accordance with the terms hereof.

21.12 Counterparts. This Agreement may be executed in several counterparts, each of which shall constitute a complete original Agreement, which may be introduced in evidence or used for any other purpose without the production of any of the other counterparts.

21.13 Legal Status. The Authority and the Manager covenant that each shall remain "in good standing" as business entities and shall be qualified at all times during the Management Term to conduct their businesses as presently conducted in New Jersey.

21.14 Non-Competition. Manager agrees that during the Management Term, neither the Manager nor any Related Party shall manage lease, operate or own, directly or indirectly, any Competing Facility located within five (5) miles of any Facility for which Manager is providing Management Services under the terms of this Agreement.

21.15 (A) Manager has negotiated insurance coverage for the members of the Authority. The cost of such insurance coverage shall be considered an obligation of the Authority, but payment will be made by the Manager on behalf of the Authority. The approximate amount of the premiums is \$60,000 per year.

21.14 (B) Manager has retained, which will be a reimbursable expense to Manager, the services of Millman Consultants for the purpose of recommending to Manager the adoption of a pension plan simultaneously with closing, to cover the non-union employees of St. Mary, whose employment will be assumed by the Manager at closing.

IN WITNESS WHEREOF, the parties hereto by their duly authorized officers, have executed this Agreement on the date first above written.

THE HOBOKEN MUNICIPAL HOSPITAL
AUTHORITY:

By: 

Name:

George W. Crimmins

Title: Authorized Signatory

HUDSON HEALTHCARE, INC.:
a New Jersey nonprofit corporation

By: 

Name:

R.F. DiVito

Title:

CEO