

## **INTER-LOCAL AGREEMENT TO GUARANTEE SITE DEVELOPMENT AND EROSION CONTROL OBLIGATIONS**

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The parties to this agreement are Smokey Point Medical Center, LLC, a Washington limited liability company comprised of Snohomish County Public Hospital District No. 3 and Skagit County Public Hospital District No. 1, each a Washington public hospital district organized pursuant to Chapter 70.44 RCW (the "Owner") and the City of Arlington, a Washington municipality (the "City");

### **I. RECITALS**

**WHEREAS**, it is the purpose of the Interlocal Cooperation Act, Chapter 39.34 RCW, to permit local governmental units to make the most efficient use of their powers by enabling them to cooperate with other localities on a basis of mutual advantage and thereby to provide services and facilities in a manner and pursuant to forms of governmental organization that will accord best with geographic, economic, population and other factors influencing the needs and development of local communities; and

**WHEREAS**, the Owner and the City have authority to enter into an Interlocal Agreement pursuant to RCW 39.34.020 & .030; and

**WHEREAS**, the Owner has submitted a building Permit application for the construction of a 42,000 square foot medical office building ("Application") in the City; and

**WHEREAS**, the City requires, as conditions of approval of the Application, that the Owner post three bonds: (1) in the amount of \$68,685 to assure compliance with City-imposed erosion control requirements on and adjacent to the site pursuant to AMC Section 20.44.120 (3); (2) in the amount of \$329,120.23 to assure that the Owner completes all on-site improvements as shown on the plans submitted in support of the Application; and (3) in the amount of \$35,000 to guarantee against defects on infrastructure installed in City ROW for a period of two years following the project's completion.

**WHEREAS**, the City Council has concluded that the public benefits to be derived by the construction of the medical office building which is the subject of the Application will provide a substantial and overriding public benefit to the citizens of Arlington; and

**WHEREAS**, the City Council recognizes that the burden of providing the bonds will detract from the Owner's ability to provide health care facilities for the Owner's patrons and for the citizens of Arlington; and

**WHEREAS**, the Owner has agreed to guarantee compliance with erosion control requirements and the construction of the on-site improvements on terms and conditions acceptable to the City; and

**WHEREAS**, the parties have determined that by entering into this agreement they will make the most efficient use of their powers by cooperating with each other on the basis of mutual advantage and thereby to provide services and facilities in a manner and pursuant to forms of governmental organization that will accord best with geographic, economic, population and other factors influencing the needs and development of their local community; and

**WHEREAS**, the parties wish to memorialize their agreement, it is

**THEREFORE, HEREBY AGREED BETWEEN THE PARTIES** as follows:

## **II. AGREEMENT**

A. The Owner hereby unconditionally agrees, commits and guarantees to the City to:

1. Comply with the erosion control requirements on and adjacent to the site during construction of the improvements subject to the Application; and
2. Construct to completion those on-site improvements set forth on the Owner's plans submitted to the City in support of its Application.
3. Prepare and submit as-built drawings in accordance with City of Arlington Engineering Standards and Specifications

B. The parties specifically agree that damages are not an adequate remedy for breach of this agreement, and that the City is entitled to compel specific performance of all material terms of this Agreement including but not limited to the Owner's obligation to comply with the erosion control requirements and to design and construct the site improvements. Alternatively, should the Owner fail to comply with the erosion control requirements or to timely design and construct the Application's on-site improvements as required herein, the City may, at its option take steps to implement adequate erosion controls and/or undertake to design and install such improvements itself and obtain from the Owner immediate reimbursement for the full costs incurred by the City therefor.

C. This agreement shall take effect on the date last signed by a party and shall be deemed to have commenced on March 15, 2011 for a term of two (2) years or until the Owner completes the project subject to the Application to the satisfaction of the City, whichever is earlier. Each party shall pay for its own operations hereunder and no real or personal property shall be acquired based on this agreement. The parties are not, by virtue hereof, engaged in a partnership or joint undertaking except to the extent set forth herein. This agreement shall administered by the persons signing below or their designee(s).

D. Venue for any action shall be exclusively in Snohomish County Superior Court. The prevailing party in any action to interpret or enforce this agreement shall be awarded its reasonable attorney's fees and costs, including those incurred on appeal.

E. Should any portion of this agreement be determined to be unenforceable, unlawful or *ultra vires*, the remainder of the agreement shall remain in full force and effect.

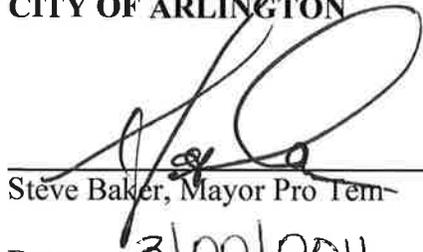
F. If, due to an act of terrorism, war, natural disaster or labor stoppage beyond the control of any party, a party's obligations under this agreement may be delayed for a reasonable time attributable to such cause.

G. This agreement shall inure to the benefit of, and bind, the parties' respective successors and assigns.

H. This agreement shall be recorded at the expense of the Owner.

This Agreement, having been approved by the Managing Board of the Smokey Point Medical Center, LLC and the Arlington City Council shall be deemed to commence on the 15th day of March, 2011.

CITY OF ARLINGTON

  
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Steve Baker, Mayor Pro Tem

Date: 3/22/2011

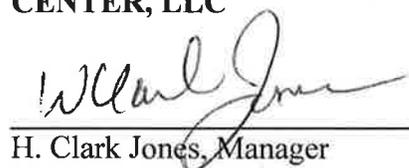
ATTEST:

  
\_\_\_\_\_  
Kristin Banfield, City Clerk

APPROVED AS TO FORM:

  
\_\_\_\_\_  
Steven J. Peiffle, City Attorney

SMOKEY POINT MEDICAL  
CENTER, LLC

  
\_\_\_\_\_  
H. Clark Jones, Manager

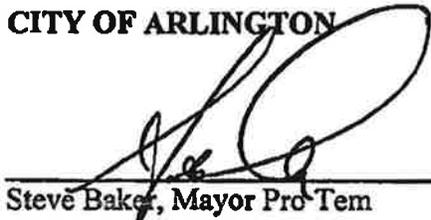
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APPROVED AS TO FORM:

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Bradford E. Furlong, Legal Counsel

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CITY OF ARLINGTON

  
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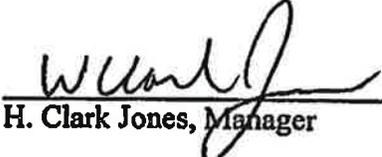
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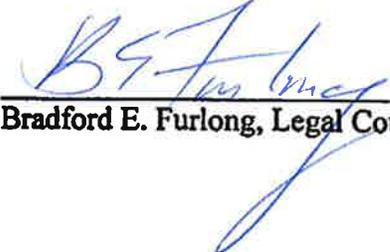
  
Steven J. Paiffle, City Attorney

SMOKEY POINT MEDICAL  
CENTER, LLC

  
H. Clark Jones, Manager

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Bradford E. Furlong, Legal Counsel