PAUL S. GERDING, JR., #017237
MARC R. LIEBERMAN #009180
TYLER MILLIRON #036204
JEFFREY M. GIANCANA #035031
KUTAK ROCK LLP
8601 North Scottsdale Road, Suite 300
Scottsdale, AZ 85253-2742
(480) 429-5000
Paul.Gerding.Jr@KutakRock.com
Marc.Lieberman@KutakRock.com
Tyler.Milliron@KutakRock.com

Attorneys for Defendant Hospital District No. 1 of Yuma County

SUPERIOR COURT OF THE STATE OF ARIZONA

IN THE ARIZONA TAX COURT

RICHARD OGSTON, Plaintiff, v. ARIZONA DEPARTMENT OF REVENUE, an agency of the State of Arizona; YUMA COUNTY, political subdivision of the State of Arizona; HOSPITAL DISTRICT NO. 1 OF YUMA COUNTY, ARIZONA, a special taxing district and political subdivision of the State of Arizona, Defendants.	Case No: TX2023-000342 **DEFENDANT HOSPITAL DISTRICT'S MOTION TO DISMISS** **(1) FOR FAILURE TO FILE A NOTICE OF CLAIM** **and** **(2) FOR FAILURE TO STATE A CLAIM UPON WHICH RELIEF CAN BE GRANTED** (Assigned to Hon. Sara Agne) (Oral Argument Requested)

Pursuant to Arizona Rule of Civil Procedure 12(b)(6), Defendant Hospital District 1, Yuma County (the "**District**") respectfully moves the Court to dismiss the complaint (the "**Complaint**") filed in this action by Plaintiff taxpayer Richard Ogston ("**Taxpayer**") as a result of (i) Taxpayer's failure to provide the District with a Notice of Claim prior to bringing this action, as required by A.R.S. § 12-821.01 and (ii) because the allegations of the Complaint fail to state a claim against the District upon which relief may be granted. This

Motion is supported by the Memorandum of Points and Authorities which follows.

MEMORANDUM OF POINTS AND AUTHORITIES

Taxpayer seeks to invalidate T/A # 1069901 (the "**Tax**"), a secondary property tax levied by Yuma County (the "**County**") on behalf of the District under A.R.S. § 48-1914 "to pay the District's legal fees for its ongoing litigation against the Yuma County Medical Center" ("**YRMC**"). Complaint at ¶¶ 1, 15. If the Tax is declared unlawful, Taxpayer also seeks a refund of the full amount he has already paid for the first installment of the Tax, as well as any additional amounts he pays for future installments of the Tax that come due during the pendency of this lawsuit. *Id.* at ¶ 31.

Because the District is a public entity, Taxpayer was required to provide notice of its claims to "the person or persons authorized to accept service" on behalf of the District "as set forth in the Arizona rules of civil procedure" before commencing this action pursuant to A.R.S. § 12-821.01(A). Taxpayer was also required to send the District notice of his claim "within one hundred eighty days after [his] cause of action accrue[d]." Although he has the affirmative duty to prove he has delivered a notice of his claim as a prerequisite to filing this action, Taxpayer's Complaint makes no mention of such a filing and in fact, Taxpayer has sent the District no notice of his claim. *See* Affidavit of Jeremy Curry, Chairman of the District, attached as Exhibit A. Having failed to file such notice, this Court must dismiss Taxpayer's Complaint. Further, as demonstrated below, because more than 180 days have elapsed since Taxpayer's cause of action against the District accrued, Taxpayer's Complaint against the District must be dismissed with prejudice as time barred pursuant to A.R.S. § 12-821.01(A).

Taxpayer's Complaint also fails for substantive reasons. Taxpayer seeks to invalidate the Tax pursuant to A.R.S. § 48-1914. Under A.R.S. § 48-1914, the County Board of Supervisors (the "**Board**") is required to levy a secondary property tax to "meet the financial needs of the district" based on the District's estimate of the "amount of money needed to be raised by taxation for all purposes required or authorized" by the hospital district statute. A.R.S. § 48-1914 has no requirement for separate voter approval before the Board levies the

tax.

Taxpayer nevertheless contends that the District must obtain voter approval before the County can institute the Tax on behalf of the District. Specifically, Taxpayer argues that because another statute, A.R.S § 48-1907(A)(6), requires separate voter approval before the District can institute a tax "for the purpose of operation and maintenance of a hospital," the District must have separate voter approval to levy the Tax. However, based on the facts alleged in the Complaint, A.R.S. § 48-1907(A)(6) has no application to the Tax, as Taxpayer concedes that the reason the District levied the Tax was "to pay the District's legal fees for its ongoing litigation against the Yuma County Medical Center" and *not* for the purpose of operation and maintenance of a hospital. (Complaint at ¶¶ 1, 15). Therefore, Taxpayer's Complaint fails to state a claim upon which relief can be granted and should be dismissed, with prejudice.

DISCUSSION

I. Legal Standard

A complaint that fails to "state a claim upon which relief can be granted" is subject to dismissal under Arizona Rule of Civil Procedure 12(b)(6). *Cullen v. Auto-Owners Ins. Co.*, 218 Ariz. 417, 419 (2008). In adjudicating a Rule 12(b)(6) motion to dismiss, Arizona courts must look only to the pleading itself, assuming the truth of any well-pled factual allegations contained therein and indulging all reasonable inferences therefrom. *Id.* However, legal conclusions are not given deference, and "a complaint that states only legal conclusions, without any supporting factual allegations" should be dismissed. *See id.* In accordance with *Pritchard v. State*, 163 Ariz. 427, 432 (1990), *re-aff'd, Lee v. State*, 225 Ariz. 576, 579 (App. 2010), a defense for failure to file a notice of claim should be raised on a motion to dismiss under Rule 12(b)(6) for failure to state a claim.

II. Taxpayer's Claims Against the District are Barred Under Arizona's Notice of Claim Statute, A.R.S. § 12-821.01.

Taxpayer was required to provide notice of its claims to "the person or persons

authorized to accept service" on behalf of the District, a public entity, "as set forth in the Arizona rules of civil procedure" before commencing this action. *See* A.R.S. § 12-821.01(A); *see also Pritchard v. State*, 163 Ariz. 427, 432 (1990) ("The requirement of filing a claim with the [public entity] is mandatory and an essential requisite to plaintiff's cause of action."); *City of Phoenix v. Fields*, 219 Ariz. 568, 574 (2009) ("An assertion that the plaintiff has not complied with [A.R.S. § 12-821.01] is an affirmative defense to a complaint."); *State Comp. Fund v. Superior Ct. In & For Cnty. of Maricopa (EnerGCorp, Inc.)*, 190 Ariz. 371, 376 (App. 1997) ("Under the claims statute, no action may be maintained when a plaintiff has failed to file a timely, sufficient notice of claim, including all elements required by law, with a person authorized by the Arizona Rules of Civil Procedure to accept service for the defendant [public entity]."); *Swenson v. Cnty. of Pinal*, 243 Ariz. 122, 127 (App. 2017) ("[Section] 12-821.01 . . . applies to all public entities, regardless of how they are funded.").

A. Taxpayer's Prayer for Declaratory Relief is Subject to Arizona's Notice of Claim Statute Because It Serves as a Predicate to a Damages Claim Against a Public Entity.

Generally, a prayer for declaratory relief need not comply with § 12-821.01's notice requirements. *See Martineau v. Maricopa Cnty.*, 207 Ariz. 332, 336 (App. 2004). However, where "a claim for declaratory or injunctive relief is merely a predicate to a damage claim, the notice of claim statute still applies." *UMB Bank, NA v. Parkview Sch., Inc.*, 254 Ariz. 383, 386 (App. 2023); *see also Arpaio v. Maricopa Cnty. Bd. of Supervisors*, 225 Ariz. 358, 361-62 (App. 2010) (holding that the notice of claim statute applied to claim seeking to declare a seizure of funds by the Maricopa Board of Supervisors unlawful because "[p]resumably, the [plaintiff] would contend via further amendment of the complaint or by separate action that [those funds] would need to be 'replenished'" by the public entity and its members, and thus "it seems logical to treat the [plaintiff's] contention as the equivalent of a damages claim, seeking recovery of funds he argues were inappropriately taken"). This conclusion comports with the general rule that claims which will affect a public entity's "financial planning [and] budgeting," if successful, must comply with the notice of claim

statute. *Martineau*, 207 Ariz. at 335 (explaining that A.R.S. § 12-821.01 applies to claims seeking monetary relief from a public entity because the statute's underlying purpose is "to allow the public entity to investigate and assess liability, to permit the possibility of settlement prior to litigation, and to assist the public entity in financial planning and budgeting").

As discussed, Taxpayer seeks to invalidate the District's Tax. In other words, like the plaintiff in *Arpaio*, Taxpayer seeks to declare a public entity's collection of funds unlawful. Unlike the court in *Arpaio*, however, this Court need not *presume* that Taxpayer will seek reimbursement of the allegedly unlawfully collected funds if the Tax is declared unlawful. Indeed, Taxpayer seeks a refund "of the full amount he has paid for the first installment of the Tax, as well as any additional amounts he pays for future installments of the Tax that come due during the pendency of this lawsuit" pursuant to A.R.S. § 42-11005, which provides that "within one year after payment of the first installment of tax, an action may be maintained to recover any tax that was illegally collected." Complaint at ¶ 31.

Section 42-11005's reference to an "illegally collected" tax shows that a court must *formally declare* a disputed tax illegal before giving rise to a valid refund claim. In other words, a prayer for declaratory relief serves as a "predicate" to a valid refund claim against the District. Thus, in accordance with *Arpaio*, this Court must treat Taxpayer's prayer for declaratory relief "as the equivalent of a damages claim" and ultimately find that the claim was required to comply with A.R.S. § 12-821.01's notice requirements.

B. Taxpayer's Refund Claim is Subject to Arizona's Notice of Claim Statute Because It Will Affect the District's Financial Planning and Budgeting, and Thus Amounts to a Damages Claim.

As noted, A.R.S. § 12-821.01 applies to claims seeking monetary relief from a public entity because the statute's underlying purpose is "to allow the public entity to investigate and assess liability, to permit the possibility of settlement prior to litigation, and to assist the public entity in financial planning and budgeting." *Martineau*, 207 Ariz. at 335. Because Taxpayer's refund claim would absolutely affect the District's "financial planning [and]

budgeting," if successful, and indeed, such a holding would practically result in the Tax being rescinded for each of the County's taxpayers, *amounting to millions of dollars*, this Court must thus find that Taxpayer was required to provide notice of its refund claim, to "the person or persons authorized to accept service" on behalf of the District "as set forth in the Arizona rules of civil procedure within one hundred eighty days after [his] cause of action accrue[d]." *Id.*; A.R.S. § 12-821.01(A).[1]

C. Taxpayer Failed to Provide the District Notice of His Claims within One Hundred Eighty Days After His Cause of Action Accrued as Required under Arizona's Notice of Claims Statute.

Arizona's notice of claims statute requires persons with claims against a public entity to provide notice of those claims "within one hundred eighty days after the cause of action accrues." *See* A.R.S. § 12-821.01(A). "If a notice of claim is not properly filed within the statutory time limit, a plaintiff's claim is *barred* by statute." *Falcon ex rel. Sandoval v. Maricopa Cnty.*, 213 Ariz. 525, 527 (2006) ("Actual notice and substantial compliance do not excuse failure to comply with the statutory requirements of A.R.S. § 12–821.01(A)."). Under the notice of claims statute, "a cause of action accrues when [1] the damaged party realizes he or she has been damaged and [2] knows or reasonably should know the cause, source, act, event, instrumentality, or condition that caused or contributed to the damage. *See* A.R.S. § 12-821.01(B). This standard mirrors the well-established common law "discovery rule." *See Doe v. Roe*, 191 Ariz. 313, 322 (1998). As such, this Court may infer the moment at which Taxpayer's claims against the District "accrued." *See Walk v. Ring*, 202 Ariz. 310, 314 (2002) (explaining that the "[u]se of the word 'accrues' in [a] statute of limitations permits judicial construction of the events or knowledge that will trigger accrual"); *see also*

[1] That Taxpayer's aim in this action is to obtain a verdict invalidating the Tax for all Yuma County property owners is further evidenced by *Taxpayer's request*, in his Complaint, for an award of attorneys' fees pursuant to "the private attorney general doctrine." *See* Complaint, at 5. The private attorney general doctrine only permits fee awards to a private party who has vindicated a right that *benefits a large number of people*, requires private enforcement *and is of societal importance*. *Cave Creek Unified Sch. Dist. v. Ducey*, 233 Ariz. 1, 8 ¶ 26 (2013) (emphasis supplied). Thus, Taxpayer's claim for an award of fees to Taxpayer under the private attorney general doctrine can only prevail if the verdict in this case results in the Tax being invalidated for all Yuma County property owners.

Kenyon v. Hammer, 142 Ariz. 69, 76 n. 6 (1984) ("The discovery rule is simply a judicial construction of the word 'accrues.'").

This Court should find that Taxpayer's claims against the District accrued no later than August 22, 2023 for the following reasons. First, Taxpayer's counsel, the Goldwater Institute, sent a letter to the County's Board of Supervisors disputing the Tax's legality on August 17, 2023. *See* August 17, 2023 letter from Goldwater Institute, attached as Exhibit B. It is noteworthy that the reasons expressed by Goldwater in its August 17 letter for its claim that the Tax was illegally levied are identical to the allegations contained in Taxpayer's Complaint filed by Goldwater.

Second, on August 21, 2023, the Yuma Board of Supervisors held a public hearing to evaluate the merits of the Goldwater Institute's challenge to the Tax, and determined, in open public session, that the Tax was validly levied. *See* minutes of August 21, 2023 meeting of Yuma Board of Supervisors, attached as Exhibit C, at action item 1. Thereafter, the Yuma Sun published a story about Goldwater's claims (and the Board of Supervisor's disposition of the claim) on August 22, 2023. *See* August 22, 2023 Article of Yuma Sun, attached as Exhibit D. Not to be outdone, Yuma's Fox television affiliate KYMA both broadcast a story about Goldwater's claims and then published that story on the internet. *See, e.g.*, KYMA internet story, attached as Exhibit E. Thus, notice of Goldwater's allegations that the Tax was illegally levied was public knowledge by August 22, 2023.

Third, although the Goldwater Institute did not send its August 17 letter on behalf of Taxpayer *per se*, Taxpayer states in his Complaint: (1) that he "is informed and believes, and on that basis alleges, that there has never been an election approving a secondary property tax to support the district," and (2) that "[d]espite this lack of voter approval, the [District] has imposed a secondary property tax to support the District every year since 2021." *Id.* at ¶¶ 13-14. Considering that Taxpayer never brought action for similar taxes levied since 2021, it is reasonable to infer that Taxpayer read the Yuma Sun's August 22, 2023 newspaper article about the Tax or saw the articles (or heard the broadcast) about the Tax published by KYMA and thus, either became aware of his potential claims against the District on or around

August 22, 2023 or was advised of those claims by Goldwater around that date.

If Taxpayer learned of the Goldwater Institute's allegations about the legality of the Tax on August 22, 2023, he had 180 days from that date, which is February 18, 2024, to file his notice of claim against the District. As of this writing, more than a week has transpired since expiration of the 180-day deadline. The Taxpayer has the burden of proving that he filed his notice of claim within 180 days of when he reasonably believed his cause if action accrued, and barring that, his Complaint must be dismissed with prejudice.

III. The Complaint Fails to Allege Facts Showing that the Tax was Subject to A.R.S. § 48-1907(A)(6)'s Voter-Approval Requirement.

Section 48-1907(A)(6)—the statute which Taxpayer claims requires voter approval for the Tax levied by the District—provides, in relevant part, that voter approval is necessary for a secondary property tax when the District imposes such tax "**for the purpose of funding the operation and maintenance of a hospital . . . that is owned or operated by the District**" (emphasis added). Here, Taxpayer does not allege that the District imposed the Tax to operate or maintain a hospital. Instead, Taxpayer alleges that the District imposed the Tax "to pay the District's legal fees for its ongoing litigation against YRMC." Complaint, at ¶ 15. Such allegations, no matter how favorably construed in Taxpayer's favor, do not fall within the scope § 48-1907(A)(6)'s plain language, *for by its very terms*, § 48-1907(A)(6) specifies that voter approval for a secondary property tax is only required where a District is seeking funds "for the operation and maintenance of a hospital" and Taxpayer admits that instead, the District imposed the Tax "to pay the District's legal fees for its ongoing litigation against YRMC." Put another way, the requirement for voter approval of the tax referenced in § 48-1907(A)(6) ("operation and maintenance of a hospital") does not apply to the District's rationale for imposing the Tax ("to pay the District's legal fees for its ongoing litigation against YRMC").

While the District does indeed own a hospital in Yuma (the "**Hospital**"), it leases that Hospital to YRMC, who in turn, operates and maintains the Hospital. Since the District does not operate or maintain the Hospital, the District has never sought authority under §

1907(A)(6) to levy the Tax.[2] Instead, the District's authority to levy the Tax arises under § 48-1914, which requires the County to levy a property tax on behalf of the District, "to meet the financial needs of the District." A.R.S. § 48-1914 does not even mention the operation and maintenance of a hospital. Despite the foregoing, Taxpayer contends that the District impermissibly relied on § 48-1914(A) to levy the Tax because he claims that § 48-1914(A) is subject to § 48-1907(A)(6)'s voter-approval requirement. This argument misreads A.R.S. § 48-1914, which provides, in pertinent part, as follows:

> A. Annually, not later than July 15, the board of directors **[of the District] shall furnish to the board of supervisors** of the county in which the district or any part thereof is located a report of the operation of the district for the past year together with an estimate in writing of the **amount of money needed to be raised** by taxation **for all purposes required or authorized by this article [A.R.S. §§ 48-1901 to 1919]** during the next year.
>
> B. **The board of supervisors** of each county where a district or part thereof is located **shall thereupon levy upon the taxable property of the district a tax which will,** together with other funds on hand or which will accrue during the ensuing fiscal year, exclusive of reserves**, provide sufficient funds to meet the financial needs of the district as provided under subsection A**. The tax shall be computed, entered upon the tax rolls and collected in the same manner as other secondary property taxes in the respective county or counties in which the district or part thereof is located. Monies collected on behalf of the district shall be remitted promptly to and shall be handled by the county treasurer of the organizing county as other special district funds are handled. The district shall be governed by the budget limitation laws of the state.

(emphasis added) (material in brackets supplied for clarity). Read in tandem, subsections (A) and (B) of § 48-1914 authorize and require the District to determine the amount of any secondary property tax levied for ***any purpose*** "required or authorized" under A.R.S. §§ 48-1901 to 1919, which comprise the entirety of the enabling legislation for hospital districts. And having made no reference to voter approval in § 48-1914, the legislature clearly intended that unless otherwise specified in the particular statute justifying imposition of a levy, no voter approval was required for such levy. This conclusion is especially apt

[2] A copy of the District's lease of the Hospital to YRMC is attached for the Court's reference as Exhibit F. The lease reflects that YRMC shall operate and maintain the Hospital for the duration of the Lease, whose term expires August 15, 2043. *See* Exhibit F, at Recital K (YRMC to lease the Hospital from the District for purposes of operating it) and §§ 2 (YRMC's lease of Hospital from District) and 6.1 (YRMC to operate the Hospital) and Second Amendment (extending lease term to 2043).

considering § 48-1914's legislative history, cases interpreting the District's taxing authority, and Arizona special taxing district law generally.

A. Legislative History Supports the Contention that Voter Approval Is Not Required to Fund a District's Operational Expenses

When first enacted in 1949, the District's enabling legislation (§§ 48-1901 *et seq*.) did not contain any requirement for a public vote before a tax to support a hospital district was imposed. Instead, that legislation simply stated that the District would be funded by a tax to support the District, as is currently provided by § 48-1914(A)–(B). *See* Hospital District Act of 1949, Sec. 13, attached hereto as Exhibit G. This taxing authority language has remained nearly unchanged in the 70 plus years since its enactment. And while the District's enabling legislation since has been amended to require elections for *two* specific types of Hospital District tax levies, neither of these amendments applies generally to all Hospital District tax levies. *See e.g.,* A.R.S. § 48-1907(A)(6) (requiring election to impose a property tax for purposes of "funding the operation and maintenance of a hospital") *and* A.R.S. § 48-1910(C) (requiring an election to impose a transaction privilege tax to support the district in counties with populations under 45,000 (and in which no more than 6% of the real property is subject to taxation)).

There is good reason the Hospital District's enabling legislation requires some tax levies to be approved by the voters while others do not. For example, it makes sense that in the circumstances at issue in § 48-1907(A)(6), where a district is seeking the tens (or hundreds) of millions of dollars necessary to operate and maintain a hospital, the enormous cost of such an endeavor (as well as the corresponding enormous size of the levy) warrants a vote of the electorate. In contrast, the costs to merely operate the District (as opposed to running a hospital or issuing bonds) are so minute that no election is warranted for a levy to sustain the District's operations, except in the circumstance referenced in § 48-1910(C), where a district is situated in such an unpopulated county that it needs to impose a transaction privilege tax on top of a property tax to sustain the district's operations.

B. Caselaw Holds that No Voter Approval Is Required for a Hospital District to Levy a Tax to Cover its Expenses

In *Roberts v. Spray*, 71 Ariz. 60, 67 (1950), the Arizona Supreme Court considered a challenge to the Hospital District Act of 1949 (the "**Act**"), in part on the basis that "said Act does not distinctly state the tax imposed nor the object for which said tax shall be applied" and the Court considered whether the tax could be imposed to operate a hospital. *Id.* at 64. The Court found that a hospital district had no express or implied power to operate a hospital under the Act and could not impose a tax or bond for that purpose. *Id.* at 66–67. More important to the instant analysis, the Court also found that the Act's taxing authority, which required no voter approval, was sufficiently clear:

> **[T]he Act** creating the hospital district **provides how and for what purpose taxes may be levied**, specifically limiting the amount of the levy **to take care of items set up in the budget** presented by the board of directors of the district to the board of supervisors. The **levy is therein limited to a tax 'sufficient** in amount together with other funds on hand or accruing during the ensuing fiscal year, exclusive of reservations, **to meet the obligations of the district**.'

Id. at 67 (emphasis added).

It was not until 1981 that "the Arizona Legislature for the first time gave hospital districts statutory authority to operate their own hospitals and impose secondary property taxes to fund their operation and maintenance." *Atchison, Topeka & Santa Fe Ry. Co. v. Arizona Dep't of Revenue*, 162 Ariz. 127, 134 (App. 1989), disapproved of on a different issue by *Bromley Grp., Ltd v. Arizona Dep't of Revenue*, 170 Ariz. 532 (App. 1991). However, with this new authority to operate and maintain a hospital, the Legislature "condition[ed] that authority only on initial approval and periodic reapproval by a majority of the district's qualified electors." *Acheson*, 162 Ariz. at 135. Nevertheless, the 1981 amendment did not affect the existing authority of a hospital district to estimate the amount of money needed to be raised by taxation, and the related requirement that the county board of supervisors levy a tax on behalf of the district, sufficient "to meet the obligations of the district." *See Roberts*, 71 Ariz. at 67; *see also Prescott Newspapers, Inc. v. Yavapai Cinty. Hosp. Ass'n*, 163 Ariz. 33, 35 (App. 1989) (stating that "[t]he Yavapai County Board of

Supervisors may levy taxes for the support of the Hospital District, and the District itself has the power to levy taxes. A.R.S. §§ 48-1907(6) and 48-1914(B)" and noting that a prior hospital district tax was levied "for the payment of organization expenses incurred when the District was created. . .").

Thus, as specified in § 48-1914(A)–(B), no election needs to be held to impose a property tax "to meet the financial needs of the district." All that is required is that the District provide the Board with an estimate of the amount of money needed to be raised by taxation during the ensuing fiscal year for ***any*** purpose "required or authorized" under A.R.S. §§ 48-1901 to 1919, and for the Board to then levy a tax sufficient to meet those financial needs of the District. *See* A.R.S. § 48-1914(A)–(B).

As alleged in the Complaint, the District levied the Tax for the purpose of funding ongoing litigation against YRMC arising from the District's lease of the Hospital to YRMC, not to operate and maintain the Hospital. The District's lease with YRMC is authorized pursuant to A.R.S. §§ 48-1907(A)(3) and -1910(B). Unlike § 48-1907(A)(6), neither § 48-1907(A)(3) nor -1910(B) requires voter authorization and neither authorizes the District to "fund the operation or maintenance" of its hospital. Instead, § 48-1907(A)(3) authorizes the District to create leasehold interests in its property and 48-1910(B) authorizes the District to lease its hospital and equipment. Additionally, the District is specifically authorized to "[s]ue and be sued in all courts and places and in all actions and proceedings." A.R.S. § 48-1907(A)(2). The District is, therefore, authorized to defend itself in any lawsuit, and pursuant to A.R.S. § 48-1914(A)–(B), a tax can be levied to support "all purposes . . . authorized" by the hospital district enabling legislation. It is notable that A.R.S. § 48-1914 allows taxes for ***all*** authorized purposes. However, A.R.S. § 48-1907(A)(6), which requires voter approval, states that it applies only to taxes "for the purpose of funding the operation and maintenance of a hospital." Clearly, the taxing authority under A.R.S. § 48-1914 is meant to apply broadly to ***all*** authorized purposes, while the voter approval requirement of § 48-1907(A)(6) is limited only to taxes that are for the purpose of funding the operation or maintenance of a hospital.

Here, there is no allegation that the Tax was instituted to fund the operation or maintenance of the Hospital, and indeed, no such allegation could be made since YRMC operates and maintains the Hospital, not the District. Therefore, the voter requirement under § 48-1910(B) is inapplicable to the Tax.

C. Requiring Voter Approval of Special Taxing District Tax Levies Is the Exception, Not the Rule

That special taxing districts can impose taxes without voter approval for some reasons, most often, to fund their districts, is not unique to hospital districts. No voter approvals are required for district expense tax levies for Antinoxious Weed Districts (§ 48-319), Fire Districts (§ 48-807(F)), County Improvement Districts (§ 48-955), Community Park Maintenance Districts (§ 48-1210), Cotton Control Pest Districts (§ 48-1309), Power Districts (§ 48-1593), Sanitary Districts (§ 48-2026), Agricultural Improvement Districts (§ 48-2414), Drainage and Flood Protection Districts (§§ 48-2704, -2735), Irrigation and Water Conservation Districts (§ 48-3151), Irrigation Water Delivery Districts (§ 48-3473), and County Free Library Districts (§ 48-3903).[3]

In contrast, just like § 48-1907(A)(6), which requires voter approval for a hospital district to operate and maintain a hospital, two tax levies imposed by other types of special tax districts also require voter approval to fund the operation and maintenance of health care facilities. *See, e.g.*, § 48-5565(A)-(B) (the majority of a Special Health Care District's qualified electors must vote to approve the initial imposition of a levy for a special health care district *for purposes of maintaining and operating the district's facilities*); § 48-2223 (*same for operation and maintenance of a Health Care District's ambulance service or combined medical clinic*). It is telling that across *all* special taxing districts authorized under Title 48, voter approval for a property tax is *only* required when the district is requesting that a tax underwrite the district's maintenance and operation of health care facilities rather than to merely to underwrite the district's expenses.

[3] Indeed, a decision that separate voter authorization is required for a district to fund itself could have wide ranging impacts to these other special taxing districts.

IV. Conclusion

Having failed to file a notice of his claims against the District in accordance with A.R.S. § 12-821.01, this Court must dismiss Taxpayer's Complaint. Further, because it is reasonable to presume that Taxpayer's causes of action against the District began to toll upon the Board of Supervisor's August 21, 2023 public hearing about the Goldwater Institute's contention that the Tax was illegal, or at the very least, upon publication of the Yuma Sun's August 22, 2023 article (or KYMA's broadcast or internet piece) discussing Goldwater's allegations, and more than 180 days having elapsed since August 22, 2023, this Court should rule, in the absence of competent evidence proffered by Taxpayer to the contrary, that Taxpayer's Complaint be dismissed, with prejudice for failure to provide notice of his claims within A.R.S. § 12-821.01's 180-day deadline.

Completely apart from the procedural defects of the Complaint, this Court should also dismiss the Complaint for failure to state a claim upon which relief can be granted. Having conceded that the District levied the Tax for the distinct purpose of funding ongoing litigation against YRMC, rather than for the "operation and maintenance of a hospital," Taxpayer cannot plausibly claim that the Tax was subject to § 48-1907(A)(6)'s voter-approval requirement. As discussed, voter-approval is required only when the District seeks to impose a tax "for the purpose of funding the operation and maintenance of a hospital . . . that is owned or operated by the District" which is not the situation here. The Complaint thus fails to allege sufficient facts showing that the Tax was unlawfully imposed on Taxpayer. Consequently, this Court must dismiss Taxpayer's Complaint, and such dismissal should be with prejudice since no facts can be adduced reflecting that the Tax was imposed to operate and maintain a hospital.

RESPECTFULLY SUBMITTED this 26th day of February 2024.

//

//

//

//

KUTAK ROCK LLP

By */s/ Marc R. Lieberman*
Paul S. Gerding, Jr.
Marc R. Lieberman
Tyler Milliron
Jeffrey M. Giancana
8601 North Scottsdale Rd., Suite 300
Scottsdale, AZ 85253-2742

Attorneys for Defendant Yuma County Hospital District No. 1

Original e-filed this 26th day of February 2024 with the Clerk of the Superior Court with a copy forwarded Via AZ Turbo court to:

Hon. Sara Agne
Presiding Judge, Tax Court
Arizona Superior Court

Copy of the foregoing served via AZ Turbo Court and emailed this 26th day of February 2024 to:

Jonathan Riches, Esq.
John Thorpe, Esq.
Scharf-Norton Center for Constitutional Litigation at the Goldwater Institute
500 E. Coronado Road
Phoenix, Arizona 85004
litigation@goldwaterinstitute.org

Attorneys for Plaintiff Taxpayer

Jerry Fries, Esq.
Chief Counsel, Tax Division
Office of the Attorney General
2005 N. Central Avenue
Phoenix, AZ 85004-1592
Jfries@azag.gov

Attorney for Arizona Department of Revenue

William Kerekes, Esq.
Chief Civil Deputy County Attorney
Office of the Yuma County Attorney
250 W. 2nd Street, Suite G
Yuma, AZ 85364-2235
Bill.kerekes@yumacountyaz.gov

YCAttyCivil@yumacountyaz.gov
Attorney for Yuma County

By: /s/ *Myra Hamilton*

EXHIBIT A

Affidavit of Jeremy Curry, M.D.

EXHIBIT A

Affidavit of Jeremy Curry, M.D.

State of Arizona)
: ss.
County of Yuma)

The undersigned, Jeremy Curry, M.D., upon his oath deposes and says:

1. I am a physician engaged in practice in Yuma, Arizona specializing in anethesia and pain relief and make this affidavit based on my personal knowledge and belief.

2. I currently serve as Chair of the Board of Directors of Hospital District #1 of Yuma County (the "Hospital District"), a special taxing district charged with facilitating the operation of a hospital within Yuma County for the benefit of the Yuma community.

3. I have served as Chair of the Board of Directors of the Hospital District since November of 2022.

4. During my tenure as Chair of the Board of Directors of the Hospital District, I can confirm that the Hospital District has not received a Section 12-821.01(A) notice of claim from anyone, including Richard Ogston.

Further affiant sayeth not.

Jeremy Curry, M.D.

Subscribed and sworn to before me this 17th day of February 2024 by Jeremy Curry, M.D.

Notary Public:

My commission expires: October 19, 2026

LUIS MARQUEZ
Notary Public - Arizona
Yuma County
My Commission Expires
October 19, 2026
Commission # 637479

EXHIBIT B

August 17, 2023, Goldwater Letter

August 17, 2023

Via Email

Yuma County Board of Supervisors
198 South Main Street
Yuma, Arizona 85364

Re: Secondary Property Tax for Yuma Hospital District

Honorable Members of the Yuma County Board of Supervisors:

I understand that the Yuma Hospital District ("District") recently transmitted its budget to the Yuma County Board of Supervisors ("Board of Supervisors"), asking the Board of Supervisors to approve another property tax to cover the District's expenses for the new fiscal year. I am writing to urge you not to approve the property tax, which under Arizona law can be imposed only with voter approval.

A.R.S. § 48-1907(A)(6) authorizes a hospital district to "[i]mpose a secondary property tax on all taxable property within the district for the purpose of funding the operation and maintenance of a hospital… that is owned or operated by the district." But the statute sets forth a precondition: "Prior to the initial imposition of such a tax a majority of the qualified electors must approve such initial imposition." *Id.* Moreover, "[t]he continued imposition of such a tax must be approved by a majority of the qualified electors at least every five years from the date of the initial imposition." *Id.* Yuma County voters have never approved (or even voted on) a property tax to fund the District.

Instead of presenting the issue to voters as the law mandates, it appears the District has been bypassing this requirement for the past two years, and is now attempting to do so again, by asking the Board of Supervisors to impose a tax on its own authority. But Arizona law gives the Board of Supervisors no such authority.

To be sure, the Board of Supervisors is charged with "levy[ing]… a tax which will… provide sufficient funds to meet the financial needs of the district." A.R.S. § 48-1914(B). But this authority can only be exercised by the Board of Supervisors *after* "such a tax [has been] approved by a majority of the qualified electors." A.R.S. § 48-1907(A)(6). The statute does not authorize the District to bypass clear voter approval requirements merely by presenting its budget to the Board of Supervisors.

Allowing the District to circumvent the voter approval requirements of A.R.S. § 48-1907(A)(6) so easily would defeat that statute's purpose and would enable the District to "do indirectly what it is forbidden from doing directly"—something the government may not do. *See Cave Creek Unified Sch. Dist. v. Ducey*, 231 Ariz. 342 (App. 2013). Courts have held that the power to impose a tax is never implied, but must be specifically and directly granted by statute. *E.g. Maricopa Cnty. v. S. Pac. Co.*, 63 Ariz. 342 (1945). Here, the relevant statutes grant no power to increase property taxes for the District without voter approval as a necessary precondition.

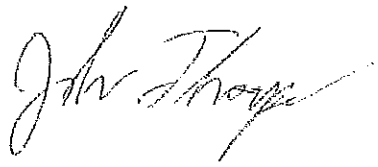
It is well-established in Arizona that taxes for hospital districts must be voter-approved, unless they are for a purpose that is specifically exempted from voter approval. *See, e.g., Atchison, Topeka & Santa Fe Ry. Co. v. Ariz. Dep't of Rev.*, 162 Ariz. 127 (App. 1989), *abrogated on other grounds, Bromley Grp. v. Ariz. Dep't of Rev.*, 170 Ariz. 532 (App. 1991) (holding that "any hospital district… may impose a secondary property tax… provided it complies with § 48-1907(6)"); Att'y Gen. Op. I87-149 (explaining that "the authority to impose a tax for the operation and maintenance of a hospital is expressly conditioned upon approval of the voters"). There is no such exemption in this case.

It is also doubtful that a property tax, which the law authorizes only for "the purpose of funding the operation and maintenance of a hospital," A.R.S. § 1914(A), is an appropriate means for funding the District's proposed budget here, which overwhelmingly consists of fees, not for the District's "operation or maintenance of a hospital," but instead to finance ongoing litigation *against the hospital*.

In addition to these legal defects, it is troubling that when the District approved its new budget on June 29, 2023, it apparently did so without providing twenty-four hours' notice to the public, and it posted a recording of the meeting only on Facebook, thus restricting access for anybody without a Facebook account. *See* A.R.S. §§ 38-431.01, 431.02(A)(3). Not only does this raise concerns about the District's compliance with Arizona Open Meeting Law; it is especially inappropriate here, where the prospect of a tax affecting all Yuma residents calls for the utmost transparency and public accountability.

For all of these reasons, I urge you to reject the proposed property tax. Please do not hesitate to contact me if you have any questions or would like to discuss this matter further.

Sincerely,



John Thorpe
Staff Attorney
Scharf-Norton Center for Constitutional Litigation
at the Goldwater Institute

cc:

Jon Smith
Yuma County Attorney

Ian McGaughey
Yuma County Administrator

EXHIBIT C

Minutes of August 21, 2023,
Meeting of Yuma County Board of Supervisors

The Yuma County Board of Supervisors met in a regular session on August 21, 2023. The meeting was held at 198 South Main Street, Yuma, Arizona.

CALL TO ORDER: At 9:00 a.m., Chairman Porchas convened the Board of Supervisors in open session, also sitting as the board of directors of all special taxing districts where noted. Supervisors present were: Martin Porchas, Jonathan W. Lines, Lynne Pancrazi, Darren Simmons and Marco A. (Tony) Reyes.

Others present were: County Administrator Ian McGaughey; Deputy County Administrator Joshua Scott; Chief Civil Deputy County Attorney Bill Kerekes; Civil Deputy County Attorney Minda Davy; Facilities Management Director Tiffany Anderson; Deputy Facilities Management Director Gregory Britt; Free Library Director Lisa Mendez; Community Relations Manager Sarah Wisdom; County Engineer Frank Sanchez; Chief Financial Officer Gil Villegas; Development Services Director Craig Sellers; Construction Projects Director David Hylland; Executive Director/ University of Arizona/Cooperative Extension Russ Engel; Economic Development & Intergovernmental Affairs Director Alejandro Figueroa; and Deputy Clerk/Executive Assistant Christy Isbell.

The Pledge of Allegiance was led by Supervisor Lines.

CALL TO THE PUBLIC:

1) Ms. Isbell cited a letter dated August 18, 2023 from the Yuma County Farm Bureau containing recommendations regarding the temporary and/or permanent relocation of the University of Arizona Cooperative Extension Office (Reference Work Session Item No. 1). Due to computer difficulties, Ms. Isbell was unable to read the letter into the record. The letter will be emailed to the Board members and pertinent staff.

2) Gayle Castricone, advocate for the Avenue B & C Colonia Butterfly Project, commented regarding the Bann Trailer Park's zoning ordinance violations and concerns regarding the safety and well-being of residents in the area.

3) Facilities Director Tiffany Anderson introduced Gregory Britt, newly appointed Deputy Facilities Management Director

4) Human Resources Director Jessica Rodriguez introduced Adam Rodriguez, newly appointed Deputy Human Resources Director.

PRESENTATIONS, PROCLAMATIONS & APPOINTMENTS:

No. 1: Presentation of the Yuma County Quarterly Safety Excellence Award.

Mr. McGaughey reported on the Safety Excellence Award Program.

Mr. Espinoza called the following nominees forward: Cynthia Baisi, Department of Development Services; Felicia Vidal, Public Defender's Office (unable to attend); and Jose Luis (Jacob) Rodriguez, Facilities Management.

Mr. Espinoza announced Felicia Vidal as the winner.

No. 2: Presentation of a plaque of appreciation to Sarah Wisdom in honor of her many years of service as host of the *County Line* video program.

Mr. McGaughey thanked Ms. Wisdom for her 13-year contribution as hostess for the *County Line*.

Library Director Lisa Mendez expressed her appreciation for Ms. Wisdom's 13 years as *County Line* hostess and 20 years of service to Yuma County.

Gifts of appreciation were presented, and Ms. Wisdom expressed her appreciation for the opportunity to serve as *County Line* hostess, and to "learn something new".

CONSENT CALENDAR:

MOTION (REYES/PANCRAZI): Approve items 1 through 13 as presented, excluding item 6.

VOICE VOTE: The motion carried 5-0.

The following items were approved on the consent calendar:

No. 1: *Assessor:* Approve Tax Roll Corrections as listed in batch dated August 21, 2023, pursuant to A.R.S. Title 42, Chapter 16, Article VI. *(A full listing of all corrections is in the agenda packet on the web at https://www.yumacountyaz.gov/government/board-of-supervisors/meetings.)*

No. 2: *Financial Services:* Approve the Accounts Payable Demands disbursed in the amount of $6,263,623.99 and Payroll in the amount of $2,050,678.79 during the period of July 06, 2023 through July 28, 2023. *(A detailed listing of Accounts Payable Demands is available for review from the agenda packet on the web at: https://www.yumacountyaz.gov/government/board-of-supervisors/meetings.) (Payroll data is available via a Request For Public Records submitted to the Office of the Yuma County Clerk of the Board of Supervisors. Request form is available on the web at: https://www.yumacountyaz.gov/government/county-administrator.)*

DATE	TYPE	WARRANTS TOTAL
07-20-23	Accounts Payable	$ 1,105,719.02
	Accounts Payable	
07-28-23	Payroll	2,050,678.79
HOUSING:		
07-06-23	AP Checks	64,665.71
07-06-23	Sec 8 Checks	3,428.00
07-21-23	AP E-Payments	227,044.80
07-28-23	AP E-Payments	2,982,346.67
	TOTAL:	$ 8,382,396.49

No. 3: *County Administration/Construction Management:* Authorize the Construction Projects Director to sign and execute GMP 003, as Amendment 3 to the Construction Manager at Risk Agreement dated September 7, 2022, for the Yuma County Administration Services project at 197 S. Main Street in the amount of $14,299,944.13 to Pilkington Construction Co., allowing for procurement and execution of earthwork, foundation/footing, steel erection and underground utilities to commence upon completion of GMP 002 shoring/earthwork scope of work, and preceding final construction GMP 004 scope.

No. 4: *County Administration/Construction Management:* Approve the fee proposal from BWS Architects in the amount of $219,582 and authorize the Construction Projects Director to enter into a contract with BWS for Architectural/Engineering Professional Services related to the renovation of the Historic Courthouse at 168 S. 2nd Avenue for the relocation of Justice Court Precinct 1, as a result of the establishment of Division 7 of the Yuma County Superior Court.

No. 5: *Recorder/Elections*: As requested by the Yuma County Republican Party, approve Republican Precinct Committeemen appointments to fill vacancies for terms that will expire on October 1, 2024.

No. 7: *Engineering:* Authorize the Chairman to sign an Intergovernmental Agreement with the State of Arizona/Arizona Department of Transportation covering the construction, maintenance and financing of the County 14th Street and Avenue G, Traffic Signal and Turn Lanes Project CIP No. 1.2407.

No. 8: *Engineering:* Authorize the Chairman to sign an Intergovernmental Agreement with the State of Arizona/Arizona Department of Transportation covering the construction, maintenance and financing of the Avenue G, County 11th to County 16th Street shoulder widening and rumble strips project, CIP No. 1.2405.

No. 9: ***Facilities Management:*** a) **Authorize the Facilities Management Director to purchase 18 Smoke Guard Model 400 smoke curtains, as approved in the adopted budget (CIP 2.2101), to be provided and installed by the sole source distributor and installer in Arizona, Norcon Industries, Inc., in the amount of $166,195.29,** and; b) **Authorize the Facilities Management Director to enter into the contract with Norcon Industries, Inc., contingent upon review by legal counsel.**

No. 10: ***Facilities Management:*** **a) Award bid in the amount of $182,435 for the Developmental Services Building Roof Replacement (CIP 2.2304), and; b) Authorize the Facilities Management Director to enter into a contract with Merrill Development, Inc. as the qualified low responsive/responsible bidding contractor.**

No. 11: ***Information Technology Services (ITS):*** **Authorize the purchase of desktop and laptop computers (including peripherals) and software in the amount of $293,125.94, including tax and shipping, for the Life Cycle Management Program under the State Purchasing Contract Number ADSPO16-098163 and State of Arizona Contract Number: ADSPO17-149774.**

No. 12: ***Public Works:*** **Action to:** a) **Authorize the Public Works Director to purchase one new 2023 Freightliner Water Truck from West-Mark, utilizing Sourcewell Contract #0609920-CER for an amount not to exceed $199,550, and;** b) **Authorize the Public Works Director to execute all contract documentation, contingent upon review by legal counsel.**

No. 13: ***Public Works:*** **a) Authorize the Public Works Director to purchase one (1) new 2023 Western Star Simple 16 dump truck from West-Mark, utilizing Sourcewell contract #060920-CER for an amount not to exceed $247,759, and; b) Authorize the Public Works Director to execute all contract documentation, contingent upon review by legal counsel.**

CONSENT ITEM PULLED FOR DISCUSSION:

No. 6: *Engineering:* Authorize the Chairman to sign an Intergovernmental Agreement with the State of Arizona/Arizona Department of Transportation (ADOT) covering the construction, maintenance and financing of the Avenue B, County 18th to County 23rd Street shoulder widening and rumble strips project CIP No. 1.2404.

Upon query, County Engineer Frank Sanchez stated the project is currently in the design process with ADOT, which will run through 2024. Construction commences in Fiscal Year 2025-26, with project completion scheduled for that same year.

MOTION (REYES/PANCRAZI): Approve as presented.

VOICE VOTE: The motion carried 5-0.

DISCUSSION AND ACTION ITEMS: The Board opened each of the following items separately for discussion and action, as appropriate.

No. 1: *Financial Services/All Taxing Agencies:* Establish and Adopt Property Tax Rates and Assessment of Property Taxes for all applicable Yuma County Authorities, Special Districts, and Improvement Districts for Fiscal Year 2023/2024 pursuant to Arizona Revised Statutes §42-17151, as indicated on the attached schedule.

Chief Financial Officer Gil Villegas stated this item is to ratify property tax rates and levies set by the County and by various taxing entities, thereby ensuring compliance with state statutes. This action would conclude the entire budget process. The rates and levies were approved in June during budget sessions. From June through now, tax data is gathered from the various taxing entities, which entities have statutory authority to set their tax rates.

Chairman Porchas opened the floor for public comments.

Board members of Yuma County Hospital District No. 1 addressed District operations and the tax levy submitted for ratification. Members who spoke were: Paul Gerding, Hospital District legal counsel; Dr. Jeremy Curry, District Chairman; and Dr. Connie Uribe.

In part, District Board members spoke regarding the following: Statutory responsibilities of the 5-member/volunteer District board, including the District's statutory responsibility to set District tax levy rates; statements regarding the District made in a Goldberg Institute letter dated August 17, 2023, on behalf of Yuma Regional Medical Center; and a letter addressed to the County Administrator dated August 18, 2023, in response to the Goldberg Institute letter.

Following a brief discussion, a motion was offered and carried unanimously as shown below.

MOTION (REYES/PANCRAZI): Approve the taxing district rates as presented.

VOICE VOTE: The motion carried unanimously.

No. 2: *Financial Services:* Discussion and possible action or direction regarding the future of the County's expenditure limits as imposed by Article IX, Section 20 of the Arizona Constitution.

Via a PowerPoint presentation, Mr. Villegas reported on expenditure limits and the definition of same; method for calculating limits; when/how compliance is reported; what happens when the limit is exceeded; Yuma County's expenditure limit history; the County's limit concerns and next steps/options for addressing same.

Discussion ensued regarding next step options as follows:

•Whether population estimates are accurate, particularly related to the large influx of winter visitors during the winter season.

•Whether to seek voter approval for either a one-time expenditure limit override via a special election, or a permanent base limit adjustment via a general election.

•Whether a voter-approved base limit adjustment during a general election year is likely to succeed.

•The importance of a public education outreach regarding expenditure limit requirements and options for addressing County concerns regarding same.

Summarizing Board consensus pursuant to the discussion, Mr. McGaughey stated no official action is required. The general direction is to research the issue for additional exclusions, "keep an eye on things", and explore voter approval for a permanent base limit adjustment during the 2026 General Election (to apply in year 2028).

DISCUSSION REGARDING LEGISLATIVE ISSUES:

No. 1: *County Administration:* Discussion and possible action regarding State and Federal legislative updates, which may include international issues, status of bills affecting Yuma County, timelines and composition of the legislatures, and legislative strategies and priorities.

Mr. Figueroa gave a PowerPoint presentation and update concerning State, Federal, International, and Border affairs.

No. 2: *County Administration:* Discussion and possible action to adopt the 2024 State legislative proposals to be submitted by Yuma County for consideration at the annual County Supervisors Association (CSA) Legislative Summit to be held October 11, 2023, through October 13, 2023: No. 2a): Support Coconino County's Military Installation Sustainability Model Policy Proposal, and; No. 2b): Seek continued staff support from the CSA as Yuma County continues to work with stakeholders across the State of Arizona to identify an actionable solution to the County's biosolids-related challenge.

Mr. Figueroa gave a PowerPoint presentation regarding Items No. 2a and 2b) as summarized below.

2a) Coconino County's Military Installation Sustainability Model Proposal –

Mr. Figueroa stated this proposal builds upon existing statutes to protect Arizona's military installations statewide, and he briefly reviewed the proposal details.

Discussion ensued regarding the following:

•The proposed "interest areas" – How boundaries are set, definition of interest areas, and whether the proposed two-mile boundary from fencing areas is adequate.

•Whether it is advisable to implement legislation that would apply statewide, given that each county has unique circumstances as to military base encroachments.

Supervisor Reyes suggested conducting an analysis of the lands surrounding Yuma County's military bases, developmental encroachment upon same, and growth impact upon the local cities and towns.

Discussion indicated consensus that while the Board is in favor of the concept of Coconino County's proposal, it is opposed to supporting a proposal that requires statewide compliance by all Arizona counties. A more permissive approach in which every County may decide whether or not to enforce such legislation was deemed preferable.

2b) Yuma County's Biosolids-related challenge --

Mr. Figueroa stated that after several meetings with state legislators, the County Supervisors Association (CSA) and with regional and statewide stakeholders, the recommendation is to continue working with stakeholders to explore options for solving the biosolids issue. Stakeholders discussed the possibility of implementing a fee schedule applicable to out-of-state companies that transfer biosolids into the County, and using the fee schedule funds for dealing with biosolid waste issues.

Following a lengthy discussion, Mr. Figueroa stated County Administration, Development Services, the Planning Division, and the County Attorney's Office are exploring a possible zoning ordinance amendment wherein the Board of Supervisors could approve or deny a Special Use Permit to designate when, where, and how both hazardous and non-hazardous waste products can be applied.

Discussion ensued regarding a nuisance caused by the ongoing proliferation of flies within the County –

Supervisor Simmons stated this issue constitutes the majority of constituent complaints he receives. In order to determine cause and control methods, he requested handling the flies issue separately from that of biosolids.

Mr. Figueroa stated a University of Arizona study conducted a few years ago was inconclusive. The study seemed to indicate green waste, rather than biosolids, as a possible cause for this nuisance. However, the fly proliferation exists countywide, even when it is not currently harvest season.

Discussion ensued regarding an agricultural exemption that allows the use of flies for pest control.

Discussion returned to the Biosolids issue –

The importance of addressing the issue wherein waste designated as hazardous in other states, such as California, is not defined as such in Arizona or federally pursuant to the Resource Conservation & Recovery Act (RCRA).

Discussion ensued regarding methods for communicating information to the public regarding which waste products are designated as hazardous in Arizona, and which are not.

Development Services Director Craig Sellers stated Development Services can coordinate a public outreach effort with County Administration and the Public Information Officer.

Upon discussion, whether to submit an official proposal for CSA consideration or to work with Representative Tim Dunn and other stakeholders for solutions, consensus was to work with Representative Dunn and the other stakeholders.

EVENTS CALENDAR/CURRENT EVENTS:

No. 1: Board members and County Administrator will report on events attended or to be attended on behalf of the County, may present a brief summary of current events and may update the schedule for future Board of Supervisors meetings, as appropriate. No legal action will be taken, pursuant to A.R.S. §38-431.02(K).

No legal action was taken.

The Chairman recessed the Regular Session at 11:06 a.m., then reconvened Regular Session at 11:15 a.m.

WORK SESSION DISCUSSION AND ACTION ITEM: The Board will discuss and may take action on the following item(s) as appropriate:

No. 1: *County Administration/Construction Management:* Discussion and review of possible options for temporary and permanent relocation of the University of Arizona Cooperative Extension offices from their current location in the Public Health Department facility at 2200 W. 28th Street, Yuma, leading to possible action and/or direction as to the Board's preferred option.

Mr. Hylland gave a report on the project via a PowerPoint presentation. Mr. Hylland noted that Arizona Revised Statute §3-124 states: *"The board of supervisors of each county shall provide reasonable office space for the conduct of extension work in that county."*

Mr. Hylland's presentation covered the following topics:

- Projected square footage needs vs. current 2,300 square footage provided.
- Temporary and long-term location options.
- Whether to purchase and remodel an existing facility or build-to-suit.
- The importance of proximity to other sites used by the University of Arizona.
- Project budget.
- Outfitting of the new facility, such as furniture, equipment, technology, and commercial kitchen.
- The importance of adequate parking space.

Discussion ensued regarding whether to facilitate multiple temporary relocations followed by a final permanent relocation or a single permanent relocation. Discussion indicated a preference for a single relocation.

Discussion regarding the possibility of building a facility next to the University of Arizona agricultural farm, and logistics for same as summarized below:

Mr. Kerekes stated it is important for the County to maintain control of the property. Constructing a facility on property owned by another entity is not ideal.

Discussion regarding the possibility of implementing a lot-split wherein Yuma County could assume ownership. The Board of Regents would need to convey the property to Yuma County.

Discussion ensued regarding purchase price, and indicated consensus to explore options with the Board of Regents for constructing the facility on the afore-mentioned agricultural land.

Direction was given to work with the Board of Regents for a possible one-time move onto the land next to the University of Arizona agricultural farm, determine logistics for same including options for purchase at the appraised value or an amount to be determined. If this is not feasible, then explore other relocation solutions.

Mr. Kerekes confirmed that the general direction as discussed above was sufficient, with no formal motion required.

There being no further business to come before the Board, the meeting was adjourned at 11:55 a.m.

Adopted this 2nd day of October, 2023.

Martin Porchas, Chairman

ATTEST:

Ian McGaughey
County Administrator/Clerk of the Board

IM/cpi/sp

P:\Motions\2023\08-21-23 Motions_cpi sp review.docx

OFFICE OF THE
BOARD OF SUPERVISORS
198 S. Main Street
Yuma, Arizona 85364

IAN McGAUGHEY
COUNTY ADMINISTRATOR
CLERK OF THE BOARD

MEETING NOTICE AND AGENDA
Pursuant to Arizona Revised Statutes § 38-431, et seq.
and amendments thereto,
A REGULAR SESSION of the
YUMA COUNTY BOARD OF SUPERVISORS
Also sitting as all SPECIAL TAXING DISTRICTS
Will be held on
AUGUST 21, 2023 -- 9:00 A.M.
198 South Main Street, Yuma, Arizona
Board members will attend either in person, by telephone,
or remotely via electronic conferencing.

CALL TO ORDER

PLEDGE OF ALLEGIANCE

CALL TO THE PUBLIC: No Action

•Call to the Public is held for public benefit to allow individuals to address issue(s) within the Board's jurisdiction. Board members may not discuss items that are not specifically identified on the agenda. Therefore, pursuant to Arizona Revised Statute §38-431.01(H), action taken as a result of public comment will be limited to directing staff to study the matter, responding to criticism, or scheduling the matter for further discussion and decision at a future date. Public comments may be made in person or submitted by email at: publiccomment@yumacountyaz.gov The email forms of public comment will be accepted until 8:00 a.m. the morning of the meeting. All public comments will be read aloud during the Yuma County Board of Supervisors meeting that starts at 9:00 a.m.

PRESENTATIONS, PROCLAMATIONS & APPOINTMENTS: Note: During this segment of the agenda, board members may discuss the presentations and proclamations, and may announce appointments to the Yuma County Planning and Zoning Commission and the Yuma County Board of Adjustment. No legal actions will be taken.

1. Presentation of the Yuma County Quarterly Safety Excellence Award. — No Action

2. Presentation of a plaque of appreciation to Sarah Wisdom in honor of her many years of service as host of the *County Line* video program. — No Action

CONSENT CALENDAR: The following items listed under the Consent Agenda will be considered as a group and acted upon by one motion with no separate discussion, unless a Board Member so requests. In that event, the item will be removed from the Consent Calendar for separate discussion and action.

1.	*Assessor:* Approve Tax Roll Corrections as listed in batch dated August 21, 2023, pursuant to A.R.S. Title 42, Chapter 16, Article VI. *(A full listing of all corrections is in the agenda packet on the web at: https://www.yumacountyaz.gov/government/board-of-supervisors/meetings.)*	Approved as presented
2.	*Financial Services:* Approve the Accounts Payable Demands disbursed in the amount of $6,263,623.99 and Payroll in the amount of $2,050,678.79 during the period of July 06, 2023 through July 28, 2023. *(A detailed listing of Accounts Payable Demands is available for review from the agenda packet on the web at: https://www.yumacountyaz.gov/government/board-of-supervisors/meetings.) (Payroll data is available via a Request For Public Records submitted to the Office of the Yuma County Clerk of the Board of Supervisors. Request form is available on the web at: https://www.yumacountyaz.gov/government/county-administrator.)*	Approved as presented
3.	*County Administration/Construction Management:* Authorize the Construction Projects Director to sign and execute GMP 003, as Amendment 3 to the Construction Manager at Risk Agreement dated September 7, 2022, for the Yuma County Administration Services project at 197 S. Main Street in the amount of $14,299,944.13 to Pilkington Construction Co., allowing for procurement and execution of earthwork, foundation/footing, steel erection and underground utilities to commence upon completion of GMP 002 shoring/earthwork scope of work, and preceding final construction GMP 004 scope.	Approved as presented
4.	*County Administration/Construction Management:* Approve the fee proposal from BWS Architects in the amount of $219,582 and authorize the Construction Projects Director to enter into a contract with BWS for Architectural/Engineering Professional Services related to the renovation of the Historic Courthouse at 168 S. 2nd Avenue for the relocation of Justice Court Precinct 1, as a result of the establishment of Division 7 of the Yuma County Superior Court.	Approved as presented
5.	*Recorder/Elections*: As requested by the Yuma County Republican Party, approve Republican Precinct Committeemen appointments to fill vacancies for terms that will expire on October 1, 2024.	Approved as presented
6.	*Engineering:* Authorize the Chairman to sign an Intergovernmental Agreement with the State of Arizona/Arizona Department of Transportation covering the construction, maintenance and financing of the Avenue B, County 18th to County 23rd Street shoulder widening and rumble strips project CIP No. 1.2404.	Approved as presented

7.	*Engineering:* Authorize the Chairman to sign an Intergovernmental Agreement with the State of Arizona/Arizona Department of Transportation covering the construction, maintenance and financing of the County 14th Street and Avenue G, Traffic Signal and Turn Lanes Project CIP No. 1.2407.	Approved as presented
8.	*Engineering:* Authorize the Chairman to sign an Intergovernmental Agreement with the State of Arizona/Arizona Department of Transportation covering the construction, maintenance and financing of the Avenue G, County 11th to County 16th Street shoulder widening and rumble strips project, CIP No. 1.2405.	Approved as presented
9.	*Facilities Management:* **a)** Authorize the Facilities Management Director to purchase 18 Smoke Guard Model 400 smoke curtains, as approved in the adopted budget (CIP 2.2101), to be provided and installed by the sole source distributor and installer in Arizona, Norcon Industries, Inc., in the amount of $166,195.29, and; **b)** Authorize the Facilities Management Director to enter into the contract with Norcon Industries, Inc., contingent upon review by legal counsel.	Approved as presented
10.	*Facilities Management:* **a)** Award bid in the amount of $182,435 for the Developmental Services Building Roof Replacement (CIP 2.2304), and; **b)** Authorize the Facilities Management Director to enter into a contract with Merrill Development, Inc. as the qualified low responsive/responsible bidding contractor.	Approved as presented
11.	*Information Technology Services (ITS):* Authorize the purchase of desktop and laptop computers (including peripherals) and software in the amount of $293,125.94, including tax and shipping, for the Life Cycle Management Program under the State Purchasing Contract Number ADSPO16-098163 and State of Arizona Contract Number: ADSPO17-149774.	Approved as presented
12.	*Public Works:* Action to: **a)** Authorize the Public Works Director to purchase one new 2023 Freightliner Water Truck from West-Mark, utilizing Sourcewell Contract #0609920-CER for an amount not to exceed $199,550, and; **b)** Authorize the Public Works Director to execute all contract documentation, contingent upon review by legal counsel.	Approved as presented
13.	*Public Works:* **a)** Authorize the Public Works Director to purchase one (1) new 2023 Western Star Simple 16 dump truck from West-Mark, utilizing Sourcewell contract #060920-CER for an amount not to exceed $247,759, and; **b)** Authorize the Public Works Director to execute all contract documentation, contingent upon review by legal counsel.	Approved as presented

DISCUSSION AND ACTION ITEMS: The Board will open each of the following items separately for discussion and action, as appropriate.

1.	*Financial Services/All Taxing Agencies:* Establish and Adopt Property Tax Rates and Assessment of Property Taxes for all applicable Yuma County Authorities, Special Districts, and Improvement Districts for Fiscal Year 2023/2024 pursuant to Arizona Revised Statutes §42-17151, as indicated on the attached schedule.	Approved as presented

2.	*Financial Services:* Discussion and possible action or direction regarding the future of the County's expenditure limits as imposed by Article IX, Section 20 of the Arizona Constitution.	Other (See minutes)

DISCUSSION REGARDING LEGISLATIVE ISSUES:

1.	*County Administration:* Discussion and possible action regarding State and Federal legislative updates, which may include international issues, status of bills affecting Yuma County, timelines and composition of the legislatures, and legislative strategies and priorities.	Other (See minutes)
2.	*County Administration:* Discussion and possible action to adopt the 2024 State legislative proposals to be submitted by Yuma County for consideration at the annual County Supervisors Association (CSA) Legislative Summit to be held October 11, 2023, through October 13, 2023: **a)** Support Coconino County's Military Installation Sustainability Model Policy Proposal, and; **b)** Seek continued staff support from the CSA as Yuma County continues to work with stakeholders across the State of Arizona to identify an actionable solution to the County's biosolids-related challenge.	Other (See minutes)

EVENTS CALENDAR/CURRENT EVENTS:

1.	Board members and County Administrator will report on events attended or to be attended on behalf of the County, may present a brief summary of current events and may update the schedule for future Board of Supervisors meetings, as appropriate. No legal action will be taken, pursuant to A.R.S. §38-431.02(K).	No Action

WORK SESSION DISCUSSION AND ACTION ITEM: The Board will discuss and may take action on the following item(s) as appropriate:

1.	*County Administration/Construction Management:* Discussion and review of possible options for temporary and permanent relocation of the University of Arizona Cooperative Extension offices from their current location in the Public Health Department facility at 2200 W. 28th Street, Yuma, leading to possible action and/or direction as to the Board's preferred option.	Other (See minutes)

Action to adjourn.

The Board may vote to hold an Executive Session for the purpose of obtaining legal advice from the Board's attorney on any matter listed on the agenda, pursuant to Arizona Revised Statute §38-431.03(A)(3).

Persons with disabilities may request reasonable accommodations by contacting Robyn Stallworth Pouquette, Risk Management Specialist at 928.373.1137 or by email at robyn.pouquette@yumacountyaz.gov. Requests should be made as early as possible to allow time to arrange the accommodation.

I hereby certify that this Meeting Notice and Agenda were posted within the 24-hour advance notice, in compliance with the Arizona Open Meeting Law.

ATTEST:

IAN McGAUGHEY
County Administrator/Clerk of the Board

EXHIBIT D

August 22, 2023, Yuma Sun Article

https://www.yumasun.com/news/goldwater-demands-county-nix-hospital-district-s-property-tax-levy/article_0f1be6e4-4089-11ee-a934-5fc5e81a90f9.html

featured

Goldwater 'demands' county nix Hospital District's property tax levy

By MARA KNAUB SUN STAFF WRITER
Aug 22, 2023

The Yuma County Board of Supervisors on Monday approved the property tax rates and assessments for all school, special and improvement districts in the county, even for Hospital District No.1, which has been locked in a dispute with Yuma Regional Medical Center since 2019.

The Phoenix-based Goldwater Institute, a public policy research and litigation organization, sent a letter to the supervisors on Thursday "demanding" the board stop imposing taxes on residents without their approval.

Machele Headington, vice president of marketing and support services at YRMC, told the Yuma Sun that the hospital reached out to Goldwater for help understanding tax laws.

"We started getting calls here at the hospital in 2020, when taxpayers received their first tax bill that has the tax on it on their property tax, and people were calling the hospital thinking it was us, and they were angry about the tax, and so that has really continued," she said.

"We don't have an expertise in tax or how that is run. So we asked the Goldwater Institute to take an independent look at the tax. And from there, they decided after reviewing everything that it is indeed a tax that is not within Arizona state law. So they sent a letter encouraging the county to reevaluate it," Headington explained.

The Goldwater letter claimed that the Hospital District has been illegally sending its budget straight to the supervisors "so that the board can directly impose property taxes on residents without voter approval."

Paul Gerding Jr., an attorney for the Hospital District, Dr. Jeremy Curry, chairman of the Hospital District, and Dr. Connie Uribe, a district board member, appeared before the supervisors to address the allegations.

Gerding reassured the board that the "district always complies with Arizona law, always acts in the best interest of the community" and stated that Goldwater was "factually and legally incorrect."

The district, a government agency with elected board members, owns the property and facilities of the main hospital at Avenue A and 24th Street and leases the property and equipment to YRMC.

The district states that part of its mission is to assure the public that YRMC maintains its nonprofit status and has a fiduciary responsibility to ask questions on behalf of the public. The district claims that YRMC stopped sharing financial information on a regular basis.

YRMC says that the lease only requires that the hospital share audited financial reports once a year and that it has complied with that requirement. It denies that it's obligated to provide monthly reports and claims that the district's only role is that of landlord.

In a statement previously provided to the Yuma Sun, YRMC said, "When it was founded in the late 1950s, the purpose of Hospital District No. 1 was clearly defined: to essentially serve as the landlord for healthcare facilities here in Yuma, not to oversee the operations of the hospital."

The role of overseeing hospital operations belongs to the YRMC Board of Directors, YRMC added.

"We had a very good working relationship up until December of 2019. At that time, the hospital unilaterally decided they didn't need to follow the lease," Dr. Jeremy Curry, chairman of the Hospital District, told the supervisors.

The dispute led to multiple lawsuits and counter-lawsuits. The lease case goes to court in July 2024.

"Basically, they want to cut off our funding so that we can no longer litigate against the hospital," Curry told the supervisors. "And the reason why they would want to do this is because we already won on the contract issue during summary judgment. Now we're going to go to court to go through bad faith and damages."

One of the Goldwater allegations is that the Hospital District does not have the right to tax citizens without voter-approval.

"It is well-established in Arizona that taxes for hospital districts must be voter-approved, unless they are for a purpose that is specifically exempted from voter approval ... There is no such exemption in this case," the Goldwater letter states.

However, Gerding noted that the Hospital District has always had the right to tax to operate itself in its 50-year history. "They've never done it in the past, and unfortunately their revenue source, the hospital rent, has been cut off by the YRMC in an attempt to cut off the district from overseeing the operations of the hospital, not to operate the hospital but to see that the hospital's always acting in the best interest of the community," Gerding said.

Headington told the Yuma Sun that YRMC has been paying for all the district's expenses with the exception of the legal bills. She said the hospital asked the district to submit receipts for the legal fees, but the bills submitted have the details crossed out and the district refuses to answer questions about the legal bills.

"We've maintained all along that if they were to submit those bills, and we could see that they are indeed for the specific purposes they are stating, they would be paid," Headington said.

Goldwater also alleged that the Hospital District violated the Open Meeting Law by not posting the meeting 24 hours before the June 29 meeting when the district board approved the new budget. The organization stated that the district board posted a recording of the meeting "only on Facebook, thus restricting access for anybody without a Facebook account."

"That's not true," Gerding said. "The day before the budget was approved, the district agenda was posted at City Hall, file stamped and posted with the county ... Any member of the public could have attended."

The Facebook stream is "recorded and offered up to the community so that the community can see what happened at the district meeting," he added.

Supervisor Tony Reyes acknowledged the dispute between the two entities. "There's always been a little inner conflict within you guys for a long time. A long time is a few years. So we're not gonna get involved in that," he said.

Reyes also noted that when a district asks the county to levy a tax on its behalf, "I don't think we have an option." However, he clarified that the county does not set the rates and only collects the levy on behalf of the districts.

If a citizen objects to a tax rate and levy, they must take it up with the individual district.

County Administrator Ian McGaughey confirmed that the district reported its budget needs in a timely manner "and the statute says 'You shall levy the tax.'"

With that, the supervisors voted 5-0 to approve the tax rates and assessments for all districts in the county.

Headington told the Yuma Sun she hopes property owners understand that the taxes collected are not going to YRMC. "We want to make sure that the community understands that those dollars that are being collected in tax are not coming to your regional medical center, and they're not benefiting the hospital or the patients that we serve," she said.

Headington also said that YRMC is disappointed that the supervisors approved the Hospital District's tax rate and levy. "We are really disappointed. I know that it's put the county Board of Supervisors in a difficult position to impose a tax on property owners, and I just hope that folks will take the time to learn a little bit more about the tax, and we remain hopeful that the district will be willing to come forward to really find some solution to this," she noted.

Curry told the supervisors he's eager to end the litigation. "We're going to push that every penny that has been taken from the Yuma County citizens for this tax be reimbursed back to the county when this is over," he said.

Mara Knaub

EXHIBIT E

August 22, 2023, KYMA Article

Yuma County FOLLOW 16 Followers

Hospital District Board property tax approved

By Samantha Byrd FOLLOW

1

Published August 21, 2023 6:49 PM

YUMA, Ariz. (KYMA, KECY) - Now to the latest on the back and forth between the Yuma County Hospital District #1 a Yuma Regional Medical Center (YRMC).

the hospital district.

The district is being accused of illegally sneaking this property tax past voters.

The lease agreement lawsuit between YRMC and the hospital district board is still ongoing, meaning property owners in Yuma County are still being taxed.

"The district has a right pursuant to section 19-14 to tax on behalf of the people of Yuma to make sure they can operate," said Hospital District Board Attorney Paul Gerding.

The Yuma County Board of Supervisors approved another property tax Monday morning at the request of Hospital District Board #1 for the upcoming fiscal year.

The last tax approved was over $1.1 million.

The hospital district said it's mainly to cover legal fees, brought on by a lawsuit from YRMC.

The lawsuit started in 2020.

Before then the district board had never taxed the community, saying it was a last resort to defend themselves.

"We have a statutory obligation to assure that the hospital, the facilities and opposition of such is in the best interest of the people of Yuma County," said Hospital District Board Vice Chairwoman Connie Uribe.

But just days before the board of supervisors adopted the hospital district tax, included in the county tax rates for 2023-2024, the Goldwater Institute wrote a letter to the board, trying to stop them.

"This Goldwater letter came at the 11th hour just before the final date of the approval deadline," said Gerding.

YRMC said it agrees with the Goldwater Institute on holdir the hospital district accountable.

tax," said Machele Headington, YRMC Vice President of Marketing & Communications.

But the hospital district board's attorney said otherwise.

"Every meeting is open to the public. No members of the public have complained about the tax and no member of the Goldwater Institute came to complain about the tax," said Gerding.

YRMC said none of the money collected goes back to the hospital.

And the board of supervisors can't change that.

"The county board of supervisors also don't have a right to not approve the tax so that's disheartening," said Headington.

The next step in the process is the trial between YRMC and the Hospital District Board #1 which we just learned has been delayed until next year.

Jump to comments ↓

Samantha Byrd

Samantha Byrd joined the KYMA team in February 2022 and is a reporter and anchor for Fox 9.
You can reach out to her with story ideas at sammy.byrd@kecytv.com

EXHIBIT F

Lease of Hospital

LEASE AGREEMENT

1973-YRMC

LEASE AGREEMENT

DATE: As of February 1, 1997

PARTIES: HOSPITAL DISTRICT NO. 1 OF YUMA COUNTY, ARIZONA, a political subdivision of the State of Arizona (the "Lessor"): and

YUMA REGIONAL MEDICAL CENTER, an Arizona nonprofit corporation (the "Lessee");

WITNESSETH:

A. WHEREAS, the Lessor is the owner of that certain real property situated in Yuma County, Arizona, and legally described on Exhibit A hereto (the "Real Property"); and

B. WHEREAS, located on the Real Property are certain buildings together with fixtures and equipment appurtenant thereto which comprise a health care facility, as more fully described on Exhibit B hereto, which are owned by the Lessor (collectively, the "Hospital Facilities"); and

C. WHEREAS, since 1973 the Real Property and the improvements thereon have been leased by Lessor to Lessee; and

D. WHEREAS, a portion of the Hospital Facilities was financed with the proceeds of certain general obligation bonds issued by the Lessor, which bonds were refunded by the Lessor's Refunding Bonds, Series of 1978, in the original principal amount of $9,235,000 (the "District Bonds"); and

E. WHEREAS, a portion of the Hospital Facilities was financed with the proceeds of certain Hospital Revenue Bonds (Yuma Regional Medical Center), Series 1983 (the "1983 Bonds"), issued by the Arizona Health Facilities Authority (the "Authority") on September 13, 1983, in the original aggregate principal amount or $10,000,000 and with the proceeds of certain Hospital Revenue Bonds (Yuma Regional Medical Center), Series 1987 (the "1987 Bonds"), in the original aggregate principal amount of $21,000,000 issued by the Lessee on behalf of the Lessor on September 3, 1987, and with the proceeds of certain Hospital Revenue Bonds (Yuma Regional Medical Center Project), Series 1989, dated January 10, 1990 (the "1989 Bonds"), in the aggregate principal amount of $3,960,000 issued by the Lessee on behalf of the Lessor on January 10, 1990; and

F. WHEREAS, the Lessee paid the principal of and interest on the District Bonds, the 1983 Bonds, the 1985 Bonds and the 1987 Bonds; and

G. WHEREAS, the Lessee has on March 31, 1992 issued its Hospital Revenue Improvement and Refunding Bonds (Yuma Regional Medical Center Project), Series 1992 (the "1992 Bonds") to refund all of the outstanding 1985 Bonds (which refunded the outstanding principal amount of the 1983 Bonds), the 1987 Bonds and the 1989 Bonds and provided moneys sufficient to pay the District Bonds and to secure the 1992 Bonds the Lessor granted a mortgage on its fee interest in the Hospital Facilities; and

H. WHEREAS, the Lessee intends to cause to be issued hospital revenue bonds and other forms of debt of the Lessee in one or more series (collectively "Lessee Bonds"), all with a final maturity on or before August 15, 2017 and to use the proceeds of Lessee Bonds (1) to advance refund all of the outstanding principal amount of the 1992 Bonds and thereby achieve debt service savings and (2) to pay costs of improvements to the Hospital Facilities, and upon such advance refunding of the 1992 Bonds the mortgage from the Lessor on its fee interest in the Hospital Facilities will be released; and

I. WHEREAS, the repayment of the Lessee Bonds will be the sole financial responsibility of the Lessee and Lessor will have no obligation to pay the Lessee Bonds and, in consideration of the terms of this Lease Agreement that protects the interests of the investors in the Lessee Bonds, the Lessor will not be required to grant a mortgage on its fee interest in the Hospital Facilities to secure the Lessee Bonds; and

J. WHEREAS, pursuant to Section 48-1910, Arizona Revised Statutes (the "Act"), the Lessor is authorized to lease the Real Property and Hospital Facilities (collectively the "Leased Property") to any person; and

K. WHEREAS, the Lessee is a nonprofit corporation duly organized under the laws of the State for the purpose of conducting a health care facility, is a tax-exempt charitable organization within the meaning of Section 501(c)(3) of the Internal Revenue Code of 1986, as amended (a "Tax-Exempt Organization"), is desirous of leasing the Leased Premises, and is qualified to operate a hospital and related health care facility and to furnish hospitalization and medical care; and

L. WHEREAS, it is the desire of the Lessor and the Lessee to execute this Lease, which will supersede and replace the Lease Agreement, dated as of March 1, 1992.

NOW, THEREFORE, in consideration of the rental to be paid and the covenants and conditions hereinafter set forth to be kept and performed by the Lessor and the Lessee, the parties hereto hereby agree as follows:

1. INCORPORATION; REPRESENTATIONS

1.1 Incorporation of Recitals. The recitals set forth above are hereby incorporated by reference into this Lease.

1.2 Representations of Lessor. The Lessor represents and warrants to the Lessee that:

(a) The Lessor is a hospital district duly organized and validly existing under the laws of the State, and has power and authority to enter into this Lease, and by proper action of its board of directors has duly authorized the execution and delivery of this Lease;

(b) Neither the execution and delivery of this Lease, the consummation of the transactions contemplated hereby, nor the fulfillment of, or compliance with, the terms and conditions of this Lease conflict with, or result in a breach of, any of the terms, conditions or provisions of any applicable restriction, applicable laws, or any agreement or instrument to which the Lessor is now a party or by which it is bound, or constitutes a default under any of the foregoing which has not been waived or consented to in writing by the appropriate party or parties or, under the terms of any instrument or agreement, results in the creation or imposition of any prohibited lien, charge or encumbrance of any nature whatsoever upon any of the property or assets of the Lessor; and

(c) The Lessor has not leased, subleased or licensed any portion of the Leased Property to any party except the Lessee.

1.3 No Warranties by Lessor. The Lessor makes no warranty, either express or implied, as to the condition of the Hospital Facilities or that the improvements located on the Real Property are or will be suitable for the purposes or needs of the Lessee.

1.4 Representations of Lessee. The Lessee represents and warrants to the Lessor that

(a) The Lessee is a nonprofit corporation duly incorporated and authorized to transact business as a domestic corporation under the laws of the State, is organized for the purpose of conducting a hospital and health care related activities permitted under laws of the State has power to enter into this Lease and by proper corporate action has duly authorized the execution and delivery of this Lease;

(b) Neither the execution and delivery of this Lease, the consummation of the transactions contemplated hereby, nor the fulfillment of or compliance with, the terms and conditions of this Lease conflict with, or result in a breach of, any of the terms, conditions or provisions of any applicable restriction or any agreement or instrument to which the Lessee is now a party or by which it is bound, or constitutes a default under any of the foregoing which has not been waived or consented to in writing by the appropriate party or parties or, under the terms of any instrument or agreement, results in the creation or imposition of any prohibited lien, charge or encumbrance of any nature whatsoever upon any of the property or assets of the Lessee;

(c) The Lessee intends to operate or to cause the Hospital Facilities to be operated as a health care facility to the expiration or sooner termination of the Lease;

(d) As of the date of this Lease, the Lessee is an organization described in Section 501(c)(3) of the Internal Revenue Code of 1986, as amended (the "Code"), the Lessee

is not a "foundation" within the meaning of Section 509(a) of the Code and the Lessee is exempt from Federal income taxes under Section 501(a) of the Code; and

2. LEASE OF LEASED PROPERTY

The Lessor does hereby lease to the Lessee, and the Lessee does hereby lease from the Lessor, the Real Property situated in the City of Yuma, Yuma County, Arizona, and all of the Hospital Facilities, together with all improvements now or hereafter located thereon and all appurtenances thereto.

Upon execution and delivery of this Lease, the Lease Agreement, dated as of March 1, 1992, between the Lessor and Lessee shall by superseded and replaced by this Lease Agreement.

3. LEASE TERM; RENT

3.1 Lease Term. The term of this Lease (the "Lease Term") shall be a period commencing February 1, 1997 and ending on the latter of (a) August 15, 2017 or (b) 15 days after the Lessee Bonds are no longer outstanding in accordance with their terms.

3.2 Rent. As rent for the Leased Property, the Lessee will also pay all expenses of the Lessor as reflected in Lessor's budget ("Administrative Expenses"). On or before July 15 of each year, the Lessor shall provide the Lessee a copy of its written and adopted budget for the fiscal year of the Lessor commencing July 1 of the then current calendar year. In the event such rent payments prove insufficient to pay, when due, Administrative Expenses of the Lessor as reflected in the Lessor's budget, the Lessor shall inform the Lessee, in writing, of any such deficiency and the Lessee shall, within fifteen (15) days of receipt of such notice, pay to the Lessor the amount of such deficiency.

All amounts due and owing pursuant to Section 3.2 of this Lease shall collectively be referred to as the "Lease Payments".

3.3 Lease to be Net Lease. As respects all Lease Payments due under this Lease, this Lease shall be deemed and construed to be a "net lease", and the Lessee shall pay absolutely net during the term of this Lease the Lease Payments and all other payments required hereunder, without any deductions, abatements or setoffs other than those herein expressly provided.

4. LESSOR'S COVENANTS OF OWNERSHIP, AUTHORITY AND QUIET ENJOYMENT

4.1 Lessor's Covenants of Ownership, Authority and Quiet Enjoyment. The ,or covenants that it owns the Leased Property and has full right to enter into this Lease and that, for the benefit of the Lessee and the holders of the Lessee Bonds the Lessee, so long as it shall perform its obligations under this Lease, shall peacefully and quietly have, hold and

enjoy the Leased Property through the term and any extensions or renewal hereof, all as permitted by law.

5. ALTERATIONS AND IMPROVEMENTS; OWNERSHIP OF IMPROVEMENTS; REPLACEMENT OF EQUIPMENT; OWNERSHIP UPON TERMINATION

5.1 Alterations and Improvements. The Lessee may, in its discretion and at its expense, make such alterations, additions or improvements to the Hospital Facilities as it may deem necessary from time to time, without the necessity of obtaining the consent of the Lessor, provided that: (a) no such alteration or improvement shall impair the structural integrity or value of the Hospital Facilities or the utility of the Hospital Facilities as health care facilities; and (b) for any alteration, additions, or improvement, or any series of alterations, additions or improvements included in an integrated plan of remodeling, renovation or improvement, which has an estimated cost in excess of $250,000, Lessee shall provide prior written notice to Lessor and if the estimated cost exceeds $500,000, Lessee shall also obtain the prior written consent of the Lessor which consent shall not be unreasonably withheld; and (c) all alterations, additions or improvements shall comply with all applicable government regulations and codes.

5.2 Replacement of Equipment. The Lessor agrees that, so long as no event of default exists under this Lease, the Lessee may, in its discretion and at its expense, from time to time in the ordinary course of business, sell, lease, trade-in, exchange or otherwise dispose of any portion of the Hospital Facilities, which the Lessee in good faith determines is inadequate, obsolete, worn-out, unsuitable, undesirable or unnecessary.

5.3 Ownership upon Termination of Lease. The Lessee may, from time to time in the ordinary course of business, acquire items of personal property or fixtures for use by the Lessee in connection with the operation of the Hospital Facilities. The Lessor and the Lessee agree that all such personal property and those fixtures that may be removed from the Hospital Facilities without substantial damage to, or impairment of, the utility of the Hospital Facilities as a hospital and health care facility, shall be and remain the property of the Lessee during the term of this Lease to the extent such personal property and fixtures were not financed with proceeds of the District Bonds, 1983 Bonds, 1987 Bonds or 1989 Bonds. Upon the termination of this Lease, all such property shall become property of the Lessor.

Nothing contained in this Lease shall prevent the Lessee or any of its sublessees from purchasing personal property under a conditional sale, installment purchase or lease sale contract, or subject to a vendor's lien or security agreement, as security for the unpaid portion of the purchase price thereof.

The Lessee agrees to provide to the Lessor, not less often than annually, a listing of property owned by the Lessee and used in connection with the Hospital Facilities, together with such information as may be reasonably requested by the Lessor with respect to the method of acquisition of and source of payment for such property.

6. USE OF HOSPITAL FACILITIES; ASSIGNMENT AND SUBLEASING; RESTRICTION ON LIENS; LESSEE TO MAINTAIN EXISTENCE

6.1 Use of Hospital Facilities. The Lessee shall operate the Hospital Facilities as a hospital and health care facility for the benefit of the residents of Hospital District No. 1 of Yuma County, Arizona, and the general public and the Lessee shall comply, in all material respects, with all applicable laws. The Lessee further agrees to take such action as shall be necessary, with the cooperation of the Lessor, to assure that the Lessor shall be in compliance with the Hospital Survey and Construction Act, Public Law 725 of the 79th Congress, and all amendments thereto, to the extent, if any, that such Act and any amendments thereof shall be applicable to the Lessor. The Lessee shall use and occupy the Hospital Facilities for the purposes of operating a hospital and health care facility and for ancillary or support facilities, and the Lessee shall not suffer or permit the Hospital Facilities or any part thereof to be used for any other purposes.

6.2 Compliance With Legal and Insurance Requirements. The Lessee, at its expense, shall promptly comply or cause compliance with all Legal Requirements and Insurance Requirements, and shall procure, maintain and comply with all permits, licenses and other authorizations required for any use being made of the Leased Property or any part thereof then being made or anticipated to be made, and will comply with any instruments of record at the time in force burdening the Leased Property or any part thereof.

As used in this Section, "Legal Requirements" means all material laws, statutes, codes, acts, ordinances, resolutions, orders, judgments, decrees, injunctions, rules, regulations, permits, licenses, authorizations, directions and requirements of all governmental entities, departments, commissions, boards, courts, authorities, agencies, officials and officers, foreseen or unforeseen, ordinary or extraordinary which now or at any time hereafter may be applicable to the Leased Property or any part thereof, any use, anticipated use or condition of the Leased Property or any part thereof. "Insurance Requirements" means all provisions of any insurance policy covering or applicable to the Leased Property or any part thereof, and all requirements of the issuer of any such policy affecting the Leased Property or any part thereof.

6.3 Assignment and Subleasing by the Lessee. This Lease may be assigned and the Leased Property may be subleased, in whole or in part, by the Lessee only with the prior written consent of the Lessor which consent shall not be unreasonably withheld. The Lessee shall, within thirty (30) days after execution thereof, furnish to the Lessor a true and complete copy of each such assignment or sublease, as the case may be, together with any instrument of assumption.

6.4 Restrictions on Transfer and Encumbrance of Leased Property by the Lessor and Lessee. (a) For the benefit of the Lessee and the holders of the Lessee Bonds, the Lessor agrees that it will not sell, assign, transfer, convey or otherwise dispose of the Leased Property or any portion thereof during the Lease Term, nor will it create or suffer to be created any lien, charge, security interest or other encumbrance thereon or make any pledge or

assignment of or create any lien or encumbrance upon the rents, revenues and receipts derived from the sale, lease or other disposition of the Leased Property, without the prior written consent of the Lessee.

(b) The Lessee agrees that it will not, except as permitted by Sections 6.3 hereof, sell, assign, transfer, convey or otherwise dispose of its leasehold estate in the Leased Property or any portion thereof during the Lease Term, nor will it create or suffer to created any lien, charge, security interests or other encumbrance on the Lessor's fee interest in the Leased Property, without the prior written consent of the Lessor.

7. TAXES AND ASSESSMENTS; UTILITY CHARGES

7.1 Payment of Taxes, Assessments and Utility Charges. The Lessee shall pay, promptly when due and before penalty or interest accrues thereon, all real and personal property taxes and assessments, if any, on all real and personal property on the Leased Property. In addition to the taxes payable by the Lessee hereunder, the Lessee shall pay any other taxes, whether sales tax or transaction privilege tax or otherwise, which are now, or may hereafter be levied, charged, assessed or imposed on or payable by the Lessor with respect to rentals or other sums payable to the Lessor under this Lease. The Lessee shall promptly pay when due all charges for gas, heat, electricity, sewer, water and other services to the Leased Property. Upon payment by the Lessee of taxes or assessments, if any, required to be paid by the Lessee by the terms of this Lease, the Lessee shall, if requested in writing by Lessor, submit to the Lessor the official receipt or receipts, or copies thereof, evidencing such payments.

7.2 Permitted Contests. The Lessee shall not be required to pay any tax, charge, assessment or imposition referred to in subparagraph 7.1 hereof, nor to remove any lien, charge or encumbrance on the Lessor's fee interest in the Leased Property, nor to comply with any Legal Requirements, so long as the Lessee shall contest, in good faith and at its cost and expense, in its own name or in the name and behalf of the Lessor, the amount or validity thereof, in an appropriate manner or by appropriate proceedings which shall operate during the pendency thereof to prevent the collection of or other realization upon the tax, assessment, levy, fee, rent, charge, lien or encumbrance so contested, and the sale, forfeiture, or loss of the Leased Property or any part thereof, or of the rent or any portion thereof, to satisfy the same; provided, that no such contest shall subject the Lessor to the risk of any liability. While any such matters are pending, the Lessee shall not be required to pay, remove or cause to be discharged the tax, assessment, levy, fee, rent, charge, lien or encumbrance being contested unless the Lessee agrees to settle such contest. Each such contest shall be promptly prosecuted to final conclusion (subject to the right of the Lessee to settle any such contest), and in any event the Lessee will save the Lessor harmless against all losses, judgments, decrees and costs (including attorneys' fees and expenses in connection therewith) and will, promptly after the final determination of such contest or settlement thereof, pay and discharge the amounts which shall be levied, assessed or imposed or determined to be payable therein, together with all penalties, fines, interests, costs and expenses thereon or in connection therewith. The Lessee shall give the Lessor prompt written notice of any such contest and the Lessor agrees to cooperate with the Lessee, at the Lessee's cost and expense, in any such contest.

If the Lessor shall notify the Lessee that, in the opinion of independent counsel, by nonpayment of any of the foregoing items any substantial part of the Leased Property will be materially endangered or the Leased Property or any part thereof will be subject to imminent loss or forfeiture, then the Lessee shall promptly pay all such unpaid items and cause them to be satisfied and discharged.

8. MAINTENANCE AND REPAIRS; RESTORATION OF CASUALTY DAMAGE

8.1 Maintenance and Repairs. The Lessee shall (a) throughout the term of this Lease, at its own expense and without any expense to Lessor, keep and maintain the Hospital Facilities in good, sanitary and neat order, condition and repair, and in as reasonably safe condition as their operating condition will permit and (b) upon the termination of this Lease shall deliver up to the Lessor the Hospital Facilities and all appurtenant equipment and improvements to the Lessor in good order and condition, damage and depreciation due to reasonable use and ordinary wear and tear excepted. All interior and exterior repairs and maintenance of the Hospital Facilities shall be an obligation of the Lessee and shall be performed at the expense of the Lessee.

8.2 Restoration of Hospital Facilities. In the event that the Hospital Facilities, or any part thereof, are damaged or destroyed, or made subject to a claim under power of eminent domain, the Lessee may elect to repair, reconstruct or restore the Hospital Facilities or elect to redeem the Lessee Bonds in accordance with their terms. No Lease Payments or monetary obligation due from the Lessee to the Lessor hereunder shall abate because of any casualty or due to payments by the Lessee to restore the Hospital Facilities. The Lessee hereby waives any rights or benefits it may have under Arizona Revised Statutes Section 33-343, as amended.

9. ADVANCES BY LESSOR; REPAYMENT BY LESSEE

9.1 Advances by Lessor; Repayment by Lessee. In the event the Lessee shall fail to maintain the full insurance coverage required by Section 12.1 hereof, shall fail to keep the Hospital Facilities in as reasonably safe condition as their operating condition will permit, shall fail to fulfill any other obligation of the Lessee to maintain or repair the Hospital Facilities, or shall fail to pay taxes, assessments or utility charges with respect to the Hospital Facilities as required hereunder, then the Lessor, with prior written notice to the Lessee, may (but shall be under no obligation to) obtain the required policies of insurance and pay the premiums on the same, make the required repairs, or pay taxes, assessments or utility charges with respect to the Hospital Facilities; all amounts advanced therefor by the Lessor shall become an additional obligation of the Lessee to the Lessor, which amounts, together with interest thereon at a rate equal to the prime rate of the trustee for the Lessee Bonds as at such time shall be in effect, the Lessee agrees to pay on demand without deduction or offset. Interest shall accrue from the date such amount(s) are advanced until paid.

10. INDEMNIFICATION

10.1 Indemnification. Except for matters concerning or caused by the Lessor's negligence or wilful misconduct, the Lessee will pay, and will indemnify, defend and hold the Lessor harmless from and against all claims, liabilities, losses, damages, costs, expenses (including attorneys' fees), suits and judgments of any kind rising out of any one or more of the following: (i) injury to or death of any person or damage to property in or upon any property of the Lessee or the Lessor, or the occupation, use, possession or condition of such property or any part thereof or relating to the foregoing, (ii) any violation of any agreement, instrument, law, ordinance or regulation affecting such property or any part thereof or the ownership, occupation, use, possession or condition thereof, (iii) the issuance and sale of the Lessee Bonds, (iv) the execution and delivery hereof or of any document required hereby or thereby or in furtherance of the transactions contemplated hereby or thereby, or of any of them, (v) errors or omissions in the information presented to the Lessor or in any information relating to the purchase of the Lessee Bonds contained in any offering memorandum relating to the Lessee Bonds or (vi) the performance of any act required of any indemnitee under this Section under any provision hereof or in furtherance of the transactions contemplated hereby or thereby.

10.2 Defense of Claims. Upon receipt of notice of the existence of a claim or the commencement of a proceeding regarding which indemnity under this Section may be sought, the Lessor shall promptly notify the Lessee in writing thereof. If such a proceeding is commenced against the Lessor, the Lessee may participate in the proceeding and, to the extent it elects to do so, may assume the defense thereof with counsel satisfactory to the Lessor. If, however, the Lessee is advised in an opinion of independent counsel that there may be legal defenses available to it which are different from or in addition to those available to the Lessor, or if the Lessee fails to assume the defense of such proceeding or to employ counsel for that purpose satisfactory to the Lessor within a reasonable time after notice of commencement of the proceeding, the Lessee shall not be entitled to assume the defense of the proceeding on behalf of the Lessor, but shall be responsible for the reasonable fees, costs and expenses of the Lessor in conducting its defense.

11. OBLIGATIONS OF LESSEE UNDER LEASE UNCONDITIONAL; OTHER COVENANTS OF LESSEE

11.1 Obligations of Lessee Under Lease Unconditional. The obligations of the Lessee to make the payments required under this Lease and to perform and observe the other agreements on its part contained in this Lease shall be absolute and unconditional. The Lessee shall not suspend or discontinue, or permit the suspension or discontinuance of, any payments provided for in this Lease and shall perform and observe all of its other agreements contained in this Lease. The Lessee may, at its own cost and expense and in its own name or in the name of the Lessor, prosecute or defend any action involving third persons which the Lessee deems reasonably necessary in order to secure or protect its right of possession, occupancy or use under this Lease, and in such event, the Lessor hereby agrees to cooperate fully with the Lessee.

11.2 Right of Access. The Lessee agrees that, subject to reasonable security, health, safety and sanitary requirements and to reasonable requirements as to notice, the Lessor

and any of its respective duly authorized agents shall have the right at all reasonable times and with reasonable notice to enter upon the Leased Property and to examine and inspect the same. Any such examination and inspection shall be conducted in such a manner as not to interfere with the care of the Lessee's patients nor violate any legal obligation of Lessee to maintain confidentiality of certain patient and other records. The Lessee further agrees that the Lessor and its duly authorized agents shall have such rights of access to the Leased Property as may be reasonably necessary for the proper maintenance of the Leased Property in the event of failure by the Lessee to perform its obligations under this Lease.

11.3 Books and Records; Financial Statements. The Lessee shall keep true and proper books of records and accounts in which full and correct entries are made of all its business transactions, and shall reflect in its financial statements adequate accruals and reserves, all in accordance with generally accepted accounting principles applicable to nonprofit hospitals. The Lessee shall deliver to the Lessor, within 120 days after the end of each fiscal year of the Lessee, copies of the balance sheets of the Lessee as of the end of such year and statements of income, expenses and retained earnings of the Lessee for such year, setting forth in comparative form the corresponding figures as of the end of or for the previous fiscal year, accompanied by an opinion thereon of a nationally recognized firm of independent certified public accountants selected by the Lessee, stating that such financial statements have been prepared in accordance with generally accepted accounting principles consistently applied and that the audit by such accountants in connection with such financial statements has been made in accordance with generally accepted auditing standards.

12. INSURANCE

12.1 Insurance Coverage. During the terms of this Lease, the Lessee shall provide or cause others to provide insurance in such amount and against such risks as are customarily insured against in connection with the ownership and operation of health care institutions of the general character and size of the Hospital Facilities; provided all such insurance (except for fire and extended coverage property damage insurance) may be provided by self-insurance and other alternative risk management programs (collectively, "Risk Management").

All policies of insurance shall name the Lessor and the Lessee as the insured parties or loss payees as their respective interests shall appear.

The Lessor hereby releases the Lessee, to the extent of the receipt of proceeds from insurance coverage afforded the Lessor pursuant to this Lease, from any liability for loss or damage caused by fire or any of the extended coverage casualties included in the insurance policy or policies procured by the Lessee pursuant to the provisions of the Lease, even if such fire or other casualties shall be brought about by the fault or negligence of the Lessee, its agents or employees; provided that this release shall be in effect only with respect to loss or damage occurring during the time that the policy or policies of fire and extended coverage insurance procured pursuant to this Lease contain a clause to the effect that this release shall not affect the right of the Lessor to recover under such policy or policies. If extra cost shall be charged by

an insurance carrier by reason of the inclusion of such clause or endorsement, such extra cost so charged therefor shall be paid by the Lessee.

12.2 Continuation of Insurance and Risk Management Coverage. Not less than ten (10) days prior to the expiration of each policy of insurance, the Lessee shall furnish to the Lessor certificates of insurance or true copies of policies of insurance or, in the case of the expiration of any policy of insurance, similar evidence of the renewal thereof or substitution of a new policy of insurance, which fulfill the foregoing insurance obligations. Within five (5) days from the receipt of such evidence of fire and extended coverage property insurance, the Lessor shall, in writing, advise the Lessee of the acceptance of coverage or disapproval of such property insurance. If no written approval is provided within said five day period, approval of such coverage shall be deemed to be made by the Lessor. In the event of disapproval, the Lessor shall state in detail the basis upon which it lodges objections to such insurance coverages provided.

The Lessee shall, on or before August 1 of each three years commencing August 1, 2000, review its insurance and Risk Management coverages and shall, upon completion of such review, submit to the Lessor a certificate signed by an insurance consultant selected by Lessee to the effect that the insurance policies and other Risk Management programs then in effect constitute reasonable and appropriate risk management or setting forth increases in the coverages required hereunder.

It shall not be deemed an event of default if the Lessee shall procure insurance with coverage below that required under this Lease if the Lessee shall have first submitted to the Lessor a certificate of an insurance consultant selected by Lessee to the effect that the insurance coverage secured does not constitute unreasonable or inappropriate risk management, considering, among other factors, the cost and availability of insurance otherwise required hereunder.

13. EVENTS OF DEFAULT

13.1 Events of Default. The Lessee shall be deemed to be in default under this Lease:

(i) if the Lessee shall fail to make any payment required under Section 3.2 hereof;

(ii) if the Lessee shall fail to comply with any other term, provision or covenant of this Lease and shall not cure such failure within thirty (30) days after written notice thereof has been received by the Lessee provided that if the default is of a nature that cannot be cured within thirty (30) days, the Lessee shall not be in default hereunder if the Lessee is diligently proceeding to cure such default; or

(iii) if the Lessee shall cease to be a Tax-Exempt organization.

Except for failure of the Lessee to make the payments required under Section 3.2 hereof, the events of default set forth herein are subject to the following limitations: If by reason of force majeure the Lessee is unable in whole or in part to carry out its agreements under this Lease, the Lessee shall not be deemed in default during the continuance of such inability. The term "force majeure" as used herein shall mean, without limitation, the following: acts of nature; strikes, lockouts or other employee disturbances; acts of public enemies; laws imposed by, or order of any kind of, the government of the United States or of the State of Arizona or any of their departments, agencies, political subdivisions or officials, or any civil or military authority; insurrections; riots; epidemics; landslides; lightning; earthquakes; fire; hurricane; tornadoes; storms; floods; washouts; droughts; damage from falling space debris; arrests; restraint of government and people; civil disturbance; explosions; breakage or accident to machinery, transmission pipes, or canals; partial or entire failure of utilities; or any other cause or event not reasonably within the control of the Lessee. The Lessee agrees, however, to remedy with all reasonable dispatch the cause or causes preventing it from carrying out its agreements herein, provided that the settlement of strikes, lockouts and other employee disturbances shall be entirely within the discretion of the Lessee, and the Lessee shall not be required to make settlement of strikes, lockouts or other employee disturbances or accede to the demands of the opposing party or parties when such course is, in the judgment of the Lessee, unfavorable to the Lessee.

14. REMEDIES

14.1 Remedies. Upon the occurrence of any event of default, the Lessor may pursue any remedy or remedies provided by law; provided, however, that for the benefit of the holders of the Lessee Bonds prior to instituting any legal proceedings against the Lessee following an event of default under this Lease, the Lessor shall deliver written notice to the trustee for (or other representative of the holders of) the Lessee Bonds (at the address furnished to the Lessor by the Lessee) and shall permit such trustee (and such representative) sixty (60) days to cure such event of default, provided that if the default is of a nature that it can be cured but not within such sixty (60) days, then, so long as the trustee (or such representative) is diligent proceeding to cure such event of default, the trustee (or such representative) shall have such time as is necessary to cure such event of default and the Lessor shall accept the performance by the trustee (or such representative) as satisfying the requirements of this Lease.

Provided, further, that Lessor covenants and agrees, for the benefit of the holders of the Lessee Bonds, that Lessor shall not take any action to terminate this Lease, and there shall be no termination of this Lease as a result of the Lessor's exercise of any remedies after an event of default, unless and until the Lessor shall have paid, or provided for the payment of, the Lessee Bonds in accordance with their terms.

The waiver by either the Lessor or the Lessee of any violation or breach of any of the terms, provisions and covenants contained in this Lease, or the forbearance to pursue a remedy upon any event of default, shall not be deemed or construed to constitute a waiver of any other violation or other breach.

15. NOTICES

15.1 Notices. Any notice permitted or required by the terms hereof shall be effective if delivered in person or by United States mail, return receipt requested, addressed as set forth below or such other address as may be furnished by any of them:

To Lessor: Hospital District No. 1 of Yuma County, Arizona
Yuma Regional Medical Center
2400 Avenue A
Yuma, Arizona 85364

With a copy to:

Byrne & Benesch, P.C.
230 West Morrison
Post Office Box 6446
Yuma, Arizona 85366-6446
Attn: Wayne C. Benesch

To Lessee: Yuma Regional Medical Center
2400 Avenue A
Yuma, Arizona 85364

With a copy to:

Law Offices of Larry W. Suciu
1763 West 24th Street, Suite 200
Yuma, Arizona 85364

16. MISCELLANEOUS

16.1 Amendments to Lease; Waivers; Third Party Beneficiaries. No amendments or modifications of this Lease shall be effective unless in writing and executed by an authorized officer of the Lessor and the Lessee.

The Lessor may waive the requirement of the Lessee to perform or satisfy any covenant or agreement of the Lessee in this Lease.

The holders of the Lessee Bonds are a third party beneficiary of Sections 4.1, 6.4, and 14.1 hereof and the trustee for (or other representative of) the Lessee Bonds may enforce such provisions for the protection of such holders.

16.2 Exhibits to Lease. All Exhibits referred to herein and attached hereto are incorporated herein by this reference.

16.3 Resolution of Disputes. The Lessee and Lessor agree to resolve disputes between them arising under this Lease by the procedure set forth in Exhibit C.

16.4 Actions to be Taken on Saturday, Sunday or Holiday. If the date for making any payment or the last date for performance of any act or the exercising of any right, as provided in this Lease, shall not be a Business Day, such payment may be made or act performed or right exercised on the next succeeding day which is a Business Day with the same force and effect as if done on the nominal date provided in this Lease.

16.5 Recording. The parties hereto agree that a memorandum of this Lease may be recorded, instead of recording this Lease in full.

16.6 Severability. If any of the terms and provisions of this Lease are determined to be invalid, such invalid term or provision shall not affect or impair the remainder of this Lease, but such remainder shall continue in full force and effect to the same extent as though the invalid term or provision were not contained herein. If any part or parts of this Lease shall at any time be held to be invalid or unenforceable by a court of competent jurisdiction, the remaining part or parts of this Lease shall be and remain in full force and effect.

16.7 Time of Essence. Time is of the essence for each term herein.

16.8 Miscellaneous. This Lease may be executed in any number of counterparts, each of which shall be regarded as an original and all of which shall constitute but one and the same instrument.

The captions and headings in this Lease shall be solely for convenience of reference and in no way define, limit or describe the scope or intent of any provisions or Sections of this Lease.

This Lease shall be deemed to be a contract made under the laws of the State of Arizona and for all purposes shall be governed by and construed in accordance with the laws of the State of Arizona.

IN WITNESS WHEREOF, the parties have executed this Lease to be effective as of the date first set forth above, but the date of actual execution is the date indicated in the acknowledgments hereinafter set forth.

HOSPITAL DISTRICT No. 1 OF YUMA COUNTY, ARIZONA

By Jon A Butt

Chairman, Board of Directors

[Lessor]

YUMA REGIONAL MEDICAL CENTER

By Robert Olsen

Chief Executive Officer

[Lessee]

EXHIBIT A

LEGAL DESCRIPTION

That portion of Lot One (1) (fractional Northeast quarter of the Northeast quarter (NE¼ NE¼)), Section Five (5), Township Nine (9) South, Range Twenty-three (23) West, Gila and Salt River Base and Meridian, Yuma County, Arizona, lying East of the right of way of the East Main Canal of the Valley Division, Yuma Project;

EXCEPT:

Beginning at the Southwest corner of the North 40 feet of the East 33 feet of said Lot 1;
thence Southerly along the West line of the East 33 feet of said Lot 1, a distance of 15.00 feet;
thence Northwesterly to a point which lies on the South line of the North 40 feet of said Lot 1 and is 15.00 feet Westerly of the Point of Beginning;
thence Easterly along the South line of the North 40 feet of said Lot 1, a distance of 15.00 feet to the POINT OF BEGINNING.

EXHIBIT B

DESCRIPTION OF HOSPITAL FACILITIES

All buildings, plus all fixed and movable equipment located on the premises described in EXHIBIT A.

EXHIBIT C

DISPUTE RESOLUTION

In the event that any difference or dispute shall arise as to the interpretation of this Lease or the respective rights and obligations of the parties hereunder, then prior to the exercise of any other right or remedy at law or equity, any such difference or dispute shall be referred to non-binding mediation through the American Arbitration Association before a mediator who is knowledgeable concerning the operations of non-urban hospitals comparable to the Hospital Facilities, or to such other mediations service or mediator as may be mutually agreed to by the parties. The cost of any such mediation shall be paid equally by the parties, unless otherwise agreed to by the parties.

FIRST AMENDMENT

DATE: As of January 4, 2001

PARTIES: HOSPITAL DISTRICT NO. 1, YUMA COUNTY, ARIZONA, a political subdivision of the State of Arizona (the "Lessor"), and

YUMA REGIONAL MEDICAL CENTER, an Arizona nonprofit corporation (the "Lessee");

WITNESSETH:

A. WHEREAS, the Lessor and the Lessee have executed and delivered a Lease Agreement, dated as of February 1, 1997 (the "Existing Lease"). All capitalized terms used in this First Amendment which are not defined herein shall have the meanings set forth in the Existing Lease.

B. WHEREAS, the Lessee intends to cause to be issued, in one or more series, hospital revenue bonds with a final maturity on or before August 1, 2031, and to use the proceeds of such hospital revenue bonds to pay costs of improvements to the Hospital Facilities and to reimburse Lessee for such costs.

C. WHEREAS, the payment of such hospital revenue bonds will be the sole financial and legal responsibility of the Lessee and the Lessor will have no financial or legal obligation to pay such hospital revenue bonds and the Lessor will not be required to grant a mortgage on its interest in the Hospital Facilities to secure such bonds.

D. WHEREAS, it is the desire of the Lessor and Lessee to execute this First Amendment to amend the Lease Term of the Existing Lease.

NOW, THEREFORE, in consideration of the rents to be paid and the covenants and conditions in the Existing Lease, the parties hereto hereby agree as follows:

1.1 Amendment of Lease Term. Section 3.1 of the Existing Lease is hereby amended to read in its entirety as follows:

"3.1 Lease Term. The term of this Lease (the "Lease Term") shall be a period commencing February 1, 1997 and ending on the later of August 15,

2031 or (b) 15 days after the Lessee Bonds are no longer outstanding in accordance with their terms.

"Lessee agrees that the proceeds of the tax-exempt hospital revenue bonds to be issued for benefit of Lessee shall be used to pay cost of improvements to and equipment for the Hospital Facilities or to reimburse Lessee for costs of improvements to and equipment for the Hospital Facilities paid by Lessee."

1.2 Existing Lease Remains in Effect. Except for the amendment set forth in Section 1.1 hereof, there are no other amendments to the Existing Lease and the Existing Lease shall continue in full force and effect.

IN WITNESS WHEREOF, the parties have executed this First Amendment to be effective as of January 4, 2001.

HOSPITAL DISTRICT NO. 1 OF YUMA COUNTY, ARIZONA

By _____
Chairman, Board of Directors

(Lessor)

YUMA REGIONAL MEDICAL CENTER

By _____
Chief Executive Officer

(Lessee)

STATE OF ARIZONA)
) ss.
COUNTY OF YUMA)

The foregoing instrument was acknowledged before me this 29TH day of JANUARY, 2001, by **J. LYNN O'CONNOR, CHAIRMAN OF THE BOARD OF DIRECTORS** of the **HOSPITAL DISTRICT NO. 1 OF YUMA COUNTY, ARIZONA**, the same acknowledging and affirming that she was authorized to do so on behalf of the **HOSPITAL DISTRICT NO. 1 OF YUMA COUNTY, ARIZONA.**

My Commission Expires:

_____

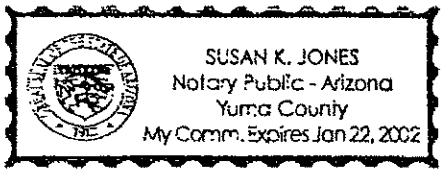
_____
Notary Public

STATE OF ARIZONA)
) ss.
COUNTY OF YUMA)

The foregoing instrument was acknowledged before me this 1st day of February, 2001, by **ROBERT T. OLSEN, CHIEF EXECUTIVE OFFICER** of **YUMA REGIONAL MEDICAL CENTER**, the same acknowledging and affirming that he was authorized to do so on behalf of **YUMA REGIONAL MEDICAL CENTER.**

Susan K. Jones
Notary Public

My Commission Expires:



SECOND AMENDMENT

DATE: As of November 12, 2008

PARTIES: HOSPITAL DISTRICT NO. 1, YUMA COUNTY, ARIZONA, A political subdivision of the State of Arizona (the "Lessor"), and

YUMA REGIONAL MEDICAL CENTER, an Arizona nonprofit corporation (the "Lessee");

WITNESSETH:

A. WHEREAS, the Lessor and the Lessee have executed and delivered a Lease Agreement, dated as of February 1, 1997 (the "Existing Lease"). All capitalized terms used in this Second Amendment which are not defined herein shall have the meanings set forth in the Existing Lease.

B. WHEREAS, the Lessee intends to cause to be issued, in one or more series, tax-exempt hospital revenue bonds with a final maturity on or before August 1, 2043 ("Lessee Bonds"), and to use the proceeds of such hospital revenue bonds to refund the Series 2004 Bonds, which were used to pay costs of improvements to the Hospital Facilities, reimburse Lessee for such costs and to refund such costs.

C. WHEREAS, the payment of such hospital revenue bonds will be the sole financial and legal responsibility of the Lessee and the Lessor will have no financial or legal obligation to pay such hospital revenue bonds and the Lessor will not be required to grant a mortgage on its interest in the Hospital Facilities to secure such bonds.

D. WHEREAS, it is the desire of the Lessor and Lessee to execute this Second Amendment to amend the Lease Term of the Existing Lease.

NOW, THEREFORE, in consideration of the rents to be paid and the covenants and conditions in the Existing Lease, the parties hereto hereby agree as follows:

1.1 Amendment of Lease Term. Section 3.1 of the Existing Lease is hereby amended to read in its entirety as follows:

"3.1 Lease Term. The term of this Lease (the "Lease Term") shall be a period commencing February 1, 1997 and ending on the later of August

Exhibit C

15, 2043 or (b) 15 days after the Lessee Bonds are no longer outstanding in accordance with their terms.

"Lessee agrees that the proceeds of the tax-exempt hospital revenue bonds to be issued for benefit of Lessee shall be used to pay cost of improvements to and equipment for the Hospital Facilities or to reimburse Lessee for costs of improvements to and equipment for the Hospital Facilities paid by Lessee."

1.2 Existing Lease Remains in Effect. Except for the amendment set forth in Section 1.1 hereof, there are no other amendments to the Existing Lease and the Existing Lease shall continue in full force and effect.

IN WITNESS WHEREOF, the parties have executed this First Amendment to be effective as of November 12, 2008.

HOSPITAL DISTRICT NO. 1 OF YUMA COUNTY, ARIZONA

By _____
Chairman, Board of Directors

(Lessor)

YUMA REGIONAL MEDICAL CENTER

By _____
Chief Executive Officer

(Lessee)

STATE OF ARIZONA)
) ss.
COUNTY OF YUMA)

The foregoing instrument was acknowledged before me this 14th day of November, 2008, by Lynn O'Connor, CHAIRMAN OF THE BOARD OF DIRECTORS of the HOSPITAL DISTRICT NO. 1 OF YUMA COUNTY, ARIZONA, the same acknowledging and affirming that she was authorized to do so on behalf of the HOSPITAL DISTRICT NO. 1 OF YUMA COUNTY, ARIZONA.

_____
Notary Public

My Commission Expires:
Jan. 1, 2012

OFFICIAL SEAL
Kathleen Barnes
Notary Public - State of Arizona
YUMA COUNTY
My Comm. Expires January 1, 2012

STATE OF ARIZONA)
) ss.
COUNTY OF YUMA)

MEGAN CASTILLO
Notary Public - Arizona
Yuma County
My Comm. Expires Jul 23, 2010

The foregoing instrument was acknowledged before me this 17 day of November, 2008, by Robert T. Olsen, CHIEF EXECUTIVE OFFICER of YUMA REGIONAL MEDICAL CENTER, the same acknowledging and affirming that he was authorized to do so on behalf of YUMA REGIONAL MEDICAL CENTER.

Megan Castillo
Notary Public

My Commission Expires:
July 23, 2010

THIRD LEASE AMENDMENT

DATE: As of October 9, 2013

PARTIES: HOSPITAL DISTRICT NO. 1, YUMA COUNTY, ARIZONA, a political subdivision of the State of Arizona (the "Lessor"), and

YUMA REGIONAL MEDICAL CENTER, an Arizona nonprofit corporation (the "Lessee");

WITNESSETH:

A. WHEREAS, the Lessor and the Lessee have executed and delivered a Lease Agreement, dated as of February 1, 1997, a First Amendment dated January 4, 2001 and recorded at Fee No. 2001-08875 with the Yuma County Recorder and a Second Amendment dated November 12, 2008 (together the "Existing Lease"). All capitalized terms used in this Third Amendment which are not defined hereon shall have the meanings set forth in the Existing Lease.

B. WHEREAS, the Lessor and Lessee intend to enter into a Development Agreement with the City of Yuma on or before October 15, 2013, regarding improvements to the Hospital Facilities and the Real Property.

C. WHEREAS, the Development Agreement provides for the grants of certain easements between the City of Yuma and the Lessor, which shall affect the Legal Description of the Real Property.

E. WHERBAS, it is the desire of the Lessor and Lessee to execute this Second Lease Amendment to amend the legal description of the Real Property subject to the Existing Lease.

NOW, THEREFORE, in consideration of the rents to be paid and the covenants and conditions in the Existing Lease, the parties hereto hereby agree as follows:

1.1 Amendment of Legal Description of Real Property. Exhibit "A" of the Existing Lease is hereby amended and replaced to read in its entirety as set forth on the attached Exhibit "A" which is incorporated herein.

Exhibit D

EXHIBIT A

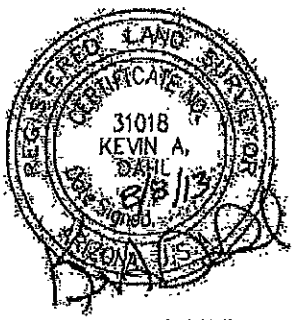
Legal Description of Hospital District No. 1 Property

That portion of Government Lot 1 (fractional Northeast quarter of the Northeast quarter) of Section 5, Township 9 South, Range 23 West of the Gila and Salt River Base and Meridian, City of Yuma, Yuma County, State of Arizona, lying East of the Easterly right-of-way line of the USBR East Main Canal;

EXCEPT that portion dedicated to the City of Yuma by Warranty Deed recorded in Docket 939, Pages 610 and 611, Yuma County Records;

And

EXCEPT that portion described in the FINAL ORDER AND DECREE OF CONDEMNATION, dated 5/22/2009, recorded at FEE # 2009-14475, Yuma County Records.



Expires 3/31/15

THIRD LEASE AMENDMENT

IN WITNESS WHEREOF, the parties have executed this Third Amendment to be effective as of Oct 9, 2013.

HOSPITAL DISTRICT NO. 1 OF
YUMA COUNTY, ARIZONA

By _____
Tom Thompson, Chairman

(Lessor)

STATE OF ARIZONA)
) ss.
COUNTY OF YUMA)

The foregoing instrument was acknowledged before me this 9th day of October, 2013, by TOM THOMPSON, CHAIRMAN OF THE BOARD OF DIRECTORS of the HOSPITAL DISTRICT NO. 1 of YUMA COUNTY, ARIZONA, the same acknowledging and affirming that he was authorized to do so on behalf of the HOSPITAL DISTRICT NO. 1 of YUMA COUNTY, ARIZONA.

_____
Notary Public

My Commission Expires:
10-11-2016

OFFICIAL SEAL
NICOLE ARROW
Commission # 349252
Notary Public - State of Arizona
YUMA COUNTY
My Comm. Expires Oct. 11, 2016

THIRD LEASE AMENDMENT

IN WITNESS WHEREOF, the parties have executed this Third Amendment to be effective as of Oct. 9, 2013.

YUMA REGIONAL MEDICAL CENTER

By _____

Its CEO

(Lessee)

STATE OF ARIZONA)
) ss.
COUNTY OF YUMA)

The foregoing instrument was acknowledged before me this 9th day of October, 2013, by Patrick Walz, CEO of YUMA REGIONAL MEDICAL CENTER, the same acknowledging and affirming that he was authorized to do so on behalf of YUMA REGIONAL MEDICAL CENTER.

Nicole Arrow
Notary Public

My Commission Expires:
10-11-2016

OFFICIAL SEAL
NICOLE ARROW
Commission # 319252
Notary Public - State of Arizona
YUMA COUNTY
My Comm. Expires Oct. 11, 2016

EXHIBIT G

Act of 1949

not be regarded as regular common carrier transportation.

(f) Who may travel. The provisions of this section shall apply to any public officer, deputy or employee of the state or of any department, institution, or agency thereof and to any member of any board, commission or other agency of the state when traveling on necessary public business when issued a proper travel order.

Sec. 2. REPEAL. Any law or parts of law in conflict herewith are hereby repealed. Section 12-715, Arizona Code of 1939, as amended, is hereby repealed. Section 12-716, Arizona Code of 1939, as amended, is hereby repealed.

Sec. 3. EMERGENCY. To preserve the public peace, health, and safety it is necessary that this Act become immediately operative. It is therefore declared to be an emergency measure, to take effect as provided by law.

Approved by the Governor—March 11, 1949.

Filed in the Office of the Secretary of State—March 11, 1949.

CHAPTER 27

(House Bill No. 170)

AN ACT

AUTHORIZING THE FORMATION OF LOCAL HOSPITAL DISTRICTS; PROVIDING FOR THE MANAGEMENT AND CONTROL OF HOSPITALS BUILT BY SUCH DISTRICTS; PROVIDING FOR FINANCING OR LEASING THE SAME; PROVIDING FOR THE DISSOLUTION OF THE DISTRICTS, AND DECLARING AN EMERGENCY.

Be it Enacted by the Legislature of the State of Arizona:

Section 1. SHORT TITLE: This Act may be cited as the "Hospital District Act of 1949".

Sec. 2. DEFINITIONS. "Organizing county" means the county whose board of supervisors receives the petition for organization of a hospital district;

"newspaper" means a newspaper of general circulation published within the district, if any be published, or if not, within the county, and if notice is to be published within another county as required by this Act the same rule shall apply.

Sec. 3. PETITION PROPOSING DISTRICT. In order to propose the formation of a hospital district, a petition shall be presented to the board of supervisors of the county within which such proposed district may lie, or the greater proportion thereof, signed by ten percent (10%) of the electors residing within the area of the proposed district, which petition shall set forth and particularly describe the proposed boundaries of such district, and shall pray that the same be organized as a hospital district under the provisions of this Act. Such petition shall be presented at a regular or special meeting of the board of supervisors, and the board shall thereupon enter an order fixing a time, not less than three (3) nor more than five (5) weeks from the date of such order, at which time a hearing on said petition shall be had by the said board, and directing that notice of said hearing be published not less than two consecutive weeks prior to the date of such hearing, in a newspaper published within such proposed district, if any be published, if not, in a newspaper published within the county. If any portion of the proposed district lies within another county or counties, then such order shall further direct that notice shall be likewise published in a newspaper to be designated in said order, printed and published in each of said counties. Hearings on such petition shall be at the office of the board of supervisors to whom such petition is granted, in either a regular or a special meeting, unless the board shall determine for the convenience of the parties to hold the hearing elsewhere. The petitioners shall give such security as the board of supervisors of the organizing county may require, conditioned upon the payment of all costs if for any reason the district should fail of organization. If the district is organized such costs shall be a proper charge against such district.

No petition for the formation of a district shall be acted upon as herein provided, unless the area encompassed within such proposed district shall first have been approved as an area needing additional hospital facilities and eligible for federal aid under the federal Act known as the "Hospital Survey and Construction Act", being Public Law 725 of the 79th Congress of the United States approved August 13, 1946, or any amendment or amendments thereto, nor unless there shall be in existence a corporation not for pecuniary profit duly organized under the laws of the state of Arizona for the purpose of conducting a hospital which shall have offered to lease the proposed hospital for a period of not less than five (5) years in accordance with the terms of subdivisions (e) and (f) of section 8. of this Act.

Sec. 4. HEARING ON PETITION. At the time fixed in such notice, the board of supervisors shall consider the petition and shall hear any evidence either favoring or disapproving said petition The board shall make such changes in the proposed boundaries as may be deemed advisable. All decisions and determinations made at such hearing shall be entered upon the minutes of the board of supervisors. In the event the board approves the establishment of such district, the minutes shall set forth the particular description of the boundaries of the district as determined by the board.

Sec. 5. ELECTION TO DETERMINE ORGANIZATION. In the event the board of supervisors orders the formation of a hospital district, the board shall then give notice of an election to be held within such proposed district, for the purpose of determining whether or not the same shall be organized as herein provided. The notice shall designate a name for the proposed district, and describe the boundaries thereof, and the designation of the polling places to be established within the district for such election. The notice shall be published for at least two (2) consecutive weeks previous to such election, in a newspaper published within the county in which the petition for the organization of the proposed district was presented, and if any portion of such proposed district is within another county or counties, then such notice shall be published for the same length of time in a newspaper published in each of such counties. Such notice shall require the electors to cast ballots which shall contain the words, "Hospital District—Yes" and "Hospital District—No". Any resident, real property owner in the district shall be entitled to vote at such election. The election shall be conducted as nearly as practicable in accordance with the general election laws of the state.

Sec. 6. DECLARATION OF RESULT AND RECORDING OF ORDER. The board of supervisors shall, at its next succeeding regular or special session canvass the votes cast at the election, and if it appear that a majority of the voters voting thereon favor the formation of such district, the board shall by order, declare such territory duly organized, and shall cause a certified copy of such order to be filed in the office of the county recorder of any county in which any portion of the lands embraced in such district are situated, and shall also forward a copy thereof to the clerk of the board of supervisors of each such county.

Sec. 7. BOARD OF DIRECTORS. The board of directors of the district shall be composed of five (5) citizens, resident real property taxpayers within said district, none of whom shall be a practicing physician or an elective or appointive state, county or city official. At the election to determine whether a district shall be formed, as provided for in

section 5 herein, the ballot shall contain the names of five (5) or more persons to be voted for to fill the office of directors. Such persons may be nominated in the petition praying for the formation of a district, or they may be nominated by fifty (50) or more persons possessing the qualifications required of those eligible to vote in the election as provided for in said section 5. The directors originally elected shall draw lots for terms of one (1), two (2), three (3), four (4) and five (5) years respectively. Annual elections shall be held on the second Wednesday of each year for the purpose of electing directors to fill vacancies resulting from expiration of term of members as herein provided. Vacancies resulting from any reason except expiration of term may be filled by the remaining directors. The board shall be a body corporate, under the name "board of directors for.....hospital", the name of the hospital being inserted in the blank. One member of the board of directors shall be selected as chairman, one as vice-chairman, and the board of directors may appoint a secretary who shall not be a member of the board, who may receive such salary as may be fixed by the board of directors.

Sec. 8. POWERS OF HOSPITAL DISTRICT. Each hospital district shall have and exercise the following powers:

(a) To have and use a corporate seal.

(b) To sue and be sued in all courts and places and in all actions and proceedings whatever.

(c) To purchase, receive, have, take, hold, lease, use and enjoy property of every kind and description within the limits of the district, and to control, dispose of, convey and encumber the same and create a leasehold interest in same for the benefit of the district.

(d) To administer any trust declared or created for the hospital district, and received by gift, devise, or bequest and hold in trust or otherwise, property situated in this state or elsewhere, and where not otherwise provided, dispose of the same for the benefit of such hospitals.

(e) 1. The board of directors shall lease the hospital and its equipment for such term or period as it shall deem reasonable but not less than five (5) nor more than ten (10) years to a corporation not for pecuniary profit, duly organized under the laws of the state of Arizona for the purpose of conducting a hospital; provided that the rental to be received upon such lease shall be upon such terms as will provide a fair return to the district on its investment and shall be sufficient to meet the payments of principal and interest of any bonds issued

under the terms of this Act, and such amounts as may be necessary to meet the expenses of the district. Should the first lessee hereunder fail to make the payment of rental provided in the lease, the board shall forthwith cancel the lease for such failure and if then unable to re-lease the hospital and its equipment to a lessee of the kind above provided at a rental sufficient to meet the payments of principal and interest of any bonds issued under the terms of this Act, and such amounts as may be necessary to meet the expenses of the district, the board shall at public auction, of which at least four (4) weeks notice shall be given by publication in a newspaper published or of general circulation in the district, offer to lease the hospital and its equipment to the highest responsible bidder for such term as the board shall prescribe, and shall lease the same to the bidder who shall bid the highest rental for the prescribed period.

2. All rentals received from the lease of the hospital and its equipment shall be applied first against the expenses of the district other than for principal and interest on any bonds which may be issued, and secondly to the payment of principal and interest on issued and outstanding bonds.

(f) Any lease executed by the board of directors under subdivision (e) hereof shall also contain such terms and provisions as may be necessary to assure compliance by the district with any provisions of the hospital survey and construction Act, being Public Law 725 of the 79th Congress of the United States, approved August 13, 1946, or any amendment or amendments thereto.

Sec. 9. POWERS OF BOARD OF DIRECTORS. The board of directors may purchase all necessary surgical instruments and hospital equipment and all other property and supplies necessary for equipping a hospital. The board may purchase such real property, and erect or rent and equip such buildings or rooms as may be necessary for the hospital.

Sec. 10. BONDS. Bonds may be issued by the hospital district for the purpose of carrying out any of the provisions of this Act. In the event the board of directors determines that bonds should be issued, application shall be made to the board of supervisors by the said board of directors, and the board of supervisors shall submit to a vote of the real property taxpaying electors residing in the district such question in the manner as provided by law in Chapter 10, Article 6, Arizona Code, 1939, and if the majority vote of the electors voting on the issue shall approve, the bonds shall be issued as provided by law.

Any bonds issued hereunder may contain a provision requiring the establishment and maintenance of a reserve or reserves upon such terms as may be directed by the board of directors for the purpose of securing the payment of not to exceed interest and principal payments for a two-year period, for the purpose of protecting against any deficiency in rental payments or tax collections.

Sec. 11. EXPENDITURES OF MONEYS. All moneys received for such hospital district, from whatever source, shall be deposited with the county treasurer of the organized county to the credit of the hospital district, and paid out only upon warrants approved by the hospital board.

Sec. 12. COMPENSATION OF DIRECTORS. The members of the board of directors shall serve without compensation, except that each shall be allowed his actual necessary traveling and incidental expenses incurred in the performance of official business of the district as approved by the board, and statutory per diem when away from the district on business of the district.

Sec. 13. BUDGET. Annually, not later than July 15, the board of directors shall furnish to the board of supervisors of the county in which the district or any part thereof is situated, a report of the operation of the district for the past year, and an estimate in writing of the amount of money necessary to be raised by taxation for all purposes required or authorized by this Act during the next ensuing fiscal year. The board of supervisors of each county wherein is situated a district or any part thereof shall thereupon levy upon the taxable property of the district a tax sufficient in amount together with other funds on hand or accruing during the ensuing fiscal year, exclusive of reserves to meet the obligations of the district. The tax shall be computed, entered upon the tax rolls, and collected in the same manner as state and county taxes in the respective county or counties in which said district or any part thereof is located. All moneys collected on behalf of said hospital district shall be remitted promptly to and shall be handled by the county treasurer of the organizing county, as other special district funds are handled. Such district shall be governed by the budget limitation laws of the state of Arizona. In the event such district lies in more than one county, the total budget estimate as hereinabove provided shall be divided by the board of directors in proportion to the value of the real property included within the district in each county, such value to be determined from the equalized values of the last assessment rolls of such counties. When such division of the estimate has been made the board shall furnish the boards

of supervisors of the respective counties a written statement of that part of the estimates apportioned to each county.

Sec. 14. LIMIT OF INDEBTEDNESS. No hospital district shall incur a bonded indebtedness exceeding ten percent (10%) of the assessed value of all the taxable property in the district as shown by the last assessment roll of the county.

Sec. 15. CAPITAL OUTLAYS. The board of directors may establish a fund for capital outlays. At any time after the creation of a capital outlay fund, the board of directors may transfer to such fund any unincumbered surplus funds remaining on hand in the district at the end of any fiscal year. Whenever a capital outlay fund is established, it shall be used only for such purposes, except the board of directors may, by a four-fifths (4/5) vote of all members if it finds that the fund is no longer necessary or that there remain in the fund moneys which are no longer required for such purpose, discontinue the fund or transfer so much thereof as is no longer required for capital outlay purposes to the repayment of any bonds outstanding, or if there are no bonds outstanding, to any fund used for the payment of current expenses of the district.

Sec. 16. DISSOLUTION OF DISTRICTS. Any district organized under this Act may be dissolved by the majority vote of all real property taxpaying electors voting on the question of dissolution at a special election called to vote on the question. Such election shall be called by the board of supervisors upon application of the board of directors of the district, or upon the filing of a petition signed by 25% of the electors residing within the district. In the event any district is dissolved, all property, buildings, equipment, and other items owned by said district shall thereupon become the property of the county.

Sec. 17. EMERGENCY. To preserve the public peace, health, and safety it is necessary that this Act become immediately operative. It is therefore declared to be an emergency measure, to take effect as provided by law.

Approved by the Governor—March 12, 1949.

Filed in the Office of the Secretary of State—March 14, 1949.