

DEVELOPMENT AGREEMENT

Dated as of June 6, 2006

by and between

THE CITY OF NEW HAVEN

and

YALE-NEW HAVEN HOSPITAL, INC.

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THIS DEVELOPMENT AGREEMENT (this “Agreement”) is made and entered into as of the 6th day of June, 2006, by and between **THE CITY OF NEW HAVEN**, a municipal corporation existing under the laws of the State of Connecticut, with an address at 165 Church Street, New Haven, Connecticut 06510 (as more particularly defined below, “City”), and **YALE-NEW HAVEN HOSPITAL, INC.**, a Connecticut non-profit corporation, with an office at 20 York Street, New Haven, Connecticut 06504 (as more particularly defined below, “Hospital”). Capitalized words and terms used herein have the respective meanings assigned to such words and terms in Article I of this Lease.

RECITALS:

WHEREAS, Hospital has proposed and the City has approved a Site Plan for the development of a state-of-the-art cancer center on its campus in New Haven, Connecticut to provide comprehensive and effective diagnostic and treatment services for cancer patients (the “Cancer Center/North Pavilion”); and

WHEREAS, Hospital and the City desire the development of other properties proximate to the Cancer Center/North Pavilion, for uses related or complementary thereto, including specifically, development of a mixed-use project including an 845-car parking garage with a mix of retail, commercial and housing on Lot E and development of an approximately 165,000 square foot medical office building on Park Street (individually the “Lot E Project” and the “Park Street Project”, and related improvements (including the Traffic Improvements), collectively with the “Cancer Center/North Pavilion, the “Cancer Center Project” or the “Project”); and

WHEREAS, City has agreed to lease to the Hospital the parcels on which each of the Lot E Project and the Park Street Project are to occur, pursuant to the terms of certain Ground Leases, and, upon satisfaction of certain conditions, more specifically set forth therein, to convey to the Hospital (or an approved developer) the parcels, subject to the terms of Land Disposition Agreements; and

WHEREAS, in partial consideration of City’s commitment to lease and convey such parcels to Hospital (or an approved developer), Hospital has agreed to undertake certain commitments to the City and the community as requested by City, as set forth in this Agreement; and

WHEREAS, in partial consideration of the Hospital’s agreement to provide these commitments to the City and the community as requested by the City, as set forth in this Agreement, the City has agreed to undertake certain obligations in connection with the timely development of the Cancer Center Project; and

WHEREAS, the parties agree that each party's commitments as set forth in this Agreement are necessary conditions to the obligations of the other as more fully set forth in this Agreement.

NOW, THEREFORE, City and Hospital agree as follows:

ARTICLE I

DEFINITIONS

Section 1.01 Defined Terms.

For the purposes of this Agreement, the following terms shall mean:

“Agreement” is defined in the first paragraph hereof, and includes any amendments, modifications or supplements hereto from time to time enacted in accordance herewith.

“City” shall mean The City of New Haven, Connecticut, organized and existing by virtue of an act of the General Assembly of the State of Connecticut and shall include any of its boards or commissions, and any successor in interest whether by operation of law, or otherwise. The City Economic Development Administrator is authorized to act on behalf of City to implement the provisions of this Agreement.

“CPI” is defined in Section 3.01(k).

“Environmental Conditions” means any conditions which, under applicable Environmental Laws, require testing, remediation or monitoring.

“Environmental Laws” means any and all laws, statutes, ordinances, rules, regulations, and orders of any Governmental Authority pertaining to the environment, including the federal Clean Water Act, the federal Clean Air Act, the federal Comprehensive Environmental Response, Compensation and Liability Act of 1980, the federal Water Pollution Control Amendments, the federal Resource Conservation and Recovery Act of 1976, the federal Hazardous Materials Transportation Act of 1975, the federal Safe Drinking Water Act, the federal Toxic Substances Control Act, and any comparable or similar environmental laws of the State, including Title 22a of the General Statutes.

“Event of Bankruptcy” means any of the following: (a) if a receiver or custodian is appointed for all or a substantial portion of Hospital's property or assets which appointment is not dismissed within one hundred eighty (180) days; (b) if Hospital files a voluntary petition under the United States Bankruptcy Code or any other bankruptcy or insolvency laws; (c) if there is an involuntary petition filed against Hospital as the subject debtor under the United States Bankruptcy Code or any other bankruptcy or insolvency laws, which is not dismissed within one hundred eighty (180) days of filing, or which results in the issuance of an order for relief against the debtor; or (d) if Hospital makes or consents to an assignment of its assets, in whole or in part, for the benefit of creditors, or a common law composition of creditors.

“Existing Environmental Conditions” means any Environmental Conditions at the Property existing on the date of this Agreement.

“General Statutes” means the General Statutes of the State of Connecticut, 1958 Revision, as amended.

“Governmental Authorities” means all federal, state or local governmental bodies, instrumentalities or agencies (including municipalities, taxing, fire and water districts and other governmental units).

“Ground Lease” shall mean collectively, those two certain Ground Leases between City, as Landlord, and Hospital, as Tenant, with respect to the Property, as referenced in the Recitals.

“Hazardous Materials” means (i) any chemical, compound, material, mixture or substance that is now or hereafter defined as or included in the definition of “hazardous substances,” “hazardous wastes,” “hazardous materials,” “extremely hazardous waste,” “restricted hazardous waste” or “toxic substances” or terms of similar import under any applicable federal, state or local law, or under the regulations adopted or promulgated pursuant thereto, including Environmental Laws; (ii) any oil, petroleum or petroleum derived substance, any flammable substances or explosives, any radioactive materials, any hazardous wastes or substances, any toxic wastes or substances, or any other materials or pollutants which cause any part of any facility, structure or improvement to be in violation of any Environmental Laws; and (iii) asbestos in any form, urea formaldehyde foam insulation, and electrical equipment which contains any oil or dielectric fluid containing levels of polychlorinated biphenyls in excess of applicable legal or regulatory limits.

“Hospital” shall mean, Yale-New Haven Hospital, Inc., a Connecticut non-profit corporation, and shall include any successors or permitted assigns whether by operation of law or otherwise, but shall not mean mortgagees. The Senior Vice President of Administration shall be the point person for the Hospital.

“Project” or “Cancer Center Project” shall have the meaning set forth in the Recitals.

“Project Schedule” shall mean the projected schedule for the development of the Cancer Center Project attached hereto as **Exhibit A**.

“Property” shall mean that property known as Lot E (2 Howe Street) and 55 Park Street located within the Route 34 corridor in New Haven, Connecticut, as more particularly described in the Ground Lease.

Section 1.02 Interpretation.

(a) Words such as “hereunder,” “hereto,” “hereof” and “herein” and other words of similar import shall, unless the context requires otherwise, refer to the whole of this Agreement and not to any particular article, section, subsection, paragraph or clause hereof.

(b) A reference to “including” means including without limiting the generality of any description preceding such term and for purposes of this Agreement the rule of *ejusdem generis* shall not be applicable to limit or restrict a general statement, followed by or referable to an enumeration of specific matters, to matters similar to, or of the same type, class or category as, those specifically mentioned.

(c) Any reference to “days” shall mean calendar days unless otherwise expressly specified.

(d) Any reference to any statute, law or regulation includes all statutes, laws or regulations amending, consolidating or replacing the same from time to time, and a reference to a law or statute includes all regulations, codes or other rules issued or otherwise applicable under such law or statute unless otherwise expressly provided in such law or statute or in this Agreement. This rule of interpretation shall be applicable in all cases notwithstanding that in some cases specific references in this Agreement render the application of this rule unnecessary.

(e) All approvals, consents, waivers, acceptances, concurrences and permissions required to be given or made by any party hereunder shall not be unreasonably withheld, delayed or conditioned by the party whose approval, consent, waiver, acceptance, concurrence or permission is required, whether or not expressly so stated, unless otherwise expressly provided herein. Wherever under this Agreement “reasonableness” is the standard for the granting or denial of any approval, consent, waiver, acceptance, concurrence or permission of any party hereto, City shall be entitled to consider governmental considerations, as well as business and economic considerations.

(f) City and Hospital have participated in the drafting of this Agreement and any ambiguity contained in this Agreement shall not be construed against City or Hospital solely by virtue of the fact that either City or Hospital may be considered the drafter of this Agreement or any particular part hereof.

ARTICLE II

REPRESENTATIONS AND WARRANTIES

Section 2.01 Representations and Warranties of Hospital.

Hospital represents, warrants and covenants that (a) Hospital is a non-profit corporation, duly organized and existing under the laws of the State of Connecticut; (b) Hospital has the legal authority to enter into and carry out the transactions to which it is proposed to be a party; (c) the execution and delivery of this Agreement by Hospital has been duly and validly authorized by all necessary action; and (d) this Agreement is a legal, valid and binding obligation of Hospital, enforceable against Hospital in accordance with its terms.

Section 2.02 Representations and Warranties of City.

City represents and warrants that (a) City is a municipal corporation validly existing under the laws of the State of Connecticut, (b) City has the legal power and authority to execute and deliver this Agreement and to carry out its terms and provisions, (c) said execution and delivery have been duly and validly authorized by all necessary action, and (d) this Agreement is a legal, valid and binding obligation of City, enforceable against City in accordance with its terms.

ARTICLE III

COVENANTS

Section 3.01 Covenants of Hospital.

Hospital hereby covenants and agrees as follows:

(a) Economic Development Payment. For each of the twelve (12) month periods commencing on, respectively, October 1, 2007, October 1, 2008, October 1, 2009 and October 1, 2010, Hospital shall pay to City \$300,000 (i.e., \$1,200,000 aggregate) for housing and economic development in the neighborhoods adjacent to Hospital's campus. Such payment shall be made no later than November 1 of each such twelve (12) month period. City's Economic Development Administrator shall determine the allocation and uses of such funds, and Hospital shall not be responsible for such allocation and use.

(b) Career Ladder Program. Hospital shall provide \$100,000 per year no later than July 1 of each year starting July 1, 2006, for at least five (5) years to establish career ladder programs that will allow Yale New Haven employees employed in entry level non-healthcare positions and one hundred (100) residents from the neighborhoods surrounding Hospital's campus, the opportunity to enter the healthcare field. It is anticipated that at least twenty-five (25) individuals will be served by this program annually. This funding shall support recruitment, training, and education for positions such as nurses' aides, respiratory therapists, phlebotomists, x-ray technicians, laboratory technicians, radiology technicians, diagnostic medical sonogram technicians, nuclear medicine technicians, dietary technicians and other healthcare related jobs. Hospital shall submit an annual report that includes the number of employees enrolled in career ladder programs (identifying each program), the positions presently held by each such employee and salary range, the number of employees promoted, the number of residents enrolled in each program, the number graduating from each program and the number hired, to the City's Community Services Administrator.

(c) Nursing Career Ladder Program. No later than July 1, 2006, Hospital shall increase its commitment to its existing nursing career ladder program from \$100,000 annually to a minimum of \$200,000 annually, for a minimum of five (5) years. Such program shall be

designed to create employment opportunities in the nursing field for residents of the City of New Haven. It is anticipated that at least thirty (30) individuals will be served by this program bi-annually. Hospital shall deliver to City's Community Services Administrator an annual report on the program, showing Hospital's compliance with the requirements of this Section 3.01(c). Hospital's contribution under this Section 3.01(c) shall be in addition to its contributions under Section 3.01(b) above.

(d) Outreach Coordinators. Commencing in 2006, Hospital shall make an annual investment of \$140,000 before July 1 of each year, for a minimum of five (5) years, to fund two (2) new City positions: an asthma outreach coordinator and an uninsured children's outreach coordinator. City shall have sole authority for the selection of the individuals to fill these positions. Such individuals shall coordinate with representatives of Hospital in order to identify and serve children residing in the City of New Haven who either (i) suffer from asthma or asthma-related conditions, or (ii) are not covered by health insurance.

(e) Medical Area Planning. Hospital will participate in Phase II of the medical area planning study to be conducted by City and involving a number of other healthcare providers and other institutional participants located in the City of New Haven, including Yale University, Yale School of Medicine and Connecticut Mental Health Center. One (1) resident of the City of New Haven appointed by the Mayor and two (2) residents from the development area (one from the Hill Neighborhood, one from the Dwight Neighborhood) recommended by the Aldermen of the development area in consultation with the Hospital and appointed by the President of the Board of Aldermen will participate in the medical area planning study. Hospital shall contribute toward the cost of such study in proportion to the total Phase I and Phase II contributions of the other institutional participants; provided, however, in no event shall Hospital be required to contribute more than \$75,000 to such study. The scope of such study and any participants other than those specifically identified above shall be reasonably acceptable to both Hospital and City.

(f) Traffic Improvements. No later than July 1, 2008, Hospital shall complete at its sole expense installation of the twelve (12) traffic-actuated signals at the intersections of North and South Frontage Road and the following streets: Orchard, Dwight, Howe, Park, York and College, and shall be completed in a manner reasonably acceptable to the City of New Haven Traffic and Parking Department and the City Engineer.

(g) Youth Initiative. Hospital will contribute \$100,000 per year for a minimum of five (5) years to the Youth Initiative established by the Mayor of the City of New Haven. Such contribution shall be made prior to July 1 in each year, commencing July 1, 2006.

(h) Parking Demand Management Plan. No later than December 31, 2006, Hospital will prepare and submit to City a draft parking demand management plan, setting forth Hospital's efforts to encourage use of public transportation, car pooling and other actions designed to reduce the number of cars parking in and around Hospital's campus. In preparing such plan, Hospital will consult with the City of New Haven Department of Traffic and Parking and the New Haven City Plan Commission. The draft parking demand management plan will be subject to public comment at a public meeting of the New Haven City Plan Commission. Hospital shall establish a parking demand management advisory committee, including a

representative of the Board of Aldermen, the Director of Traffic and Parking, the Director of the New Haven Parking Authority, a representative of the Yale Medical School, one (1) resident of the City of New Haven appointed by the Mayor (subject to the reasonable approval of the Hospital), two (2) residents from the development area recommended by the Aldermen of the development area in consultation with the Hospital and appointed by the President of the Board of Aldermen and shall provide annually, no later than December 15 of each year, to the Executive Director of the New Haven City Planning Department a progress report on the implementation of its parking demand management program.

(i) City Residents. Commencing in calendar year 2006 and continuing for not less than five (5) years, Hospital shall hire in each calendar year no less than 100 residents of the City of New Haven for full-time positions with Hospital. Hospital shall direct its recruiting efforts for such positions so as to maximize the number of positions filled by residents of the neighborhoods surrounding Hospital's campus, to the extent feasible. As part of this effort, Hospital shall establish a comprehensive training program for residents through a collaborative effort that includes institutional and organizational partners, such as educational institutions of higher learning and work force development organizations.

(j) Citizen's Advisory Committee. Hospital will establish a citizen's advisory committee to review issues and advise on free care policies, publish an annual report to be made publicly available, and create a comprehensive program by December 31, 2006 to enhance the numbers of patients who receive financial assistance and federal or state entitlements. Membership on such committee shall consist of one (1) city official to be designated by the Mayor, one (1) member of the Board of Aldermen representing the majority party and appointed by the President of the Board of Aldermen, one (1) member of the Board of Aldermen representing a minority party and appointed by the President of the Board of Aldermen, one (1) member of the Board of Aldermen's Human Services Committee and appointed by the President of the Board of Aldermen, two (2) members of the Ecumenical Free Bed Fund Committee, one (1) member of ASHA/SHOUT or its successor, one (1) representative from the Hill Health Clinic, one (1) representative from Fair Haven Health Clinic, two (2) community members at large jointly agreed to by the Hospital and the Mayor, and two (2) representatives of the Hospital administration. Members shall serve for two (2) year terms. It is the intention of the parties that such committee shall remain in place until the earlier of (a) termination of this Agreement, or (b) Hospital and City mutually agree that such committee is no longer necessary or useful for its intended purpose.

(k) Voluntary Payment. Beginning on or before June 1, 2006 and on or before the anniversary of that date in each year thereafter for a period of no fewer than five years, Hospital shall make a voluntary payment to City based on the following formula:

The product of (i) the sum of (A) the average number of full-time equivalent Hospital employees (FTEs) during the prior year, plus (B) the average number of Hospital beds maintained for patients during the prior year, times (ii) \$250. In 2006 and all subsequent years that the Hospital makes this voluntary payment, the multiplier will be \$250 multiplied by 1 plus the percentage change in the Consumer Price Index for All Urban Consumers, All Items, U.S. City Average (1982 – 1984 equals 100), as published by the U.S. Bureau of Labor Statistics

("CPI"), between the CPI in April 2006 and the CPI in April of the year the voluntary payment is made. Should CPI be discontinued, Hospital shall substitute a reasonably comparable alternate index of inflation. For administrative purposes, Hospital will recalculate the number of FTEs and beds on both the third anniversary of the date of the initial payment and upon the opening of the North Pavilion/Cancer Center, and, thereafter, upon the third anniversary of the last of those two recalculations and shall use the revised number for the following three years (i.e. the first recalculation in 2009 will be the basis for payments in 2009, 2010, 2011 provided that if the North Pavilion/Cancer Center opens in 2010, the basis for the payments in 2011, 2012, 2013 shall be a recalculation reflecting the building's opening). At the time of each such recalculation, Hospital will certify to City the average number of its full-time equivalent employees and the average number of Hospital beds in the prior year.

The Hospital may elect to discontinue such voluntary payments after the initial five-year period. The Hospital will give the City one year's prior written notice and make two, final contributions, each equal to one-half of the last full contribution in each of the two years following the discontinuance notice.

Hospital shall receive a credit toward the amount of the voluntary payment payable in a year for each of the following:

(i) its payment in such year toward the career ladder program, as described in Section 3.01(b);

(ii) its payment in such year toward the nursing career ladder program in excess of \$100,000, as described in Section 3.01(c) (Hospital not to receive any such credit for its first \$100,000 paid toward such program in a year);

(iii) its payment in such year of \$140,000 for the outreach coordinators, as described in Section 3.01(d);

(iv) any amounts paid by Hospital in such year for the traffic improvements described in Section 3.01(f) in excess of \$1,200,000 (Hospital not to receive any credit for the first \$1,200,000 spent on such improvements);

(v) its payments in such year toward the Youth Initiative, as described in Section 3.01(g); and

(vi) any (A) payments-in-lieu of taxes imposed on the Hospital, or (B) payments of taxes on Hospital-owned property that is currently exempt from real property taxes made by the Hospital to the City.

(l) Indemnification. Hospital shall indemnify, defend and hold harmless City and its officials, employees and agents (the "Indemnified Parties" and each an "Indemnified Party") from and against any and all liability, fines, suits, claims, demands, judgments, actions, or losses, penalties, damages, costs and expenses of any kind or nature, including, without limitation, reasonable attorneys' fees made or asserted by anyone whomsoever, due to or arising out of any

Environmental Conditions on the Property, including Existing Environmental Conditions. Hospital shall conduct any defense pursuant to its obligations under this paragraph with counsel of its choosing which is reasonably acceptable to City. If Hospital is required to defend any action or proceeding pursuant to this paragraph, to which action or proceeding City desires to be made a party, City shall be entitled to appear, defend, or otherwise take part in the matter involved, at City's election and sole cost, by counsel of its own choosing, provided any such action does not limit or make void any liability of any insurer hereunder with respect to the claim or matter in question. Hospital's liability under this paragraph to any Indemnified Party shall be reduced by (i) the net insurance proceeds actually received by such Indemnified Party, from any insurance obtained by Hospital or City, and (ii) proceeds received by such Indemnified Party from any third party. In connection with any claim subject to indemnification under this paragraph, the Indemnified Party shall cooperate with respect to the defense and/or settlement of any claim as to which an indemnity is provided by this paragraph. This indemnification clause shall survive the termination or expiration of this Agreement for a period of ten years, provided the City is not then in default hereunder.

(m) Park Street Patient Parking. The Board of Aldermen has approved the use of eleven (11) on-street parking spaces situated on Park Street for purposes of short-term patient parking (the "Parking Spaces". With respect to the Hospital's use of these Parking Spaces, the following shall apply:

(i) Management of parking operations shall be undertaken by a professional parking space operator as part of the Hospital's overall management of parking spaces (now or hereafter existing) serving the Cancer Center and/or Yale New Haven Hospital as a whole.

(ii) The City shall remove the parking meters currently operating with respect to the Parking Spaces.

(iii) From Monday through Friday, Hospital shall operate the Parking Spaces on a valet parking basis, 6:00am through 8:00pm (the "Hospital Priority Hours"). During the Hospital Priority Hours on weekends, the Parking Spaces may be used by Hospital as priority parking for the Cancer Center on such basis as Hospital shall reasonably determine. Any increase or decrease in the valet parking (days or hours) shall require the written approval of the City's Director of Traffic and Parking, which shall not be unreasonably withheld. During non-Hospital Priority Hours, the Parking Spaces shall be available for general public use.

(iv) Hospital shall be responsible for erecting appropriate signage concerning the provisions of Section 3.01 (m) (iii) above, subject to the reasonable approval of the City's Director of Traffic and Parking.

(v) Hospital security shall be responsible for enforcement issues arising out of the provisions of this Section 3.01 (m) (v), including the issuance of parking tickets (for so long as Hospital Security continues to have the right to issue parking tickets in general) provided that any towing of vehicles must be authorized and ordered by the New Haven Police Department, or by the Department of Traffic and Parking. It is understood that except as aforesaid, the City shall

not be responsible for enforcement. The City shall cooperate with the Hospital in ordering towing necessary to make the Parking Spaces available during the Hospital Priority Hours.

(vi) Except as otherwise set forth herein, the public right of way on Park Street and any and all rights of the City appurtenant thereto, shall not impair, interfere or in any manner limit the City's right to maintain and/or alter the public right of way and all utilities thereunder, which may include the temporary closure of the Parking Spaces from time to time.

(vii) Hospital shall hold the City harmless from and indemnify the City against, all liability arising from the use of the Parking Spaces during the Hospital Priority Hours, unless caused by the gross negligence or willful misconduct of the City, and shall carry public liability insurance in an amount reasonably acceptable to the City with respect to any such liability, with the City named as an additional insured, and shall deliver to the City a certificate of such insurance on an annual basis.

Section 3.02 Covenants of City.

City hereby covenants and agrees as follows:

(a) Support for Project. City shall work collaboratively and in good faith with Hospital and any approved private developer to bring to fruition the Cancer Center Project, provided that City shall not be obligated to expend material sums in fulfilling such covenant. Without limiting the foregoing, the City shall exercise its obligations and its rights with respect to developer approval, design approval, extension of the term of the Ground Lease or such other approvals and consent as are set forth, in a manner consistent with its obligation to support the Cancer Center Project and the Project Schedule attached hereto as **Exhibit A.**

(b) City Approval of Developer. The City and the Hospital agree that it is desirable for the Hospital to assign its rights and obligations under each Ground Lease, including, specifically, the purchase option thereunder, to one or more private developers to develop the proposed Project for each Property. The City (acting through its Economic Development Administrator and the Executive Director of the City Plan Department) shall have the right to reasonable approval of the developer for each Project as follows: For each Property, the Hospital shall deliver to the City a list of no fewer than eight (8) developers to whom it intends to send a Request for Proposal (RFP) for development of each Project, along with the proposed form of RFP. The City shall have five (5) business days from receipt within which to notify the Hospital of any developers of which it disapproves or developers on the list about whom it wishes additional information not readily available to it online, and to provide any suggested revisions of the RFP. The Hospital shall provide the revised RFP to the City at least five (5) business days prior to distribution to developers. The Hospital shall deliver the RFP to all developers on its list other than those disapproved, provided it shall send an RFP to no fewer than four (4) developers. Hospital shall share with the City the RFP responses. The City (acting through its Economic Development Administrator and the Executive Director of the City Plan Department), shall, at its option, participate in the developer interviews. Upon completion of an initial developer review and interview process conducted by the Hospital, the Hospital shall select a developer from

among the developers not disapproved by the City, and the Hospital shall notify the City of the preferred Developer. The Hospital's developer selection process will remain confidential and proprietary until a formal arrangement with the Developer is reached.

(c) City Participation in Design of Improvements. The City shall have the opportunity (acting through its Economic Development Administrator and the Executive Director of the City Plan Department) to participate in the design process for each Project as follows: The Hospital shall consult with the City on the requirements and project description set forth in the RFP and the City shall suggest specific requirements and project descriptions it considers important. Thereafter, with respect to each Project, the Hospital shall deliver to the City schematic design drawings for the Project reasonably consistent with the RFP. The City shall have fifteen (15) days after receipt to provide written comments on the schematic design, specifying recommended alterations. Upon resubmission of the schematic design drawings, the City shall have four (4) weeks within which to hold two meetings for community review of the schematic design for the Lot E Project (one in the Hill neighborhood and a second in the Dwight and West River neighborhoods) and provide additional comments, in writing, to the Hospital. Upon resubmission of revised schematic design drawings, the City and the Hospital design team shall meet within five (5) days to endeavor to resolve any differences. This review process shall be in addition to and not in lieu of Site Plan review by the City Plan Commission. The City shall be reasonable in its proposals with consideration given to the visual impact that the design would have on the surrounding neighborhood, market conditions and economic viability of the Project, pedestrian enhancements, and the reasonable needs and concerns of the community, the developer and the Hospital, and shall, in any event, allow for the following improvements:

(i) The improvements on the Park Street property are to consist of a multi-story medical office building to serve as an adjunct to the new North Pavilion/Cancer Center, having approximately 170,000 sq. ft with approximately 13,000 sq. ft of retail along Park Street. As planned, the Park Street Building will include the transportation tower connecting loading docks beneath the building and/or the adjacent Air Rights Garage with the North Pavilion/Cancer center via a tunnel under South Frontage Rd. and a pedestrian walkway above.

(ii) The improvements on the Lot E are to consist of a structured parking facility of no more than 6 levels above ground level, with approximately 845 parking spaces (472 to satisfy zoning for the North Pavilion plus 273 to replace surface parking spaces currently on Lot E plus an additional 100 spaces), with mixed-use space appropriately wrapping the parking facility (which may include retail, office and housing) at street level and on other levels, to be designed in such a way as to blend in with the surrounding neighborhood. The composition and design of the mixed use space shall be determined taking into account the visual impact that the improvements will have on the surrounding neighborhood, market conditions and economic viability, pedestrian enhancements and the reasonable needs and concerns of the community, the Approved Developer and the Hospital.

(d) Traffic Improvements. City acknowledges and agrees that the Department of Traffic and Parking and the New Haven Parking Authority have indicated their support for the Hospital's Application to the State Traffic Commission, filed on May 8, 2006. The Application includes preliminary plans for (i) certain traffic improvements at the east end of the Air Rights

Garage (“ARG”), including, specifically a roundabout to permit direct access to the ARG from Route 34, (ii) modifications to the ramp system on the south side of the ARG to permit direct egress from the ARG to Route 34, and (iii) modifications to the internal ARG ramps (collectively, the “Traffic Improvements”). The City shall work cooperatively with Hospital (or the private developer selected in accordance with the Ground Lease) in finalizing expeditiously the plans for such improvements and in seeking all necessary approvals for the Traffic Improvements from (A) the State of Connecticut Department of Transportation for Traffic Improvements, and (B) the State Traffic Commission in connection with the Cancer Center/North Pavilion, the Lot E Project and the Park Street Project

(e) Easements, Licenses and Access. The Board of Aldermen has authorized the Mayor to enter into certain permanent easements and/or licenses for the South Frontage tunnel and bridge, the Under Air Rights Garage loading dock, South Frontage and Park Street earth retention systems, and other improvements and utilities, vaults, footings other similar purposes, to permit or facilitate performance of the Developer’s obligations with respect to the Construction Work or the use or maintenance of its facilities, will be required, and the parties have agreed that such easements and licenses shall be substantially in the forms that are attached hereto as **Exhibit B**. The City and the New Haven Parking Authority acknowledge that additional licenses or easements for similar and related purposes may be required. The future granting of all such easements and licenses are hereby approved in principle; provided that the Developer shall provide City and/or the New Haven Parking Authority, as the case may be, with detailed plans of those improvements that will be the subject of the easements and licenses in question for final approval by the City’s Economic Development Administrator and/or the Executive Director of the New Haven Parking Authority, which approval will not be unreasonably withheld, conditioned or delayed; and provided further that with respect to any such license or easement granted by the City, the Developer shall comply with customary City requirements with respect to insurance.

ARTICLE IV

DEFAULT

Section 4.01 Events of Default.

- (a) The following shall constitute an Event of Default by Hospital:
 - (i) an Event of Bankruptcy;
 - (ii) a failure to perform any monetary covenant on the part of Hospital to be performed, and to cure such failure within five (5) business days of notice thereof from City; and
 - (iii) a failure to perform any other covenant or condition of this Agreement on the part of Hospital, and to cure such failure within thirty (30) days of

notice thereof from City or such longer time as may be required to cure such failure provided Hospital has commenced and is diligently pursuing such cure.

- (b) The following shall constitute an Event of Default by City:
 - (i) a failure to perform any covenant or condition of this Agreement on the part of City, and to cure such failure within thirty (30) days of notice thereof from Hospital or such longer time as may be required to cure such failure provided City has commenced and is diligently pursuing such cure.

Section 4.02 Remedies

- (a) Hospital and City acknowledge and agree:
 - (i) that in securing the covenants and agreements of Hospital in this Agreement, City is and shall be acting on behalf of and is vested with the public rights and interests of the citizens of the City of New Haven;
 - (ii) that the terms and provisions of this Agreement are unique matters of public interest; that the performance called for by this Agreement is unique and cannot be replaced by any substitute performance; and that it is essential to the preservation and betterment of the public welfare that the Hospital and City perform and discharge their obligations hereunder; and
 - (iii) that the failure of Hospital or City to perform their obligations hereunder would constitute irreparable harm that is not adequately compensable by money damages or other remedies at law.

In light of the foregoing circumstances, the parties agree that either party shall be entitled to specific performance and other equitable relief for any breach of the covenants set forth in this Agreement, and the Hospital and City consent to the entry of temporary or permanent injunctive relief to enjoin any actual or threatened breach of such covenants. The Hospital and City further specifically acknowledge and agree that, consistent with applicable rules of procedure and case law and the most common use of terms therein, the injury from any such breach is real, specific, immediate and irreparable, and that no bond shall be required to be posted prior to the award of any injunctive or other equitable relief.

(b) Without limiting the provisions of Section 4.02(a) and except as set forth in Section 4.04 and subject to the provisions of Section 4.03, each party hereto shall have all rights and remedies available to it at law and equity upon an Event of Default by the other party. The Hospital shall have the right (there being no continuing occurrence of an Event of Default by the Hospital) to terminate this Agreement by written notice to the City upon an Event of Default by the City occurring and continuing, subject to the rights of the parties under the provisions of Section 4.03. The parties agree that the provisions of Section 4.03(a) shall be mandatory; the arbitration proceeding described in Section 4.03(b) may be invoked by either party, but is

mandatory on neither. In the event the Hospital alleges a default by the City on its obligations under Section 3.02, the Hospital is entitled to suspend performance of its obligations under Section 3.01 following delivery of a Notice of Dispute (as defined in Section 4.03(a)) until issuance of the arbitrator's decision or earlier resolution of the dispute in accordance with Section 4.03(a). In the event the dispute is not resolved through negotiation pursuant to Section 4.03(a) within 30 days after delivery of a Notice of Dispute and neither party invokes the arbitration proceeding set forth in Section 4.03(b), then this Agreement shall terminate and be of no further force and effect except as otherwise set forth elsewhere in this Agreement. Hospital's right to terminate this Agreement shall cease upon the City's issuance of a final Certificate of Occupancy for the North Pavilion/Cancer Center and Certificates of Completion for each of the Lot E Project and the Park Street Project.

Section 4.03 Dispute Resolution Procedure

(a) City and Hospital agree that they shall endeavor to resolve any dispute that may arise under this Agreement through good faith negotiations, prior to submitting to binding arbitration pursuant to clauses (b) through (e) of this Section 4.03. Either party may initiate negotiations by providing written notice ("Notice of Dispute") in letter form to the other party setting forth: (i) the subject of the dispute; (ii) the party's position, (iii) the relief requested, and (iv) whether JAMS or the American Arbitration Association ("AAA") (the "designated arbitration firm") would be the designated arbitration firm in the event the arbitration provision in clause (b) below is invoked. Within five (5) business days of delivery of the Notice of Dispute, the receiving party shall respond in writing with a statement of its position. At the request of either party, representatives of each party with full settlement authority shall meet at a mutually agreeable time and place in the City of New Haven within ten (10) days of the Notice of Dispute in order to attempt to negotiate in good faith a resolution to the dispute.

(b) If the dispute is not resolved in accordance with clause (a) above within thirty (30) days of delivery of the Notice of Dispute or such other time as may be agreed to in writing by both parties, either party may commence binding arbitration. The party filing the demand for arbitration shall name one arbitrator at the time it files a demand for arbitration with the designated arbitration firm, and the other party shall name a second arbitrator within five (5) days of the date the demand is received by the designated arbitration firm. The two arbitrators so selected shall appoint a third arbitrator from a list provided by the designated arbitration firm, within five (5) days' of receipt of said list. If either party fails to name an arbitrator within the time prescribed in this Section or if the arbitrators appointed by the parties do not appoint a third arbitrator within the time prescribed in this Section, the designated arbitration firm shall make the appointment. Such arbitration hearing shall occur in the City of New Haven and shall commence within thirty (30) days of the appointment of the third arbitrator or such later time as the parties shall agree to in writing.

(c) Upon the request of either party, the arbitrators will determine what pre-hearing discovery is necessary or desirable for a full airing of the facts to render a fair and equitable judgment and set a schedule for such discovery. The arbitrators shall issue a written reasoned opinion within thirty (30) days of the arbitration hearing. The decision of the arbitrators shall be binding upon the parties.

(d) This Dispute Resolution provision may be enforced, and any arbitral award may be confirmed and enforced, and judgment entered thereon, in the state or federal courts of Connecticut.

(e) The prevailing party shall be entitled to reimbursement of all costs and expenses incurred in connection with any such arbitration and any judicial review thereof, including, but not limited to attorney's fees.

Section 4.04 Consequential Damages.

Neither Hospital nor City shall be entitled to indirect, special or consequential damages for an Event of Default.

ARTICLE V

GENERAL PROVISIONS

Section 5.01 Notices.

(a) Except as otherwise provided in this Agreement, any notice or approval required or permitted to be given under this Agreement shall be in writing and shall be considered to have been given upon the earlier of (i) receipt, (ii) three (3) business days after deposit in the United States mail, registered or certified mail, postage prepaid, return receipt requested, or (iii) day of delivery by hand, and addressed as set forth below.

If to Hospital: Via Hand Delivery:

Yale-New Haven Hospital, Inc.
789 Howard Avenue
New Haven, CT 06510
Attention: Norman G. Roth,
Senior Vice President, Administration

Via Registered/Certified Mail:

Yale-New Haven Hospital, Inc.
20 York Street
New Haven, CT 06504
Attention: Norman G. Roth
Senior Vice President, Administration

With a copy to:

Susan J. Bryson, Esq.
Wiggin and Dana LLP
P.O. Box 1832
One Century Tower
New Haven, CT 06508-1832

If to City: Economic Development Administrator
City of New Haven
165 Church Street
New Haven, CT 06510
Attention: Kelly Murphy

With copies to:

City of New Haven
165 Church Street
New Haven, CT 06510
Attention: John R. Ward
Deputy Corporation Counsel

Joseph P. Williams, Esq.
Shipman & Goodwin LLP
One Constitution Plaza
Hartford, CT 06103-1919

(b) Each party shall have the right to change the place or person or persons to which notices, requests, demands, and communications hereunder shall be sent or delivered by delivering a notice to the other parties.

Section 5.02 No Waiver.

No failure on the part of City or Hospital to enforce any covenant or provision herein contained, nor any waiver of any right hereunder by the other, shall discharge or invalidate such covenant or provision or affect the right to enforce the same in the future. No default shall be deemed waived by either party unless such waiver is in writing and designated as such and signed by such party, and such waiver shall not be a continuing waiver but shall apply only to the instance of default for which it is granted.

Section 5.03 Rights Cumulative.

The rights and remedies conferred upon either party hereby are in addition to any rights or remedies to which either party may be entitled at law or in equity.

Section 5.04 Successors.

This Agreement shall be binding upon and inure to the benefit of the successors and permitted assigns of the respective parties to this Agreement. Notwithstanding the preceding sentence, Hospital shall not be authorized or permitted to assign this Agreement to any other party without the prior consent of City, which may be withheld in City's sole discretion.

Section 5.05 Severability.

If any term, provision or condition contained in this Agreement shall, to any extent, be invalid or unenforceable, the remainder of this Agreement or the application of such term, provision or condition to persons or circumstances (other than those in respect of which it is invalid or unenforceable) shall not be affected thereby, and each term, provision and condition of this Agreement shall be valid and enforceable to the fullest extent permitted by law provided each party shall have substantially received the benefit of the Agreement accruing to it.

Section 5.06 Governing Law.

This Agreement shall be governed by and construed in accordance with the internal laws of the State of Connecticut, without regard to its conflicts of law principles.

Section 5.07 Waiver of Jury Trial.

EACH OF THE PARTIES HERETO HEREBY IRREVOCABLY WAIVES, AS AGAINST THE OTHER PARTY HERETO, ANY RIGHTS IT MAY HAVE TO A JURY TRIAL IN RESPECT TO ANY CIVIL ACTION ARISING UNDER THIS AGREEMENT TO THE EXTENT PERMITTED BY LAW.

Section 5.08 No Partnership, Joint Venture or Agency.

Nothing contained herein or done pursuant hereto shall be deemed to create, as among the parties, any partnership, joint venture or agency relationship.

Section 5.09 Amendments.

The parties hereto agree that the provisions of this Agreement may be modified or amended, in whole or in part, only by a declaration in writing, executed and acknowledged by the parties.

Section 5.10 Counterparts.

This Agreement may be executed in counterparts, each of which shall be deemed an original but all of which together shall constitute one and the same instrument.

Section 5.11 Non-Discrimination.

Hospital covenants that it shall:

(a) not discriminate upon the basis of race, color, religion, gender, sexual orientation, national origin, marital status or physical disability; and

(b) comply with all federal, state and local laws in effect from time to time, prohibiting discrimination or segregation by reason of race, religion, color, gender, sexual orientation, national origin, marital status or physical disability.

Section 5.12 Time of the Essence.

Time is of the essence with respect to the obligations of the parties hereunder.

Section 5.13 Term

This Agreement shall terminate, if not sooner terminated, ten (10) years from the date hereof.

IN WITNESS WHEREOF, the parties have executed this Agreement as of the date set forth above.

THE CITY OF NEW HAVEN

By: _____
John DeStefano, Jr.
Its Mayor
Duly Authorized to act herein

Approved as to form and correctness:

John R. Ward
Deputy Corporation Counsel

YALE-NEW HAVEN HOSPITAL, INC.

By: _____
Marna P. Borgstrom
Its President and Chief Executive Officer
Duly Authorized to act herein

Agreed to and accepted as to
Sections 3.01 (h) and 3.02 (a), (d) and (e)

NEW HAVEN PARKING AUTHORITY

By: _____
Name: Anthony M. Ciarlone

Title: Chairman
Duly Authorized to act herein

EXHIBIT A

PROJECT SCHEDULE

EXHIBIT B

FORMS OF EASEMENTS AND LICENSES

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