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10/19/2009

Memorandum of Understanding

From: Hunter Management, LLC
To: The Board of County Commissioners of Lancaster County
Re: Proposed Purchase of Lancaster Manor
Date: October 19, 2009

This Memorandum of Understanding (hereinafter, this "Memorandum") shall serve as an expression of Hunter Management, LLC or its affiliates (hereinafter, "Purchaser") interest in the proposed acquisition of all of the assets and business comprising the nursing facility (hereinafter, the "Facility") located at 1001 South Street, Lincoln, Nebraska and commonly known as Lancaster Manor from Lancaster County, Nebraska (hereinafter, "County" or "Seller"). Except as otherwise provided in this document, the provisions of this Memorandum are not binding and are subject to the execution of a definitive purchase agreement and operations transfer agreement generally consistent with the provisions of this Memorandum.

In this regard, the following Memorandum for the purchase of the assets and operations is submitted for review by The Board of County Commissioners of Lancaster County (hereinafter "Board") in order to allow Purchaser access to the Facility and due diligence materials prior to execution of a definitive purchase agreement.

1. Continued Operation of Lancaster Manor as a Long-Term Care Nursing Facility. Lancaster Manor has a long history of quality service and a high level of personal attention to the needs and wishes of its residents. Purchaser's commitment to the County is to continue the operation of Lancaster Manor as a long-term care nursing

facility. Purchaser is committed to continuing to service the community's interest in serving the nursing facility needs of Medicaid patients and would like to meet with residents and staff to address their concerns, answer their questions and solicit their input in the process.

2. Resident Services. Purchaser will continue to provide nursing facility services to the now existing residents of Lancaster Manor until such time as it is medically necessary to transfer them to another health care facility or there is no payment source for such services. Over time Purchaser may increase services in some areas and intend to solicit resident and staff involvement and input in Purchaser's evaluation of services offered. Purchaser's intent is not to take away the involvement, ideas, and input from residents and staff but rather create a system to efficiently move decisions forward that advance the interests of the residents, staff and the Facility.

3. Staff Transition. Within five (5) business days of the Board's acceptance of this Memorandum, Purchaser will meet with staff of the Facility to respond to potential concerns or issues. It is Purchaser's intention to retain as many of the current staff as financially prudent in part by ensuring priority for existing positions and future positions created. Purchaser wants to spend time with them to help them understand how the potential transition will occur and get their suggestions on ways Purchaser can move forward and build on the quality reputation of Lancaster Manor. Purchaser anticipates that all employees hired will be hired with their accrued vacation and sick time in place

and to effectuate this transition, adjustments and prorrations would be made in the purchase price.

4. Parties to the Transaction. Purchaser intends to establish two Nebraska limited liability companies: one for the purchase of the real property and other tangible assets and another to lease the property and assume the operations.

5. Purchase Price. The Board will sell to Purchaser and Purchaser shall purchase from the Board, all real and personal property used in the operation of Lancaster Manor for a sum to be negotiated, but not in excess of Nine Million Five Hundred Thousand Dollars (\$9,500,000). The actual purchase price may be adjusted between the parties after review of the appraisal prepared by Great Plains Appraisal, Inc. The Purchaser has concerns about the appraisal methodology used by the appraiser as the appraiser did not use actual historical financial data in the preparation of the appraised value, rather the appraiser used estimates of what the Facility could be able to achieve based upon general industry averages. The appraiser's methodology is understandable and perfectly appropriate and in no way should this comment be taken as a criticism of the appraiser. However, Purchaser suspects that the estimates used may outdated and overly optimistic in the current economic situation. In addition to the purchase price, Purchaser plans to invest additional funds in the Facility and bring it to a more competitive level within the Lincoln market.

6. Identification of the Property. The assets to be purchased shall include, but not be limited to:

- a. The real property upon which Lancaster Manor is located and all buildings, structures, fixtures, and improvements thereon;
- b. All inventory located in the Facility, including all materials and supplies;
- c. All easements, hereditaments, privileges and appurtenances appurtenant to the land and belonging to the Seller,
- d. All real property, if any, adjacent to land which seller has any interest,
- e. All personal property in the Facility including computers, vehicles, medical carts, furniture, machinery, supplies, inventory and equipment;
- f. Contracts that Purchaser elects to assume;
- g. Resident list;
- h. Medical and employee records;
- i. Databases;
- j. Goodwill, trademarks, trade names, service marks, telephone numbers, certificate of need and marketing information; and
- k. All such other tangible or intangible property as are used or useful in the conduct of the business at Lancaster Manor.

Except as otherwise agreed to at the sole discretion of Purchaser, Purchaser will not assume any liabilities or obligations of the Facility. The County shall convey to Purchaser good and marketable title to the assets free and clear of all liens, charges, easements and encumbrances of any kind whatsoever.

7. Definitive Agreement. After the Board's acceptance of this Memorandum, the parties will enter into good faith negotiations for the purpose of reducing this Memorandum into an Asset Purchase Agreement and Operations Transfer Agreement. The agreements shall contain an allocation of the purchase price and closing instructions, and address the Board's obligations with regard to the operation of the Facility pending closing of the transaction, indemnification and other traditional contract items.

8. Due Diligence. Purchaser's interest in the purchase of Lancaster Manor is subject to its completion of a satisfactory and unrestricted due diligence investigation, which will be completed within sixty (60) days after the date of Purchaser's receipt of complete due diligence materials, which shall be furnished to Purchaser immediately after the Board's acceptance of this Memorandum. The results of such due diligence investigation shall be acceptable to Purchaser in its sole and absolute discretion. In the event that the results of Purchaser's due diligence investigation are not satisfactory to Purchaser, Purchaser shall have the unilateral right to terminate the transaction contemplated by this Memorandum, by written notice to Seller, at anytime before the termination of the due diligence period and receive a full refund of the earnest money, without any further obligation to the County whatsoever.

From the date this Memorandum is executed by the Board, and the Board agrees to permit Purchaser's employees, agents, accountants, and attorneys to have reasonable access to all of Lancaster Manor's books, records, and property for the purpose of making a detailed examination of the financial condition, assets, liabilities, legal compliance, affairs, business, and the conduct of the County, the Facility and the assets. The closing of the sale will be conditioned upon the completion of such due diligence investigation. This review may include, but will not be limited to, review of real estate title issues, real estate and environmental surveys, physical plan inspection, the Facility's financial statements, cost reports, operations, contracts, pricing, payment terms, and verification of the stability of the Facility's resident census. All of Purchaser's due diligence reviews

and inspections will be completed or waived on or before the expiration of the closing date. Prior to releasing any information to the Purchaser, Purchaser agrees that it will execute a Business Associate Agreement for the protection of the residents in the Facility.

9. Authority. Both the Board and Purchaser represent and warranty to each other that each party hereto is authorized to enter into the transactions contemplated by this Memorandum and that each is duly authorized to execute this Memorandum. By signing this Memorandum, the Board authorizes the County Attorney's Office and legal counsel to proceed with contacting other County organizations for the purpose of performing due diligence to investigate issues such as parking, zoning, egress and ingress, code waivers, Fire Marshall Office waivers, survey issues, and the like.

10. Confidentiality. Whether or not the proposed transaction is consummated, the information received by any party in connection with this proposal, and with respect to the business of Lancaster Manor or Purchaser, shall be considered confidential and shall not be utilized by any party for its advantage or disclosure to others to the benefit or detriment of any other party. This paragraph shall survive the termination of this document and all documentation received by either party in connection with this transaction shall be returned to Lancaster Manor within seven (7) days after the proposed transaction is terminated. The Purchaser shall keep Lancaster County's proprietary information confidential.

11. Closing. The parties anticipate that closing will take place no later than February 1, 2010. The closing will be subject to all of the following contingencies:

- a. obtaining all necessary state and federal governmental, or regulatory approvals and requirements, all necessary third-party consents and the fulfillment of all other corporate and legal requirements;
- b. the due diligence contingency contained in this document;
- c. Purchaser's satisfaction that there will be sufficient parking after the zoning change to meet the needs of the Facility staff, residents and their families; and
- c. the signing of an Asset Purchase Agreement and Operations Transfer Agreement, and the completion of all conditions contained therein.

12. Earnest Money. Within two (2) business days of the Board's execution of the Asset Purchase Agreement, Purchaser shall deposit with a nationally recognized title insurance company acceptable to the parties, earnest money equal to One Hundred Thousand Dollars (\$100,000.00). The earnest money shall be fully refundable to the Purchaser, if Purchaser is unsatisfied with its due diligence review as provided herein. Notwithstanding the foregoing, if the governmental and regulatory approvals described in this document are not received, there is an event of default by Seller or conditions to close are not timely met, the earnest money shall be refunded to Purchaser.

13. Depreciation Recapture. The parties acknowledge that this transaction may be subject to recapture of depreciation and gain on sale of personal property pursuant to 471 N.A.C. 12-011.15. The Board will contact the Department of Health and Human Services (hereinafter, "Department") regarding recapture of depreciation and gain on sale. Any recapture of depreciation and/or gain on sale is a cost to the County. The parties agree to escrow from the purchase price the amount necessary to pay, in full, the Department's estimate of depreciation recapture and overpayment due to gain on sale and to wire transfer that amount to the Department on the date of closing. Such payment to

the Department shall be made without prejudice to the County's right to subsequently contest the recapture, the gain on sale, or both.

14. Destruction of Property. In the event that prior to closing the property is damaged in any material way by fire or other cause so as to render substantial portions of the Facility unusable, then and in that event, either party hereto may, at its option, and by giving the other party fifteen (15) days written notice, declare this understanding null and void and the earnest money shall be refunded. The County retains sole responsibility for the upkeep and condition of the Facility until the date of closing.

15. Accounts Receivable. Purchaser acknowledges that post-closing the County may have limited access to an experienced bookkeeper who can assist with collections of accounts receivable. Purchaser is willing to purchase the same from the County at a discount to be determined and agreed upon by the parties after a review of the Seller's financial records.

16. Exclusive Negotiations. The County agrees to deal in good faith while negotiating these transactions and agrees to negotiate exclusively with Purchaser with respect to these transactions until the earlier of sixty (60) days after execution of this Memorandum or termination of the transaction described herein.

17. Non-Binding. It is understood that this Memorandum merely constitutes a statement of the mutual intention of the parties with respect to the proposed transaction, does not contain all matters upon which agreement must be reached in order for the proposed transactions to be consummated and, except as with respect to Section 10

(Confidentiality) and Section 16 (Exclusive Negotiations), each of which shall be binding obligations, creates no binding rights in favor of any party. A fully binding commitment with respect to the proposed transactions will result only after execution and delivery by the parties of the Asset Purchase Agreement and Operations Transfer Agreement, generally consistent with the terms and conditions contained herein. The parties agree in concept to the general terms and conditions of the sale of Lancaster Manor as contained herein but understand that this Memorandum is a not a formal offer to purchase and is not intended to bind either party hereto, except as with respect to Section 10 (Confidentiality) and Section 16 (Exclusive Negotiations).

Hunter Management, LLC

By: _____

Name: _____

Title: _____

This Memorandum is agreed to and accepted this ___ day of October, 2009, by
The Board of County Commissioners of Lancaster County, Nebraska.

The Board of County Commissioners of
Lancaster County, Nebraska

By: _____

Name: _____

Title: _____