

ORDINANCE #66745
Board Bill No. 74

An ordinance pertaining to the leases and operation of four medical clinics in the City of St. Louis; authorizing the Mayor and the Comptroller to enter into leases with Grace Hill Neighborhood Health Centers, Inc. and Myrtle Hilliard Davis Comprehensive Health Centers for the operation of four medical clinics, and containing an emergency clause.

WHEREAS, the City desires to secure professional services and leases for the operation of four medical clinics in the City of St. Louis; and

WHEREAS, Grace Hill Neighborhood Health Centers, Inc and Myrtle Hilliard Davis Comprehensive Health Centers, Inc. have conditionally agreed to provide professional services and to lease the medical clinics

NOW THEREFORE BE IT ORDAINED BY THE CITY OF ST. LOUIS, AS FOLLOWS:

SECTION ONE. The Mayor and the Comptroller are hereby authorized to enter medical clinic leases with Grace Hill Neighborhood Health Centers, Inc. for the clinics located at 1717 Biddle (Courtney Health Center) and 2220 Lemp (Max C. Starkloff Center) and with Myrtle Hilliard Davis Comprehensive Health Centers, Inc. for the clinics at 2425 Whittier (Homer G. Phillips Hospital) and 5541 Riverview (Florence Hill Health Center)

SECTION TWO. The leases shall be substantially the same in word and phrases as the attached lease which is marked as Exhibit 1 and is hereby incorporated by reference and made a part hereof as if fully set forth herein.

SECTION THREE This being an ordinance for the immediate preservation of public peace, health and safety, it is declared to be an emergency measure within the meaning of Sections 19 and 20 of Article IV of the Charter of the City of St. Louis and therefore this ordinance shall become effective upon its passage and approval by the Mayor.

LEASE AGREEMENT
(Florence Hill Health Center)

THIS LEASE AGREEMENT (this "**Lease**") is made and entered into this ___ day of _____, 2005, by and between the CITY OF ST. LOUIS, a municipal corporation of the State of Missouri, hereinafter referred to as "**Lessor**", and (Myrtle Hilliard Davis Comprehensive Health Centers, Inc.,) a Missouri not-for-profit corporation, hereinafter referred to as "**Lessee**".

WITNESSETH:

WHEREAS, Lessor desires to secure the professional services of Lessee for the operation of a medical clinic in the City of St. Louis at Lessor's facility numbered as (5541 Riverview (Florence Hill Health Center)), together with the improvements thereon, including parking lots, drives, buildings and equipment located at the facility, hereinafter collectively referred to as the "**Subject Property**".

NOW, THEREFORE, in accordance with the covenants and agreements herein contained and for good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the parties hereto hereby agree and obligate themselves as follows: Lessor lets unto Lessee the Subject Property for a period of five (5) years, commencing on the Effective Date of the Affiliation Project (as defined in Section 21 of this Lease) (the "**Commencement Date**"), and ending five (5) years after the Commencement Date (the "**Initial Term**"), subject to the terms, conditions, and covenants hereinafter set forth. The term of this Lease shall automatically renew (on the same terms provided in this Lease) for up to four (4) additional five (5) year periods (in each case, an "**Option Term**"), unless Lessee notifies Lessor of its election to terminate this Lease on or before the date which is one hundred eighty (180) days before the date of the expiration of the Initial Term or the then current Option Term, as the case may be.

1. The rent for the term of this Lease shall be Ten Dollars (\$10.00) per year, payable upon the Commencement Date and each annual anniversary of the Commencement Date. Within five (5) days after the Commencement Date, Lessor and Lessee shall execute a written statement confirming the Commencement Date and the expiration date of the initial term of this Lease.
2. The use of the Subject Property let hereunder shall be for the sole and exclusive purpose of operating primary healthcare, wellness, child day care, adult day care and other social services programs, including, without limitation, the operation of a Federally Qualified Health Center ("**FQHC**"). The scope of FQHC, primary healthcare, wellness and other social

services programs to be provided at the Subject Property may include, without limitation, those services set forth in Exhibit A attached hereto and made a part hereof.

3. Possession of the Subject Property shall be given to Lessee by Lessor upon the Commencement Date. LESSEE AGREES AND COVENANTS TO TAKE THE SUBJECT PROPERTY IN "AS IS" CONDITION, SUBJECT TO THE PROVISIONS OF SECTIONS 22, 23, 24 AND 25 OF THIS LEASE. Except as provided herein, Lessee acknowledges that Lessor has made no representations, warranties or statements regarding the condition of the Subject Property or the suitability of the Subject Property for the use contemplated by Lessee and described in Section 2 of this Lease. Lessee states that, upon the Commencement Date, it shall be deemed to have inspected the Subject Property, found the then current condition satisfactory and suitable to its needs, and accepted the Subject Property under this Agreement in "AS IS" condition, subject to the provisions of Sections 22, 23, 24 and 25 of this Lease.
4. It is expressly understood and agreed that Lessee shall, upon the Commencement Date, commence operation of the Subject Property in accordance with the exclusive purpose set forth in Section 2 of this Lease.
5. Lessee shall provide, at its sole expense, the following services at the Subject Property:
 - A. Subject to the provisions of Sections 22, 23, 24 and 25 of this Lease, Lessee shall be responsible for all necessary construction, repairs, renovations and maintenance to the Subject Property, including, but not limited to, the foundation and exterior portions of the Subject Property, the heating, cooling, ventilation, plumbing, sewage, electrical, sprinkler and other mechanical systems serving the Subject Property, the parking areas and driveways located on the Subject Property, and all equipment located on the Subject Property.
 - B. Subject to the provisions of Sections 22, 23, 24 and 25 of this Lease, Lessee shall be solely responsible for all efforts and resulting costs associated with providing utility services to the Subject Property and any utility improvements placed thereon and agrees to pay any fees or costs incurred as a result of making such utilities available to the Subject Property.
 - C. Lessee shall provide all custodial, security, grass cutting, and snow removal services. Lessee shall arrange and pay for general trash removal from a central point designated by Lessee.
 - D. Subject to the provisions of Sections 22, 23, 24 and 25 of this Lease, Lessee shall bear full and complete responsibility for demonstrating its compliance with the criteria for the issuance of any permits, licenses and/or approvals required from the City of St. Louis and/or its boards, departments, and agencies, as may be applicable. Lessor agrees to cooperate in good faith with Lessee in obtaining such permits, licenses and/or approvals.
 - E. Lessee shall at all times during the term of this Lease maintain commercial general liability insurance coverage in the amount of \$400,000 per person, \$3,000,000 per occurrence, and \$50,000 for damage to property, naming Lessor as an additional insured and filing a certificate of insurance evidencing such insurance coverage with the Comptroller of the City of St. Louis (the "Comptroller") on or prior to the Commencement Date. After each five year period, the Comptroller, at her sole discretion may require an increase in insurance to meet inflation or Lessor's liability under law. Such insurance coverage must be maintained during the term of this Lease and must contain a non-cancellation provision which provides for written notice to Lessor of not less than thirty (30) days before such insurance coverage lapses. Except to the extent of Lessor's negligence or willful misconduct, Lessee hereby agrees to hold Lessor harmless and indemnify Lessor from any and all claims, demands, actions, causes of action or judgments against Lessor for personal injuries or damages to property arising out of or resulting from, directly or indirectly, Lessee's use of the Subject Property, including reimbursement of all reasonable costs expended by Lessor in defense of any such claim, demands, actions, causes of action or judgments. Lessee shall be completely responsible, at its sole expense, to remediate any environmental contamination resulting from Lessee's use or possession of the Subject Property during the term of this Lease. Except as expressly provided herein, Lessee shall be completely responsible, during the term of this Lease, for any damage to or destruction of the Subject Property or any improvements placed thereon, by an act of God or other cause. Notwithstanding the foregoing, in the event that any such act of God or other cause renders the Subject Property unfit or unusable by Lessee, in its sole and absolute discretion, for the purposes set forth in Section 2, Lessee may, at its option, terminate this Lease by delivery of written notice of such termination to the Comptroller, whereupon this Lease shall terminate within ten (10) days after the Comptrollers' receipt of such notice, and Lessee shall be relieved of its responsibility for the restoration or repair of any such damage to the

Subject Property as a result of such act of God or other cause. Termination under this Section shall be Lessee's sole recourse against Lessor in the event of destruction of the Subject Property by an act of God or other cause.

7. It is the understanding and agreement of Lessor and Lessee that this Lease creates clear "net" lease obligations, whereby Lessee agrees to bear all expenses and make all payments consistent with the principal of a "net" lease, except as expressly provided herein. Except as expressly provided herein, Lessee hereby assumes and agrees to perform all duties and obligations with respect to the Subject Property, any improvements placed thereon and appurtenances thereto, and with respect to the use, operation, repair and maintenance thereof.
8. It is expressly agreed by Lessee that medical services shall not be denied by Lessee to the indigent or to any person unable to pay for such medical services, based on such person's inability to pay.
9. Lessee agrees that, in the use of the Subject Property or in the use of any property used in connection with the Subject Property, Lessee will not exclude or discriminate against any person solely because of race, color or creed or for any reason not sanctioned by law and not applicable alike to persons generally in the use of the Subject Property.
10. The Americans with Disabilities Act (the "ADA") prohibits discrimination based on disability. Lessee covenants to comply with the provisions of the ADA and provide necessary documentation of its compliance efforts, as required by the ADA.
11. From and after the date of execution of this Lease, both parties shall comply with all laws, ordinances, regulations, and orders of Federal, State, County, and Municipal authorities pertaining to the Subject Property and any improvements and operations thereon.
12. The parties agree that Lessee is not an agent or employee of Lessor with respect to its acts or omissions.
13. This Lease is not assignable, nor shall any portion of the Subject Property be sublet or used for any purpose other than as set forth in Section 2 of this Lease without the express written consent of Lessor, through its Comptroller, with endorsement of its Board of Estimate and Apportionment, which consent shall not be unreasonably withheld, conditioned or delayed. Notwithstanding the foregoing, Lessee shall have the right to enter into subleases with the Health and Human Development Corporation and the Division of Family Services for Medicaid, in each case for a portion of the Subject Property, and Lessor hereby consents to such subleases. In the event this Lease is assigned or any portion of the Subject Property is sublet without such written consent of Lessor, or if Lessee shall become the subject of a court proceeding in bankruptcy or liquidating receivership, or if Lessee shall make an assignment for the benefit of creditors, then this Lease may, by such fact or unauthorized act, be canceled at the option of Lessor, by its Board of Estimate and Apportionment. Any assignment of this Lease or subletting of the Subject Property with the written consent of Lessor shall not operate to release Lessee from its obligation to fulfill the covenants and agreements herein contained to be performed by Lessee, or authorize any subsequent assignment or subletting without the written consent of Lessor, which consent shall not be unreasonably withheld, conditioned or delayed. No consent by Lessor to any assignment or subletting of the Subject Property shall be held to waive or release any assignee from any of the conditions or covenants contained in this Lease as against such assignee and every such assignee shall expressly be subject to the covenants contained in this Lease.
14. During the Initial Term and any Option Term of this Lease, Lessor specifically retains the right of access to the Subject Property at reasonable times and upon reasonable notice for inspection of the Subject Property by Lessor to confirm that the use of the Subject Property is in compliance with the use provisions of Section 2 of this Lease, and Lessee reserves the right to designate an individual to accompany Lessor during any such inspection.
15. Upon expiration of the term of this Lease, or in the event Lessor or Lessee tenders notice of termination pursuant to this Lease, Lessee agrees and covenants to return the Subject Property, at Lessee's sole expense, to the same or like condition as was present on the Commencement Date; provided, however, that the return of the Subject Property to such same or like condition shall not be required with respect to (A) repairs, renovations, alterations or remodeling of the Subject Property performed by Lessee, (B) casualty damage and destruction, or (C) condemnation of the Subject Property.
16. All notices to be given shall be in writing and shall be personally delivered or deposited in the United States Mail, certified, with return receipt requested, postage prepaid, as follows:

If to Lessee: Myrtle Hilliard Davis Comprehensive Health Centers, Inc.
5471 Dr. Martin Luther King Drive
St. Louis, Missouri 63112
Attention: Archie Griffin, President and CEO

If to Lessor: Comptroller
City of St. Louis
Room 212, City Hall
St. Louis, Missouri 63103

with a copy to: City Counselor
City of St. Louis
Room 314, City Hall
St. Louis, Missouri 63103

or to such other addresses and parties as either party may designate from time to time.

17. No waiver of any forfeiture, by acceptance of rent or otherwise, shall waive any subsequent cause of forfeiture or breach of any condition of this Lease.
18. The covenants and agreements contained herein shall bind, and the benefits and advantages contained herein shall inure to, Lessor and Lessee and their respective successors and assigns. Whenever used, the singular number shall include the plural and the plural shall include the singular, and the use of any gender shall be applicable to all genders. All covenants, agreements and undertakings in this Lease shall be joint and several. No modifications or changes shall be made to this Lease unless such modifications and changes are made in writing and signed by all parties to this Lease. All covenants, promises, conditions and obligations herein contained or implied by law are covenants running with the land and shall be attached to and binding upon the administrators, successors, legal representatives and assigns of each of Lessor and Lessee.
19. It is mutually stipulated and agreed by and between Lessor and Lessee that this Lease contains the whole agreement between them as of the date of this Lease, that the execution of this Lease has not been induced by either party by any representations, promises, or understandings not expressed herein, and that there are no collateral agreements, stipulations, promises, or undertakings whatsoever upon Lessor or Lessee in any way touching the subject matter of this Lease, except for the Affiliation Agreements (as defined in Section 21) and the DSH Funding (as defined in Section 26), which are not expressly contained in this Lease.
20. If any one or more of the terms, provisions, covenants or conditions of this Lease shall to any extent be declared invalid, unenforceable, void or voidable for any reason whatsoever by a court of competent jurisdiction, the finding or order or decree of which becomes final, none of the remaining terms, provisions, covenants and conditions of this Lease shall be affected thereby, and each provision of this Lease shall be valid and enforceable to the fullest extent permitted by law. The invalidity and unenforceability of any provision of this Lease shall not affect or impair any other provision. This Lease shall be governed by and construed in accordance with the laws of the State of Missouri.
21. The effectiveness of this Lease is conditioned upon the execution of certain agreements, including, but not limited to, agreements by and among Lessee, St. Louis ConnectCare (“**SLCC**”), Grace Hill Neighborhood Health Centers, Inc. (“**Grace Hill**”) and other third parties, which agreements are required to complete a certain proposed affiliation project (the “**Affiliation Project**”) that contemplates the financing and takeover of operations of certain SLCC facilities, including the Subject Property, by Lessee and Grace Hill (the “**Affiliation Agreements**”). Subject to satisfaction of the provisions of Sections 22, 23, 24 and 25, the date upon which the Affiliation Agreements are effective and the Affiliation Project is closed shall be the “**Effective Date of the Affiliation Project**”. In the event that Lessee, SLCC and Grace Hill do not enter into the Affiliation Agreements and close the Affiliation Project by June 28, 2005 (the “**Outside Date**”), Lessee shall have the right to terminate this Lease by written notice thereof to Lessor within thirty (30) days after the Outside Date, in which event this Lease shall be deemed automatically terminated and of no further force or effect.
22. Lessee has applied for or is in the process of applying for a certificate of occupancy for the Subject Property. In connection with such application, the City of St. Louis will inspect the Subject Property and will compile a list of all code

- requirements, if any (the “**Code Requirements List**”), regarding improvements required to be made in order to render the Subject Property in compliance with the City of St. Louis Building Code, Fire Safety Code and other applicable codes prior to issuance of the certificate of occupancy permitting Lessee to occupy and operate in the Subject Property, as contemplated under this Lease. The effectiveness of this Lease is conditioned upon Lessee’s agreement, in Lessee’s sole and absolute discretion, to improve and remediate the Subject Property, at Lessee’s sole cost and expense, in accordance with the Code Requirements List. In the event that Lessee does not agree, in its sole and absolute discretion, to so improve and remediate the Subject Property, Lessee shall have the right to terminate this Lease by written notice thereof to Lessor within thirty (30) days after Lessee’s receipt of the Code Requirements List or within thirty (30) days after the Outside Date, whichever is later, in which event this Lease shall be deemed automatically terminated and of no further force or effect.
23. The effectiveness of this Lease is conditioned upon approval by the City of St. Louis of Lessee’s plans and specifications (collectively, the “**Plans**”) for further renovations to the Subject Property (in addition to those identified in the Code Requirements List) prior to the Outside Date. In the event that the Plans are not approved by the City by the Outside Date, Lessee shall have the right to terminate this Lease by written notice thereof to Lessor within thirty (30) days after the Outside Date, in which event this Lease shall be deemed automatically terminated and of no further force or effect.
24. The effectiveness of this Lease is conditioned upon Lessee’s receipt of third party commitments, acceptable to Lessee in Lessee’s sole and absolute discretion, for capital financing of the improvements to and remediation of the Subject Property pursuant to the Code Requirements List and/or the Plans (the “**Financing Commitments**”). In the event that Lessee does not receive the Financing Commitments by the Outside Date, Lessee shall have the right to terminate this Lease by written notice thereof to Lessor within thirty (30) days after the Outside Date, in which event this Lease shall be deemed automatically terminated and of no further force or effect.
25. After the execution of this Lease but before the Outside Date, Lessee shall have the right to obtain a Phase I Environmental Site Assessment in accordance with American Society for Testing and Materials (“**ASTM**”) and, if deemed necessary by Lessee, a Phase II Environmental Site Assessment in accordance with ASTM, and the effectiveness of this Lease is conditioned upon Lessee’s satisfaction, in Lessee’s sole and absolute discretion, with the results of the Phase I Environmental Site Assessment and/or the Phase II Environmental Site Assessment, as the case may be. In the event that Lessee is not satisfied with the results of the Phase I Environmental Site Assessment and/or the Phase II Environmental Site Assessment, Lessee shall have the right and option, up to (and including) the Outside Date to terminate this Lease by written notice thereof to Lessor, in which event this Lease shall be deemed automatically terminated and of no further force or effect.
26. As of the date of this Lease, SLCC receives Disproportionate Share Hospital Funding (“**DSH Funding**”) in connection with its provision of services in certain SLCC facilities, including the Subject Property. Pursuant to the Affiliation Agreements, a specified portion of the DSH Funding will be allocated annually to Lessee, for use by Lessee in connection with its provision of services in the Subject Premises. The DSH Funding has been approved by the appropriate governmental authorities through April 30, 2007 (the “**DSH Funding Outside Date**”). In the event that the DSH Funding is not approved for allocation to Lessee for use by Lessee in connection with its provision of services in the Subject Premises, in an amount acceptable to Lessee in Lessee’s sole and absolute discretion, for any period during the Initial Term or any Option Term following the DSH Funding Outside Date, Lessee shall have the right to terminate this Lease by written notice thereof to Lessor, in which event this Lease shall be terminated and of no further force or effect as of the date specified in Lessee’s written notice of termination to Lessor.
27. Subject to the following terms and conditions, Lessee is hereby granted, during the Initial Term (and during any Option Term) (the “**Refusal Period**”), the right of first refusal to purchase the Subject Property from Lessor. If, at any time (whether one or more times) during the Refusal Period, Lessor receives an offer (the “**Third Party Offer**”) to purchase the Subject Property, which Third Party Offer Lessor intends to accept, then, prior to accepting any such Third Party Offer, (A) Lessor shall offer to sell the Subject Property to Lessee on the same terms contained in such Third Party Offer, and (B) Lessor shall give written notice of such Third Party Offer to Lessee, which notice shall contain a description of the purchase price and other terms contained in the Third Party Offer. Lessee shall have the exclusive right for a period of thirty (30) days after receipt of the notice of such Third Party Offer to agree to purchase the Subject Property on the same terms, including the purchase price, as the Third Party Offer. If Lessee fails to notify Lessor of its election to agree to purchase the Subject Property within such thirty (30) day period, Lessee shall be deemed to have elected not to agree to purchase the Subject Property. Lessor and Lessee shall execute a memorandum setting forth this right of first refusal,

which memorandum shall be recorded in the real estate records of the City of St. Louis promptly after the Commencement Date.

IN WITNESS WHEREOF, Lessor and Lessee have executed this Lease on the day and year first above written.

LESSOR:

LESSEE:

CITY OF ST. LOUIS

MYRTLE HILLIARD DAVIS COMPREHENSIVE HEALTH CENTERS, INC.

By: _____
Darlene Green
Comptroller

By: _____
Name: _____
Title: _____

Attest:

City Register

Approved:

City of Saint Louis
Board of Estimate and Apportionment

Approved as to legal form:

City Counselor

EXHIBIT A

SCOPE OF SERVICES

The scope of FQHC, primary healthcare, wellness and other social services programs to be provided at the Subject Property may include the following, without limitation:

- (I) health services related to family medicine, internal medicine, pediatrics, obstetrics or gynecology that are furnished by physicians and, where appropriate, physician assistants, nurse practitioners and nurse midwives;
- (II) diagnostic laboratory and radiological services;
- (III) preventive health services, including --
 - (aa) prenatal and perinatal services,
 - (bb) appropriate cancer screening,
 - (cc) well-child services,
 - (dd) immunizations against vaccine-preventable diseases,
 - (ee) screenings for elevated blood lead levels, communicable diseases and cholesterol,
 - (ff) pediatric eye, ear and dental screenings to determine the need for vision and hearing correction and dental care,

- (gg) voluntary family planning services, and
- (hh) preventive dental services;
- (IV) emergency medical services;
- (V) pharmaceutical services as may be appropriate for particular centers;
- (VI) referrals to providers of medical services (including specialty referrals, when medically indicated) and other health-related services (including substance abuse and mental health services);
- (VII) patient case management services (including counseling, referral and follow-up services) and other services designed to assist health center patients in establishing eligibility for and gaining access to Federal, State and local programs that provide or financially support the provision of medical, social, housing, educational or other related services;
- (VIII) services that enable individuals to use the services of the health center (including outreach and transportation services and, if a substantial number of individuals in the population served by a center are of limited English-speaking ability, the services of appropriate personnel fluent in the language spoken by a predominant number of such individuals);
- (IX) education of patients and the general population served by the health center regarding the availability and proper use of health services;
- (X) behavioral health services;
- (XI) other primary healthcare, wellness and social services program;
- (XII) child care services; and
- (XIII) senior adult care and enrichment services.

Approved: June 23, 2005