

# County Council of Cuyahoga County, Ohio

## Resolution No. R2012-0219

Sponsored by: **County Executive FitzGerald/Department of Development and Councilmembers Miller and Conwell**

**A Resolution** authorizing the issuance and sale of health care and independent living facilities revenue bonds, Series 2012 (Eliza Jennings Senior Care Network Project), in an aggregate principal amount not to exceed \$25,000,000.00 for the purposes of (i) currently refunding bonds issued by the County, and (ii) paying certain costs of issuance; providing for the assignment of revenues for the payment of those bonds; authorizing the execution and delivery of Amendments to Base Leases, Amendments to Leases, Supplemental Trust Indentures, a Bond Purchase Agreement, a First Amended Assignment of Rights under Leases, a First Amended Assignment of Basic Rent and other instruments and documents in connection with the issuance of those bonds; and declaring the necessity that this Resolution become immediately effective.

WHEREAS, the County of Cuyahoga, Ohio (the "Issuer"), a county and political subdivision in and of the State of Ohio (the "State"), is authorized and empowered by virtue of the laws of the State, including without limitation, Chapter 140 of the Ohio Revised Code and Section 133.51 of the Ohio Revised Code, as enacted pursuant to the provisions of Article VIII, Section 16 of the Ohio Constitution (together, the "Act"), among other things: (i) to acquire, construct, improve, furnish and equip Hospital Facilities and Independent Living Facilities, and to acquire by lease real estate within the boundaries of the Issuer and interests therein, including without limitation, improvements situated thereon comprising Hospital Facilities and Independent Living Facilities; (ii) to refund revenue bonds previously issued by the Issuer to reimburse the Borrowers (defined herein) for, and to pay, the "costs of hospital facilities," as defined in the Act, including the cost of independent living facilities, within the boundaries of the Issuer; (iii) to enter into lease agreements to provide for revenues to pay the principal of and interest and any premium on those revenue bonds; (iv) to secure those revenue bonds by a trust indenture and a separate supplemental trust indenture for each series of those revenue bonds, by the pledge and assignment of its rights under a lease agreement, by a pledge and lien on the hospital receipts and by an absolute and irrevocable

assignment of certain funds to be held by the trustee under such trust indentures and (v) to adopt this Resolution, to enter into the Supplemental Indenture, the Amendments to Base Leases, the Amendments to Leases, the Assignment of Rights Under Leases, the Assignment of Basic Rent and the Bond Purchase Agreement, all as hereinafter defined, and to execute and deliver certain other documents and instruments upon the terms and conditions provided herein and therein; and

WHEREAS, this Board, pursuant to the foregoing authority and at the request of the Borrowers, has heretofore determined and hereby determines to assist in refunding a portion of the revenue bonds previously issued by the Issuer for the purpose of acquiring, constructing, improving, furnishing and equipping real and personal property used for Hospital Facilities in accordance with the Leases, as amended pursuant to Amendments to Leases authorized herein, all for the purposes of better providing for the health and welfare of the people of the State and the Issuer by enhancing the availability, efficiency and economy of Hospital Facilities, and the services rendered thereby and of providing efficient operation of Hospital Facilities, by leasing them to the Borrowers and facilitating the financing of Hospital Facilities, to be available to or for the service of the general public without discrimination by reason of race, creed, religion, color, national origin or age;

WHEREAS, this Board held a public hearing on June 19, 2007 pursuant to Section 147(f) of the Internal Revenue Code of 1986, as amended, for the purpose of informing interested parties of the proposed issuance of the Series 2007A Bonds and the Series 2007B Bonds, as defined herein, and to afford those parties an opportunity to express their views on the subject both orally and in writing;

WHEREAS, it is necessary that this Resolution become immediately effective in order to refund the Series 2007B Bonds (as hereinafter defined) at favorable interest rates.

**NOW, THEREFORE, BE IT RESOLVED BY THE COUNTY COUNCIL OF CUYAHOGA COUNTY, OHIO:**

**SECTION 1. Definitions.** In addition to the words and terms defined elsewhere in this Resolution, or by reference to the Leases or the Indenture, unless the context or use indicates clearly another meaning or intent:

“Act” means Chapter 140 of the Ohio Revised Code, as enacted or amended from time to time, and Section 133.51 of the Ohio Revised Code, as enacted pursuant to the provisions of Article VIII, Section 16 of the Ohio Constitution, as enacted or amended from time to time.

“Alternate Security” means an Alternate Security as defined in the Indenture.

“Amendments to Base Leases” means, collectively, each Amendment to Base Lease executed in connection with the delivery and execution of the Series 2012 Bonds.

“Amendments to Leases” means, collectively, each Amendment to Lease executed in connection with the delivery and execution of the Series 2012 Bonds.

“Authorized Borrower Representative” means the person designated from time to time by the Borrowers as their representative.

“Bank Rate” means the Bank Rate as defined in Supplemental Indenture No. 3.

“Base Leases” means, collectively, the Series 1999 Base Lease, the Series 2001 Base Lease and the Series 2004 Base Lease, as the same have been and may be amended and supplemented from time to time.

“Basic Rent” means the amounts necessary to make the deposits required in the Indenture to be made to the Special Funds and any other amounts required under the Leases to be paid as Basic Rent on or prior to the respective dates set forth in the Leases.

“Beneficial Owner” means, with respect to the Bonds, a Person owning a Beneficial Ownership Interest therein, as evidenced to the satisfaction of the Trustee.

“Beneficial Ownership Interest” means the beneficial right to receive payments and notices with respect to the Bonds which are held by the Depository under a book entry system.

“Bonds” means the Series 2012 Bonds.

“Bond Fund” means the Bond Fund created in Section 5.01 of the Trust Indenture.

“Bond Purchase Agreement” means the Series 2012 Bond Purchase Agreement between the Issuer and the Original Purchaser, and approved by the Borrowers.

“Bond Service Charges” means, for any applicable time period or date, the principal (including any Mandatory Sinking Fund Requirements), interest, and redemption premium, if any, required to be paid by the Issuer on the Bonds pursuant to the Indenture. In determining Bond Service Charges accruing for any period or due and payable on any date, Mandatory Sinking Fund Requirements accruing for that period or due on that date shall be included and principal

maturities for which, and to the extent, Mandatory Sinking Fund Requirements were imposed in a prior period or for a prior date shall be excluded.

“book entry form” or “book entry system” means, with respect to the Bonds, a form or system, as applicable, under which (i) the Beneficial Ownership Interests may be transferred only through a book entry and (ii) physical Bond certificates in fully registered form are registered only in the name of a Depository or its nominee as Bondholder, with the physical Bond certificates “immobilized” in the custody of the Depository. The book entry system, maintained by and the responsibility of the Depository and not maintained by or the responsibility of the Issuer or the Trustee, is the record that identifies, and records the transfer of the interests of, the owners of book entry interests in the Bonds.

“Borrower” means, as the context may provide, any of the Borrowers acting pursuant to the Borrower Documents to which it may be a party.

“Borrowers” means collectively, Devon Oaks Assisted Living Corporation, an Ohio nonprofit corporation, Eliza Jennings, Inc., an Ohio nonprofit corporation, and Eliza Jennings Home, an Ohio nonprofit corporation, no part of the net earnings of any of which inures or may lawfully inure to the benefit of any private shareholder or individual and which has authority to own or operate Hospital Facilities, or which provides services to one or more other hospital agencies and which is qualified to do business in the State, and their lawful successors and assigns, including any surviving, resulting or transferee corporations as provided in the Leases, as a lessee thereunder.

“Borrower Documents” means the Base Leases, the Amendments to Base Leases, the Leases, the Amendments to Leases, the Bond Purchase Agreement, the Master Indenture and the Master Indenture Security Documents.

“Business Day” means any day of the year other than (i) a Saturday, Sunday or legal holiday in the States of Illinois, Ohio or New York, or a day on which the Trustee, any Paying Agent, the Registrar, the Tender Agent or the Bank is closed or banking institutions located in the States of Illinois, Ohio or New York and chartered by the States of Illinois, Ohio or New York or the United States of America are authorized to close or (ii) any day on which the New York Stock Exchange is closed.

“Certificate of Award” means the Series 2012 Certificate of Award, defined in Section 3 hereof and authorized pursuant to Section 4 hereof.

“Clerk” means the Clerk of the County Council of the Issuer.

“Code” means the Internal Revenue Code of 1986, the applicable regulations (whether proposed, temporary or final) under that Code or the statutory predecessor of that Code, and any amendments of, or successor

provisions to, the foregoing and any official rulings, announcements, notices, procedures and judicial determinations regarding any of the foregoing.

“Defeasance Account” means the Defeasance Account created by the Indenture.

“Depository” means any securities depository that is a clearing agency under federal law operating and maintaining, with its participants or otherwise, a book entry system to record ownership of book entry interests in Bonds, and to effect transfers of book entry interests in Bonds in book entry form, and includes and means initially The Depository Trust Company (a limited purpose trust company), New York, New York.

“Executive” means the County Executive.

“First Amended Assignment of Rights Under Leases” means the Assignment of Rights Under Leases dated as of November 1, 2012, between the Issuer and the Trustee, as the same may be amended or supplemented.

“First Amended Assignment of Basic Rent” means the Assignment of Basic Rent dated as of November 1, 2012, from the Issuer to the Trustee, as the same may be amended and supplemented.

“Fiscal Officer” means the County Fiscal Officer or his duly appointed deputy.

“Holder” means the person in whose name a Bond is registered on the Register for which provision is made in the Indenture.

“Hospital Facilities” means the buildings, structures and other improvements, additions thereto and extensions thereof, furnishings, equipment and real estate and interests therein, all or any part of the Costs of which are at any time authorized by the Act to be financed by the issuance of Bonds or other obligations of the Issuer thereunder, together with all appurtenant facilities and properties in which the Issuer has acquired an interest or hereafter shall acquire an interest, including Independent Living Facilities.

“Hospital Receipts” means Hospital Receipts as defined in the Indenture.

“Indenture” means the Trust Indenture dated as of September 1, 2007 between the Issuer and the Trustee, as the same may be amended and supplemented from time to time, including but not limited to Supplemental Indenture No. 1 and Supplemental Indenture No. 3.

“Independent Living Facilities” means “independent living facilities” as defined in Section 140.01, Ohio Revised Code.

“Issuer” means the County of Cuyahoga, Ohio, a county and political subdivision in and of the State.

“Issuer Documents” means this Bond Legislation, the Leases, Amendments to Leases, the Base Leases, the Amendments to Base Leases, the Indenture, Supplemental Indenture No. 3, the Letter of Representations, the First Amended Assignment of Rights Under Leases and the First Amended Assignment of Basic Rents; provided that when reference is made herein to the execution and delivery of the Issuer Documents, with respect to this Resolution, that reference means instead its adoption.

“Leases” means, collectively, the Series 1999 Lease, the Series 2001 Lease and the Series 2004 Lease, as the same have been and may be amended and supplemented from time to time.

“Leased Premises” means the Leased Real Property and the Project, collectively constituting Hospital Facilities.

“Leased Real Property” means the real property described in the Leases, together with any substitutions therefor or additions thereto, less any removals therefrom from time to time as provided for and permitted by the Leases.

“Legislative Authority” means the County Council of the Issuer.

“Letter of Representations” means a blanket letter of representations from the Issuer to the Depository.

“Master Indenture” means the Master Open-End Indenture of Mortgage and Security Agreement between the initial members of the Obligated Group and the Master Trustee, dated as of July 1, 1988, as heretofore amended and supplemented and as further supplemented from time to time, including by Supplemental Master Indenture No. 8.

“Master Indenture Security Documents” means any mortgage on, security interest in, or pledge, hypothecation, assignment or other transfer of any real, personal or real and personal property, tangible or intangible, given from time to time to the Master Trustee by the Borrowers or other members of the Obligated Group as security for the obligations under the Master Indenture.

“Master Trustee” means U.S. Bank National Association, and any successor Master Trustee, as determined or designated under or pursuant to the Master Indenture.

“Maximum Rate” means, with respect to the Series 2012 Bonds, twelve percent (12.0%) per annum.

“Obligated Group” means the Obligated Group as defined in the Master Indenture.

“Original Purchaser” means, as to the Bonds, Huntington National Bank.

“Project” means collectively, the Series 1999 Project, the Series 2001 Project, the Series 2004 Project and the Series 2007 Project.

“Purchase Price” means the purchase price of the Bonds specified in the Certificate of Award, which shall be no less than the par amount thereof, plus accrued interest from the dated date of the Bonds to the date of delivery and payment for the Bonds by the Original Purchaser.

“Remarketing Agent” means, as to the Bonds, initially, B.C. Ziegler and Company, Chicago, Illinois, and upon resignation or removal, any Person meeting the qualifications of and designated from time to time to act as Remarketing Agent under the Indenture.

“Series 1999 Base Lease” means the Amended, Restated and Consolidated Base Lease dated as of January 15, 1999 between the Issuer, Eliza Jennings, Inc. and Olmsted Health and Services Corporation and Olmsted Residence Corporation, as amended or supplemented from time to time in accordance with its terms.

“Series 1999 Lease” means the Amended and Restated Lease dated as of January 15, 1999, between Eliza Jennings, Inc., as lessee and the Issuer, as lessor, as the same may be amended or supplemented from time to time in accordance with the terms thereof.

“Series 1999 Project” means the Project as defined in the Series 1999 Lease.

“Series 2001 Base Lease” means the Base Lease dated as of May 1, 2001 between the Issuer, as lessee, and Eliza Jennings Home, as lessor, as amended or supplemented from time to time in accordance with its terms.

“Series 2001 Lease” means the Lease dated as of May 1, 2001, between Eliza Jennings Home, as lessee, and the Issuer, as lessor, as the same may be amended or supplemented from time to time in accordance with the terms thereof.

“Series 2001 Project” means the Project as defined in the Series 2001 Lease.

“Series 2004 Base Lease” means the Base Lease dated as of April 1, 2004 between the Issuer, as lessee, and Devon Oaks Assisted Living Corporation, as lessor, as amended or supplemented from time to time in accordance with its terms.

“Series 2004 Lease” means the Lease dated as of April 1, 2004, between Devon Oaks Assisted Living Corporation, as lessee, and the Issuer, as lessor, as the same may be amended or supplemented from time to time in accordance with the terms thereof.

“Series 2004 Project” means the Project as defined in the Series 2004 Lease.

“Series 2007 Bonds” means, collectively, the Series 2007A Bonds, the Series 2007B Bonds and the Series 2007C Bonds.

“Series 2007 Project” means the Hospital Facilities, including Independent Living Facilities, acquired, constructed, improved, furnished, rehabilitated and equipped with a portion of the proceeds of the Series 2007 Bonds.

“Series 2007A Bonds” means the Issuer’s Health Care and Independent Living Facilities Fixed Rate Revenue Bonds, Series 2007A (Eliza Jennings Senior Care Network Project).

“Series 2007B Bonds” means the Issuer’s Health Care and Independent Living Facilities Variable Rate Demand Revenue Bonds, Series 2007B (Eliza Jennings Senior Care Network Project).

“Series 2007C Bonds” means the Issuer’s Health Care and Independent Living Facilities Variable Rate Demand Taxable Revenue Bonds, Series 2007C (Eliza Jennings Senior Care Network Project), which Series 2007C Bonds have been paid and discharged and are no longer Outstanding.

“Series 2012 Bonds” means the Issuer’s Health Care Facilities Variable Rate Demand Refunding Revenue Bonds, Series 2012 (Eliza Jennings Senior Care Network Project).

“Supplemental Indenture No. 1” means Supplemental Trust Indenture No. 1, dated as of September 1, 2007, by and between the Issuer and the Trustee and relating to the issuance of the Series 2007A Bonds, and any amendment or supplement thereto.

“Supplemental Indenture No. 3” means Supplemental Trust Indenture No. 3, dated as of November 1, 2012, by and between the Issuer and the Trustee and relating to the issuance of the Series 2012 Bonds, and any amendment or supplement thereto.

“Supplemental Master Indenture No. 8” means Supplemental Master Indenture No. 8, dated as of November 1, 2012, by and between the Obligated Group and the Master Trustee.



“Special Funds” means collectively, the Bond Fund and the Construction Fund established under the Indenture.

“State” means the State of Ohio.

“Tender Agent” means the Person designated in the applicable Resolution, Certificate of Award or Supplemental Indenture, and any successor Tender Agent as determined or designated under or pursuant to the Indenture.

“Trustee” means U.S. Bank, National Association, and any successor Trustee, as determined or designated under or pursuant to the Indenture.

Words and terms used herein with initial capital letters and not herein defined have the meaning given to them in the Indenture.

The captions and headings in this Resolution are solely for convenience of reference and do not define, limit or describe the scope or intent of any provisions or Sections of this Resolution.

#### **SECTION 2. Findings and Determinations; Authorization of the Bonds.**

This Council finds and determines based upon representations of the Borrowers and the advice of Bond Counsel, that: (a) there is a substantial need within the Issuer to better provide for the health and welfare of the people of the State and the Issuer by enhancing the availability, efficiency and economy of Hospital Facilities and the services rendered thereby, and to facilitate the financing of those Hospital Facilities, to provide health care and other services to the residents of the Issuer available for the service of the general public without discrimination by reason of race, creed, color or national origin, religion or age and at the lowest practicable cost; (b) the Base Leases and the Leases and the Issuer's execution and delivery, will promote the public purpose stated in Section 140.02 of the Ohio Revised Code and restated in the preceding clause (a), and the Issuer will be duly benefited thereby, (c) the Project consists of Hospital Facilities and (d) it is necessary to, and the Issuer shall, issue, sell and deliver, as provided and authorized herein and in the Indenture, pursuant to the authority of the Act, Series 2012 Bonds in an aggregate principal amount not to exceed \$25,000,000, for the purpose of providing funds to (i) currently refund the outstanding principal amount of the Issuer's Series 2007B Bonds (the “Refunded Bonds”), and (ii) pay certain expenses incurred in connection with the issuance of the Bonds.

#### **SECTION 3. Terms and Provisions of the Bonds.**

(a) Generally. The Bonds shall be designated “County of Cuyahoga, Ohio Health Care and Independent Living Facilities Variable Rate Demand Refunding Revenue Bonds, Series 2012 (Eliza Jennings Senior Care Network Project)”.

(b) Form of Bonds. The Series 2012 Bonds (i) shall be issuable only in fully registered form and substantially as set forth in Exhibit A attached to Supplemental Indenture No. 3, (ii) shall be exchangeable only for Series 2012 Bonds of authorized denominations, as provided in the Indenture; (iii) shall be numbered in a manner determined by the Trustee which will distinguish each Series 2012 Bond from each other Series 2012 Bond; (iv) shall be in the denominations for which provision is made and which are permitted by the Indenture; (v) shall be dated as specified in the Certificate of Award, provided that such date or dates shall be no later than December 31, 2012; (vi) if requested by the Original Purchaser, shall be initially issued to only to a Depository for holding in a book entry system; (vii) shall mature on such dates and in such principal amounts as may be fixed by the Fiscal Officer in the 2012 Certificate of Award, provided that the final maturity shall not be later than May 15, 2043; (viii) shall be subject to optional redemption, extraordinary optional redemption and mandatory redemption as provided in the Indenture; and (ix) shall bear interest, payable from the most recent date to which interest has been paid or provided for or, if no interest has been paid or provided for, from the date of the Series 2012 Bonds.

Principal of and premium, if any, and interest on the Bonds shall be payable as provided in the Indenture. The Bonds shall be registered in the name of the Holder or, if requested by the Holder, in the name of the Depository or its nominee, as Holder, and immobilized in the custody of the Depository, and the Bonds shall not be transferable or exchangeable, except for transfer to another Depository or to another nominee of a Depository as referred to in subsection (e) of this Section 3, without further action by the Borrowers.

(c) Execution. The Bonds shall be signed by the Executive and the Fiscal Officer in their official capacities (provided that either or both of those signatures may be facsimiles). In case any officer, whose signature or facsimile thereof shall appear on the Bonds, shall leave office prior to the issuance of the Bonds, such signature or facsimile thereof shall nevertheless be valid and sufficient for all purposes, the same as if he or she had remained in office until after that time.

(d) Interest Rates. The initial interest rate on the Series 2012 Bonds shall be the Bank Rate determined as provided in the Trust Indenture and Supplemental Indenture No. 3, which interest rate shall not exceed the Maximum Rate established for the Bonds. While the Series 2012 Bonds bear interest at the Bank Rate, interest shall be payable on the fifth day of each month.

Pursuant to Supplemental Indenture No. 3, the Issuer has the option to convert the interest rate mode on the Series 2012 Bonds to other interest rate modes, including (each as defined in Supplemental Indenture No. 3) the Weekly Rate, the One Month Interest Rate, the Three Month Interest Rate, the Six Month Interest Rate, the One Year Interest Rate, the Five Year Interest Rate or the Fixed Interest Rate. While the Series 2012 Bonds bear interest at the Six Month Interest Rate, the One Year Interest Rate, the Five Year Interest Rate or the Fixed Interest

Rate, interest is payable on the first day of each May and November, and while the Series 2012 Bonds bear interest at the Weekly Rate, the One Month Interest Rate or the Three Month Interest Rate, interest in such Interest Rate Mode is payable on the first Business Day of each month.

(e) Appointment of Remarketing Agent. The Issuer hereby appoints Ziegler Capital Markets, a division of B.C. Ziegler and Company, Chicago, Illinois, as the initial Remarketing Agent for the Series 2012 under the Indenture.

(f) Book-entry System. If the Bonds are issued to a Depository and the Depository determines not to continue or if the Borrowers determine it is not in their best interest or the best interest of the Beneficial Owners for the Depository to continue to act as a Depository for the Bonds for use in a book entry system, the Borrowers, after written notice to the Issuer, may attempt to have established a securities depository/book entry system relationship with another Depository under this Resolution. If the Borrowers do not or are unable to do so, the Issuer and the Trustee, after the Trustee has made provision for notification of the Beneficial Owners by appropriate notice to the then Depository, shall permit withdrawal of the Bonds from the Depository, and authenticate and deliver Bond certificates, in fully registered form and in the authorized denomination to the assignees of the Depository or its nominee or the Beneficial Owner, all at the cost and expense (including costs of printing or otherwise preparing, and delivering, replacement Bonds) of the Borrowers.

**SECTION 4. Sale of the Bonds; Certificate of Award; Official Statement.** The Bonds shall be sold and awarded to the Original Purchaser, in accordance with the terms of this Resolution, the Indenture and the Bond Purchase Agreement, at the Purchase Price, as defined in the Certificate of Award, provided that the Purchase Price shall not be less than the principal amount of the Bonds, together with accrued interest on the Bonds from their date to the date of their delivery and payment therefor.

It is determined hereby, based upon the advice of Bond Counsel and representations of the Borrowers that the Purchase Price and the manner of sale and the terms of the Bonds as provided in this Ordinance, the Bond Purchase Agreement, and the Indenture, are consistent with all legal requirements and will carry out the public purposes of the Act.

The award shall be further evidenced by the Certificate of Award which shall determine and state (i) the Purchase Price of Bonds to be issued, (ii) the principal maturities of the Series 2012 Bonds, (iii) the mandatory sinking fund requirements of the Series 2012 Bonds, if any, and (iv) any other provisions of the Bonds deemed necessary or appropriate by the officer or officers of the Issuer executing and delivering the Certificate of Award, and the Issuer's legal counsel, and not contrary to this Resolution or adverse to the Issuer. The Certificate of

Award shall be executed by the Executive or the Fiscal Officer, or of the Issuer, alone or in conjunction with either of the foregoing, and execution and delivery of the Certificate of Award by any such officer or officers shall be deemed as conclusive that all matters set forth in the Certificate of Award are not contrary to this Resolution or adverse to the Issuer.

The Executive, the Fiscal Officer or the Clerk are authorized and directed, alone or together, to make the necessary arrangements with the Original Purchaser to establish the date, location, procedures and conditions for the delivery of the Bonds to the Original Purchaser and to take all steps necessary to effect due execution, authentication and delivery of the Bonds to the Original Purchaser under the terms of this Resolution and the Certificate of Award.

**SECTION 5. Allocation of Proceeds of Bonds.** The proceeds of sale of the Bonds (including, without limitation, premium, if any, and interest accrued thereon) shall be allocated and deposited in accordance with the Indenture.

All funds, accounts and subaccounts contemplated in the Indenture to be created are authorized and directed hereby to be created and shall be used without further legislative action for the purposes specified in the Indenture.

**SECTION 6. Security for the Bonds.** To the extent and except as otherwise provided under the Indenture, (i) the Bond Service Charges on the Bonds shall be equally and ratably payable solely from the Hospital Receipts, the Special Funds and from any amounts payable pursuant to the Leases, and (ii) the payment of Bond Service Charges on the Bonds shall be secured by the absolute and irrevocable assignment of the Hospital Receipts and the Special Funds and secured by the Indenture, including the assignment of the Basic Rent under the Leases. All Basic Rent shall be paid by the Borrowers directly to the Trustee for the account of the Issuer.

Anything in the Resolution, the Bonds or the Indenture to the contrary notwithstanding, the Bonds do not and shall not represent or constitute a general obligation, debt or bonded indebtedness of the Issuer, or a pledge of the faith and credit or moneys of the Issuer, and the Holders of the Bonds shall not be given and shall not have any right to have excises or taxes levied by the Issuer for the payment of Bond Service Charges thereon. The Bonds shall contain a statement to that effect and to the effect that the Bonds are payable, solely from the Hospital Receipts and from any other moneys paid by the Borrowers or obtained by the Trustee upon the exercise of rights and remedies under the Issuer Documents.

**SECTION 7. Covenants and Agreements of Issuer.** In addition to the other covenants of the Issuer herein and in the Issuer Documents, the Issuer further covenants and agrees as follows:

(a) Authority and Actions. The Issuer is, and upon delivery of the Bonds will be, duly authorized by the laws of the State, particularly and without limitation the Act, to issue the Bonds, to execute and deliver the Issuer Documents, the Bond Purchase Agreement and other instruments and documents to which it is a party, to provide the security for payment of the Bond Service Charges on the Bonds in the manner and to the extent set forth herein and in the Indenture, and to cause the refunding of the Series 2007B Bonds, all as authorized by this Board. All actions on the part of the Issuer for the issuance of the Bonds and the execution and delivery of the Issuer Documents, the Bond Purchase Agreement and such other instruments and documents have been or will be duly and effectively taken. The Bonds will be valid and enforceable special limited obligations of the Issuer according to the terms thereof. Each duty of the Issuer and of its officers and employees undertaken pursuant to the Bonds, the Issuer Documents and the Bond Purchase Agreement is a duty specifically enjoined by law pursuant to Section 140.06(J), Ohio Revised Code, upon the Issuer and each of those officers and employees having authority thereunder or by provision of law to perform the duty, resulting from an office, trust or station, within the meaning of Section 2731.01, Ohio Revised Code, providing for enforcement by writ of mandamus.

(b) Transcript. The Clerk shall furnish to the Original Purchaser a true transcript of proceedings, certified by the Clerk, of all proceedings had with reference to the issuance of the Bonds, together with such information from the records as is necessary to determine the regularity and validity of the issuance of the Bonds.

(c) Further Assurances. The Issuer shall do all things and take all actions on its part necessary within its legal authority and control to comply with obligations, duties and responsibilities on its part under the Issuer Documents. Nothing herein or in the Issuer Documents shall be construed as requiring the Issuer to operate the Leased Premises or to use or pledge any moneys from any source other than Hospital Receipts or the Alternate Security as provided in the Indenture.

(d) No Pecuniary Liability of the Issuer. No provision, covenant, or agreement contained in this Resolution, the Issuer Documents, the Bond Purchase Agreement, or other documents, and no obligation herein imposed upon the Issuer, or the breach thereof, shall constitute an indebtedness of the Issuer or the State of Ohio or any political subdivision thereof within the meaning of any Ohio constitutional provision or statutory limitation or shall constitute or give rise to a pecuniary liability of the Issuer or the State of Ohio or any political subdivision thereof or a charge against its general credit or taxing powers. In making the agreements, provisions and covenants set forth in this Resolution, the Issuer Documents, the Bond Purchase Agreement, or other documents, the Issuer has not obligated itself, except to the extent that the Issuer is authorized to act pursuant to Ohio law and except with respect to the Hospital Receipts. The Issuer and any of its officials, officers or employees shall have no monetary liability

arising out of the obligations of the Issuer hereunder or in connection with any covenant, representation or warranty made by the Issuer herein or any of the Issuer Documents described in Section 8 of this Resolution, and neither the Issuer nor its officials, officers or employees shall be obligated to pay any amounts in connection with the transactions contemplated hereby other than from Hospital Receipts or other moneys received from the Borrowers.

**SECTION 8. Issuer Documents.** To provide for the issuance and sale of the Bonds, the refunding of the outstanding principal amounts of the Series 2007B Bonds, and the consummation of the transactions contemplated herein, the Executive, the Fiscal Officer and any other appropriate officer of the Issuer is authorized and directed to execute, acknowledge and deliver, for and in the name and on behalf of the Issuer, each Issuer Document and the Bond Purchase Agreement in substantially the respective forms thereof submitted to this Legislative Authority (except that with respect to this Resolution, that authority and direction refers to certification of the adoption of this Resolution) subject to such changes as are requested and/or approved by the Issuer, including, but not limited to, certain provisions in the Leases that require the Borrowers to provide community benefits in a manner satisfactory to the Issuer.

The Issuer Documents and the Bond Purchase Agreement are approved with changes therein which are not inconsistent with this Resolution, which are not adverse to the Issuer, which are permitted by the Act, and which are approved by the officer or officers executing the respective Issuer Documents and the Bond Purchase Agreement and the Issuer's legal counsel. The approval of those changes by that officer or those officers, and the character of those changes as not being adverse to the Issuer, shall be evidenced conclusively by the execution and delivery of the respective Issuer Documents and the Bond Purchase Agreement by that officer or those officers.

**SECTION 9. Other Documents.** The Executive, the Fiscal Officer, the Clerk and any other appropriate officer of the Issuer, alone or in conjunction with any of the foregoing, are authorized and directed to execute, deliver and, if applicable file, for and in the name and on behalf of the Issuer, any certifications, financing statements, assignments and other instruments and documents which are necessary and appropriate to perfect the assignments contemplated in the Indenture and to consummate the transactions contemplated in the Issuer Documents, the Bond Purchase Agreement and the Bonds. Those certifications and other instruments and documents include, without limitation, an appropriate certificate under Section 149(e) of the Code, a report on Form 8038 and any other certifications and forms necessary or advisable under the Code and a certification by the Clerk of the transcript of proceedings relating to the issuance of the Bonds.

**SECTION 10. Lien of Pledge Hereunder.** As provided in Section 140.06 of the Act, the Hospital Receipts are subject to the lien of the pledge hereunder and under the Indenture without any physical delivery of the Hospital Receipts or

further act, and the lien of that pledge is valid and binding against all parties having claims of any kind against the Issuer or the Borrowers (irrespective of whether those parties have notice of such pledge), and creates a perfected security interest for all purposes of Chapter 1309, Ohio Revised Code, without the necessity for separation or delivery of the Hospital Receipts or for the filing or recording of the Indenture or any other resolution or instrument by which that pledge is created or any certificate, statement or other document with respect to that pledge. The pledge of and lien on the Hospital Receipts under the Indenture shall be effective and the money therefrom and thereof may be applied to the purposes for which pledged without necessity for any further act of appropriation.

**SECTION 11. Release of Leased Premises.** Consistent with the provisions of the Base Leases and the Leases, the Base Leases and the Leases may be amended, at any time and from time to time, to effect the release of and removal from the leasehold estates created thereby of any part of or interest in the Leased Premises and the transfer thereof to the applicable Borrowers, provided, in the opinion of Bond Counsel, such release shall not cause the Bonds to become taxable.

No further legislative action of the Issuer shall be required to authorize or effect the release or removal of all or portions of the Leased Premises, or granting or modifying interests therein, as contemplated by the Base Leases and the Leases, and the Executive and the Fiscal Officer shall be and they hereby are authorized and directed to execute and deliver, alone or in combination with any other such official, any and all documents or instruments necessary or appropriate, as determined by such official or officials, to effect such release or removal, or such granting or modifying of interests in the Leased Premises.

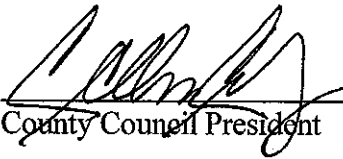
**SECTION 12. Compliance with Open Meeting Requirements.** It is found and determined that all formal actions of this Council concerning and relating to the adoption of this Resolution were adopted in an open meeting of this Council, and that all deliberations of this Board and of any of its committees that resulted in those formal actions, were in meetings open to the public, in compliance with all legal requirements, including Section 121.22, Ohio Revised Code.

**SECTION 13. Immediately Effective.** It is necessary that this Resolution become immediately effective in order to provide for the refunding of the Series 2007B Bonds at favorable interest rates. Provided that this Resolution receives the affirmative vote of eight members of Council, this Resolution shall become immediately effective upon the signature of the County Executive.

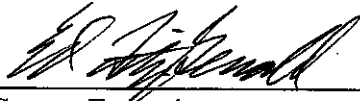
On a motion by Mr. Miller, seconded by Ms. Conwell, the foregoing Resolution was duly adopted.

Yeas: Conwell, Jones, Rogers, Simon, Greenspan, Miller, Brady, Germana, Gallagher and Connally

Nays: None

  
County Council President

11-13-12  
Date

  
County Executive

11/19/12  
Date

  
Clerk of Council

11/13/2012  
Date

First Reading/Referred to Committee: October 9, 2012  
Committee(s) Assigned: Economic Development & Planning

Additional Sponsorship Requested on the Floor: November 13, 2012

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