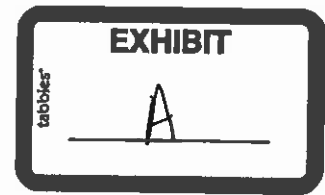


12-282

PUBLIC HOSPITAL AGENCIES AGREEMENT



between

City of North Canton, Ohio

and

County of Summit, Ohio

and

St. Luke Lutheran Community–Portage Lakes

and

St. Luke Lutheran Home for the Aging

and

The Waterford at St. Luke

(St. Luke Lutheran Community Project)

This Agreement is made as of _____, 2012 (the “Agreement”), between the City of North Canton, Ohio (the “City”) and the County of Summit, Ohio (the “County”) to assist St. Luke Lutheran Community–Portage Lakes (“St. Luke Portage Lakes”) and its Affiliates, St. Luke Lutheran Home for the Aging (“St. Luke North Canton”) and The Waterford at St. Luke (“Waterford” and, together with St. Luke Portage Lakes and St. Luke North Canton, the “St. Luke Affiliates”) in financing costs of hospital facilities. Capitalized terms not otherwise defined in this Agreement will have the meanings assigned to them in Section 1 below.

RECITALS

- A. Both the City and the County are Ohio political subdivisions and are “public hospital agencies” under the Act. St. Luke Portage Lakes and its Affiliates are Ohio nonprofit corporations and each is a “nonprofit hospital agency” under Chapter 140 of the Ohio Revised Code (the “Act”).
- B. Ohio political subdivisions are authorized to issue revenue bonds to pay “costs of hospital facilities,” as defined in the Act, and to lease those hospital facilities to “nonprofit hospital agencies,” as defined in the Act.

- C. Public hospital agencies are authorized by the Act to enter into agreements for the acquisition, construction, reconstruction, rehabilitation, remodeling, renovating, enlarging, equipping, and furnishing of hospital facilities as well as for the refinancing of obligations by hospital agencies and nonprofit hospital agencies the proceeds of which were used for the payment of hospital facilities to promote the public purpose of the Act.
- D. The City issued its Series 1998 Bonds, the proceeds of which were used by Waterford to: (a) refund and retire the outstanding principal amount of the City's Health Care Facilities Revenue Bonds, Series 1992 (The Waterford at St. Luke Project) dated December 15, 1992, in the initial principal amount of \$7,280,000, the proceeds of which were used to finance the acquisition, construction, and equipping of a 67 unit housing facility for older adults located at _____, North Canton, Ohio and operated by Waterford; (b) fund the debt service reserve fund for the Series 1998 Bonds; and (c) pay certain costs and expenses of the City and Waterford in connection with the issuance of the Series 1998 Bonds.
- E. The City issued its Series 2007 Bonds, the proceeds of which were used to: (a) refund the City's Health Care Facilities Revenue Refunding Bonds, Series 1997A and Series 1997B (St. Luke Lutheran Home for the Aging Project), the proceeds of which were used to advance refund the City's Economic Development Revenue Bonds, Series 1984 (FHA Insured Mortgage Loan-St. Luke Lutheran Home for the Aging Project) which were issued to finance a 64,000 square foot addition and improvement to the St. Luke North Canton facility located at 200 and 220 Applegrove Street, N.E., North Canton, Ohio; (b) the refinancing of loans made to St. Luke Portage Lakes to finance a 4,450 square foot addition and improvement to the St. Luke Portage Lakes facility located at 615 Lathem Lane, Akron, Ohio; (c) the financing and refinancing of general maintenance capital expenditures to both facilities; and (d) the payment of the issuance costs of the Series 2007 Bonds.
- F. St. Luke Affiliates have requested that the City issue revenue bonds under the Act to: (a) refund the Series 2007 Bonds; (b) refund the Series 1998 Bonds; and (c) pay the issuance costs of the Series 2012 Bonds (the "Project Purposes").
- G. The City and the County have each determined to enter into this Agreement to assist the St. Luke Affiliates in refinancing the costs of hospital facilities located in the City and the County.

The City and the County agree as follows:

Section 1. Definitions. The following terms are defined terms in this agreement:

"Act" means Chapter 140, Ohio Revised Code.

"Project" means the real and personal property owned by the St. Luke Affiliates the costs of which are being refinanced with the Series 2012 Bonds.

“Series 1998 Bonds” means the City’s \$8,220,000 Health Care Facilities Revenue Refunding Bonds, Series 1998 (The Waterford at St. Luke Project), dated June 15, 1998.

“Series 2007 Bonds” means the City’s \$13,510,000 Variable Rate Healthcare Facilities Revenue Bonds, Series 2007 (St. Luke Lutheran Community Project), dated August 24, 2007.

“Series 2012 Bonds” means the City’s Healthcare Facilities Revenue Refunding Bonds, Series 2012 issued to finance the Project, as described in Section 4.

“St. Luke Affiliates” means St. Luke Portage Lakes, St. Luke North Canton and Waterford, each qualifying as a “nonprofit hospital agency” as defined in the Act.

“St. Luke North Canton” means St. Luke Lutheran Home for the Aging, an Ohio nonprofit corporation.

“St. Luke Portage Lakes” means St. Luke Lutheran Community-Portage Lakes, an Ohio nonprofit corporation.

“Waterford” means The Waterford at St. Luke, an Ohio nonprofit corporation.

Section 2. Public Purpose. The City and the County are entering into this Agreement to promote the public purpose of the Act by better providing for the health and welfare of the people of Ohio, the City, and the County by enhancing the availability, efficiency, and economy of hospital facilities and the services rendered by those hospital facilities, 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, color, or national origin. Those hospital facilities include the Project.

Section 3. Hospital Facilities. The City and the County will cooperate in financing the costs of hospital facilities constituting the Project to facilitate the acquisition, construction, equipping, and furnishing of the Project. The following are the provisions relating to those hospitals facilities:

- (a) The title to the Project will be held by the applicable St. Luke Affiliate. The Project will be leased to the City and will be subleased back to the St. Luke Affiliates.
- (b) The sublease will constitute a lease under Section 140.05, Revised Code, and will provide the method by which the Project will be managed, occupied, maintained, and repaired.
- (c) The programs and activities to be conducted at the Project will be managed and administered by the applicable St. Luke Affiliate.
- (d) The County will have no obligation to provide any money to pay costs of the Project Purposes or any other costs under this Agreement.

Section 4. Issuance of Obligations. The City will issue its Series 2012 Bonds, in one or more series, to pay the costs of hospital facilities in connection with the Project owned by St. Luke Portage Lakes located within the geographical boundaries in the County, and to pay costs of other hospital facilities owned by the other St. Luke Affiliates located within the geographical boundaries of the City.

The Series 2012 Bonds will not constitute a debt, or a pledge of faith and credit of the State of Ohio, the City, the County, or any other Ohio political subdivision. The holders of the Series 2012 Bonds do not have the right to have taxes levied by the City, the General Assembly of Ohio, the County, or the taxing authority of any other Ohio political subdivision for the payment of principal, interest, and any premium on the Series 2012 Bonds. Each Series 2012 Bond must contain on its face a statement to that effect, and that the Series 2012 Bonds are payable solely from the hospital receipts and the other sources pledged to their payment in the indenture securing the Series 2012 Bonds.

The County has no obligation, other than those set forth in this agreement, with respect to the Series 2012 Bonds, the Project, or the St. Luke Affiliates. The County is not required to make a contribution with respect to the financing.

Section 5. Indemnification. The St. Luke Affiliates releases the County and the City from, agrees that the County and the City shall not be liable for, and agree to indemnify the County and the City against, all liabilities, claims, costs and expenses imposed upon or asserted against the County or the City on account of: (a) any loss or damage to property, or injury to or death of any person, that may be occasioned by any cause whatsoever pertaining to the maintenance, operation and use of the Project; (b) any breach or default on the part of the St. Luke Affiliates in the performance of any covenant or agreement of the St. Luke Affiliates under any documents or instruments related to the issuance of the Series 2012 Bonds, or arising from any act or failure to act by any St. Luke Affiliate or any agents, contractors, servants, employees, or licensees of a St. Luke Affiliate or arising from any accident, injury, or damage whatsoever caused to any person, firm, or corporation occurring in or about the Project; (c) the authorization, issuance, and sale of the Series 2012 Bonds; and (d) any such claim, action, or proceeding brought thereon.

In case any action or proceeding is brought against the County or the City in respect of which indemnity may be sought hereunder, the party seeking indemnity shall promptly give notice of any such action or proceeding to the St. Luke Affiliates. The St. Luke Affiliates, upon such notice, covenants to and shall have the obligation and the right to assume the defense of the action or proceeding; provided that failure of such party to give such notice shall not relieve the St. Luke Affiliates from any of its obligations under this Section unless such failure prejudices the defense of such action or proceeding by the St. Luke Affiliates, and then only to the extent of such prejudice. Upon receipt of notice from such party seeking indemnification, the St. Luke Affiliates shall resist and defend such action or proceeding at expense of the St. Luke Affiliates. Counsel for defense must be reasonably satisfactory to County or the City, as applicable. At its own expense, an indemnified party may employ separate counsel and participate in the defense.

If the St. Luke Affiliates shall not have employed counsel to have charge of the defense of the action, claim, or proceeding, or if an indemnified party shall have concluded reasonably that there may be a defense available to it or to any other indemnified party which is different from or in addition to those available to the St. Luke Affiliates or to any other indemnified party or if an indemnified party shall have reasonably concluded that counsel representing other indemnified parties cannot fairly represent such indemnified party because of a conflict of interest, (i) the St. Luke Affiliates shall not have the right to direct the defense of the action, claim, or proceeding on behalf of that indemnified party and (ii) legal and other expenses incurred by the indemnified party (including without limitation, to the extent permitted by law, reasonable attorney's fees and expenses) shall be borne by the St. Luke Affiliates.

The indemnification provided by this Section shall include their respective officials, officers, directors, and employees of the County and the City. Such indemnification is intended to and shall be enforceable by the County and the City to the full extent permitted by law.

Section 6. Term. This Agreement will take effect upon the signing and delivery by both parties and will terminate upon the final discharge of any securities issued by either party to finance or refinance the Project.

Section 7. Costs. The costs of issuance of the Series 2012 Bonds will be paid from the proceeds of the Series 2012 Bonds, or by funds provided by the St. Luke Affiliates. The County and the City will have no obligation to pay those costs of issuance except from the proceeds of the Series 2012 Bonds. Any expense of the County or the City incurred in performing any obligation under this agreement, or in preparing or entering into this Agreement, will be reimbursed by St. Luke Affiliates.

Section 8. Notices. Any notice or other communication to be given under this Agreement to the parties must be given in writing to the following addresses:

for the County:

County of Summit, Ohio
Ohio Building, 8th Floor
175 South Main Street
Akron, Ohio 44308
Attn: County Executive

for the City:

City of North Canton, Ohio
145 North Main Street
North Canton, Ohio 44720
Attn: Mayor

Section 9. Miscellaneous Provisions.

- (a) Limitation of Liability. The obligations under this Agreement are not personal obligations of any present or future officer or employee of the County or the City, or any member of the County Council of the County or the City Council of the City.
- (b) Successors and Assigns. This Agreement inures to the benefit of and is binding on the successors and assigns of the County, the City and the St. Luke Affiliates.
- (c) Severability. If any provision of this agreement is determined to be unenforceable, the enforceability of the remaining provisions will not be impaired.
- (d) Counterparts. The parties may sign any number of copies of this Agreement. Each party may sign a separate signature page, and this instrument is binding against a signing party if the other party's signed signature page is also attached to this instrument. One signed copy is enough to prove this Agreement.
- (e) Governing Law. The laws of the State of Ohio govern this Agreement.
- (f) Headings. The headings in this Agreement are for convenience only and do not affect the interpretation of this Agreement.

The parties have signed this Agreement as of the date set forth above.

County of Summit, Ohio

City of North Canton, Ohio

By: _____
County Executive

By: _____
Mayor

Approved as to legal form and correctness:

Approved as to legal form and correctness:

By: _____

By: _____

St. Luke Lutheran Community – Portage Lakes

St. Luke Lutheran Home for the Aging

By: _____

By: _____

Its: _____

Its: _____

The Waterford at St. Luke

By: _____

Its: _____