

1 RESOLUTION NO. 2013-401

Late Filing

2
3 SPONSOR Mr. Pry

4
5 DATE September 16, 2013

COMMITTEE: Planning

6
7 **A Resolution determining the necessity of and authorizing the issuance and sale of Health**
8 **Care Facilities Revenue Bonds, Series 2013 (Laurel Lake Retirement Community, Inc.**
9 **Project), in one or more series, in a principal amount not to exceed \$18,000,000; authorizing**
10 **the execution and delivery of a Base Lease and Lease in connection therewith; authorizing the**
11 **execution and delivery of Trust Indentures to secure such Bonds; and authorizing a Tax**
12 **Exemption Agreement and other documents in connection with the issuance of the Bonds, for**
13 **the Executive, and declaring an emergency.**

14
15 WHEREAS, Laurel Lake Retirement Community Foundation, Inc. (the "Corporation")
16 and Laurel Lake Retirement Community, Inc. ("Laurel Lake"), have requested this County
17 Council (the "Council") of the County of Summit, Ohio (the "County"), a county and political
18 subdivision in and of the State of Ohio (the "State"), to authorize the issuance by the County of
19 Health Care Facilities Revenue Bonds, Series 2013 (Laurel Lake Retirement Community, Inc.
20 Project) in one or more series (collectively, the "Bonds"), for the purpose of, together with other
21 available moneys of the Foundation, (1) financing the acquisition, construction, improvement
22 and equipping of certain Hospital Facilities, as that term is defined in Chapter 140 of the Ohio
23 Revised Code (the "Act"), including the acquisition of the membership interests of Laurel Lake
24 by the Corporation and the construction of improvements to the existing continuing care
25 retirement community facilities commonly known as Laurel Lake Retirement Community (the
26 "Project"), and including the reimbursement of the Corporation for costs previously incurred
27 with respect to such Hospital Facilities, (2) financing capitalized interest and a debt service
28 reserve fund, if required, and (3) paying certain costs and expenses of the County and the
29 Corporation incurred in connection with the issuance of the Bonds; and

30 WHEREAS, the County is authorized and empowered by virtue of the laws of the State,
31 including without limitation, the Act, to, among other things: (i) acquire, construct, improve and
32 equip Hospital Facilities, which include the facilities comprising the Project, and to acquire by
33 lease real estate within the boundaries of the County, and interests therein, including without
34 limitation, improvements situated thereon comprising such Hospital Facilities; (ii) enter into a
35 lease agreement to provide for the lease of Hospital Facilities to a "nonprofit hospital agency," as
36 defined in the Act; (iii) issue its revenue obligations for the purpose of financing or refinancing
37 the "costs of hospital facilities," as defined in the Act, and to secure those revenue obligations by
38 Trust Indentures and by the pledge and assignment of the rent paid under the lease agreement
39 and the funds created under the Trust Indentures; (iv) enact this Resolution; and (v) enter into the
40 Trust Indentures, the Base Lease and the Lease, all as hereinafter defined, and to execute and
41 deliver certain other documents and instruments upon the terms and conditions provided herein
42 and therein; and

43 WHEREAS, the Corporation and Laurel Lake each constitute a "nonprofit hospital
44 agency," as defined in the Act; and

45 WHEREAS, this Council has determined that the issuance of the Bonds and the
46 acquisition, construction, improvement and equipping of the Project will further the public
47 purpose of better providing for the health and welfare of the residents of the County and the
48 State, by enhancing the availability, efficiency and economy of nursing, assisted living,
49 independent living facilities to service the residents of the County, so that such Hospital

1 Facilities are and will be available for the service of the general public without discrimination by
2 reason of race, creed, color or national origin; and

3 WHEREAS, it is necessary in connection with the issuance of such Bonds, and the
4 acquisition, construction, improvement and equipping of the Project to provide for the
5 authorization of a Base Lease, Lease, a Tax Exemption Agreement, Trust Indentures and related
6 documents and agreements; and

7 WHEREAS, this Council finds and determines, after reviewing all pertinent information,
8 that it is necessary and in the best interest of the County to authorize the issuance of the Bonds
9 by the County.

10 NOW, THEREFORE, BE IT RESOLVED by the Council of the County of Summit,
11 Ohio:

12 SECTION 1.

13 The Planning and Economic Development Committee of the Summit County Council
14 held a public hearing on September 9, 2013 in Council Chambers. The public was invited to make
15 comments at said hearing and notice of such hearing with respect to the approval of the Bonds was
16 published in *The Akron-Beacon Journal* on or before August 26, 2013.

17 SECTION 2.

18 That for the public purpose of better providing for the health and welfare of the people of
19 the State of Ohio by enhancing the availability, efficiency and economy of nursing, assisted
20 living and independent living facilities constituting Hospital Facilities and services rendered
21 thereby and facilitating the financing of Hospital Facilities to be available to or for the service of
22 the general public without discrimination by reason of race, creed, color or national origin, this
23 Council, acting on behalf of the County, hereby determines that it is necessary to and the County
24 shall issue revenue obligations in one or more series pursuant to Section 140.06, Ohio Revised
25 Code, in the principal amount of not to exceed \$18,000,000 for the purposes set forth in the
26 preambles hereto. Such bonds shall be designated County of Summit, Ohio, Health Care
27 Facilities Revenue Bonds, Series 2013 (Laurel Lake Retirement Community, Inc. Project) with
28 such further designation as shall be determined in the Trust Indentures to specify the series, if
29 required. The Bonds shall be issued in the forms and denominations and shall be executed,
30 dated, be subject to redemption prior to maturity on the dates and at the prices, bear interest at
31 variable or fixed rates, not to exceed 15% per year, and be payable at and on the dates, all as
32 provided in the Trust Indentures hereinafter authorized. The Bonds shall be retired either at
33 stated maturity or by mandatory sinking fund redemption over a period not to exceed 40 years as
34 set forth in the Trust Indentures hereinafter authorized.

35 SECTION 3.

36 Anything in this Resolution, the Bonds and the Trust Indentures to the contrary, the
37 Bonds do not and shall not constitute general obligations, debt or bonded indebtedness or a
38 pledge of the faith and credit of the County or the State or any political subdivision thereof, and
39 the holders or owners of the Bonds are not given the right, and have no right, to have excises, ad

1 valorem taxes or other taxes levied by the County or the State or any political subdivision
2 thereof, for the payment of the bond service charges on such Bonds. The Bonds shall contain a
3 statement to that effect and that the right to such payment is limited to the revenues and special
4 funds pledged for such purpose under the Trust Indentures herein authorized.

5 No recourse under or upon any obligation, covenant, acceptance or agreement contained
6 in this Resolution, the Trust Indentures, the Base Lease, the Lease or in any Bond, or in any other
7 documents or instruments of the County entered into in connection therewith (the "Issuer
8 Documents"), or under any judgment obtained against the Issuer or by the enforcement of any
9 assessment or by any legal or equitable proceeding by virtue of any constitution or statute or
10 otherwise, or under any circumstances, shall be had against any officer or employee as such, past
11 present or future, of the County, including any member of this Council and the County
12 Executive, either directly or indirectly or through the County, or otherwise, for the payment for
13 or to the County or any receiver thereof, or for or to any holder of any Bond, or otherwise, of any
14 sum that may be due and unpaid by the County upon any of the Bonds. Any and all personal
15 liability of every nature, whether at common law or in equity, or by statute or by constitution or
16 otherwise, of any such officer, as such, to respond by reason of any act or omission on his or her
17 part, or otherwise, for, directly or indirectly, the payment for or to the County or any receiver
18 thereof, or for or to the owner or any holder of any Bond, or otherwise, of any sum that may
19 remain due and unpaid upon any Bond, shall be deemed to be expressly waived and released as a
20 condition of and consideration for the execution and delivery of the Issuer Documents and the
21 issuance of the Bonds. The Issuer Documents shall also provide that the Corporation or Laurel
22 Lake shall indemnify and hold harmless the County and its officers, employees and this Council
23 against all liabilities, losses, damages, costs, expenses, causes of action, suits, claims, demands
24 and judgments of any nature arising under the Issuer Documents.

25 SECTION 4.

26 That the County Executive is hereby authorized and directed to execute on behalf of the
27 County, one or more Trust Indentures with a bank authorized to exercise corporate trust offices
28 within the State of Ohio, as trustee (the "Trustee"), in substantially the form presented to this
29 Council and currently on file with the Clerk, and the trust estate as described therein shall be
30 pledged and the other agreements, covenants and promises therein made on behalf of the County
31 shall be conclusively binding upon the County and in full force and effect from and after delivery
32 of the aforesaid Bonds to their purchasers pursuant to the terms of said Trust Indentures. Said
33 Trust Indentures shall be subject to such changes, insertions and omissions which are consistent
34 with this Resolution and are not substantially adverse to the County and as are permitted by the
35 Act and as may be approved by the County Executive, which approval shall be conclusively
36 evidenced by the execution of said Trust Indentures as aforesaid.

37 SECTION 5.

38 That the County Executive is hereby authorized and directed to do all the acts and things
39 required of them by the provisions of the Bonds and the Trust Indentures to the end that full and
40 complete performance of all of the terms, covenants and agreements of the Bonds and Trust
41 Indentures shall be effected.

1 SECTION 6.

2 That this Council hereby determines that the leasing of the Leased Premises (as defined
3 in the Lease) from the Corporation or Laurel Lake and the subleasing of the Leased Premises to
4 the Corporation or Laurel Lake, which will operate the Project, providing health care to the
5 general public without discrimination by reason of race, creed, color or national origin, is
6 undertaken for and will serve the public purpose of better providing for the health and welfare of
7 the people of the County and the State of Ohio by enhancing the availability, efficiency and
8 economy of hospital facilities and the services rendered thereby.

9 SECTION 7.

10 That the County Executive is hereby authorized and directed to execute and enter into, on
11 behalf of the County a Base Lease (the "Base Lease") with the Corporation or Laurel Lake,
12 whereby the County will acquire a leasehold interest in the Leased Premises. The Base Lease
13 shall be substantially in the form presented to this Council and currently on file with the Clerk,
14 subject to such changes, insertions and omissions which are consistent with this Resolution and
15 are not substantially adverse to the County and as are permitted by the Act and as may be
16 approved by the County Executive, which approval shall be conclusively evidenced by the
17 execution of said Base Lease as aforesaid. It is hereby determined that such Base Lease will
18 promote the public purpose stated in Section 140.02, Ohio Revised Code, and the County will be
19 duly benefited thereby.

20 SECTION 8.

21 That the County Executive is hereby authorized and directed to execute and deliver on
22 behalf of the County a Lease (the "Lease") with the Corporation or Laurel Lake. The Lease shall
23 be substantially in the form presented to this Council and currently on file with the Clerk, subject
24 to such changes, insertions and omissions which are consistent with this Resolution and are not
25 substantially adverse to the County and as are permitted by the Act and as may be approved by
26 the County Executive, which approval shall be conclusively evidenced by the execution of said
27 Lease as aforesaid. It is hereby determined that such Lease will promote the public purpose
28 stated in Section 140.02, Ohio Revised Code, and the County will be duly benefited thereby.

29 SECTION 9.

30 That the County Executive is hereby authorized and directed to execute and enter into, on
31 behalf of the County, a Tax Compliance Certificate and Regulatory Agreement and Certificate
32 under Sections 103(b)(2) and 148 of the Internal Revenue Code of 1986, As Amended
33 (collectively, the "Tax Exemption Agreement") with the Corporation, Laurel Lake and the
34 Trustee. The Tax Exemption Agreement shall be substantially in the form presented to this
35 Council and on file with the Clerk, subject to such changes, insertions and omissions which are
36 consistent with this Resolution and are not substantially adverse to the County and as are
37 permitted by the Act and as may be approved by the County Executive, which approval shall be
38 conclusively evidenced by the execution of said Tax Exemption Agreement as aforesaid.

1 SECTION 10.

2 That this Council, for and on behalf of the County, hereby covenants that it will restrict
3 the use of the proceeds of the Bonds hereby authorized in the manner set forth in the Tax
4 Exemption Agreement so that they will not constitute "arbitrage bonds" under Sections 103(b)(2)
5 and 148 of the Internal Revenue Code and the regulations prescribed thereunder. The Tax
6 Exemption Agreement shall set forth the facts, estimates and circumstances and reasonable
7 expectations of the County and Laurel Lake or the Corporation pertaining to the use of the
8 proceeds thereof and the provisions of said Section 148 and regulations thereunder.

9 SECTION 11.

10 That the County Executive, the County Fiscal Officer, the Clerk of Council and other
11 appropriate officers of the County be and they hereby are authorized to execute and deliver on
12 behalf of the County such other certificates, documents and instruments in connection with the
13 issuance and sale of the Bonds, the acquisition, construction, improvement and equipping of the
14 Project, and the qualification of the sale of the Bonds under the "Blue Sky" laws of any jurisdiction
15 (provided, however, that the County shall not be required to agree to service of process or qualify to
16 do business in any state except the State of Ohio as may be required, necessary or appropriate,
17 including, without limitation, one or more bond purchase agreements with the purchasers of the
18 Bonds, any documents which are necessary or appropriate in order to ensure compliance of the
19 Bonds with the Internal Revenue Code, conveyances or assignments of interests in real and personal
20 property of or to the Corporation or Laurel Lake, IRS Forms 8038, terminations of financing
21 statements, leases and other releases of interests in property. Such documents, including the ones
22 specifically authorized hereby, shall be subject to such changes, insertions and omissions as may be
23 approved by this Council, which approval shall be conclusively evidenced by the execution thereof
24 by the proper officers of the County.

25 Nothing in this Resolution or in any contract, agreement, indenture, certificate or other
26 instrument or document authorized hereby shall be construed as requiring the County or this
27 Council to operate any Hospital Facilities or to use any money from any sources other than Bond
28 proceeds or moneys pledged by the Trust Indentures. Any expenses incurred by the County in
29 connection with the issuance of the Bonds shall be paid by Laurel Lake, the Corporation or from
30 proceeds of the Bonds.

31 SECTION 12.

32 That the law firm of Peck, Shaffer & Williams LLP, Columbus, Ohio is designated as Bond
33 Counsel in connection with the issuance of the Bonds, and is authorized to prepare the legal
34 documents necessary therefore. The law firm of Roetzel & Andress, A Legal Professional
35 Association ("Issuer Counsel") is hereby retained as counsel to the County in connection with the
36 issuance of the Bonds. The fees and expenses of Bond Counsel and Issuer Counsel shall be paid by
37 Laurel Lake, the Corporation or from proceeds of the Bonds and shall not be a separate obligation
38 of the County.

39 SECTION 13.

40 That the provisions of this Resolution are hereby declared to be severable and, if any

1 section, phrase or provision shall, for any reason, be declared invalid, such declaration of
2 invalidity shall not affect the validity of the remainder of this Resolution.

3 SECTION 14.

4 This Resolution is declared to be an emergency measure necessary for the immediate
5 preservation of the public peace, health and safety of the County, and for the further reason that this
6 Resolution is required to be immediately effective in order to authorize the Bonds as soon as
7 practicable.

8 SECTION 15.

9 Provided this Resolution receives the affirmative vote of eight members, it shall take effect
10 immediately upon its adoption and approval by the County Executive; otherwise, it shall take effect
11 and be in force at the earliest time provided by law.

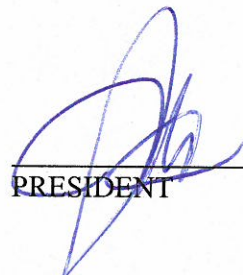
12 SECTION 16.

13 It is found and determined that all formal actions of this Council concerning and relating
14 to the adoption of this Resolution were adopted in an open meeting of this Council, and that all
15 deliberations of this Council and any of its committees that resulted in such formal action, were
16 in meetings open to the public, in compliance with the law, including Section 121.22 of the Ohio
17 Revised Code, and the rules of this Council in accordance therewith.

18
19 INTRODUCED August 26, 2013

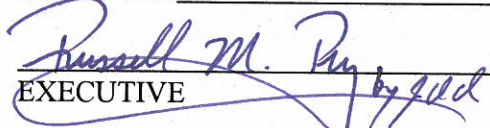
20
21 ADOPTED September 16, 2013

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23 
24 _____
25 CLERK OF COUNCIL



PRESIDENT

26
27 APPROVED September 17, 2013

28
29 
30 _____
31 EXECUTIVE

32 September 17, 2013
33 ENACTED EFFECTIVE

34
35 Voice Vote: 10-0 YES: Comunale, Crawford, Feeman, Kostandaras
Kurt, Lee, Prentice, Rodgers, Roemer, Schmidt
Absent: Shapiro