

**BAY MEDICAL CENTER
RESOLUTION NO. 12 - 01**

A RESOLUTION OF THE BOARD OF TRUSTEES OF BAY MEDICAL CENTER APPROVING A TRANSACTION TO LEASE SUBSTANTIALLY ALL OF ITS REAL PROPERTY AND SELL SUBSTANTIALLY ALL OF ITS OTHER ASSETS TO A FLORIDA CORPORATION CREATED BY A JOINT VENTURE BETWEEN LHP HOSPITAL GROUP, INC. AND SACRED HEART HEALTH SYSTEM, INC.; APPROVING A LEASE AND AN ASSET PURCHASE AGREEMENT WITH SUCH CORPORATION AND JOINT VENTURE; MAKING FINDINGS INCIDENT THERETO; AUTHORIZING DELIVERY OF THE LEASE AND ASSET PURCHASE AGREEMENT TO THE BAY COUNTY BOARD OF COUNTY COMMISSIONERS FOR CONSIDERATION AND COUNTY APPROVAL; AUTHORIZING THE CHAIRMAN AND PRESIDENT/CEO TO FINISH NEGOTIATIONS AND EXECUTE ANY AND ALL DOCUMENTS REQUIRED TO CLOSE SUCH TRANSACTION ON A TIMELY BASIS.

WHEREAS, the Board of Trustees of Bay Medical Center (the “Board”) is an independent special district (the “District”) of the State of Florida under Chapter 2005-343, Laws of Florida (the “Special Act”), that owns and operates Bay Medical Center, a 323-bed acute care hospital located in Bay County, Florida (the “Hospital”), related out-patient treatment and diagnostic centers, other related health care facilities and real property (collectively, the “Real Property”) and the equipment, personal property and other assets necessary for Hospital and health care facility operation (collectively, the “Other Assets”); and,

WHEREAS, together, the Real Property and Other Assets constitute substantially all of the assets, real and personal, of the health care facilities owned or controlled by the Board;

WHEREAS, in the Special Act, the Florida Legislature authorized the Board and the Bay County Board of County Commissioners (“Bay County”) to jointly lease or sell substantially all the assets of the health care facilities owned or controlled by the Board upon a two-thirds vote of the Board and a majority vote of Bay County; and

WHEREAS, the Board may exercise its authority to lease the Real Property and sell the Other Assets if, in the opinion of the Board, such action: (i) is in the best interest of continued delivery of comprehensive, quality health care for the residents of Bay County, (ii) reasonably ensures the continued availability of such care regardless of ability to pay, and (iii) provides for the continued treatment of indigent patients pursuant to the Florida Health Care Responsibility Act and Chapter 87-92, Laws of Florida, to the extent that the Board is providing such treatment pursuant to those acts; and

WHEREAS, demographic, financial, legal, and political events are driving unprecedented change to the health care delivery system in the United States, Florida, and Bay County, including such events as the recently passed Patient Protection and Affordable Care Act of 2010, the Budget Control Act of 2011, ongoing federal deficit reduction efforts, Florida's continued Medicaid reimbursement cuts for hospitals, Florida's creation of a statewide Medicaid managed care program, the continuing worldwide financial crisis, the BP Oil Spill in the Gulf of Mexico, the closing of long-time Bay County businesses such as Sallie Mae, the increasing number of Bay County residents without health insurance, and an dramatic increase in the amount and costs of indigent care provided by the District (over 300% in 10 years), all of which have created extraordinary financial challenges and risks for the District now and in the foreseeable future; and

WHEREAS, the District's continued ability to survive these unprecedented changes are severely hampered by the Board's lack of direct taxing power in the Special Act, its inability to obtain tax support as a public hospital through other means, its inability to keep or obtain long-term capital at competitive rates, and its status as a free-standing, independent, one hospital system in a highly competitive marketplace.

WHEREAS, to cope with these forces, the District, and other health care providers, have been shifting from a volume-based model of delivering care and services to a value-based model, i.e., delivering care and services with the best possible quality, outcomes, and access, for the lowest possible cost across the continuum of care; and

WHEREAS, changing to a value-based model requires resources of capital and clinical expertise not presently available to the District as a free-standing independent one public hospital system, and these continuing trends have caused the Board to become increasingly concerned about the District's ability to remain competitive and survive into the future; and

WHEREAS, over the last ten years, the Board has periodically considered affiliating with a larger health care system, but such considerations reached a tipping point during the prolonged nationwide financial crisis from 2008 to the present, with its corresponding effect on Bay County, the financial markets, and the financial results of the District, and the pending and continuing changes in the nation's health care delivery system; and

WHEREAS, due to these concerns, the District has discussed potential affiliation with interested parties with the goals of finding an affiliation that would:

fulfill the Board's vision for a state-of-the-art, full-service general hospital in Bay County that will meet the future needs and be a "facility of choice" for area residents,

share a common set of values and mission with the District, including the continued commitment to charity care;

have increased access to capital and a willingness to invest in health facilities in Bay County,

help attract and retain highly qualified physicians and specialists to Bay County;

improve the hospital's clinical integration locally, regionally, and nationally to maintain its reputation for quality and safety, and

provide reasonable protection for our current employees during any transition.

satisfy all of the District's outstanding debt;

WHEREAS, the District initially contacted and evaluated proposals in various stages from national, regional and local health care providers, including the Baptist Health System, Tallahassee Memorial Hospital, Sacred Heart Health Systems, Mayo Clinic, Shands Hospital, the Adventists Health System, LHP Hospital Group, and later in the process, Regional Care Partners.

WHEREAS, on April 8, 2011, the Board obtained an independent fair market evaluation from Morgan Keegan, a nationally known healthcare investment and evaluation firm, for the business enterprise value of all the assets and health care operations conducted by the District (the "Fair Market Evaluation"). The Fair Market Evaluation placed the business enterprise value of the all the assets and health care operations in the District between One Hundred Forty One Million Dollars (\$141,000,000) and One Hundred Sixty Eight Million Dollars (\$168,000,000), with a mid point of One Hundred Fifty Four Million Dollars (\$154,000,000). A copy of the Fair Market Evaluation is hereby incorporated by reference as part of this Resolution attached as Exhibit A; and

WHEREAS, after considering the potential affiliation options, the Board felt that a joint venture proposal for a pre-paid lease of the District's facilities from LHP Hospital Group, Inc. ("LHP") and Sacred Heart Health Systems, Inc. ("Sacred Heart"), offered the best possible affiliation for the District and met the goals the Board set initially for an

affiliation. Sacred Heart, in particular, has a similar charity care mission as the District, is geographically close, could easily provide integrated health care services in Bay County, and currently has existing relations with the District through its surrounding hospitals in Escambia, Walton and Gulf Counties; and

WHEREAS, on September 29, 2011, the Board approved a Non-Binding Letter of Intent (the “LOI”) with LHP and Sacred Heart to negotiate a pre-paid lease transaction for a lease of the hospital facilities and equipment, subject to certain conditions; and

WHEREAS, on November 30, 2011, after extensive negotiations, the Board approved Resolution 11-12, which (i) authorized management to continue negotiations with LHP and Sacred Heart on a pre-paid lease transaction, subject to certain conditions; (ii) formally requested consideration of the transaction by the Bay County Board of County Commissioners; and (iii) authorize administration to continue to work with LHP, Sacred Heart, and Bay County to resolve all remaining issues and bring such revisions back to the Board for approval.

WHEREAS, fundamental agreement has been reached on all major aspects of the transaction, including the agreement to lease substantially all of the Real Property (the “Lease”) and the agreement to sell substantially all of the Other Assets (the “Asset Purchase Agreement”) (together the Lease and Asset Purchase Agreement shall be called the “Transaction Documents”). The Lease and the Asset Purchase Agreement are attached to this Resolution as Exhibit B and Exhibit C respectfully, and are hereby incorporated by reference as part of this Resolution, but as is common in a transaction of this magnitude, details and issues may continue to need adjustment through negotiations; and

WHEREAS, as provided in the Transaction Documents, a Florida corporation, formed by a joint venture of LHP and Sacred Heart, shall: (i) lease substantially all the Real Property and purchase substantially all of the Other Assets; (ii) abide by the charity care rules for federal tax-exempt organizations under §501(c)(3) of the Internal Revenue Code; (iii) accept all current employees in good standing; (iv) satisfy all of the District’s existing debt as part of a payment upon closing to the District (in a minimum of cash to satisfy the debt and the remainder through a short term promissory note at a commercially reasonable interest rate) of One Hundred Fifty Four Million Dollars and Zero Cents (\$154,000,000.00), with appropriate adjustments for working capital, ongoing capital projects, and other adjustments set forth in the Transaction Documents; and

WHEREAS, to continue the Board’s mission of providing health care to the citizens of Bay County and the surrounding areas regardless of ability to pay, the Board believes that it is in the best interests of District and the citizens of Bay County to lease the Real Property to a Florida corporation, formed by a joint venture of LHP and Sacred Heart, and sell the Other Assets to the same so that such Florida corporation and joint venture can operate the Hospital and other health care facilities currently operated by the District in a more competitive, efficient, value-based model.

WHEREAS, the foregoing recitals are expressly incorporated as integral parts of this Resolution.

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF TRUSTEES OF BAY MEDICAL CENTER, as follows:

SECTION 1. The Board hereby finds and determines:

- A. That all of the recitals above are hereby specifically adopted as findings of the Board.
- B. That entering into the Lease and Asset Purchase Agreement are in the best interest of the public and in furtherance of the purpose of the District as stated in Section 10 of Special Act, which is to manage and develop quality and comprehensive health care facilities “in an increasingly competitive and rapidly changing marketplace” for the residents of Bay County;
- C. That the articles of incorporation of the Florida corporation taking custody of the Real Property and Other Assets will be reviewed and approved by the Board or its designee as described in Section 2, herein;
- D. That the Lease, Asset Purchase Agreement, and other related transaction agreements provide for the orderly transition of the operation and management of the Hospital, Real Property, and Other Assets to the Florida corporation and joint venture of Sacred Heart and LHP;
- E. That the Hospital and Real Property shall be returned to the District at the end of the Lease, subject to the conditions therein;
- F. That the Lease reasonably assures the availability of comprehensive health care in Bay County and provides for continued treatment of indigent patients pursuant to Florida Healthcare Responsibility Act and pursuant to Chapter 87-92 of the Laws of Florida;
- G. That the Lease and Asset Purchase Agreement are for fair market value based on the independent fair market evaluation of Shattuck Hammond in Exhibit A and the fairness opinion of Hammond Hanlon Camp LLC (to be provided and reviewed by a designee prior to closing as described in Section 2);
- H. That the District has negotiated the terms of the Lease and Asset Purchase Agreement with LHP and Sacred Heart and, publicly advertised its meeting at which the proposed transaction is to be considered in accordance with the *Florida Statutes*.

- I. That the Florida Attorney General has been notified of this transaction and that all notifications and approvals (if any) that are required by federal and state antitrust laws have been sent or will be received prior to closing.

SECTION. 2. The Board authorizes, empowers and directs the Chairman (or Vice Chairman in his absence) and President/CEO of the District to act on its behalf to:

- A. Submit the Transaction Documents to the Bay County Board of County Commissioners for their consideration and approval in accordance with the Special Act, and represent the Board for purposes of this transaction at any public meeting(s) or hearing(s) conducted pursuant to Bay County's consideration of this transaction;
- B. Complete all negotiations with the intent to execute and close on this transaction no later than April 1, 2012;
- C. Execute the Lease and Asset Purchase Agreement in a form substantially in the form of the Lease and Asset Purchase Agreement attached as Exhibit B and Exhibit C, respectfully. Such execution authority includes approving in final form full and complete exhibits, schedules, and other documentation required for the transaction, and the negotiation and execution of any agreements with the joint venture, LHP, Sacred Heart, or other parties as may be necessary to assist in the smooth transition of the health care operations of the District in furtherance of the purposes of this transaction and for the citizens of Bay County. Any material changes to the documents or transaction as presented shall be returned to the Board for consideration. A change is material if either the Chairman (or Vice Chairman in his absence) or the President/CEO believe that such a change will have a substantial affect on the goals of this transaction or is not in accordance with the overall intent of the Board as described in this Resolution and at public Board meetings relating to the transaction.
- D. To take such other actions as may be appropriate or necessary to close the transaction, including without limitation (i) transmitting and executing relevant closing documents, certificates, and instruments, (ii) executing documents and agreements as may be necessary to assure an adequate transition of the personnel, assets, and operations of the District including assignments, service agreements, leases, and other documents related to this transaction and the ongoing healthcare operations of the Hospital or District; and (iii) executing documents and agreements to transfer ownership, governance and operations of the District's current healthcare operation to the Florida corporation or the joint venture of LHP and Sacred Heart as contemplated in the Transaction Documents;
- E. Close on a timely basis on April 1, 2012, or as soon thereafter as is reasonably practical.

SECTION 3. If any section, paragraph, clause or provision of this Resolution shall be held to be invalid or ineffective for any reason, the remainder of this Resolution shall continue in full force and effect, it being expressly found and declared that the remainder of this resolution would have been adopted despite the invalidity or ineffectiveness of such section, paragraph, clause or provision.

SECTION 4. This Resolution shall take effect immediately upon its adoption.

IN WITNESS WHEREOF, I have hereunto set my hand and the seal of Bay Medical Center on the day indicated below.

Date: _____, 2012

**BOARD OF TRUSTEES OF BAY
MEDICAL CENTER**

ATTEST:

By: _____
Andrew W. Stein, Secretary

Donald P. Connor, Chairman