

EMERGENCY ORDINANCE NO. 13-02

CITY OF CENTERVILLE, OHIO

SPONSORED BY COUNCILMEMBER James E. Singer
ON THE 19th DAY OF AUGUST, 2002

AN EMERGENCY ORDINANCE AUTHORIZING THE EXECUTION AND DELIVERY OF A SECOND AMENDMENT TO LEASE AGREEMENT, A SECOND SUPPLEMENTAL TRUST INDENTURE, A MORTGAGE MODIFICATION AND RESTATEMENT AGREEMENT, AND AN AMENDED AND RESTATED OPEN END MORTGAGE, SECURITY AGREEMENT, AND ASSIGNMENT OF RENTS AND LEASES, ALL RELATING TO THE CITY OF CENTERVILLE, OHIO HEALTH CARE VARIABLE RATE DEMAND REVENUE BONDS (BETHANY LUTHERAN VILLAGE CONTINUING CARE FACILITY EXPANSION PROJECTS), SERIES 1988, SERIES 1993 AND SERIES 1994, AND DECLARING AN EMERGENCY.

WHEREAS, the City of Centerville, Ohio, a municipal corporation and political subdivision in and of the State of Ohio (the "Issuer"), by virtue of the laws of the State of Ohio, including, without limitation, Chapter 140, Ohio Revised Code, (a) heretofore has issued the Bonds, as hereinafter defined, in order to assist in the financing of the costs of acquiring, constructing, installing, equipping and financing improvements to certain "hospital facilities," as defined in Section 140.01(E), Ohio Revised Code, located within the boundaries of the City of Centerville, Ohio, at 6451 Far Hills Avenue, Centerville, Ohio, all for the use and benefit of Lutheran Social Services of Mid-America, an Ohio non-profit corporation ("LSSMA"), formerly known as Lutheran Social Services of the Miami Valley, and (b) is authorized and empowered to enter into the Second Supplemental Indenture, the Second Mortgage Amendment and the Second Lease Amendment, all as hereinafter defined, upon the terms and conditions provided herein and therein;

WHEREAS, LSSMA has arranged for National City Bank (the "Letter of Credit Bank") to issue the Alternate Letters of Credit, as hereinafter defined, to secure the Bonds; and

WHEREAS, the issuance of the Alternate Letters of Credit is contingent upon execution and delivery of the Second Supplemental Indenture, the Second Mortgage Amendment and the Second Lease

Amendment.

NOW, THEREFORE,

THE MUNICIPALITY OF CENTERVILLE HEREBY ORDAINS:

Section 1. Emergency Clause. This Ordinance is hereby declared to be an emergency measure necessary for the immediate preservation of the health and public welfare of the people of the Issuer, the existing emergency being an urgent necessity to take such actions as will effectuate the issuance of the Alternate Letters of Credit as security for the Bonds, thereby facilitating the most cost effective financing of the facilities of LSSMA which provide essential health care services within the Issuer.

Section 2. Definitions. In addition to the words and terms defined elsewhere in this Bond Legislation, unless the context or use clearly indicates another meaning or intent:

"Act" means Chapter 140, Ohio Revised Code, as enacted and amended from time to time pursuant to the Ohio Constitution.

"Alternate Letters of Credit" mean National City Bank Irrevocable Direct Pay Letters of Credit No. RCL010233 (applicable to the Project Bonds), No. RCL010234 (applicable to the Series 1993 Bonds) and No. RCL010235 (applicable to the Series 1994 Bonds).

"Bonds" means the Project Bonds, the Series 1993 Bonds and the Series 1994 Bonds.

"Clerk" means the Clerk of the Legislative Authority.

"Executive" means the Manager of the Issuer.

"Fiscal Officer" means the Director of Finance of the Issuer.

"Legislative Authority" means the Council of the Issuer.

"Project Bonds" means the City of Centerville, Ohio Health Care Variable Rate Demand Revenue Bonds, Series 1988 (Bethany Lutheran Village Continuing Care Facility Expansion Project).

"Second Lease Amendment" means the Second Amendment to Lease Agreement, dated as of September 1, 2002, between the Issuer and LSSMA.

"Second Mortgage Amendment" means the Mortgage Modification and Restatement Agreement dated as of September 1, 2002, and the

Amended and Restated Open End Mortgage, Security Agreement and Assignment of Rents and Leases dated as of September 1, 2002, among LSSMA and the Issuer, as Grantors, and the Trustee and the Letter of Credit Bank, as Grantees.

"Second Supplemental Indenture" means the Second Supplemental Trust Indenture dated as of September 1, 2002, between the Issuer and the Trustee.

"Series 1993 Bonds" means the City of Centerville, Ohio Health Care Variable Rate Demand Revenue Bonds, Series 1993 (Bethany Lutheran Village Continuing Care Facility Expansion Project).

"Series 1994 Bonds" means the City of Centerville, Ohio Health Care Variable Rate Demand Revenue Bonds, Series 1994 (Bethany Lutheran Village Continuing Care Facility Expansion Project).

"Trustee" means J.P. Morgan Trust Company, National Association, Cincinnati, Ohio, until a successor Trustee shall have become such pursuant to the applicable provisions of the Trust Indenture pursuant to which the Bonds were issued, and thereafter "Trustee" shall mean the successor Trustee.

Section 3. Determinations By Legislative Authority. The Legislative Authority hereby determines:

(a) that the actions authorized by this Ordinance will serve the public purpose of better providing for the health and welfare of the people of the State of Ohio and the residents of 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" to provide health care services to the residents of the Issuer which are available to the general public without discrimination by reason of race, creed, color or national origin, all as contemplated by the Act; and

(b) that the Second Supplemental Indenture, Second Lease Amendment and Second Mortgage Amendment provided for in Section 4 hereof will promote the public purpose set forth in subsection (a) above and in the Act and the execution and delivery thereof will duly benefit the Issuer.

Section 4. Second Supplemental Indenture, Second Lease Amendment and Second Mortgage Amendment. The Executive is authorized and directed, for and in the name and on behalf of the Issuer, to execute, acknowledge and deliver the Second Supplemental Indenture, the Second Lease Amendment and the Second Mortgage Amendment, in


substantially the forms submitted to this Legislative Authority. Those instruments are approved with changes therein not inconsistent with this Ordinance and not substantially adverse to the Issuer and which are permitted by the Act as shall be approved by the officer executing those instruments; provided, that the approval of those changes by such officer, and their character as not being substantially adverse to the Issuer, shall be evidenced conclusively by his execution of those instruments. The Clerk is hereby authorized and directed to file in the office of the Clerk, as a part of the minutes of the meeting at which this Ordinance is adopted, for inspection by any interested person, a copy of the Second Supplemental Indenture, the Second Lease Amendment and the Second Mortgage Amendment, and such documents shall be on file for inspection by any interested person.

Section 5. Other Documents. The Executive, the Fiscal Officer and/or the Clerk are each separately authorized and directed to execute any certifications, financing statements, assignments and instruments which are necessary or appropriate to consummate the transactions contemplated in this Ordinance, the Second Supplemental Indenture, the Second Lease Amendment and the Second Mortgage Amendment.

Section 6. Compliance with Open Meeting Requirements. It is found and determined that all formal actions of this Legislative Authority concerning and relating to the adoption of this Ordinance were adopted in an open meeting of this Legislative Authority, and that all deliberations of this Legislative Authority and of any of its committees that resulted in those formal actions, were in meetings open to the public, in compliance with the law.

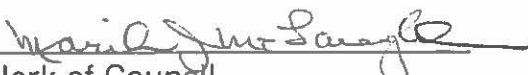
Section 7. Effective Date. This Ordinance shall take effect and be in force immediately upon its adoption.

PASSED THIS 9th day of August, 2002.



Mayor of the City of
Centerville, Ohio

ATTEST:



Clerk of Council
City of Centerville, Ohio

CERTIFICATE

The undersigned, Clerk of Council of the City of Centerville, Ohio, hereby certifies the foregoing to be a true and correct copy of Ordinance No. 13-02 passed by the Council of the City of Centerville, Ohio on the 19th day of August, 2002.


Clerk of the Council

Approved as to form, consistency with the Charter
and Constitutional Provisions.
Department of Law
Robert N. Farquhar
Municipal Attorney