

RESOLUTION OF THE MORRIS COUNTY IMPROVEMENT AUTHORITY

TITLE:

RESOLUTION OF THE MORRIS COUNTY IMPROVEMENT AUTHORITY AUTHORIZING (A) AN AMENDMENT TO THE LEASE AGREEMENT BY AND BETWEEN THE MORRIS COUNTY IMPROVEMENT AUTHORITY AND MORRIS VIEW MANAGEMENT CO, LLC D/B/A MORRIS VIEW HEALTHCARE CENTER; (B) THE EXECUTION OF A LANDLORD SUBORDINATION IN CONNECTION WITH THE LESSEE'S FINANCING THROUGH LAKELAND BANK; AND, (C) AN AMENDMENT TO THE COUNTY LEASE AGREEMENT BY AND BETWEEN THE MORRIS COUNTY IMPROVEMENT AUTHORITY AND THE COUNTY OF MORRIS

WHEREAS, pursuant to a certain Lease Agreement dated as of July 27, 2017 (the "County Lease"), by and among the Morris County Improvement Authority (the "Lessor" or "Authority") and the County of Morris (the "County"), the Authority as Lessor acquired possession of certain Premises, all as depicted on Exhibit "A" to the County Lease (of which the Leased Premises – the Morris View Nursing Home, also known as the Facility - is a portion thereof), from the County, and possession of certain other assets including furniture, fixtures, equipment and inventory, from the County; and

WHEREAS, the Authority issued a Request for Proposals (the "RFP"), a copy of which is attached to the hereinafter defined Original Lease Agreement as Exhibit "B", and is incorporated into the Original Lease Agreement (and the First Amendment thereto authorized by this Resolution) by reference, pursuant to which Morris View Management Co., LLC D/B/A Morris View Healthcare Center provided its Response (the "Response") thereto; and

WHEREAS, the Authority accepted the Response from the Lessee, and, pursuant to Authority Resolution No. 17-28, dated June 28, 2017, agreed to sublease the Leased Premises and the Equipment (each as defined in the Original Lease Agreement) to Morris View Management Co., LLC D/B/A Morris View Healthcare Center (the "Lessee" and, together with the Authority as Lessor, the "Parties") and transfer the business (all collectively referred to in the Original Lease Agreement as the "Facility") in accordance with the Original Lease Agreement; and

WHEREAS, the Authority, as Lessor, and the Lessee subsequently entered into the Lease Agreement dated as of July 27, 2017 (the "Original Lease Agreement"); and

WHEREAS, subsequent thereto, the parties now desire to undertake certain improvements to the Facility, to make provision for Lessee Medicaid screening reimbursement shortfalls, the apportionment of utility costs upon the completion of certain HVAC work, deferred Rent given the worldwide COVID-19 pandemic, the conveyance of certain monetary

receivables not addressed in the Original Lease Agreement and the issue of additional Lease optional renewals, all as set forth in the hereinafter defined First Amendment; and

WHEREAS, specifically, the Parties have agreed that Lessee will install a new Nurse Call Bell System in the Facility (the "System"), which the County had originally contemplated installing, using provided specifications for the same (appended to the First Amendment as Exhibit A), and in consideration thereof, Lessor will pay Lessee up to \$350,000 towards the cost of the System in the manner provided for in the First Amendment; and

WHEREAS, the County and Lessor are required, for fire safety reasons, and the Lessor desires to install a canopy outside the Facility (the "Canopy"); and

WHEREAS, the Lessee has agreed to install the Canopy at the Facility, using provided specifications for the same (appended to the First Amendment as Exhibit B), and the County and the Lessor agree to pay up to \$105,000 towards the costs of the Canopy, in the manner provided for in the First Amendment; and

WHEREAS, due to an acuity audit of the Facility, it has been learned that the Lessee is collecting \$2.35 per diem *less* in Medicaid screen reimbursements than it thought it would when it submitted its Response to the RFP for the Original Lease Agreement, and, as a result, from November 1, 2017 through to August 1, 2020, that shortfall in Medicaid screen reimbursements for the 283 existing beds within the Facility, will total approximately \$385,815.00 (the "Medicaid Shortfall"), as trued up as discussed in the First Amendment; and

WHEREAS, in further consideration of the Lessee's operation of the Facility under the Original Lease Agreement, the County and Lessor are willing to reimburse Lessee for the Medicaid Shortfall in the manner provided in the First Amendment; and

WHEREAS, in further consideration of the Lessee's operation of the Facility under the Lease, and specifically, its undertaking of the renovation and construction of four (4) tub and shower rooms, the Authority as Lessor is amenable to reimbursing the Lessee up to \$300,000 for the same, to be reimbursed in accordance with the terms of the First Amendment; and

WHEREAS, the Parties have agreed that, in lieu of actual payment, the cost of the System, the Canopy, the Medicaid Shortfall and the tub and shower room improvements, shall be paid to the Lessee from the Lessor in the form of credits against the Rent and/or the Additional Rent due Lessor for the Facility, in the manner set forth in the First Amendment; and

WHEREAS, the Parties have also agreed, upon the completion of certain HVAC improvements at the Facility, to apportion utility costs seventy five percent (75%) to the Lessee, and twenty five percent (25%) to the Lessor and the County, as set forth in the First Amendment; and

WHEREAS, given the COVID-19 worldwide pandemic and the consequent inability of the Facility to accept admissions for a portion of the 2020 calendar year, the Parties have agreed to allow the Lessee to defer Rent, all in accordance with the terms set forth in the First Amendment; and

WHEREAS, the Parties also desire to amend the Lease to address the terms and conditions of three (3), ten (10) year optional renewals of the Lease, all on the terms and conditions also set forth in the First Amendment; and

WHEREAS, the Parties also desire to amend the Lease to acknowledge and memorialize the Lessee's acquisition of certain accounts receivables in the amount of \$4,385,959.93 as of October 31, 2017 (the "Accounts Receivable") appurtenant to the Facility, which were not specifically addressed or covered by the terms of the Original Lease Agreement; and

WHEREAS, pursuant to Section 23.01 of the Original Lease Agreement, the Original Lease Agreement may be amended in writing and signed by the Parties; and

WHEREAS, on the basis of the foregoing Recitals, the Parties are desirous of entering into a First Amendment to Lease Agreement (the "First Amendment"), in substantially the form appended hereto as Exhibit A, to memorialize the foregoing, and the Authority is desirous of approving this Resolution to approve entry into the First Amendment; and

WHEREAS, the Authority is also desirous of approving and authorizing the execution of a "Landlord Subordination" in connection with the Lessee's financing through Lakeland Bank, in the form appended hereto as Exhibit B; and

WHEREAS, in connection with the Lessee's financing through Lakeland Bank, the Authority is also desirous of authorizing an Amendment to the County Lease, to change the name of the Sublessee from "Allaire Healthcare Group" to "Morris View Management Company, LLC, D/B/A Morris View Health Center, a New Jersey Limited Liability Company", in the form appended hereto as Exhibit C.

NOW THEREFORE BE IT RESOLVED by the Board of Commissioners of the Authority, as follows:

Section 1. The aforementioned recitals are incorporated herein as though fully set forth at length.

Section 2. The First Amendment, along with the Landlord Subordination and the Amendment to the County Lease, be and hereby are approved. The Chairperson of the Authority (including his designees, each an "Authorized Officer"), is hereby authorized and directed, in consultation with counsel to the Authority, to execute and deliver the First Amendment in the form set forth in Exhibit A attached hereto, the Landlord Subordination in the form set forth in Exhibit B hereto and the Amendment to the County Lease in the form set forth in Exhibit C hereto, with such additions, modifications or deletions recommended by counsel to the Authority and agreed by the parties. The Authorized Officer's signature on the First Amendment, the Landlord Subordination and the Amendment to the County Lease, shall conclusively evidence the Authority's approval of such First Amendment, Landlord Subordination and the Amendment to the County Lease, in the form as executed.

Section 3. The Secretary of the Authority is hereby authorized to attest to the execution of the First Amendment, the Landlord Subordination and the Amendment to the County Lease, and affix the Authority seal onto same.

Section 4. Each Authorized Officer of the Authority is hereby authorized to take all action deemed necessary, useful or convenient in connection with the foregoing and in furtherance of the First Amendment, the Landlord Subordination and the Amendment to the County Lease.

Section 5. Subject to the second sentence of this section, and subject to approval of the First Amendment, the Landlord Subordination and the Amendment to the County Lease by the County, this resolution shall take effect immediately. In accordance with N.J.S.A. 40:37A-50, the Secretary of the Authority is hereby authorized and directed to submit to each member of the Board of Chosen Freeholders of the County, by the end of the fifth business day following this meeting, a copy of the minutes of this meeting. The Secretary is hereby further authorized and directed to obtain from the Clerk of the Board of Chosen Freeholders of the County a certification from the Clerk stating that the minutes of this meeting have not been vetoed by the Director of the Board of Chosen Freeholders of the County.

[Remainder of page intentionally left blank.]

MOVED/SECONDED:

Resolution moved by Commissioner _____.

Resolution seconded by Commissioner _____.

VOTE:

Commissioner	Yes	No	Abstain	Absent
Gallop				
Bauer				
Ramirez				
Sandman				
Bonanni				

This Resolution was acted upon at the Regular Meeting of the Authority held on September 16, 2020 at the Authority’s principal corporate office in Morristown, New Jersey.

Attested to this ____ day of _____, 2020

By: _____
Secretary of the Authority

FORM and LEGALITY:

This Resolution is approved as to form and legality as of September 16, 2020.

By: _____
Matthew D. Jessup, Member, McManimon, Scotland & Baumann, LLC
Counsel to the Authority
Resolution No. 20-25

Exhibit A
Form of First Amendment

Exhibit B

Form of Landlord Subordination

Exhibit C

Form of Amendment to the County Lease