RESOLUTION APPROVING AGREEMENT WITH BELLEVUE MEDICAL CENTER, LLC RELATED TO NEBRASKA HOSPITAL AUTHORITIES ACT BONDS

WHEREAS, pursuant to Neb. Rev. Stat. §23-104(6), the County has the power to do all acts in relation to the concerns of the county necessary to the exercise of its corporate powers; and,

WHEREAS, pursuant to Neb. Rev. Stat. §23-103, the powers of the County as a body are exercised by the County Board; and,

WHEREAS, Hospital Authority No. 1 of Sarpy County, Nebraska was organized by Sarpy County pursuant to the Nebraska Hospital Authorities Act, found at Neb. Rev Stat. §§23-3579 to 23-35,120; and,

WHEREAS, Bellevue Medical Center, LLC intends to request Hospital Authority No. 1 of Sarpy County issue certain bonds to finance hospital facilities, which requires approval by the Sarpy County Board of Commissioners pursuant to 26 U.S.C. §147(f), but which will increase Sarpy County’s cost of borrowing pursuant to 26 U.S.C. §265(b0(3)(c); and,

WHEREAS, an Agreement has been proposed by which Bellevue Medical Center, LLC will pay a fee to Sarpy County to compensate for the higher borrowing costs described above.

NOW, THEREFORE, BE IT RESOLVED BY THE SARPY COUNTY BOARD OF COMMISSIONERS THAT the Agreement with Bellevue Medical Center, LLC related to Nebraska Hospital Authority Act bonds, a copy of which is attached hereto, is hereby approved and the Clerk and the Chairman are hereby authorized to sign the same.

The above and foregoing Resolution was duly approved by a vote of the Sarpy County Board of Commissioners at a public meeting duly held in accordance with applicable law on this 5th day of May, 2016.

Chairman, Sarpy County Board

Sarpy County Clerk
Memo

To: Sarpy County Board of Commissioners  
From: Brian Hanson  
Re: Hospital Authority Bonds

At the May 3, 2016 Board meeting, a discussion was held regarding bonds that may be issued by Hospital Authority No. 1 on behalf of Nebraska Medicine. The issuance of those bonds would impact Sarpy County’s bank qualified status and would cause additional interest to be paid on the County’s Radio Project bonds that will be approved in the next 30 days. The proposed solution is for Nebraska Medicine to pay an issuance fee to Sarpy County that will cover the additional interest that will be paid on the Radio Project Bonds.

The attached agreement provides that Nebraska Medicine will pay $59,071 to cover the additional interest that will be paid on the Radio Project Bonds. I recommend approval of the agreement. Please call me with any questions.

Yours Truly,

Brian Hanson

BEH/mg

cc: Mark Wayne  
Scott Bovick  
Deb Houghtaling  
Mike Smith
AGREEMENT

This Agreement is entered on the 15th day of May, 2016 by and between the County of Sarpy, in the State of Nebraska, a body politic and corporate, and hereinafter “County” and Bellevue Medical Center, LLC, a Nebraska limited liability corporation doing business as Nebraska Medicine, and hereinafter “Nebraska Medicine”.

WHEREAS, Hospital Authority No. 1 of Sarpy County, Nebraska was organized by County pursuant to the Nebraska Hospital Authorities Act, found at Neb. Rev. Stat. §§23-3579 to 23-35,120, (hereinafter referred to as the “Act”,,) and remains in operation and good standing; and,

WHEREAS, Nebraska Medicine operates a hospital facility in Sarpy County and during 2016 intends to request Hospital Authority No. 1 of Sarpy County, Nebraska (the “Hospital Authority”) to issue certain bonds to finance hospital facilities (the “Series 2016 Bonds”) and loan the proceeds thereof to Nebraska Medicine pursuant to the Act; and

WHEREAS, Nebraska Medicine intends to request that Sarpy County Board of Commissioners hold a public hearing and adopt a resolution granting approval of the Series 2016 Bonds for purposes of 26 U.S.C. §147(f); and,

WHEREAS, County intends to issue certain tax-exempt bonds during 2016 to finance [radio communications facilities] (the “Sarpy Bonds”); and

WHEREAS, the issuance of the Series 2016 Bonds as intended will result in increased borrowing cost for County with respect to the Sarpy Bonds and Nebraska Medicine is willing to compensate County for the estimated amount of said increased cost.

NOW, THEREFORE, for and in consideration of the declarations and mutual promises and covenants contained herein, the County and Nebraska Medicine agree as follows:

1. Nebraska Medicine intends to request the Hospital Authority and the Sarpy County Board of Commissioners to take the actions described above with respect to the Series 2016 Bonds during 2016.

2. The County has informed Nebraska Medicine that the plan for the County to approve and the Hospital Authority to issue the above-described Series 2016 Bonds will cause County to not be a “qualified small issuer” as defined by 26 U.S.C. §265(b)(3)(C) during 2016, and therefore debt issued by County during 2016 will not be considered “qualified tax-exempt obligations” for the purposes of 26 U.S.C. §265(b)(3)(C).

3. As a result of the above-described transactions, County will incur higher borrowing costs that the Parties stipulate will be in the amount of $59,071.

4. The Parties agree that Nebraska Medicine’s representation of its intent to seek approval by County and issuance of the Series 2016 Bonds by the Hospital Authority, shall cause Sarpy County to incur the additional borrowing costs upon the issuance of the Sarpy Bonds during 2016, regardless of whether the Series 2016 Bonds are issued. Nebraska Medicine shall make payment to County the sum of $59,071, representing a fee by the County in connection with the Series 2016 Bonds, within 60 days of the issuance of the Sarpy Bonds, so long as the County shall not fail to approve the issuance of the Series 2016 Bonds for purposes of 26 U.S.C. §147(f) following a proper request by Nebraska Medicine for such approval.
5. This agreement shall not be deemed to require or bind County to approval of either the Sarpy Bonds or the Series 2016 Bonds, and shall not be construed as an assumption or conveyance of any liability for issuance of the Series 2016 Bonds upon County. In addition, the Parties reaffirm that Neb. Rev Stat. §§23-35,102 shall be applicable to all transactions with respect to the Series 2016 Bonds contemplated by this Agreement.

6. This Agreement shall be interpreted, construed and enforced under the laws of the State of Nebraska. It is understood and agreed by the parties hereto that if any part, term, condition, or provision of this Agreement is held to be illegal or in conflict with any law of the State of Nebraska or of the United States, the validity of the remaining parts, terms, conditions, or provisions shall not be affected, and the rights and obligations of the parties shall be construed and enforced as if the Agreement did not contain the particular part, term, condition, or provision held to be invalid.

7. This agreement contains the entire Agreement between the parties, and there are no other written or oral promises, contracts or warrants which may affect it. This agreement supersedes any other previous agreement. This agreement cannot be amended except by written agreement of the parties. Notice to the parties shall be given in writing to the agents for each party named below:

County: Ms. Debra Houghtaling
Clerk of Sarpy County
1210 Golden Gate Drive, Suite 1250
Papillion, NE 68046

Nebraska Medicine: Stephanie Daubert
98-7900 Nebraska Medical Center
Omaha, NE 68198-7400

IN WITNESS WHEREOF, we the contracting parties, by our respective and duly authorized agents, hereto affix our signatures and seals in duplicate this 17th day of May, 2016.
COUNTY OF SARPY, NEBRASKA,
A body Politic and Corporate

Chairperson
Sarpy County Board of Commissioners

Approved as to form:
Deputy County Attorney

Stephanie Daubert
Bellevue Medical Center, LLC

Name

Title