

RESOLUTION NO. 10-10

A RESOLUTION APPROVING AND AUTHORIZING THE EXECUTION OF CERTAIN DOCUMENTS IN CONNECTION WITH THE PURCHASE BY FRANKLIN COUNTY, KANSAS, OF A PORTION OF THE PROPERTY LOCATED AT 2537 EISENHOWER ROAD PROPERTY.

WHEREAS, in connection with the issuance of \$1,600,000 principal amount of Certificates of Participation, Series 2006 (the "Certificates"), by Franklin County, Kansas (the "County"), the following occurred:

(a) the Elizabeth Layton Center, Inc. (formerly the Franklin County Mental Health Clinic, Inc.) (the "Center"), entered into a Base Lease dated September 1, 2006 (the "Base Lease") with Security Bank of Kansas City, as trustee (the "Trustee") whereby the Center leased the mental health facility located at 2537 Eisenhower Road (the "Property") to the Trustee;

(b) the Trustee leased its interest in the Property to the County pursuant to a Lease/Purchase Agreement dated as of September 1, 2006 (the "Lease");

(c) the County subleased its interest in the Property to the Center pursuant to a Sublease dated as of September 1, 2006;

(d) to provide for the payment of the Certificates and the issuance of the Certificates, the County and the Trustee entered into a Trust Indenture dated as of September 1, 2006; under which the County assigned its right to receive payments from the Center under the Sublease to the Trustee for the benefit of the owners of the Certificates and the proceeds of the Certificates were made available for the construction of additions and improvements to the Property; and

(e) to provide security for the payment of the Certificates, the Center mortgaged its interest in the Property to the Trustee pursuant to a First Mortgage and Security Agreement dated as of September 1, 2006 (the "Mortgage");

WHEREAS, Section 12.03 of the Lease grants an option to the County to purchase from the Trustee its interest in unimproved portions of the Property under the terms provided therein and provides that any funds received by the Trustee for the exercise of such purchase option shall be deposited in the Prepayment Fund established under the Indenture and used to prepay Certificates in accordance with the Indenture;

WHEREAS, pursuant to Section 6 of the Sublease, the County assigned to the Center its rights to purchase the Trustee's interest in the Property under Section 12.03 of the Lease;

WHEREAS, the County has determined it is desirable and in the best interests of the County to purchase an unimproved portion of the Property as described on Exhibit A attached to this Resolution (the "Parcel") and has requested the Center to (a) exercise its option under Section 12.03 of the Lease to purchase the Trustee's interest in the Parcel, (b) sell such Parcel to the County for the hereinafter defined Purchase Price, and (c) deposit the Purchase Price with the Trustee to be used to prepay a portion of the Certificates;

WHEREAS, the County has obtained an independent appraisal of the Parcel and has indicated its desire to purchase the Parcel at a price equal to the fair market value of the Parcel as established in such appraisal (the "Purchase Price");

WHEREAS, it is necessary to execute and deliver the following documents (collectively, the "County Documents") in connection with the purchase of the Parcel from the Center by the County:

- (a) a Notice Option to Prepay Certificates of Participation which directs the Trustee to prepay Certificates at the earliest prepayment date using the Purchase Price in accordance with the Indenture;
- (b) a First Amendment to the Indenture which amends the legal description of the Property to exclude the Parcel;
- (c) a First Amendment to the Sublease which amends the legal description of the Property to exclude the Parcel;

WHEREAS, in connection with the conveyance of the Parcel by the Center to the County, the County anticipates that the Center will execute the following documents (the "Center Documents"):

- (a) a First Amendment to the Base Lease to amend the legal description of the Property to exclude the Parcel;
- (b) a First Amendment to the Sublease to amend the legal description of the property to exclude the Parcel; and

(c) a Notice of Exercise of Option to Purchase Portion of the Property which gives notice to the Trustee and the County of the Center's intent to exercise the purchase of the Trustee's interest in the Parcel pursuant to Sections 12.03 of the Lease and Section 6 of the Sublease; and

(d) a Warranty Deed conveying fee simple title to the Parcel to the County;

WHEREAS, in connection with the conveyance of the Parcel by the Center to the County, the County anticipates that the Trustee will execute the following documents (the "Trustee Documents"):

- (a) a First Amendment to the Indenture to amend the legal description of the Property to exclude the Parcel;
- (b) a First Amendment to the Lease to amend the legal description of the property to exclude the Parcel; and
- (c) a Partial Release of Mortgage releasing the Parcel from the Mortgage;

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF COUNTY COMMISSIONERS OF FRANKLIN COUNTY, KANSAS, AS FOLLOWS:

**Section 1. Acquisition of Parcel.** The acquisition of the Parcel from the Center for the Purchase Price is authorized and, subject to the conditions set forth in Section 3 of this Resolution, officers and agents of the County are authorized to deposit the Purchase Price with the Center or, at its direction, with the Trustee. The County further authorizes the payment of fees and expenses related to the exercise of the purchase option of the Trustee's interest in the Parcel under the Lease and the acquisition of the Parcel by the County, including, but not limited to, the fees and expense of the Trustee, the fees and expenses of Kutak Rock, LLP, the County's Bond Counsel, recording fees and similar costs.

**Section 2. Authorization of Documents.** The County is hereby authorized to enter into the County Documents, in substantially the forms presented and reviewed at this meeting (copies of which documents shall be filed in the County's records), with such changes therein as shall be approved by the officers of County executing such documents, such officers' signatures thereon being conclusive evidence of their approval thereof.

**Section 3. Execution of Documents.** Subject to the conditions set forth in this section, the officers and representatives of County, including, but not limited to, the Chairman, Vice Chairman, County Clerk and County Administrator, shall be, and they hereby are, authorized and directed to execute and deliver, on behalf of the County, the County Documents and such other documents, certificates and instruments as may be necessary or desirable to carry out and comply with the intent of this Resolution. The release of the County Documents is conditioned upon the execution and delivery to the County of the Center Documents and the Trustee Documents.

**Section 4. Further Authority.** The officers and representatives of the County, including, but not limited to, the Chairman, Vice Chairman, County Clerk and County Administrator are authorized and directed to execute all documents and take such action as they may deem necessary or advisable in order to carry out and perform the purposes of this Resolution, and to carry out, comply with and perform the duties of the County with respect to the County Documents.

**Section 5. Effective Date.** This Resolution shall be in full force and effect from and after its adoption by the Board of County Commissioners.

ADOPTED BY THE BOARD OF COUNTY COMMISSIONERS OF FRANKLIN COUNTY, KANSAS, ON MARCH 24, 2010.

/s/ David J Hood

Chairman

(Seal)

ATTEST:

/s/ Shari Perry

County Clerk