



Elizabeth Comfort
Finance Director

Department of Finance

Public Services Building
2051 Kaen Road, Suite 490 | Oregon City, OR 97045

MEMORANDUM

TO: Clackamas County Board of County Commissioners (BCC)
FROM: Elizabeth Comfort, Finance Director, Finance Department
RE: Reestablishment of Hospital Facility Authority
DATE: January 20, 2026

REQUEST: Board re-establishment of the Hospital Facility Authority of Clackamas County (HFACC).

BACKGROUND: The County has received a request by Willamette View Inc., (Willamette View) to reestablish the HFACC to review their proposal for assistance.

State statute (Attachment A) and County Code (Attachment B) provide the authority for municipalities, including counties, to establish Hospital Facility Authorities as a means of facilitating access to tax-exempt financing to improve hospital facilities within the corporate limits of the municipality. A Hospital Facility Authority has the power to issue bonds and other financial obligations on behalf of the non-profit hospital, elder care home or other health care organization to accomplish this purpose. Financial obligations of a Hospital Facility Authority are not a general obligation of the municipality.

The BCC has established such an Authority by ordinance, which in the future will need to be amended to provide more flexibility related to the number of serving members and the length of service. The HFACC has existed in Clackamas County since 1974. It has been activated and reactivated several times because of expired board terms, the difficulty in recruiting replacement board members and declining demand. The BCC re-established the authority in 2020 because of a request from Rose Villa, Inc., a nonprofit senior living facility corporation. The Authority was later suspended due to lack of activity following the 2020 bond.

It is difficult to sustain active board members from the community. Staff therefore requests the five BCC members serve as the Authority to address Willamette View's proposal. Willamette View has provided a letter outlining their plan for bond financing through the HFACC (Attachment C). Orrick, bond counsel, has provided a letter (Attachment D) identifying the duties and responsibilities of the HFACC Board.

RECOMMENDATION:

Staff recommends the Board re-activate the Hospital Facility Authority of Clackamas County and name the five Commissioners as the initial Authority directors.

Respectfully Submitted,
Elizabeth Comfort, Finance Director, Finance Department

Attachments:

1. Attachment A: ORS 441.525-441.595
2. Attachment B: County Code Chapter 2.03
3. Attachment C: Letter from Craig Van Valkenburg, Executive Director, Willamette View
4. Attachment D: Letter from Orrick, Bond Counsel, Duties and Responsibilities of the Board of Directors

Attachment A

FINANCING OF HEALTH CARE FACILITIES CONSTRUCTION

441.525 Definitions for ORS 441.525 to 441.595. As used in ORS 441.525 to 441.595, unless the context requires otherwise:

(1) “Adult congregate living facility” means any institution, building or buildings, residential facility for elderly individuals or individuals with disabilities, or other place, operated as a nonprofit corporation that undertakes through its ownership or management to provide housing, meals and the availability of other supportive services.

(2) “Authority” means any public authority organized or existing pursuant to ORS 441.525 to 441.595.

(3) “Behavioral treatment facility” means any institution, building or buildings or residential facility operated as a nonprofit corporation that provides services, which may include residential services to individuals for a period of 72 hours to 12 months, to individuals struggling with addiction or another mental health issue.

(4) “Family safety facility” means an institution, building or buildings or residential facility operated as a nonprofit corporation that provides services, which may include residential services to individuals for a period of 72 hours to 12 months, to individuals seeking relief from domestic violence issues.

(5) “Governing body” means the county court, board of county commissioners, council or other legislative body of any municipality.

(6) “Hospital facility” means any structure, system, machinery, equipment or other real or personal property useful for or incidental to inpatient or outpatient care or administration, service or support for such care or any combination thereof that is provided by a political subdivision of this state or any private nonprofit corporation, including:

- (a) An adult congregate living facility;
- (b) A behavioral treatment facility;
- (c) A family safety facility; or
- (d) A health care facility, as defined in ORS 442.015.

(7) “Municipality” means any health district, city, county or other municipal corporation created by the consolidation of a city and county. [1973 c.153 §2; 1981 c.161 §1; 1983 c.740 §157; 1989 c.224 §94; 2007 c.70 §241; 2015 c.220 §1]

441.530 Policy. In order to provide the people of Oregon with access to adequate medical care and hospital facilities, the Legislative Assembly finds that it is necessary and desirable to authorize the creation in the several counties and cities of public authorities having the power to acquire, own, lease, sell and otherwise dispose of hospital facilities, and to authorize municipalities which create authorities to utilize those authorities to issue bonds and other obligations on behalf of such municipalities in order that the municipalities may provide hospital facilities. [1973 c.153 §1; 1977 c.201 §2]

441.532 Municipalities authorized to create authority; issuance of obligations; conditions; purpose of authority. Only a municipality may create an authority. Such a municipality may utilize an authority to issue obligations on behalf of the municipality in order to provide hospital facilities for the people of the municipality. No authority shall issue obligations on behalf of more than one municipality. An authority shall not be created or continued in existence for any purpose other than to provide hospital facilities as provided in ORS 441.525 to 441.595. [1977 c.201 §3]

441.535 Procedure to create public authority. (1) A governing body may upon its own motion, and shall upon the written request of any three or more natural persons, consider whether it is advisable to create a public authority for the purpose of providing hospital facilities.

(2) If the governing body, after public hearing according to its rules, determines that it is wise and desirable to create in a public authority the power and duties set forth in ORS 441.525 to 441.595, it shall by ordinance or resolution establish such an authority. The ordinance or resolution shall set forth:

(a) The name of the authority, which shall be "The Hospital Facility Authority of (Municipality), Oregon" or other similar distinctive name.

(b) The number of directors of the authority, which shall not be less than five nor more than 11.

(c) The names of the initial directors and their terms of service, which shall not exceed six years. At least one director shall also be a member of the governing body. Such director shall serve only so long as the director is a member of the governing body and, in any event, no longer than six years.

(d) Such other provisions as may be appropriate and not inconsistent with ORS 441.525 to 441.595 or the laws of Oregon.

(3) Upon the adoption of such an ordinance or resolution, the authority shall be deemed established as a municipal corporation of this state and as a body corporate and politic exercising public powers.

(4) An authority so organized shall have all the powers and duties contained in ORS 441.525 to 441.595. The governing body, at its sole discretion and at any time, may alter or change the structure, organization, programs or activities of the authority, subject to any limitations imposed by law on the impairment of contracts. The governing body may dissolve the authority at any time, provided the authority has no bonds or other obligations outstanding. [1973 c.153 §3; 1977 c.201 §4]

441.540 Board of directors; rules; conflict of interest; quorum; personnel. (1) An authority shall be managed and controlled by a board of directors, who shall be appointed by the governing body. The directors may be removed for cause or at the will of the governing body. The directors shall serve without compensation. However, the authority may reimburse the directors for their expenses incurred in the performance of their duties.

(2) The board of directors shall adopt and may amend rules for calling and conducting its meetings and carrying out its business and may adopt an official seal. All decisions of the board shall be by motion or resolution and shall be recorded in the board's minute book which shall be a public record. A majority of the board shall constitute a quorum for the transaction of business and a majority thereof shall be sufficient for the passage of any such motion or resolution.

(3) The board may employ such employees and agents as it deems appropriate and provide for their compensation.

(4) Notwithstanding the exception for pecuniary benefit or detriment described in ORS 244.020 (13)(c), a director is a public official subject to the requirements of ORS chapter 244 based on an actual conflict of interest or a potential conflict of interest arising out of the director's relationship with a nonprofit corporation that is tax-exempt under section 501(c) of the Internal Revenue Code, including employment with the nonprofit corporation or a relationship with a foundation that provides assistance to the nonprofit corporation. [1973 c.153 §4; 1977 c.201 §5; 2007 c.813 §1; 2009 c.68 §20; 2015 c.620 §9]

441.545 Authority may not levy taxes. An authority shall not have the right or power to levy taxes or to operate a hospital facility. [1973 c.153 §5]

441.550 General powers. Except as otherwise provided in ORS 441.545, an authority shall have all powers necessary to accomplish the purpose of providing hospital facilities for the people of Oregon, including without limitation the power:

(1) To sue and be sued in its own name.

(2) To acquire by purchase, construction, exchange, gift, lease, or otherwise, and to improve, extend, maintain, equip and furnish hospital facilities, which hospital facilities may be either within or without the corporate limits of the municipality by which the authority is created.

(3) To lease such hospital facilities to any one or more political subdivisions of this state or any private nonprofit corporations which are operating or propose to operate an inpatient care facility subject to the licensing and supervision requirements of ORS 441.015 to 441.087, 441.525 to 441.595, 441.815, 441.820, 441.990, 442.342, 442.344 and 442.400 to 442.463 upon such terms and conditions as the board deems appropriate, to charge and collect rents and to terminate any such lease upon default of the lessee.

(4) To enter into options and agreements for the renewal or extension of such leases of hospital facilities or for the conveyance of such hospital facilities.

(5) To sell, exchange, donate and convey any or all of its hospital facilities or other assets.

(6) To borrow money and to issue notes and revenue bonds for the purpose of carrying out its powers.

(7) To mortgage and pledge its assets, or any portion thereof, whether then owned or thereafter acquired, to pledge the revenues and receipts from such assets, to acquire, hold, and dispose of mortgages and other similar documents relating to hospital facilities, and to arrange and provide for guarantee and other security agreements therefor.

(8) To loan money for the construction of and improvements to hospital facilities.

(9) To enter into contracts, leases and other undertakings in its own name.

(10) To adopt and amend ordinances and resolutions. [1973 c.153 §6; 1983 c.413 §1]

441.555 Issuance of revenue obligations; nature of obligation; refunding. (1) To accomplish its purposes, an authority shall have the power to issue revenue obligations payable from the revenues derived by it from repayment of loans or from its ownership or sale of any one or more hospital facilities. The issuance of revenue obligations is governed by the provisions of subsections (2) to (8) of this section, and is not subject to the prior approval of the electors of the municipality.

(2) The authority shall issue revenue obligations only by bond resolution duly adopted by its board of directors. The bond resolution shall specify the public purposes for which the proceeds of the revenue obligations shall be expended, declare the estimated cost of carrying out such purposes, contain such covenants, and provide for the issuance and sale of revenue obligations in such form and amount as the directors determine. In declaring such cost, the directors may include the funds necessary for working capital during construction, reserves, interest during construction, the payment of organizational, planning, financing and legal expenses, the repayment of advances and the start-up costs. The bond resolution may provide that hospital facilities subsequently acquired or constructed by the authority shall be deemed betterments or additions to, or extensions of, the specified hospital facility, whether or not physically connected.

(3) The bond resolution shall provide for the establishment of one or more special funds, and such funds may be under the control of the board or one or more trustees. The bond resolution shall obligate the authority to deposit and expend the proceeds of the revenue obligations only into and from such fund or funds, and to set aside and pay into such fund or funds any fixed proportion or fixed amount of the revenues derived by it from any or all of its hospital facilities or other corporate activities, as the board finds in the best interest of the authority and the payment of its obligations. The authority may issue and sell revenue obligations payable as to interest and principal only out of such fund or funds.

(4) Any revenue obligations issued against any fund or funds provided for in subsection (3) of this section shall be a valid claim of the holder thereof only as against such special fund or funds, the proportion or amount of the revenues pledged to such fund or funds and such assets as the authority may have pledged. Each such revenue obligation shall state on its face that it is payable from a special fund or funds, naming the fund or funds and the resolution creating it or them.

(5) Any pledge of revenues or other moneys or obligations or assets made by an authority shall be valid and binding from the time that the pledge is made against any parties having subsequent claims of any kind in tort, contract, or otherwise against an authority, irrespective of whether such parties have

actual notice thereof. The pledge shall be noted in the authority's minute book which shall be constructive notice thereof to all parties and neither the resolution nor other instrument by which a pledge is created need be otherwise recorded, nor shall the filing of any financing statement under the Uniform Commercial Code be required to perfect such pledge. Revenues or other moneys or obligations or assets so pledged and later received by an authority shall immediately be subject to the lien of the pledge without any physical delivery or further act.

(6) The revenue obligations issued under the provisions of subsections (1) to (5) of this section shall bear such date or dates, mature at such time or times, be in such denominations, be in such form, either coupon or registered or both, carry such registration privileges, be made transferable, exchangeable and interchangeable, be payable in such medium, at such place or places, contain such covenants, and be subject to such terms of redemption as the board of directors shall declare in the bond resolution.

(7) Notwithstanding any other provision of law, the revenue obligations issued by an authority may be sold by the board of directors upon such terms and conditions and at such rate or rates of interest and for such price or prices as it may deem most advantageous to the authority, with or without public bidding. The authority may make contracts for future sale from time to time of revenue obligations by which the contract purchasers shall be committed to the prices, terms and conditions stated in such contract, and the board of directors may pay such consideration as it deems proper for such commitments.

(8) The board of directors may provide by resolution for the issuance of funding and refunding revenue obligations in order to refund, convert, purchase or restructure any one or more series, or portion of a series, of outstanding revenue obligations at such time or times as it may determine. Such refunding revenue obligations may be sold or exchanged at par or otherwise as the board of directors determines is in the best interest of the authority.

(9) All revenue obligations issued pursuant to this section shall be legal securities that may be used by any insured institution or trust company, as those terms are defined in ORS 706.008, for deposit with the State Treasurer or a county treasurer or city treasurer, as security for deposits in lieu of a surety bond under any law relating to deposits of public moneys and shall constitute legal investments for public bodies, trustees and other fiduciaries, banks, savings and loan associations, and insurance companies. All such revenue obligations and all coupons appertaining thereto shall be negotiable instruments within the meaning of and for all purposes of the law of this state. [1973 c.153 §7; 1983 c.413 §2; 1997 c.631 §471; 2011 c.256 §4]

441.560 Borrowing; bond anticipation notes. An authority may borrow from banks or other lenders such sums on such terms as the board of directors deems necessary or advisable. An authority may also issue, sell and assume bond anticipation notes or their equivalent, which shall bear such date or dates, mature at such time or times, be in such denominations and in such form, be payable in such medium, at such place or places, and be subject to such terms of redemption, as the board deems necessary or advisable. [1973 c.153 §8]

441.565 Obligations of authority not obligations of municipality. The revenue bonds and other obligations of an authority shall not be a general obligation of the municipality nor a charge upon the tax revenues of the municipality. [1973 c.153 §9]

441.570 Payment of principal and interest. The board of directors shall establish rentals, selling prices, and other charges at least adequate to pay the principal of and interest on the obligations of the authority as the same become due, including payments to any special fund or funds, together with the financing and other costs of the authority. [1973 c.153 §10]

441.575 Authorities may act jointly. All powers and responsibilities provided in ORS 441.525 to 441.595 may be exercised and discharged by two or more authorities acting jointly to effectuate the purposes of ORS 441.525 to 441.595. [1973 c.153 §11]

441.580 Authority as public body; tax status of assets, income and bonds. An authority is hereby declared to be a public body performing a public function. Accordingly, an authority, all assets at any time owned by it, the income therefrom, and all bonds issued by an authority, together with the coupons applicable thereto, and the income therefrom, shall be exempt from all taxation in the State of Oregon; provided, however, that real and personal property owned by the authority and leased to a third party shall be subject to property taxation if such property would be subject to taxation if owned by the lessee thereof. All bonds issued by an authority shall be deemed to be securities issued by a political subdivision of the State of Oregon. [1973 c.153 §12]

441.585 Disposition of excess earnings; disposition of assets on dissolution. The earnings of the authority in excess of the amount required for the retirement of indebtedness or the accomplishment of the purposes stated in ORS 441.525 to 441.595 shall not inure to the benefit of any person or body other than the municipality creating the authority. Upon dissolution of an authority, any assets remaining after provision for payment of the obligations and expenses of the authority shall become the assets of the municipality. [1973 c.153 §13; 1977 c.201 §6]

441.590 Authority granted by ORS 441.525 to 441.595. ORS 441.525 to 441.595 are complete authority for the organization of authorities and for the issuance and sale of revenue bonds and refunding revenue bonds. Any restrictions, limitations, conditions or procedures provided by other statutes, including but not limited to the provisions of ORS chapter 198 and ORS 440.305 to 440.410, do not apply to the organization of authorities and the issuance and sale of revenue bonds pursuant to ORS 441.525 to 441.595. However, nothing contained in ORS 441.525 to 441.595 shall be construed as a restriction or limitation upon any powers which an authority might otherwise have under any law of this state or the charter of any municipality. [1973 c.153 §14; 2005 c.443 §25]

441.595 Construction of ORS 441.525 to 441.595. ORS 441.525 to 441.595 shall be liberally construed to effect its purposes. In the event that any portion of ORS 441.525 to 441.595 is declared invalid or otherwise unenforceable by a court of record, the remaining provisions of ORS 441.525 to 441.595 shall nevertheless remain in full force and effect. [1973 c.153 §15]

Chapter 2.03

2.03 HOSPITAL FACILITY AUTHORITY

2.03.010 Declaration of Public Need

After due consideration, and deeming it necessary, in the public interest for the health and general welfare of the state, and the community, and the purpose of increasing bed capacity, adding major new facilities, categories of medical service and combining medical specialties, supporting a regional health care concept in compatibility with the general health care development in the community, adding to inpatient and outpatient care, administration service and support, providing for health care and housing for senior citizens including, without limitation, adult congregate living facilities, granting savings to the community, as a result of centralization of services and to provide health care to the community in a manner which is economically practicable to help maintain high quality standards which are appropriate to the timely and economic development of adequate and effective health services in the area, the Board of County Commissioners for Clackamas County determines that it is wise and desirable to create a Public Hospital Facility Authority.

[Codified by Ord. 05-2000, 7/13/00]

2.03.020 Creation of Hospital Authority

There is hereby created, pursuant to Chapter 153, Oregon Laws 1973, and a public authority to be known as "Hospital Facility Authority of Clackamas County, Oregon."

[Codified by Ord. 05-2000, 7/13/00]

2.03.030 Board of Directors; Composition; Terms

The authority shall be managed and controlled by a Board of Directors composed of seven members. The future term of office of the Board members shall be four years. Any vacancy in said Board of Directors shall be filled by appointment made by the Board of County Commissioners for Clackamas County for the unexpired portion of the term. The members of this Board shall receive no compensation, except that they may be reimbursed for travel and other out-of-pocket expenses they incur as members of the Board of Directors.

[Codified by Ord. 05-2000, 7/13/00; Amended by Ord. 01-2005, 5/5/05]

2.03.040 Powers and Duties of Board

The Board of Directors shall have all those powers and duties set forth and provided for in Chapter 153, Oregon Laws 1973, as amended from time to time.

[Codified by Ord. 05-2000, 7/13/00]



January 5, 2026

Gary Schmidt
 Clackamas County Administrator
 Public Services Building
 2051 Kean Road, Suite 450
 Oregon City, OR 97045

Dear Gary,

I am writing to provide an update for you and the Board of County Commissioners on the status of our construction projects and the plan for bond financing through the Hospital Facility Authority (HFA).

First, I want to express my appreciation to you and your staff for giving their time to address our request for a height variance to the Willamette River Greenway overlay that extends over a part of the Willamette View, Inc. (Willamette View) southerly most property. The specific area is part of our master site plan for providing more senior housing and services in the County.

The master site plan we are working on began in 2016 with the replacement of our old dining room and auditorium and the addition of the forty-seven-unit North Pointe Homes independent living apartments. The plan had to pause during the COVID years and now in the past two years we have adjusted and implemented several projects called for in our master site plan. We have a plan for developing more independent living units on the south end of our campus as noted above. Our master site plan calls for replacing two of the oldest buildings on campus with more living units, updating services, and amenity spaces.

In 2024 Willamette View began the full renovation and upgrade to the licensed care assisted living and skilled nursing buildings. These buildings were put into service in 2003. We remodeled them over an eighteen-month period while occupied with residents. We updated the building envelope, HVAC systems, lighting, carpet, paint, windows, and added a seventh skilled nursing room to our five-star Medicare rated skilled nursing center. Through a donor program by our Blue Heron Foundation, we added solar to the roof of this building to support our community's commitment to energy and operational efficiency. This project was completed in August 2025. We used cash reserves to pay for this project.

While the remodeling was underway, we embarked on a three-phase project of building new independent living housing on the east side of River Road on properties accumulated over the prior twenty plus years. The first phase consists of five duplexes, the second phase consists of two duplexes and a single unit, and phase three is dependent on buying the remaining properties. The first ten living units are occupied, the second phase of five units are each under



Corporate

13021 SE River Road
 Portland, OR 97222

503.654.6581

Marketing

12705 SE River Road
 Portland, OR 97222

toll free 800.446.0670

Terrace

13169 SE River Road
 Portland, OR 97222

WillametteView.org

Health Center

13145 SE River Road
 Portland, OR 97222

info@WillametteView.org

contract for occupancy in the Spring of 2026. Willamette View is using cash reserves for this project.

The third project we have underway is modernizing the iconic Manor building. This was the first building developed and occupied in 1955. Given its structure and desired living environment we are continuing to update this building to enhance the quality of living for our residents and long-term sustainability. We are adding new and expanded electric services, low voltage power, and plumbing up the central vertical section of the building. The next phase will be to take the improvements out to the four wings and up eight floors to each resident apartment. We will also reroof and paint the exterior of the building.

The current and most significant project is the replacement of the "Plaza" building. This building opened in 1960 as the Willamette Methodist Hospital which served as a 120-bed convalescent center for forty-plus years. In 2003 it was remodeled and retrofitted for twenty-four independent living apartments, a café, corporate offices, and conference rooms. We are replacing this building with ninety-two independent living apartments, a new dining service, resident amenity spaces, offices, and technology upgrades all with the focus on building sustainability. Underground parking will serve the building. The size and financial scope of this project is our primary requirement for bond financing. This project will provide a net gain of sixty-eight independent living apartments and several new jobs for our community.

The Willamette View timeline for this project is for demolition in the Summer of 2026 to coincide with the bond financing. We estimate construction to take two years with occupancy to begin rebuilding in August 2028. The target for bond financing is late June/early July of 2026 through the Hospital Facilities Authority. Our prior issuance through the HFA was in December of 2017 which allowed us to finance and build the Riverview dining and auditorium, the North Pointe Homes of 47 apartments, and fund investments in campus improvement projects.

On December 8, 2025, our team met with County team members arranged by Cheryl Bell and Jennifer Hughes to review the scope of work and the schedule leading up to financing and construction. I very much appreciate Cheryl's role in collaborating with us with our myriads of projects and Jennifer addressing our zoning request. This type of partnering is crucial as we continue to address the growing senior population, update and grow our campus, and add needed housing, jobs, and economic value to Clackamas County.

We recently met with executive leadership of our bond underwriter D. A. Davidson to review the project and our plan for finance. I would like to share this with you and Elizabeth Comfort at your convenience. There are events and dates that we need to discuss with you for our respective timing needs. I can arrange a Zoom call, or we can meet at your offices. I will contact you for a follow-up meeting. Please let me know if you have questions or if I can provide you with more information.

Respectfully,



Craig Van Valkenburg, CEO

CC: Elizabeth Comfort, Finance Director at Clackamas County
Brian Thompson, CFO at Willamette View



Orrick, Herrington & Sutcliffe LLP
1140 SW Washington Street
Suite 500
Portland, OR 97205
+1 503 943 4800
orrick.com

Greg Blonde

E gblonde@orrick.com
D +1 503 943 4823
F +1 503 943 4801

December 9, 2025

TO: Members of the Board of Directors of the Hospital Facility Authority of the Clackamas County, Oregon

RE: Duties and Responsibilities of Members of the Board of Directors of a Hospital Facility Authority

Dear Member:

People who are asked to serve on the Board of Directors of a hospital facility authority usually have a number of questions about the purpose and responsibilities of that service. We hope this letter will answer some of those questions.

Background. Many states, including Oregon, provide by law for the creation of a public authority called a hospital facility authority (an “Authority”) to allow public and private non-profit health care facilities to pay for capital improvements through tax-exempt bonds. With the decline in the availability of direct federal funds for healthcare facilities, the use of tax-exempt financing for construction and improvements has accelerated nationally. Thus, the hospital facility authority plays a crucial role in the financing of health care facilities. These health care facilities include hospitals, behavioral health facilities, senior living facilities other healthcare-related facilities (collectively, the “Borrower”).

Creation of an Authority. Oregon statutes provide that a hospital facility authority may be created by the governing body of a county, a city or a local health district. The purpose of the Authority is to assist in the financing of healthcare facilities by issuing bonds which will be repaid from the revenues of the Borrower. The Borrower may be publicly owned, or it may be a private, nonprofit healthcare or adult continuing care facility.

An authority is usually created by the local county or city governing body. The governing body adopts an ordinance or resolution:

(i) Establishing the hospital facility authority;

(ii) Designating a name, such as the “Hospital Facility Authority of Clackamas County, Oregon;”

(iii) Prescribing the number of directors who will serve on the Board of Directors. Oregon Revised Statute (“ORS”) Section 441.535(2)(b)) sets forth that not less than five nor more than eleven members shall serve on an authority board;

(iv) Setting term limits; and

(v) Appointing the initial Board of Directors.

At least one director must be a member of the local governing body that established the Authority. The directors are appointed by and serve at the pleasure of the local governing body. The directors serve without pay but may receive reimbursement for their expenses incurred in the performance of their duties. If desired, the local governing body can name themselves as directors of the Authority, rather than naming members of the public.

These expenses are usually paid by the Borrower which seeks financing. The Authority continues in existence so long as it has bonds outstanding. When all of the obligations of the Authority have been paid, or provision has been made for their payment, the Authority may be dissolved by the governing body which created it.

Purpose of Authority. Usually, a hospital facility authority is created because a facility in the community desires to expand or refinance existing indebtedness through tax-exempt bonds. If the program involves construction, the Borrower will have plans and specifications prepared so that construction may commence when financing arrangements have been made. In each case, the Borrower and its accountants will have prepared a schedule of payment which the management believes can be met from future revenues. Frequently, a feasibility study will have been made by a public accounting firm, an actuary or other professional advisor.

Repayment of Bonds. The bonds issued by a hospital facility authority are payable solely from the revenues and other assets of the Borrower, as described in the related bond documents. The directors of the Authority are not personally responsible for repayment of the bonds, and the bonds are not regarded as obligations of the city or county that created the Authority, or a charge on its tax revenues. A hospital facility authority does not have the power to levy taxes. The bonds are revenue bonds, and whether the investing public will buy them, and whether there will be revenues from the facilities to pay the bonds as they become due, depend upon the revenues of, and the management of, the facility. The Board of Directors of the

hospital facility authority will want to satisfy themselves that the projections of revenues over the life of the bonds appear to be adequate to retire the bonds.

Issuance of Bonds. The law does not require that hospital facility authority bonds be sold at public competitive sale. They usually are sold on a negotiated basis to a bond underwriting firm.

The principal function of the Board of Directors of the hospital facility authority is to approve the documents which have been prepared by Bond Counsel, the attorney for the Borrower, and counsel for the underwriters, and to determine that the issuance of the bonds is in the public interest and that, insofar as the Board can determine by the exercise of due diligence, the bonds are not being sold based upon misrepresentations.

How does the financing of healthcare facilities through a hospital facility authority actually function? The state statutes provide considerable flexibility in the technical financial arrangements. In a fairly typical transaction, an Authority issues bonds and loans the proceeds to a nonprofit corporation which owns and operates the healthcare or adult continuing care facility, and the corporation repays the loan over a term of years. When the Authority has issued and sold the bonds, the proceeds are paid to the trustee, who disburses the money in accordance with instructions to the trustee. The lease or loan payments are made by the Borrower directly to the trustee. The trustee makes payment to bondholders from these payments. These arrangements continue until all of the bonds have been paid. Whether a given transaction will involve a transfer of title, or a mortgage, or a lease or a loan, or some other security device, and whether the Borrower pledges its gross revenues or its net revenues, are matters which are negotiated by the Borrower and the bond underwriter.

Authority Approval Process. The process by which the Authority authorizes the issuance of bonds typically consists of two Authority meetings and approvals. At the first Authority meeting, the Board of Directors considers a resolution granting preliminary approval for the bonds and, importantly, approves the execution of a Letter of Intent between the Authority and the Borrower. The Letter of Intent obligates the Borrower to pay all expenses of the Authority in connection with the issuance of the bonds. In addition, under the Letter of Intent the Borrower agrees to indemnify the Authority and all Board members against liabilities incurred in connection with the issuance of the bonds. Approval of this first resolution allows the Borrower to proceed with document drafting and other activities related to the bond issuance.

At a second and final Authority meeting, the Board of Directors considers a resolution granting final approval for the issuance of the bonds. This approval includes delegation to Authority officers to sign all documents that are necessary to issue the bonds. In cases where bonds must be issued on an expedited basis, or in other appropriate circumstances, the Authority can choose to grant all necessary approvals at one meeting instead of two.

In addition to obtaining approval of the Authority, the Borrower must also obtain the approval of the Board of Commissioners of Clackamas County, as the creator of the Authority,

along with the approval of any other jurisdictions where bond proceeds will be spent. These approvals are required by the Tax Equity and Fiscal Responsibility Act of 1982 (“TEFRA”). TEFRA approvals are limited approvals and do not obligate the jurisdiction to take any financial responsibility for the bonds.

Post Issuance Compliance Procedures. The Internal Revenue Code of 1986 (the “Code”) requires issuers of bonds, such as the Authority, to adopt post issuance compliance policies that will ensure appropriate action is taken in order that interest on tax-exempt bonds remain excludable from gross income under the Code (the “Policies”). The Policies are intended to formally memorialize certain policies and procedures of the Authority previously adopted or followed by the Authority in connection with the issuance of its bonds.

Reporting Requirements for Public Officials. Pursuant to ORS 244.050(1)(s), hospital facility authority board members are considered “public officials.” Public official is defined in ORS 244.020(14) as “any person who is serving the State of Oregon or any of its political subdivisions or any other public body as an elected official, appointed official, employee or agent.....” ORS 244.025(1) states that a public official may not receive any gift with an aggregate value in excess of \$50.00 from any single source. ORS 244.050(2) requires a public official to file with the Oregon Government Ethics Commission, on or before April 15 of each year, a statement of economic interest as required under ORS 244.060. ORS Section 244.060 is attached hereto as Exhibit A. The website link to the annual statement of economic interest, which is currently accessed through an electronic filing system, is as follows: <https://apps.oregon.gov/OGEC/EFS>. Members of the Authority will file as a “Statement of Economic Interest (SEI) Filer” and will receive further information from either Clackamas County or the Oregon Government Ethics Commission.

Securities Laws. The Securities and Exchange Commission requires issuers of bonds, including conduit issuers such as the Authority, to make sure that the bonds it issues and its Borrowers comply with the primary and continuing disclosure requirements of the federal securities laws.

As you will note, the principal duties of the directors are:

1. Determining that the construction or refinancing of the facilities is in the public interest. The authority does not have sole responsibility for determining the need for additional facilities in the community.
2. Approving the legal documents to be satisfied that the financing arrangement is in the public interest and that the offering documents comply with the requirements of the federal securities laws. In this connection, the board will have the assistance of the bond counsel and the underwriter in the actual preparation of the documents and in developing the official statement or any offering documents. The Board will also need to make sure that the Borrower has post-issuance compliance procedures in place to maintain the tax-exempt status of the Bonds and to make sure the Borrower complies with its continuing disclosure requirements.

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3. Complying with reporting requirements for public officials in accordance with ORS Chapter 244.

Following the issuance and sale of the bonds, payments will be made by the Borrower directly to the trustee, and the trustee will make payment to the bondholders. The directors have no legal responsibility for making the payments.

We hope these observations are helpful.

Very truly yours,

ORRICK, HERRINGTON & SUTCLIFFE LLP

Gregory Blonde
Partner

EXHIBIT A

OREGON REVISED STATUTES SECTION 244.060

244.060 Form of statement of economic interest; contents. The statement of economic interest filed under ORS 244.050 shall be on a form prescribed by the Oregon Government Ethics Commission. The public official or candidate filing the statement shall supply the information required by this section and ORS 244.090, as follows:

(1) The names of all positions as officer of a business and business directorships held by the public official or candidate or a member of the household of the public official or candidate during the preceding calendar year, and the principal address and a brief description of each business.

(2) All names under which the public official or candidate and members of the household of the public official or candidate do business and the principal address and a brief description of each business.

(3) The names, principal addresses and brief descriptions of the sources of income received during the preceding calendar year by the public official or candidate or a member of the household of the public official or candidate that produce 10 percent or more of the total annual household income.

(4)(a) A list of all real property in which the public official or candidate or a member of the household of the public official or candidate has or has had any personal, beneficial ownership interest during the preceding calendar year, any options to purchase or sell real property, including a land sales contract, and any other rights of any kind in real property located within the geographic boundaries of the governmental agency of which the public official holds, or the candidate if elected would hold, an official position or over which the public official exercises, or the candidate if elected would exercise, any authority.

(b) This subsection does not require the listing of the principal residence of the public official or candidate.

(5) All expenses with an aggregate value exceeding \$50 received by the public official during the preceding calendar year when participating in a convention, mission, trip or other meeting described in ORS 244.020 (7)(b)(F), including the name and address of the organization, unit of government, tribe or corporation paying the expenses, the nature of the event and the date and amount of the expense.

(6) All expenses with an aggregate value exceeding \$50 received by the public official during the preceding calendar year when participating in a mission, negotiations or economic development activities described in ORS 244.020 (7)(b)(H), including the name and address of the person paying the expenses, the nature of the event and the date and amount of the expenditure.

(7) All honoraria and other items allowed under ORS 244.042 with a value exceeding \$15 that are received by the public official, candidate or member of the household of the public official or candidate during the preceding calendar year, the provider of each honorarium or item and the date and time of the event for which the honorarium or item was received.

(8) The name, principal address and brief description of each source of income exceeding an aggregate amount of \$1,000, whether or not taxable, received by the public official or candidate, or a member of the household of the public official or candidate, during the preceding calendar year, if the source of that income is derived from an individual or business that has a legislative or administrative interest or that has been doing business, does business or could reasonably be

expected to do business with the governmental agency of which the public official holds, or the candidate if elected would hold, an official position or over which the public official exercises, or the candidate if elected would exercise, any authority.

(9)(a) Except as provided in paragraph (b) of this subsection, the name, principal address and brief description of each source of income received during the preceding calendar year by a business identified under subsections (1) and (2) of this section if:

(A) The source of income has a legislative or administrative interest or has been doing business, does business or could reasonably be expected to do business with the governmental agency of which the public official holds, or the candidate if elected would hold, an official position or over which the public official exercises, or the candidate if elected would exercise, any authority; and

(B) Ten percent or more of the total gross annual income of the business identified under subsections (1) and (2) of this section comes from the source of income.

(b)(A) This subsection does not require the public official or candidate filing the statement to supply information that the public official or candidate has a statutory duty to keep privileged or confidential if the public official or candidate complies with the procedure set forth in subparagraph (B) of this paragraph.

(B) If the public official or candidate has a statutory duty to keep privileged or confidential information otherwise required to be disclosed under this subsection, the public official or candidate shall:

(i) Make a formal request to each source of income for which the statutory duty exists, asking if the public official or candidate has the permission of the source of income to make the disclosure required under this subsection;

(ii) File a signed statement with the commission stating that the public official or candidate has made the formal request described in sub subparagraph (i) of this subparagraph; and

(iii) Report each source of income that responds in the affirmative to the request made under sub subparagraph (i) of this subparagraph within 10 business days of receiving the request.

(c) A public official or candidate shall be deemed to be in compliance with supplying the information required under this subsection if the public official or candidate:

(A) Accurately submits the information required under this subsection; or

(B)(i) Makes a formal request to each source of income that provided 10 percent or more of the total gross annual income of the business identified under subsections (1) and (2) of this section, asking if that source of income has a legislative or administrative interest or has been doing business, does business or could reasonably be expected to do business with the governmental agency of which the public official holds, or the candidate if elected would hold, an official position or over which the public official exercises, or the candidate if elected would exercise, any authority; and

(ii) Reports each source of income that responds in the affirmative to the request made under sub subparagraph (i) of this subparagraph. [1974 c.72 §5; 1975 c.543 §4; 1987 c.566 §11; 1991 c.770 §7; 1993 c.743 §12; 2003 c.14 §116; 2007 c.877 §19; 2009 c.68 §6; 2015 c.620 §5; 2023 c.392 §1]