

ORDINANCE NO. FCO 2017-5

AN ORDINANCE OF THE FLOYD COUNTY BOARD OF COMMISSIONERS TO ESTABLISH A NONREVERTING TRUST FUND FOR THE RECEIPT AND INVESTMENT OF PROCEEDS FROM THE SALE OF THE HOSPITAL

WHEREAS, Floyd County, Indiana ("Floyd County") established and heretofore owned the Floyd Memorial Hospital and Health Services (the "Hospital"); and

WHEREAS, the Floyd County Board of Commissioners and the Floyd County Council (collectively, "County Officials") and the Hospital's Board, pursuant to IC 16-22-3, have previously agreed to transfer the Hospital assets to Baptist Healthcare Systems Inc. ("Baptist") pursuant to an Asset Purchase Agreement dated June 28, 2016 ("Agreement"); and

WHEREAS, Floyd County received a portion of the proceeds intended for Floyd County and will receive additional proceeds, that pursuant to the Agreement, are required to be distributed to Floyd Memorial Foundation for the benefit healthcare needs of Floyd County ("Charitable Proceeds"); and

WHEREAS, Floyd County Officials desire to establish a nonreverting trust fund for the Charitable Proceeds pursuant to IC 5-13-9.3 *et seq.* ("Charitable Proceeds Trust Fund"); and

WHEREAS, The Floyd County Officials desire to protect and restrict the use of the Charitable Proceeds and other subsequent additions of principal to the Charitable Trust Fund as provided herein.

NOW, THEREFORE, BE IT RESOLVED BY THE Floyd County Board of Commissioners, Indiana, that:

Section 1. Nonreverting Trust Fund. There is hereby created a nonreverting trust fund, entitled the Charitable Proceeds Trust Fund. The moneys deposited in the Charitable Proceeds Trust Fund shall not be commingled with, nor shall they be a part of the general funds of the County. The Charitable Proceeds Trust Fund shall be a nonreverting fund used solely for the purposes described herein.

Section 2. Designated Proceeds. Pursuant to the Agreement, the County is to receive Six Million One Hundred Thousand Dollars (\$6,100,000.00) plus interest each January for ten (10) years beginning January 2017 ("Annual Installment"). Seven and 68/100 percent (7.68%) of the Annual Installment shall be considered Charitable Proceeds. Anytime the County receives a portion of the financed purchase price, seven and 68/100 percent (7.68%) of the amount received shall be considered Charitable Proceeds.

Section 3. Deposit of Charitable Proceeds. The Floyd County Treasurer and Floyd County officials shall deposit the Charitable Proceeds into the Hospital Fund upon receipt of the Annual Installment. Therefrom the Charitable Proceeds shall be transferred to the Charitable Proceeds Trust Fund.

Section 4. Transfer of Funds. The Charitable Proceeds shall be transferred, within thirty days from being deposited into the Charitable Proceeds Trust Fund to the Floyd Memorial Foundation, Inc. (“Floyd Memorial Foundation”), an Indiana non-profit corporation, or its successor(s), or as soon as permitted by written agreement between Floyd County and the Floyd Memorial Foundation.

Section 5. No Reversion of Moneys to the General Fund. There shall be no reversions of the Charitable Proceeds Trust Fund or any moneys placed into the Charitable Proceeds Trust Fund to the general fund of the County. Except as provided herein, Charitable Proceeds may accumulate in the Charitable Proceeds Trust Fund.

Section 6. Investment Restrictions. While the Charitable Proceeds are in the Charitable Proceeds Trust Fund, they shall be restricted to the provisions of IC 5-13-9 *et seq.*

Section 7. Floyd Memorial Foundation Endowment. Upon transfer of the Charitable Proceeds to the Floyd Memorial Foundation, Floyd Memorial Foundation shall hold the Charitable Proceeds as a separate endowment. Floyd Memorial Foundation shall track the Charitable Proceeds including, but not limited to, receipts, disbursements, and gains and losses, separately from the Foundation’s other assets.

Section 8. Floyd Memorial Foundation Reporting Requirement. Floyd Memorial Foundation shall provide the County annual written reports on or before January 31 of each year. The report shall include information related to, but not limited to, receipts, disbursements, gains and losses, and plans for future use of the Charitable Proceeds.

Section 9. Charitable Proceeds Use Restriction. Floyd Memorial Foundation shall use the Charitable Proceeds to support general healthcare needs of the Hospital Service Area as provided in the Agreement.

Section 10. Reversion of Charitable Proceeds. If the Floyd Memorial Foundation loses its status as a charitable organization, is liquidated, or violates any conditions of this Ordinance, the Charitable Proceeds shall revert to the County’s general fund.


Section 11. Amendment. This Ordinance shall not be revoked or amended in a manner that is inconsistent with the Agreement.

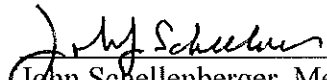
Section 12. Effective Date. This Ordinance shall take effect upon adoption of the Board of Commissioners and approval of the County Council.

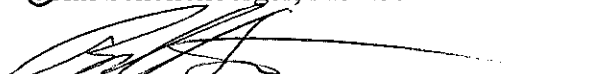
Ordinance FCO 2017-2 is hereby repealed.

ADOPTED AND PASSED this 7th ^{February} day of ~~January~~, 2017.

BOARD OF COMMISSIONERS,
FLOYD COUNTY, INDIANA


D. Mark Seabrook, President


John Schellenberger, Member


Billy Stewart, Member

Attest:



Scott Clark, Auditor