

## RESOLUTION 20D-11

### RESOLUTION APPROVING THE ISSUANCE AND SALE OF HEALTH FACILITIES REFUNDING REVENUE BONDS, SERIES 2020C (ESSENTIA HEALTH OBLIGATED GROUP)

BE IT RESOLVED, by the Board of Commissioners of the Duluth Economic Development Authority, as follows:

- Section 1. Definitions. The terms used in this resolution (1) have the meanings assigned below or (2) the meanings assigned to them in the Bond Indenture or the Loan Agreement, unless the context, use, or the rules of grammar indicate another or differing meaning or intent:
- a. Act: Minnesota Statutes, Sections 469.152 through 469.165, as amended.
  - b. Assignment: the integral assignment to the Obligated Group Note to be endorsed by DEDA in favor of the Bond Trustee.
  - c. Authorized Officers: the President and Secretary of DEDA, or the deputy or acting designee of either of them.
  - d. Board: the Board of Commissioners of DEDA, DEDA's governing body.
  - e. Bond Counsel: the law firm of Fryberger, Buchanan, Smith & Frederick, P.A.
  - f. Bond Indenture: the Bond Trust Indenture to be entered into between DEDA and the Bond Trustee.
  - g. Bond Trustee: U.S. Bank National Association, a national banking association with an office located in St. Paul, Minnesota, its successors and assigns.
  - h. Borrower: Essentia Health, as Obligated Group Agent on behalf of itself and the other members of the Obligated Group under the Master Indenture, each such entity being (as represented to DEDA), an organization described in Section 501(c)(3) of the Code, the corporate offices of which are located at 502 East Second Street, in the City.
  - i. Borrower Documents: the Loan Agreement, the Master Indenture, the Supplemental Master Indenture, the Continuing Covenant Agreement and the Obligated Group Note.
  - j. City: the City of Duluth, Minnesota.
  - k. Code: the Internal Revenue Code of 1986, as amended.

- l. Continuing Covenant Agreement: the Continuing Covenant Agreement between the Borrower and the Purchaser.
- m. DC: The Duluth Clinic, Ltd., a Minnesota corporation and Member of the Obligated Group
- n. DEDA: the Duluth Economic Development Authority.
- o. DEDA Documents: the Loan Agreement, the Bond Indenture and the Assignment.
- p. Documents: the DEDA Documents, the Borrower Documents and other documents required for the issuance of the Series 2020C Bonds.
- q. Executive Director: the Executive Director of DEDA.
- r. Host Cities: together the Cities of Brainerd, Detroit Lakes, Hermantown, Hibbing and International Falls, Minnesota.
- s. Loan Agreement: the Loan Agreement to be entered into between DEDA and the Borrower.
- t. MAEDB: the Minnesota Agricultural and Economic Development Board, as issuer of the Series 2008C-1 Bonds.
- u. Master Indenture: the Second Amended and Restated Master Trust Indenture between the Borrower, on behalf of itself and as Obligated Group Agent and the Master Trustee.
- v. Master Trustee: U.S. Bank National Association, as master trustee under the Master Indenture.
- w. Municipal Advisor: Raymond James & Associates, Inc., municipal advisor to the Borrower.
- x. Obligated Group: a group composed of the Borrower and 13 of its affiliates, each of which has agreed in writing to be bound by the provisions of the Master Indenture.
- y. Obligated Group Agent: Essentia Health, as obligated group agent under the Master Indenture.
- z. Obligated Group Note: the promissory note of the Borrower, as Obligated Group Agent, issued under the Master Indenture to DEDA.
- aa. Project: the proceeds of the Series 2008C-1 Bonds were primarily spent to finance the following:



- (1) with respect to SJMC, acquisition and installation of certain equipment in, and remodeling, new construction and improvements to, the existing medical facilities located at or adjacent to 523 North Third Street in Brainerd, Minnesota;
- (2) with respect to SMRHC, acquisition of hospital facilities; acquisition and installation of equipment in and capital improvements to the hospital facilities, including constructing a two-story, approximately 50,000 square foot clinic expansion and medical/surgical/pediatrics unit, developing a new central supply and loading dock, developing private rooms and a short stay nursing center, demolishing obsolete facilities, the acquiring, constructing and equipping a new surgical department, intensive care unit, emergency room and front entrance and connector between the existing hospital and skilled nursing facility, all located at or adjacent to 1027 Washington Avenue in Detroit Lakes; and renovating a former retail facility located at 603 Highway 10 East in Detroit Lakes, to provide dialysis, clinical and office functions;
- (3) with respect to SMDC, acquiring, constructing and equipping a three-story, approximately 225,000 square foot building, located at 420 East First Street in Duluth, for use as a cancer center and medical departments, including but not limited to orthopedics, digestive diseases and diagnostic imaging; and constructing and equipping a medical clinic located at 2501 Keenan Drive in International Falls, Minnesota;
- (4) with respect to DC, constructing, renovating and equipping clinic facilities located at 400 East Third Street in Duluth; constructing a 55,000 square foot addition to the facilities; acquiring adjacent land and constructing additional parking facilities for approximately 300 vehicles on the acquired land; acquiring, constructing equipping a 280-car parking ramp, 32-room patient and visitor lodging facility, additional office, examination and related space, and capital improvements to medical clinic facilities located at 502 East Second Street in Duluth; remodeling facilities located at 532 East First Street in Duluth to house accounting and other administrative services; remodeling and expanding medical clinic facilities located at 4621 East Superior Street and 4325 Grand Avenue in Duluth (the Grand Avenue facilities have been sold by DC); acquiring land located at 4855 West Arrowhead Road in Hermantown, Minnesota and constructing and equipping a medical clinic on the land; purchasing and installing new movable equipment and upgrading existing equipment at the foregoing locations; constructing and equipping a medical clinic and ambulatory care center located at 730 East 34<sup>th</sup> Street in Hibbing, Minnesota; renovating and equipping clinic

facilities located at 400 N.W. First Street, Chisholm, Minnesota; constructing, renovating and equipping clinic facilities located at 901 North Sixth Avenue in Virginia, Minnesota, which have been sold; acquiring equipment for clinic facilities located at 109 Court Avenue South, Sandstone, Minnesota, which has been fully depreciated; acquiring and renovating clinic facilities located at 206 Main Street, Hinckley, Minnesota, which have been sold by DC; constructing, renovating and equipping clinic facilities located at 405 West Third Avenue North, Aurora, Minnesota which have been sold by DC; and constructing, renovating and equipping clinic facilities located at 300 West Conan Street, Ely, Minnesota;

- (5) with respect to SMDCMC, capital improvements to hospital facilities located at 502 East Second Street in Duluth; constructing and equipping a physical medicine facility; and constructing and equipping a skyway connecting 400 East Third Street (DC), 502 East Second Street (SMDCMC) and 407 East Third Street (SMMC), all in Duluth;
- (6) with respect to SMMC, acquiring and installing equipment in and remodeling of and improving facilities located at 407 East Third Street in Duluth; and
- (7) with respect to Nat G. Polinsky Memorial Rehabilitation Center, a Minnesota nonprofit corporation, renovating, constructing and equipping facilities located at 502 East Second Street, Duluth, Minnesota.

- bb. Purchaser: Wells Fargo Municipal Capital Strategies, LLC, or its affiliate.
- cc. Refunded Bonds: the outstanding principal amount of the Series 2008C-1 Bonds.
- dd. Registrar: bond registrar, paying agent, authenticating agent and transfer agent for the Series 2020C Bonds.
- ee. Series 2008C-1 Bonds: MAEDB's \$160,120,000 Health Care Facilities Revenue Bonds, Series 2008C-1 (Essentia Health Obligated Group).
- ff. Series 2020C Bonds: Health Facilities Refunding Revenue Bonds, Series 2020C (Essentia Health Obligated Group).
- gg. SJMC: St. Joseph's Medical Center, a Minnesota nonprofit corporation and Member of the Obligated Group
- hh. SMDC: St. Mary's Duluth Clinic Health System, a Minnesota nonprofit corporation and Member of the Obligated Group.



- ii. SMDCMC: SMDC Medical Center, a Minnesota nonprofit corporation and Member of the Obligated Group.
- jj. SMMC: St. Mary's Medical Center, a Minnesota nonprofit corporation and Member of the Obligated Group.
- kk. Special Tax Counsel: the law firm of Chapman and Cutler, LLP.
- ll. State: the State of Minnesota.
- mm. Supplemental Master Indenture: Supplemental Indenture Number Two to the Master Indenture between the Borrower as Obligated Group Agent, on behalf of itself and the Members of the Obligated Group, and the Master Trustee.
- nn. Tax Certificate: the certificate of the Borrower, in customary form prepared by Special Tax Counsel and approved as to form by Bond Counsel to demonstrate compliance with the conditions of the Code which allow for interest on the Series 2020C Bonds to be excludable from the gross income of the owners of the Series 2020C Bonds for federal income tax purposes (including any other bonds making up a single issue for federal income tax purposes).

Section 2. Summary of the Documents. Bond Counsel has provided the following information relating to the Documents:

- a. In the *Bond Indenture*, DEDA pledges and grants a security interest to the Bond Trustee in all of its right, title, and interest in the Obligated Group Note, the Loan Agreement (except for certain rights of DEDA to payment, indemnification and enforcement) and all moneys on deposit with the Bond Trustee under the Bond Indenture for the benefit of the owners of the Series 2020C Bonds. The Bond Indenture provides the terms and conditions, covenants, rights, obligations, duties and agreements of the owners of the Series 2020C Bonds, DEDA and the Bond Trustee as set forth therein.
- b. In the *Loan Agreement*, DEDA loans the proceeds of the Series 2020C Bonds to the Borrower and the Borrower agrees to repay the loan in the amounts and at the times required to pay the principal of, premium, if any, and interest on the Series 2020C Bonds in full when due. In addition, the Loan Agreement contains provisions requiring the Borrower to pay the administrative and legal costs incurred by DEDA in connection with issuing the Series 2020C Bonds and DEDA's administrative fee required for DEDA to issue the Series 2020C Bonds. In addition, the Borrower agrees and is obligated to indemnify, provide reports, and permit enforcement by DEDA of its rights under the Loan Agreement, all of which are required or permitted by the Act and which DEDA and the Borrower deem necessary or desirable for refunding the Refunded Bonds.

- c. The *Master Indenture* contains the terms and conditions precedent to the issuance of obligated group notes, including requirements that must be met for the Obligated Group to incur additional indebtedness and to refund indebtedness.
- d. The *Supplemental Master Indenture* is authorized under the Master Indenture and is necessary to authorize issuance of the Obligated Group Note and to describe the terms of the Obligated Group Note.
- e. The Series 2020C Bonds are proposed to be secured by the *Obligated Group Note* issued under the Master Indenture. The Obligated Group is jointly and severally liable for payment of all notes issued under the Master Indenture. The Obligated Group Note will be issued in a stated principal amount equal to the stated principal amount of the Series 2020C Bonds and will bear interest at the rate or rates payable from time to time on the Series 2020C Bonds.
- f. DEDA will execute an endorsement to the *Tax Certificate*, in customary form prepared by Special Tax Counsel and approved as to form by Bond Counsel to demonstrate compliance with the conditions required under the Code which allow interest on the Series 2020C Bonds to be excludable from the gross income of the owners of the Series 2020C Bonds for federal income tax purposes.

Section 3. Reliance. The Board has relied without independent investigation on written representations and opinions of the Borrower, its consultants and Bond Counsel that the Project qualifies as a “project” as defined in Sections 469.153, subdivision 2(d) and 469.155, subdivision 4 of the Act.

Section 4. Documents. Drafts of the forms of the DEDA Documents have been made available to this Board and are on file in the office of the Executive Director.

Section 5. Recitals Regarding the Borrower and the Project.

- a. Bond Counsel has advised DEDA that:
  - i. under the Act, DEDA is authorized and empowered to issue revenue obligations to (A) refund, in whole or in part, bonds previously issued by any other municipality or redevelopment agency on behalf of an organization described in section 501(c)(3) of the Code, under authority of the Act, but only with the consent of the original issuer of such bonds; and (B) pay, purchase, or discharge all or any part of the outstanding indebtedness of an organization primarily engaged in health care related activities previously incurred in the acquisition or betterment of its existing facilities to the extent deemed necessary by the governing body of the municipality or redevelopment agency; and



- ii. the Series 2008C-1 Bonds being refunded by the Series 2020C Bonds comprise a single issue for federal income tax purposes with (i) the Cass County, North Dakota \$61,100,000 Health Care Facilities Revenue Bonds, Series 2008A (Essentia Health Obligated Group), which are being refunded by Cass County, North Dakota, contemporaneously with the Series 2020C Bonds; and (ii) the Wisconsin Health and Educational Facilities Authority \$12,975,000 Health Care Facilities Revenue Bonds, Series 2008B (Essentia Health Obligated Group), which are being refunded by the Wisconsin Health and Educational Facilities Authority contemporaneously with the Series 2020C Bonds.
- b. The Borrower has represented to DEDA that it and each of its affiliates is an organization described in Section 501(c)(3) of the Code.
- c. The Borrower has agreed to pay any and all costs incurred by DEDA in connection with the issuance of the Series 2020C Bonds, whether or not the issuance is carried to completion.
- d. The Borrower has represented to DEDA that no public official of DEDA has either a direct or indirect financial interest in the Project nor will any public official either directly or indirectly benefit financially from the Project.
- e. The Project was approved by the Minnesota Department of Employment and Economic Development in conjunction with the issuance of the Series 2008C-1 Bonds.

Section 6. The Series 2020C Bonds.

- a. In order to refinance the Project, the refunding of the Refunded Bonds and payment of costs of issuance of the Series 2020C Bonds, DEDA authorizes the sale of the Series 2020C Bonds to the Purchaser and the issuance of the Series 2020C Bonds in one or more series, whether taxable or tax exempt, in an original aggregate principal amount for all series of not to exceed \$122,270,000 (excluding original issue discount or premium with respect to any series of Series 2020C Bonds).
- b. The Series 2020C Bonds are to be issued pursuant to the Act and the Bond Indenture. The Series 2020C Bonds shall contain a recital that they are issued pursuant to the Act as conclusive evidence of their validity and of the regularity of their issuance. Subject to clause d, below, the Series 2020C Bonds (i) are to be designated, be dated, be in substantially the form, be signed and sealed, be in the denominations, have maturities and be subject to redemption as provided in the Bond Indenture and (ii) will bear interest at rates approved by the Borrower and be described and have such other details and provisions as specified in the Bond Indenture.



- c. The purchase price of the Series 2020C Bonds shall be at a price expressed as a percentage of their par value, less any portion of the stated principal amount of the Series 2020C Bonds which represents original issue discount (as defined in the Code). The maturity date of any of the Series 2020C Bonds cannot exceed 40 years from the date of closing and delivery of the Series 2020C Bonds.
- d. The Authorized Officers, with advice of Bond Counsel, are authorized, subject to the prior approval of the Borrower, to approve the final terms of the Series 2020C Bonds.

Section 7. Approval and Execution of Series 2020C Bonds, Documents and Certificates.

- a. The DEDA Documents and the Series 2020C Bonds are made a part of this resolution and are approved in substantially the forms on file with DEDA. The Authorized Officers are authorized and directed to execute, acknowledge, and deliver the DEDA Documents and the Series 2020C Bonds on behalf of DEDA with such changes, insertions and omissions therein as DEDA's attorney or Bond Counsel may hereafter approve. The seal of DEDA may be omitted as allowed by law.
- b. The Authorized Officers and other officers and members of DEDA (individually or with one or more other officers and members of DEDA) are authorized and directed to (i) execute and deliver all other documents which may be required under the terms of the DEDA Documents or the Series 2020C Bonds or by Bond Counsel; (ii) take any other action required or deemed appropriate on the advice of Bond Counsel for the performance of DEDA's duties necessary to carry out the purposes of the Series 2020C Bonds and the DEDA Documents; and (iii) furnish certified copies of this resolution and all proceedings and records of DEDA relating to the Series 2020C Bonds, and any other affidavits and certificates required, in the opinion of Bond Counsel, to show the facts relating to DEDA respecting the Series 2020C Bonds, as the facts appear from the books and records in DEDA's custody and control or as otherwise known to them.
- c. The execution by the Authorized Officers of the Series 2020C Bonds and the DEDA Documents is conclusive evidence of their approval in accordance with the terms of this resolution.
- d. The Borrower is authorized to require such insubstantial changes to the description of the Project to be included in the Issuer Documents as recommended by Special Tax Counsel and approved by Bond Counsel.

Section 8. Absent or Disabled Officers. If any of the Authorized Officers or any other officers, employees or agents of DEDA authorized to execute certificates, instruments, or other written documents on behalf of DEDA:



- a. ceases to be an officer, employee or agent of DEDA after he or she has executed any certificate, instrument or other written document, the validity or enforceability of the certificate, instrument or other written document signed by them is not affected; and
- b. is unavailable to execute certificates, instruments or other written documents, the certificates, instruments or other written documents may be executed by a deputy or assistant to the unavailable officer, or any other officer of DEDA who is, in the opinion of Bond Counsel, authorized to sign the certificates, instruments or other written documents, with full force and effect.

Section 9. Bond Trustee; Bond Registrar; Paying Agent. DEDA appoints the Bond Trustee as trustee, registrar and paying agent for the Series 2020C Bonds.

Section 10. Offering and Disclosure Materials. DEDA has not participated in the preparation of any offering materials relating to the 2020C Bonds and has made no independent investigation with respect to any matters which may be disclosed in such offering materials.

Section 11. Limitations.

- a. *Limitation on Payment of Principal and Interest.* The revenues and proceeds derived from the DEDA Documents are specifically pledged to the payment of the principal of and interest on the Series 2020C Bonds in the manner and to the extent specified in this resolution, the Series 2020C Bonds and the Documents; and nothing in the Series 2020C Bonds, the Documents or this resolution assigns, pledges or otherwise encumbers any other funds or assets of DEDA.
- b. *Limitation of Liability.* DEDA is not subject to any liability on the Series 2020C Bonds. No agreement, covenant, or obligation contained in this resolution or in the Documents is an agreement, covenant or obligation of any member of the Governing Body, or of any officer, employee or agent of DEDA in that person's individual capacity. Neither the members of the Governing Body, nor any officer executing the Series 2020C Bonds or the Documents, is liable personally on the Series 2020C Bonds or subject to any personal liability or accountability by reason of the issuance of the Series 2020C Bonds or execution of the Documents.
- c. *Limitation on Rights Conferred.* Nothing in this resolution or in the Documents will or is intended to be construed to confer upon any person (other than as provided in the Series 2020C Bonds, the DEDA Documents, and the other agreements, instruments and documents by approved in this resolution) any right, remedy or claim, legal or equitable, under and by reason of this resolution or any provision of this resolution.

d. *Limitation on Nature of Security.*

- i. The Series 2020C Bonds are and will be a special limited obligation of DEDA.
- ii. Notwithstanding anything contained in the resolution, the Series 2020C Bonds or the Documents or any other document referred to in the resolution, the Series 2020C Bonds or the Documents to the contrary, under the provisions of the Act, the Series 2020C Bonds may not be payable from nor charged upon any funds other than the revenue pledged to their payment under the DEDA Documents. No holder of the Series 2020C Bonds will ever have the right to compel any exercise of the taxing power of the City to pay the Series 2020C Bonds or the interest thereon, or to enforce payment of the Series 2020C Bonds against any property of DEDA other than payments under the Loan Agreement and the Obligated Group Note pledged by DEDA under the Bond Indenture to payment of the Series 2020C Bonds under the provisions and for the purpose of the Act. DEDA has no taxing power.
- iii. The Series 2020C Bonds do not constitute a charge, lien, or encumbrance, legal or equitable, upon any property of DEDA other than payments under the Loan Agreement and the Obligated Group Note pledged by DEDA under the Bond Indenture to payment of the Series 2020C Bonds under the provisions and for the purpose of the Act. The Series 2020C Bonds are not a debt of DEDA within the meaning of any constitutional or statutory limitation. However, nothing impairs the rights of the holder of the Series 2020C Bonds to enforce covenants made for the security of the Series 2020C Bonds as provided in Section 469.163 of the Act.

Section 12. Conditions Precedent. The Series 2020C Bonds shall not be delivered until the following conditions have been satisfied:

- a. MAEDB has adopted a resolution consenting to the refunding of the Refunded Bonds by DEDA;
- b. each of the Host Cities has consented to the issuance by DEDA of the portions of Series 2020C Bonds issued to refinance the portion of the Project located in its jurisdiction; and
- c. the Borrower has agreed in writing to pay DEDA its administrative fee in the amount of  $\frac{1}{4}$  of 1% of the stated principal amount of the Series 2020C Bonds.

Section 13. Severability. If any provision of this resolution shall be held or deemed to be or shall, in fact, be inoperative or unenforceable as applied in any particular

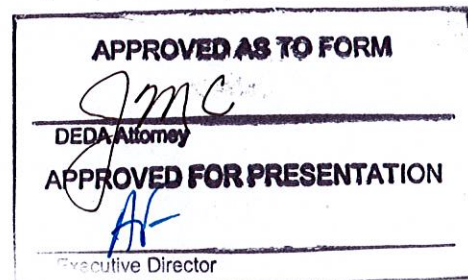


case in any jurisdiction or jurisdictions or in all jurisdictions or in all cases because it conflicts with any provisions of any constitution or statute or rule or public policy, or for any other reason, such circumstances shall not have the effect of rendering the provision in question inoperative or unenforceable in any other case or circumstance or of rendering any other provision or provisions herein contained invalid, inoperative, or unenforceable to any extent whatever. The invalidity of any one or more phrases, sentences, clauses or paragraphs in this resolution contained shall not affect the remaining portions of this resolution or any part thereof.

Section 14. Effective Date. This resolution shall take effect immediately.

Approved by the Duluth Economic Development Authority this 22<sup>nd</sup> day of January, 2020.

ATTEST:



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Executive Director

STATEMENT OF PURPOSE: This resolution authorizes the issuance of tax-exempt bonds by DEDA (the "Series 2020 Bonds") to refund a series of bonds issued by the Minnesota Agricultural and Economic Development Board in 2008 ("MAEDB") to finance improvements at Essentia facilities in Duluth, Brainerd, Detroit Lakes, Hermantown, Hibbing and International Falls. Issuance of the Series 2020 Bonds is subject to the consent of MAEDB to the refunding of its bonds issued in 2008. The MAEDB action will take place on a date prior to the closing date of the bonds.

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