

RESOLUTION NO. 2016-8

A RESOLUTION RELATING TO THE AUTHORIZATION AND ISSUANCE OF THE COUNTY OF OHIO, KENTUCKY TAXABLE INDUSTRIAL BUILDING REVENUE BONDS (FAMILY WELLNESS CENTER, INC. PROJECT), SERIES 2015, IN A PRINCIPAL AMOUNT NOT TO EXCEED \$4,000,000 ("BONDS"), ON BEHALF OF THE FAMILY WELLNESS CENTER, INC. ("CORPORATION") A TAX-EXEMPT ORGANIZATION AS DESCRIBED AND SET FORTH IN SECTION 501(C)(3) OF THE INTERNAL REVENUE CODE OF 1986, AS AMENDED, FOR THE PURPOSE OF PAYING, IN FULL, THE PRINCIPAL AND INTEREST ON THE "COUNTY OF OHIO, KENTUCKY INDUSTRIAL BUILDING REVENUE BONDS (FAMILY WELLNESS CENTER, INC. PROJECT), SERIES 2010" (THE "PRIOR BONDS"); AND, AUTHORIZING THE EXECUTION AND DELIVERY OF VARIOUS DOCUMENTS INCLUDING, BUT NOT LIMITED TO, A LOAN AGREEMENT BETWEEN THE CORPORATION AND OHIO COUNTY, KENTUCKY, A TRUST INDENTURE WITH THE TRUSTEE BANK PURSUANT TO WHICH THE BONDS WILL BE ISSUED AND OUTSTANDING, A BOND PURCHASE AGREEMENT PROVIDING FOR THE SALE OF THE BONDS ON A NEGOTIATED BASIS, CONTINUING DISCLOSURE AGREEMENT, ESCROW AGREEMENT, IF REQUIRED, AND, SUCH OTHER DOCUMENTS, AS MAY BE NECESSARY OR REQUIRED TO EVIDENCE THE ISSUANCE OF THE BONDS AND PAYMENT, IN FULL, OF THE PRINCIPAL AND INTEREST ON THE PRIOR BONDS.

WHEREAS, the County, by virtue of the laws of the Commonwealth of Kentucky, including Chapter 103 of the Kentucky Revised Statutes ("KRS") is authorized and empowered among other things to assist in defraying the costs of borrowing for nonprofit organizations locating facilities within the boundaries of the County and to issue and sell its industrial building bonds to provide monies for such facilities; and

WHEREAS, the County has determined that the wellness/community center facility owned by The Family Wellness Center, Inc. ("Corporation"), a tax-exempt organization as described and set forth in Section 501(c)(3) of the Internal Revenue Code of 1986, as amended, promotes the welfare of the people of the Commonwealth of Kentucky and the County; and

WHEREAS, the County of Ohio, Kentucky ("County") previously authorized and issued the County of Ohio, Kentucky Industrial Building Revenue Bond Anticipation Notes (Family Wellness Center, Inc. Project), Series 2001 ("Prior Series 2001 Notes") for the purpose of assisting the Corporation in the acquisition, construction and equipping of a wellness/community center located within the geographical boundaries of the County; and

WHEREAS, the County authorized the issuance of its County of Ohio, Kentucky Industrial Building Revenue Bond Anticipation Renewal Notes (Family Wellness Center, Inc. Project), Series 2002 ("Prior Series 2002 Renewal Notes"), the proceeds of which were used to pay the principal and interest of the Prior Series 2001 Notes; and

WHEREAS, the County authorized the issuance of its County of Ohio, Kentucky Industrial Building Revenue Bond Anticipation Renewal Notes (Family Wellness Center, Inc. Project), Series 2003 (“Prior Series 2003 Renewal Notes”), the proceeds of which were used to pay the principal and interest of the Prior Series 2002 Renewal Notes; and

WHEREAS, the County authorized the issuance of its County of Ohio, Kentucky Industrial Building Revenue Bond Anticipation Renewal Notes (Family Wellness Center, Inc. Project), Series 2003B (“Prior Series 2003B Renewal Notes”), the proceeds of which were used to pay the principal and interest of the Prior Series 2003 Renewal Notes; and

WHEREAS, the County authorized the issuance of its County of Ohio, Kentucky Industrial Building Revenue Bond Anticipation Renewal Notes (Family Wellness Center, Inc. Project), Series 2004 (“Prior Series 2004 Renewal Notes”), the proceeds of which were used to pay the principal and interest of the Prior Series 2003B Renewal Notes; and

WHEREAS, the County authorized the issuance of its County of Ohio, Kentucky Industrial Building Revenue Bond Anticipation Renewal Notes (Family Wellness Center, Inc. Project), Series 2005 (“Prior Series 2005 Renewal Notes”), the proceeds of which were used to pay the principal and interest of the Prior Series 2004 Renewal Notes; and

WHEREAS, the County authorized the issuance of its County of Ohio, Kentucky Industrial Building Revenue Bonds (Family Wellness Center, Inc. Project), Series 2010 (“Prior Bonds”), the proceeds of which were used to pay the principal and interest of the Prior Series 2005 Renewal Notes;

WHEREAS, the Prior Bonds mature on December 1, 2015; and

WHEREAS, the County has been advised that the Corporation is a nonstock, nonprofit corporation as defined in §501(c)(3) of the Internal Revenue Code of 1986, as amended;

WHEREAS, the County is authorized under the provisions of Sections 103.200 and 103.285 of the Kentucky Revised Statutes, as amended (the “Act”), to issue its Taxable Industrial Building Bonds, Series 2015, on behalf of the Corporation and use the proceeds thereof to finance the cost of the acquisition, construction and equipping of the wellness facility and related facilities in furtherance of the public purposes, including refunding outstanding bond issues; and

WHEREAS, the County proposes to issue **“County of Ohio, Kentucky, Taxable Industrial Building Revenue Bonds (Family Wellness Center, Inc. Project), Series 2015”** (“Series 2015 Bonds”), and loan the proceeds from the Series 2015 Bonds to the Corporation to permit the Corporation to pay in full the outstanding principal and interest on the Prior Bonds, due December 1, 2015;

NOW, THEREFORE, BE IT RESOLVED BY THE FISCAL COURT OF THE COUNTY OF OHIO, KENTUCKY, AS FOLLOWS:

1. Public Purposes. The Fiscal Court hereby finds and declares that the issuance of the Series 2015 Bonds and the use of the proceeds thereof to finance the cost of the Project, as herein defined, will further the public purposes.

2. Authorization of the Series 2015 Bonds and Acquisition of the Project. For the purposes set forth in the preamble herein, which is incorporated into the body of this Resolution, there is hereby authorized and directed:

A. The issuance, execution, sale, on a private negotiated basis, and delivery of the **County of Ohio, Kentucky Taxable Industrial Building Revenue Bonds (Family Wellness Center, Inc. Project), Series 2015**, or in such other series, denominations, identifying name, and dated, as determined by the County Judge/Executive, in an amount not to exceed \$4,000,000, as provided in the Trust Indenture and the Bond Purchase Agreement hereinafter identified;

B. The application of the proceeds of the Series 2015 Bonds to pay the Prior Bonds, the proceeds of which were used to pay the principal and interest of the Prior Series 2005 Renewal Notes, the proceeds of which were used to pay the principal and interest of the Prior Series 2004 Renewal Notes, the proceeds of which were used to pay the principal and interest of the Prior Series 2003B Notes, the proceeds from which were used to pay the principal and interest on the Prior Series 2003 Renewal Notes, the proceeds of which were used to pay the principal and interest of the Prior Series 2002 Renewal Notes, the proceeds of which were used to pay the principal and interest of the Prior Series 2001 Notes, the proceeds of which were used to pay the costs of the acquisition, construction and equipping of the Project, a public purpose project, as provided in the Loan Agreement hereinafter identified, and the cost of issuance (the "Project");

C. The execution and delivery of a Bond Purchase Agreement for the sale of the Series 2015 Bonds;

D. The sale of the Series 2015 Bonds on a private negotiated basis pursuant to the Act;

E. Appointment of Bowling & Johnson, PLLC, as Bond Counsel, and Ross Sinclair & Associates, LLC, as Underwriter.

3. Authorization of Trust Indenture. The County Judge/Executive and the County Clerk are hereby authorized and directed to execute, acknowledge and deliver, on behalf of the County, a Trust Indenture (the "Indenture"), substantially in the form attached hereto, between the County and a Trustee, to be appointed by the County Judge/Executive, without further action by the Fiscal Court, pursuant to which the Series 2015 Bonds will be issued and outstanding. The terms and provisions of the Indenture may be amended prior to delivery of the Series 2015 Bonds without further approval or action of the Fiscal Court, provided such amendments are required and approved by the Underwriter or Bond Counsel, and have received approval by the Judge/Executive.

4. Authorization of Loan Agreement. The County Judge/Executive and the Fiscal Court Clerk are hereby authorized and directed to execute, acknowledge and deliver, on behalf of the County, a Loan Agreement (the "Loan Agreement"), substantially in the form attached hereto,

between the County and the Corporation, pursuant to which the Project funds will be loaned to the Corporation and the Corporation agrees to pay rentals sufficient to pay the principal and interest on the Series 2015 Bonds as and when due. The terms and provisions of the Loan Agreement may be amended prior to delivery of the Series 2015 Bonds without further approval or action of the Fiscal Court, provided such amendments are required and approved by the Underwriter or Bond Counsel, and have received approval by the Judge/Executive.

5. Further Acts and Deeds. The County Judge/Executive, Fiscal Court Clerk, and other appropriate officials of the County, are hereby authorized and directed to execute, acknowledge and deliver, on behalf of the County, any and all papers, instruments, certificates, affidavits, and other documents and to do and cause to be done any and all acts and things necessary or proper for entering into and effecting the purposes of this Resolution, including the execution of the Bond Purchase Agreement, the Indenture, the Loan Agreement, Continuing Disclosure Agreement, and Escrow Agreement, if required (collectively, the “Bond Documents”), provided that neither the Fiscal Court of the County nor any part of its members, officers, employees, or agents incur any general liability thereby.

The terms and provisions of the Bond Documents may be amended prior to delivery of the Series 2015 Bonds without further approval or action of the Fiscal Court, provided such amendments are required and approved by the Underwriter or Bond Counsel, and have received approval by the Judge/Executive.

6. Private Negotiated Sale. The Corporation has requested, in writing, that the sale of the Series 2015 Bonds be made privately upon a negotiated basis to a purchaser designated by the Corporation, to bear interest at such rates as negotiated, per annum, not to exceed nine percent (9%) and to mature on such date as set forth in the Bond Purchase Agreement and Indenture.

7. No Debt or Tax Pledge. The Series 2015 Bonds do not constitute an indebtedness of the County within the meaning of the Constitution of the Commonwealth of Kentucky and KRS 103.230(2). The Series 2015 Bonds shall be payable solely from the revenues and security interests pledged for their payment as provided in the Indenture, and neither monies raised by taxation nor any other general or special revenues of the County shall be obligated or pledged for the payment of principal of, or interests on the Series 2015 Bonds.

8. No. Personal Liability. No recourse under or upon any obligation, covenant, acceptance or agreement contained in this Resolution, or in any Series 2015 Bonds, Loan Agreement, Indenture, or other Bond Documents or under any judgment obtained against the Corporation or by the enforcement of any assessment or by any other legal or equitable proceeding by virtue of any constitution or statute or otherwise, or under any circumstances, shall be had against any officer as such past, present, or future, of the Issuer, either directly or through the Issuer, or otherwise for the payment for or to the Issuer or any receiver thereof, or for or to any holder of any Series 2015 Bonds.

9. Severability. The provisions of this Resolution are severable, and if any section, phrase or provision hereof shall for any reason be declared invalid or unenforceable, such declaration shall not affect the validity of the remainder of this Resolution.

10. Prior Conflicting Actions Superseded. To the extent that any resolution, order, or part thereof, is in conflict with the provisions of this Resolution, the provisions of this Resolution shall prevail and be given effect.

11. Recitals. The Recitals set forth in the preamble to this Resolution are incorporated herein as a part of this Resolution as if fully set out in this Section 14.

12. Effective Date. This Resolution shall be in full force and effect from and after its adoption and publication as provided by law.

[Signatures and Certification on the following page S-1]

INTRODUCED AND APPROVED at a duly convened meeting of the Fiscal Court of the County of Ohio, Kentucky, held on _____, 2015.

COUNTY OF OHIO, KENTUCKY

By: _____
Judge/Executive

ATTEST:

By: _____
Fiscal Court Clerk

CERTIFICATE

I, the undersigned, do hereby certify that I am the duly qualified and acting Fiscal Court Clerk of the County of Ohio, Kentucky, and as such Clerk, I further certify that the foregoing is a true, correct and complete copy of an Resolution introduced and approved on _____, 2015, on the same occasion signed by the County Judge/Executive, duly filed, recorded, and indexed in my office and now in full force and effect, and that all actions taken in connection with such Resolution were in compliance with the requirements of KRS 61805 to 61,850, all as appears from the official records of said Fiscal Court in my possession and under my control.

By: _____
Fiscal Court Clerk

EXHIBIT “A”

[FORM OF TRUST INDENTURE]

EXHIBIT “B”

[FORM OF LOAN AGREEMENT]