R-16-10

COMMON COUNCIL OF
CITY OF MENASHA, WISCONSIN

AMENDED INITIAL RESOLUTION REGARDING INDUSTRIAL DEVELOPMENT REVENUE BOND FINANCING TO BENEFIT FOX VALLEY HEMATOLOGY & ONCOLOGY, S.C.

WHEREAS, Section 66.1103 of the Wisconsin Statutes (the "Act") authorizes the City of Menasha, Wisconsin (the "Issuer"), to authorize the issuance and sale of bonds by the Issuer to construct, equip, re-equip, acquire by gift, lease or purchase, install, reconstruct, rebuild, rehabilitate, improve, supplement, replace, maintain, repair, enlarge, extend or remodel industrial projects; and

WHEREAS, FVHO Investors, LLC, a Wisconsin limited liability company, and/or a related limited liability entity to be formed (collectively, the "Borrower") desires to complete a project consisting of financing the (i) acquisition of land, (ii) construction of an approximately 17,500 square foot medical clinic to be located on Province Terrace in the City of Menasha, Wisconsin (the "Facility"), (iii) acquisition and installation of equipment at the Facility and (iv) payment of certain professional costs and costs of issuance (collectively, the "Project"), which Project will be owned by the Borrower and leased to Fox Valley Hematology & Oncology, S.C., a Wisconsin corporation, all of which would contribute to the well-being of the City of Menasha, Wisconsin; and

WHEREAS, on July 6, 2010, the Common Council of the City of Menasha, Wisconsin adopted a resolution entitled "Initial Resolution Regarding Industrial Development Revenue Bond Financing to Benefit Fox Valley Hematology & Oncology, S.C. Project" which authorized the issuance of one or more series of tax-exempt and/or taxable industrial development revenue bonds in an amount not to exceed $5,500,000; and

WHEREAS, the current cost of the Project is presently estimated to be greater than $8,000,000, and the amount proposed to be financed with one or more series of tax-exempt and/or taxable industrial development revenue bonds does not exceed $8,000,000; and

WHEREAS, it is the public interest of the Issuer to promote, attract, stimulate, rehabilitate and revitalize commerce, industry and manufacturing, to promote the betterment of the environment and the economy of the Issuer; and

WHEREAS, the Borrower has requested that the Issuer now approve this amended initial resolution (the "Amended Initial Resolution") providing for the financing of the Project in an amount not to exceed $8,000,000; and

WHEREAS, the Issuer is a municipality organized and existing under and pursuant to the laws of the State of Wisconsin, and is authorized to enter into revenue agreements with eligible participants

with respect to the Project whereby eligible participants agree to cause said Project to be constructed and to pay the Issuer an amount of funds sufficient to provide for the prompt payment when due of the principal and interest on said industrial development revenue bonds.

NOW, THEREFORE, BE IT RESOLVED by the Common Council of the City of Menasha, Wisconsin, as follows:

1. Based upon representations of the Borrower, it is the finding and determination of the Common Council that the Project is a qualified "project" within the meaning of the Act and that the Borrower is an "eligible participant" within the meaning of the Act. The Issuer shall:

(a) Finance the Project in an amount not to exceed $8,000,000; and

(b) Issue industrial development revenue bonds in one or more series of tax-exempt and/or taxable bonds (the "Bond(s)"), in an amount not to exceed $8,000,000 in order to finance costs of the Project.

2. The aforesaid plan of financing contemplates, and is conditioned upon, the following:

(a) The Bonds shall never constitute an indebtedness of the Issuer within the meaning of any state constitutional provision or statutory limitation;

(b) The Bonds shall not constitute or give rise to a pecuniary liability of the Issuer or a charge against its general credit or taxing powers;

(c) The Project shall be subject to property taxation in the same amount and to the same extent as though the Project were not financed with industrial development revenue bonds;

(d) The Borrower shall find a purchaser for all of the Bonds; and

(e) The City's out-of-pocket costs, including but not limited to legal fees and Trustee's fees, in connection with the issuance and sale of the Bonds shall be paid by the Borrower; and

(f) A notice of public hearing required by federal law for purposes of Section 147(f) of the Internal Revenue Code, as amended, shall be published in a newspaper of general circulation in the City of Menasha to provide interested individuals or parties the opportunity to testify.

3. The aforesaid plan of financing shall not be legally binding upon the Issuer nor be finally implemented unless and until:

(a) The details and mechanics of the same are authorized and approved by a further resolution of the Common Council which shall be solely within the discretion of the Common Council;

(b) The City Clerk shall cause notice of adoption of this Amended Initial Resolution, in the form attached hereto as Exhibit A, to be published once in a newspaper of general circulation in the City of Menasha, and the electors of the City of Menasha shall have been given the opportunity to petition for a referendum on the matter of the aforesaid Bond issue, all as required by law;

(c) Either no such petition shall be timely filed or such petition shall have been filed and said referendum shall have approved the Bond issue;

(d) The City Clerk shall have received an employment impact estimate issued under Section 560.034 of the Wisconsin Statutes;

(e) All documents required to consummate the financing have been duly authorized and delivered; and

(f) The Issuer and the Borrower have resolved all land use and special use issues with respect to the affected property and the Project.

4. Pursuant to the Act, all requirements that the Project be subject to the contracting requirements contained in Section 66.1103 are waived, the Borrower having represented that it is able to negotiate satisfactory arrangements for completing the Project and that the Issuer's interests are not prejudiced thereby.

5. The City Clerk is directed, following adoption of this Amended Initial Resolution (i) to publish notice of such adoption not less than one time in the official newspaper of the City of Menasha, Wisconsin, such notice to be in substantially the form attached hereto as Exhibit A and (ii) to file a copy of this Amended Initial Resolution, together with a statement indicating the date the Notice to Electors was published, with the Secretary of Business Development of the State of Wisconsin within twenty (20) days following the date of publication of such notice.

6. This Amended Initial Resolution is an "initial resolution" within the meaning of the Act and official action toward issuance of the Bonds for purposes of Sections 103 and 144 of the Internal Revenue Code of 1986, as amended, and the regulations promulgated thereunder. Furthermore, it is the reasonable expectation of the Issuer that proceeds of the Bonds may be used to reimburse expenditures made on the Project prior to the issuance of the Bonds. The maximum principal amount of debt expected to be issued for the Project on the date hereof is $8,000,000. This statement of official intent is made pursuant to Internal Revenue Code §1.150-2.

Adopted: August 2, 2010

CITY OF MENASHA, WISCONSIN

By: _____
[SEAL] Donald Merkes, Mayor

By: _____
Deborah A. Galeazzi, City Clerk

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EXHIBIT A

NOTICE TO ELECTORS OF
THE CITY OF MENASHA, WISCONSIN

TAKE NOTICE that the Common Council of the City of Menasha, Wisconsin (the "Issuer"), at a regular meeting held at City Hall, 140 Main Street, Menasha, Wisconsin, on August 2, 2010, adopted an Amended Initial Resolution pursuant to Section 66.1103 of the Wisconsin Statutes, as amended, expressing the intention to issue not to exceed $8,000,000 of industrial development revenue bonds of the Issuer (the "Bonds") on behalf of FVHO Investors, LLC, a Wisconsin limited liability company, and/or a related limited liability entity to be formed (collectively, the "Borrower"). The Borrower desires to complete a project consisting of financing the (i) acquisition of land, (ii) construction of an approximately 17,500 square foot medical clinic to be located on Province Terrace in the City of Menasha, Wisconsin (the "Facility"), (iii) acquisition and installation of equipment at the Facility and (iv) payment of certain professional costs and costs of issuance (collectively, the "Project"), which Project will be owned by the Borrower and leased to Fox Valley Hematology & Oncology, S.C., a Wisconsin corporation. The Borrower has represented that the net number of full-time equivalent jobs which the Project is expected to create at the Project site is 20.

Pursuant to the terms of Section 66.1103 of the Wisconsin Statutes, all requirements that the Project be subject to the contracting requirements contained in Section 66.1103 are waived, the Borrower having represented that it is able to negotiate satisfactory arrangements for completing the Project and that the Issuer's interests are not prejudiced thereby.

THE BONDS SHALL NEVER CONSTITUTE AN INDEBTEDNESS OF THE ISSUER, NOR SHALL THE BONDS GIVE RISE TO ANY PECUNIARY LIABILITY OF THE ISSUER, NOR SHALL THE BONDS BE A CHARGE AGAINST THE GENERAL CREDIT OR TAXING POWERS OF THE ISSUER. RATHER, THE BONDS SHALL BE PAYABLE SOLELY FROM THE REVENUES AND OTHER AMOUNTS TO BE DERIVED PURSUANT TO THE REVENUE AGREEMENT RELATING TO SAID PROJECT TO BE ENTERED INTO BETWEEN THE ISSUER AND THE BORROWER.

The Amended Initial Resolution may be inspected in the office of the City Clerk at 140 Main Street, Menasha, Wisconsin, during business hours.

TAKE FURTHER NOTICE THAT THE ELECTORS OF THE CITY OF MENASHA MAY PETITION FOR A REFERENDUM ON THE QUESTION OF THE BOND ISSUE. Unless within thirty (30) days from the date of the publication of this Notice a petition signed by not less than five percent (5%) of the registered electors of the City of Menasha is filed with the City Clerk requesting a referendum on the question of the issuance of the Bonds, the Issuer will issue the Bonds without submitting the proposition for the electors' approval. If such petition is filed as aforesaid, then the Bonds shall not be issued until approved by a majority of the electors of the City of Menasha voting thereon at a general or special election.

Deborah A. Galeazzi, City Clerk
City of Menasha, Wisconsin

CERTIFICATION BY CITY CLERK

I, Deborah A. Galeazzi duly sworn, hereby certify that I am the duly qualified and acting City Clerk of the City of Menasha, Wisconsin (the "City"), and as such I have in my possession, or have access to, the complete corporate records of the City and of its Common Council; that I have carefully compared the transcript attached hereto with the aforesaid records; and that said transcript attached hereto is a true, correct and complete copy of all the records in relation to the adoption of Resolution No. _____ entitled: AMENDED INITIAL RESOLUTION REGARDING INDUSTRIAL DEVELOPMENT REVENUE BOND FINANCING TO BENEFIT FOX VALLEY HEMATOLOGY & ONCOLOGY, S.C.

I hereby further certify as follows:

1. Said Amended Initial Resolution was considered for adoption by the Common Council at a meeting held at City Hall, 140 Main Street, Menasha, Wisconsin, at ____ p.m. on August 2, 2010. Said meeting was a regular meeting of the Common Council and was held in open session.

2. Said Amended Initial Resolution was on the agenda for said meeting and public notice thereof was given not less than twenty-four (24) hours prior to the commencement of said meeting in compliance with Section 19.84 of the Wisconsin Statutes, including, without limitation, by posting on the bulletin board in the City Hall, by notice to those news media who have filed a written request for notice of meetings, and by notice to the official newspaper of the City.

3. Said meeting was called to order by _____, who chaired the meeting. Upon roll, I noted and recorded that the following alderpersons were present:

_____ _____

_____ _____

_____ _____

_____ _____

and that the following alderpersons were absent:

_____ _____

_____ _____

I noted and recorded that a quorum was present. Various matters and business were taken up during the course of the meeting without intervention of any closed session. One of the matters taken up was said Amended Initial Resolution, which was introduced, and its adoption was moved by _____ and seconded by _____. Following discussion and after all alderpersons who desired to do so had expressed their views for or against said Amended Initial

Resolution, the question was called, and upon roll being called and the continued presence of a quorum being noted, the recorded vote was as follows:

AYE:

_____ _____

_____ _____

_____ _____

_____ _____

NAY:

_____ _____

_____ _____

ABSTAINED:

_____ _____

_____ _____

Whereupon the meeting chairperson declared said Amended Initial Resolution adopted, and I so recorded it.

IN WITNESS WHEREOF, I have signed my name and affixed the seal of the City hereto on this 2nd day of August, 2010.

[SEAL]

_____
Deborah A. Galeazzi, City Clerk