

## RESOLUTION NO. 92-12

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF COLORADO SPRINGS, COLORADO, APPROVING A PROPOSED CITY-CONTROLLED FOUNDATION FOR THE SEGREGATION, OVERSIGHT, AND MANAGEMENT OF FUNDS TO BE RECEIVED FROM THE PROPOSED MEMORIAL HEALTH SYSTEM OPERATING LEASE AGREEMENT AND THE INTEGRATION AND AFFILIATION AGREEMENT WITH UNIVERSITY OF COLORADO HEALTH SYSTEM.**

**WHEREAS**, since 1949, the City of Colorado Springs has owned and operated Memorial Health System, dedicated to being a regional leader in providing high quality healthcare services to all citizens; and,

**WHEREAS**, City Council carefully considered the option of leasing the assets of Memorial Health System to an outside independent operator to ensure provision of the best possible healthcare for the entire community; and,

**WHEREAS**, City Council previously determined that it is in the best interests of the public health, safety and welfare of the City and its residents to consider proposals from potential independent strategic partners that contemplate independent operation and management of Memorial Health System through an arrangement in which the City would lease the Memorial Health System facilities and transfer its operating assets to a third-party; and,

**WHEREAS**, City Council authorized and created the Memorial Health System Task Force in August 2011 comprised of Council members and citizens, which in turn issued a Confidential Descriptive Memorandum and Request for Proposals dated October 17, 2011, and said Task Force carefully reviewed and considered all proposals received there from; and,

**WHEREAS**, City Council in January 2012 accepted the recommendation of the Memorial Health System Task Force, and selected the University of Colorado Health system as the exclusive bidder to be considered as an independent strategic partner with the Memorial Health System and to pursue negotiations of an operating lease agreement between the City, and the University of Colorado Health system for the independent operation and management of the Memorial Health System through an arrangement in which the City would lease the Memorial Health System facilities and transfer its operating assets to the University of Colorado Health system and related parties; and,

**WHEREAS**, City Council and the City Attorney have completed negotiations with the University of Colorado Health system for the independent operation and management of the Memorial Health System through a lease of the Memorial Health

System facilities and the transfer of its operating assets, and said negotiations have now produced a Health System Operating Lease Agreement and an Integration and Affiliation Agreement between the City, and the University of Colorado Health system and related parties.

**NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF COLORADO SPRINGS:**

Section 1. In the event the voters approve on August 28, 2012 the agreements and transactions contemplated by Resolution No. 89-12, City Council hereby authorizes and directs the City Attorney and City Staff to form and create a City controlled non-profit public foundation (the "City Health Foundation") as provided for under IRS Sections 501(c)(3) and 509(a). The purpose of the City Health Foundation shall be to receive, hold, and manage in perpetuity all funds and monies received pursuant to the aforementioned agreements and transactions approved by City Council on June 27, 2012, and as set forth in Resolution No. 89-12.

Section 2. City Council authorizes and directs that all funds and monies received pursuant to the aforementioned agreements, beginning on October 1, 2012 and continuing thereafter for the full term of such agreements, and which are not held in a City segregated account for other purposes of the aforementioned agreements, shall be placed directly into the City Health Foundation. It is further intended that all such funds and monies shall include but not be limited to any initial payments made to the City, any annual or monthly lease payments made to the City, any annual margin surplus payments made to the City, any such funds remaining in City segregated accounts or elsewhere following resolution and satisfaction of any potential PERA obligations of Memorial Health System, any funds remaining in City segregated accounts or elsewhere following resolution and satisfaction of any bonds, indebtedness, or other financial obligations of Memorial Health System, and/or any funds remaining in segregated accounts or elsewhere following resolution and satisfaction of any outstanding contingent liability obligations or sums owed for breach of any of the aforementioned agreements.

Section 3. City Council hereby directs that the mission of the City Health Foundation be focused solely and exclusively on health issues in the City of Colorado Springs and the Memorial Health System service area, and that the corpus of the funds contained in such foundation may not be distributed, spent, transferred, or otherwise removed from the City Health Foundation without a vote of seven (7) council members and the Mayor, or eight (8) council members if the Mayor shall not agree, and any grant or distribution from the City Health Foundation shall only be made from income of the corpus and only pursuant to the mission of the City Health Foundation, save that its By-Laws (the "Bylaws") may provide for some portion of the income of the corpus to be used for administrative or personnel expenses.

Section 4. The City Health Foundation's Articles of Incorporation and By-Laws shall be approved by seven (7) council members and the Mayor. The City Health

Foundation shall be governed by a Board of Trustees, comprised of nine (9) member Trustees, which Trustees shall be nominated by the Mayor and appointed by a majority of the City Council members. All Trustees of the City Health Foundation shall be residents of the City of Colorado Springs and shall have such other qualifications as set forth in the By-Laws. Any single Trustee of the City Health Foundation, or the entire Board of Trustees of the City Health Foundation may be removed at any time by a vote of seven (7) council members and the Mayor, or by eight (8) council members if the Mayor shall not agree.

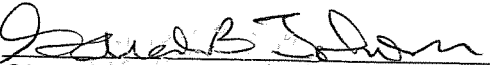
Section 5. The City Council shall be responsible for close oversight of the operations of the City Health Foundation, to include approval of any investment policy adopted by the Foundation, approval of the retention of any investment advisor by the City Health Foundation, and approval of policies and guidelines governing any grants and distributions of the income of the City Health Foundation.

Section 6. The Board of Trustees of the City Health Foundation may nominate a Chief Executive Officer, President, Executive Director, or other such full time administrative executive to oversee the City Health Foundation, as it may choose, but any such individual must be approved by a vote of seven (7) council members and the Mayor, and any employment agreement or compensation agreement of any type whatsoever must be approved in like manner.

DATED at Colorado Springs, Colorado, this 27th day of June, 2012.

  
Council President

ATTEST:

  
City Clerk