

**RESOLUTION NO. 2011-- 44**

**A RESOLUTION OF THE BOARD OF COUNTY COMMISSISONERS OF NASSAU COUNTY, FLORIDA AUTHORIZING THE EXECUTION AND DELIVERY OF A FIRST SUPPLEMENTAL TRUST AGREEMENT IN CONNECTION WITH THE COUNTY'S FIRST MORTGAGE REVENUE BONDS (NASSAU CARE CENTERS, INC. PROJECT); SERIES 2007; AND PROVIDING AN EFFECTIVE DATE.**

**WHEREAS**, Nassau County, Florida (the "County") has previously issued its First Mortgage Revenue Bonds (Nassau Care Centers, Inc. Project), Series 2007 (the "Series 2007 Bonds"), the proceeds of which were loaned to AICC, Inc. ("AICC") and Nassau Care Centers, Inc. ("Nassau Care") as joint borrowers (collectively, the "Borrower") pursuant to the terms of that certain Mortgage, Security Agreement and Trust Agreement, dated as of December 1, 2007 (the "Original Agreement"), by and among AICC, Nassau Care, the County and the Bank of Oklahoma, N.A., as trustee (the "Trustee"); and

**WHEREAS**, Section 312(c) of the Original Agreement provides that, upon the occurrence of certain requirements set forth therein, AICC can be released from its obligations under the Original Agreement; and

**WHEREAS**, AICC has presented information to the Trustee in contemplation of such release pursuant to the Original Agreement, and requests that the County enter into a First Supplemental Trust Agreement to reflect the release of AICC;

**NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF COUNTY COMMISSIONERS OF NASSAU COUNTY, FLORIDA**, as follows:

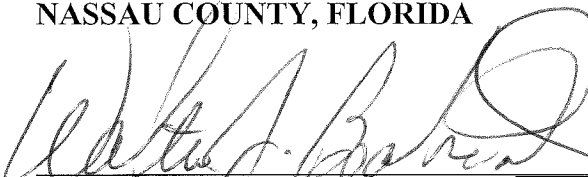
**SECTION 1.** The Chairman and Clerk of the Board of County Commissioners are hereby authorized and directed to execute and deliver a First Supplemental Trust Agreement (the "First Supplemental Agreement"), substantially in the form attached hereto as Exhibit A, together with such additions, deletions, changes and modifications as such parties shall approve, approval thereof to be evidenced by their execution thereof, to the Trustee for execution thereof. Except as otherwise amended by the First Supplemental Agreement, the Original Agreement shall remain in full force and effect.

**SECTION 2.** This Resolution shall take effect immediately upon its adoption.


**PASSED AND ADOPTED** by the Board of County Commissioners of Nassau County, Florida this 28th day of February, 2011.

**NASSAU COUNTY, FLORIDA**

(SEAL)


  
WALTER J. BOATRIGHT  
Chairman

Attest as to Chairman's signature:

  
JOHN A. CRAWFORD  
Its: Ex-Officio Clerk

*EBK  
2/28/14*

APPROVED AS TO FORM BY THE  
NASSAU COUNTY ATTORNEY:

  
DAVID A. HALLMAN

## **EXHIBIT "A"**

**Draft December 15, 2010**

**Original Instrument: Mortgage, Security Agreement and Trust Agreement  
dated as of December 1, 2007**

**Instrument Number: 200800240**

**Recording References: Book 1544, Page 657**

**Recordation Date: January 3, 2008**

**After Recordation, Return To:**

**Timothy E. Dixon, Esquire**

**The Law Office of Timothy E. Dixon, PA**

**9025 Chevrolet Drive, Suite E**

**Ellicott City, Maryland 21042**

### **FIRST SUPPLEMENTAL TRUST AGREEMENT**

This First Supplemental Trust Agreement is entered into as of this 31<sup>st</sup> day of December, 2010 (the "First Amendment") by and among NASSAU COUNTY, FLORIDA (with its successors, the "Issuer"), a political subdivision and a body corporate and politic of the State of Florida, AICC, INC., a Florida nonprofit corporation ("AICC") and NASSAU CARE CENTERS, INC., a Florida nonprofit corporation ("Nassau Care"), as joint and several borrowers (together, the "Borrower"), the BANK OF OKLAHOMA, N.A. a national banking association, as Trustee (with its successors, the "Trustee") and CARE CENTERS OF NASSAU, LLC, a Florida limited liability company (the "Operator").

### **INTRODUCTORY STATEMENT**

The Issuer previously issued its First Mortgage Revenue Bonds (Nassau Care Centers, Inc. Project), Series 2007, dated as of January 3, 2008 in the initial principal amount of \$11,150,000 (the "Series 2007 Bonds"). The Series 2007 Bonds are secured by a Mortgage, Security Agreement and Trust Agreement (the "Original Agreement") dated as of December 1, 2007, by and among the Issuer, AICC and Nassau Care, as joint and several borrowers (together, the "Borrower"), and the Trustee. The Original Agreement was recorded among the land records of Nassau County, Florida on January 3, 2008 as instrument number 200800240 or Book 1544, Page 657. Section 312(c) of the Original Agreement provides that the AICC may be released from its obligations under the Original Agreement under the conditions stated in Section 312(c). Such conditions include that the Operator agree to be bound by the terms and conditions of the Original Agreement. The parties are entering into this First Amendment to evidence (i) the release of AICC from the Original Agreement and (ii) the agreement by the Operator to be bound by the terms and conditions of the Original Agreement.

## AGREEMENTS

1. Definitions. Capitalized terms used in this First Amendment shall have the meanings given to such terms in the Original Agreement, except as otherwise provided herein.

“Agreement” means the Original Agreement, as amended and supplemented by this First Amendment.

“Borrower” means (i) for all periods before the date of the First Amendment, Nassau Care and AICC, as joint and several borrowers and (ii) for all periods on or after the date of the First Amendment, Nassau Care and the Operator, as joint and several borrowers.

2. Representations. AICC, Nassau Care and the Operator hereby represent and warrant that each of the terms and conditions of Section 312(c) of the Original Agreement have been satisfied in all material respects. The Operator represents and warrants that (i) the Operator has all due limited liability company power to execute and deliver this First Amendment and comply with the terms of the Agreement and (ii) the Operator and its sole member Nassau Care have taken all actions necessary to authorize the execution and delivery by the Operator of this First Amendment.

3. Assumption. The Operator hereby agrees to be bound by the terms and conditions of the Agreement, effective as of the date of this First Amendment. The Operator hereby acknowledges and agrees that such assumption is supported by adequate consideration, including, without limitation, (i) the termination of the Project Lease and release of the Operator from the terms and conditions of the Project Lease and (ii) the acquisition by the Operator of the right to beneficial enjoyment of the Project.

4. Release. AICC is hereby released from its obligations under the Agreement, effective as of the date of this First Amendment. The Borrower, jointly and severally, hereby agrees to protect, defend and hold harmless AICC from any liabilities and claims of any nature accruing after the date of this Agreement or relating to actions or omissions occurring or relating to events occurring on or after the date of this Agreement.

5. Rights of the Trustee. Nothing in this First Amendment shall be construed as adversely affecting the rights, duties, liabilities or immunities of the Trustee.

6. Effect of First Amendment. Except as amended and supplemented by the First Amendment, the Original Agreement shall remain in full force and effect.

7. Effective Date. The First Amendment shall become effective on the date of this First Amendment, notwithstanding that the First Amendment may not be fully executed and delivered until after the date of this First Amendment.

8. Severability of Invalid Provisions. If any one or more of covenants or agreements provided in this First Amendment to be performed by any party hereto should be contrary to law, then such covenant or covenants, agreement or agreements shall be null and void and shall in no

way affect the validity of the other provisions of this First Amendment, the Original Agreement or the Series 2007 Bonds.

9. Section and Paragraph Headings. The section and paragraph headings have been prepared for convenience only and are not part of this First Amendment and shall not be taken as an interpretation of any provision of this First Amendment.

10. Intention as to Seal and Contract. It is intended that this First Amendment, when fully executed, shall constitute a contractual obligation under seal under the laws of the State of Florida with force and effect as an agreement and indenture of trust.

11. Counterparts. The First Amendment may be executed in any number of counterparts, each of which when so executed and delivered shall be an original; but such counterparts shall together constitute but one and the same instrument.

12. Controlling Law. The laws of the State of Florida shall govern the construction and interpretation of the First Amendment.

IN WITNESS WHEREOF, the parties have caused this First Supplemental Trust Agreement to be executed and delivered by their respective authorized officers, all as of the date first written above.

NASSAU COUNTY, FLORIDA

\_\_\_\_\_  
Witness

By: \_\_\_\_\_  
Name:  
Title:

BANK OF OKLAHOMA, N.A., as Trustee

\_\_\_\_\_  
Witness

By: \_\_\_\_\_  
Name:  
Title:

AICC, INC.

\_\_\_\_\_  
Witness

By: \_\_\_\_\_  
Gregory K. Grove  
President

NASSAU CARE CENTERS, INC.

\_\_\_\_\_  
Witness

By: \_\_\_\_\_  
Gregory K. Grove  
President

CARE CENTERS OF NASSAU, LLC

By: NASSAU CARE CENTERS, INC., as sole member

\_\_\_\_\_  
Witness

By: \_\_\_\_\_  
Gregory K. Grove  
President

**ACKNOWLEDGMENTS**

STATE OF FLORIDA )  
 )SS  
COUNTY OF NASSAU )

The foregoing instrument was acknowledged before me on \_\_\_\_\_, 20\_\_, by \_\_\_\_\_, the \_\_\_\_\_ of Nassau County, Florida, a body corporate and politic and a political subdivision of the State of Florida, on behalf of such County.

My commission expires: \_\_\_\_\_.

(Notary Seal) \_\_\_\_\_  
Notary Public

STATE OF GEORGIA )  
 )SS  
COUNTY OF \_\_\_\_\_ )

The foregoing instrument was acknowledged before me on \_\_\_\_\_, 20\_\_, by Gregory K. Grove, the President of Nassau Care Centers, Inc., a Florida nonprofit corporation, on behalf of the corporation.

My commission expires: \_\_\_\_\_.

(Notary Seal) \_\_\_\_\_  
Notary Public

STATE OF GEORGIA )  
 )SS  
COUNTY OF \_\_\_\_\_ )

The foregoing instrument was acknowledged before me on \_\_\_\_\_, 20\_\_, by Gregory K. Grove, the President of Nassau Care Centers, Inc., a Florida nonprofit corporation, as sole member of Care Centers of Nassau, LLC on behalf of the corporation.

My commission expires: \_\_\_\_\_.

(Notary Seal) \_\_\_\_\_  
Notary Public

STATE OF GEORGIA )  
 )SS  
COUNTY OF \_\_\_\_\_ )

The foregoing instrument was acknowledged before me on \_\_\_\_\_, 20\_\_, by Gregory K. Grove, the President of AICC, Inc., a Florida nonprofit corporation, on behalf of the corporation.

My commission expires: \_\_\_\_\_.

(Notary Seal) \_\_\_\_\_  
Notary Public

STATE OF \_\_\_\_\_ )  
 )SS  
COUNTY OF \_\_\_\_\_ )

The foregoing instrument was acknowledged before me on \_\_\_\_\_, 20\_\_, by \_\_\_\_\_, a Vice President of Bank of Oklahoma, NA, a national banking association, as Trustee, on behalf of said Trustee.

My commission expires: \_\_\_\_\_.

(Notary Seal) \_\_\_\_\_  
Notary Public