

## THE CAMBRIDGE PUBLIC HEALTH COMMISSION

### Summary of Proposed Legislation

#### Section 1. Purpose.

- Legislative findings and public policy justification for (a) creation of Commission and establishment of new structure for delivery of health care services and meeting Cambridge's public health needs, (b) acquisition of Somerville Hospital, and (c) possible future affiliation/merger with health care providers.

#### Section 2. Definitions.

- Definitions of terms used in the legislation.

#### Section 3. Acquisition of Somerville Hospital.

- City (if prior to July 1) or Commission may:
  - Contract for and complete acquisition of and consolidation with Somerville Hospital.
  - Retain separate not-for-profit corporate status, with Commission as sole member of corporation.
- If separate Somerville Hospital corporate status retained, and if any other nonprofit corporate subsidiaries are maintained, operations and employees of those entities will be exempt from General Laws generally applicable to public entities, including the following:
  - Chapter 31 (Civil Service)
  - Chapter 32 (Retirement Systems and Pensions)
  - Chapter 32B (Contributory Group Insurance)
  - Chapter 150E (Labor Relations - Public Employees)
  - Chapter 268A (Conflicts of Interest)
- Municipal tort liability limit (\$100,000) would apply to Somerville Hospital or any other similar subsidiary corporation.

transferred by the City to the Commission if the value of such real estate exceeds \$1 million.

Section 9. Indebtedness.

- Commission may issue bonds or notes, including borrowing from the Health and Educational Facilities Authority, secured only by Commission revenues.
- Standard revenue bond provisions as to structure, security, funds, documentation, etc. apply to Commission debt.
- City may continue to incur general obligation debt on behalf of Commission, subject to City Council approval for any new debt, with Commission to assume responsibility for payment unless otherwise agreed to by City.

Section 10. Tax Exemption.

- Commission, its revenues and properties exempt from state taxation.

Section 11. Rates and Charges; Applications and Licenses; Payments to Commission.

- Commission has power to set rates and charges and is required to be self-supporting (taking account of all available funds).
- Licenses and approvals transferred from City to Commission.
- Commission, and any hospital subsidiaries, to maintain status as public service hospital for reimbursement purposes, including safety net and disproportionate share payments and payments from uncompensated care pool.

Section 12. Procurement.

- Exemptions from most governmental public bidding laws, but subject to prevailing wage and security bond requirements for construction contracts.
- City may proceed with current Hospital Master Plan Project using alternative methods for procuring design and construction services, including construction management or design/build contract with selected construction manager.

Section 13. Records.

- Commission required to file annual report, including audited GAAP financial statements, with City.

Section 14. Subsequent Merger into Nonprofit Corporation.

Section 4. Establishment of Commission.

- Commission established as independent public corporate entity.
- Initial board of 18 members :
  - CEO of Commission (nonvoting)
  - Representative of medical staff
  - Two City officers or employees appointed by City Manager
  - 14 public members appointed by Manager
    - All Cambridge residents, except that up to 4 may be residents of other municipalities in which Commission facilities are located
    - Nominated by Commission (except initial board appointed after consultation with Health Policy Board).
    - Manager may require more than one nomination.
    - Subcommittee to be established for Cambridge public health issues.
    - Expandable to maximum of 29 upon future mergers or affiliations, with at least 2/3 of public members to be Cambridge residents
- Commission subject to conflict-of-interest law, municipal open meeting law and public records laws, with additional exceptions for particular proceedings, records and strategic analyses or plans.

Section 5. Officers and Employees.

- Chief Executive Officer appointed by Commission.
- CEO appoints and sets compensation and benefits for other employees, subject to collective bargaining agreements and employment contracts.
- Commission may indemnify members, officers, employees and agents.
- Civil service law does not apply except for transferred employees of Department of Health and Hospitals now covered.
- Public employee labor relations law (Chapter 150E) applies.

Section 6. Transition Provisions.

- Commission fully established and operational, and Department of Health and Hospitals abolished, on July 1, 1996.
- In the interim, the Department, acting by its Commissioner with City Manager approval, shall exercise Commission's powers and provide for transfer of functions and employees.

- Subject to City Council approval and findings as to public benefits, Commission may agree to merge or consolidate all or portion of Commission assets and operations with a private, nonprofit charitable corporation with employees of affected Commission entities to be transferred to resulting corporation.
- Resulting corporation must be nonprofit charitable corporation (but not a for-profit corporation) that accepts stated public mission, and becomes subject to requirements to file annual reports and financial statements with City and to establish office for patient advocacy.
- Resulting hospital to be treated as public service hospital for reimbursement purposes.

Section 15. Reassumption of Public Health Powers.

- City may provide in the future by ordinance for designation of a new board of health or public health commissioner.

Section 16. Termination of Commission.

- Upon termination or dissolution of Commission net funds and properties to vest in City.

Sections 17 - 19. Provisions controlling; Construction of Act; Severability; constitutional requirements.

- Provisions relating to interpretation of legislation and related laws and constitutional requirements.

Section 20. Effective date.

- Act to take effect upon passage by Legislature.

- Commission to have powers and duties of board of health; CEO to act as public health commissioner.
- All assets and liabilities transferred, including funds, debt, contractual and pension obligations, except that transfer or lease of real property is to be effected by agreement with City.
- City zoning, land use and other ordinances of general applicability to private health care providers apply to Commission, but other ordinances and regulations cease to apply.
- All Department employees transferred, with no loss of wages, seniority, benefits, pensions, etc., and Commission assumes obligations under collective bargaining agreements.
- Current civil service employees retain existing rights under Chapter 31 as long as employed in the same or similar position.
- Retirement and deferred compensation plans:
  - Transferred employees who belong to City retirement system continue as members; Commission may permit or require others to join
  - Commission may continue or establish other pension or deferred compensation plans; assets under existing 457 deferred compensation plans will be transferred to the Commission.

Section 7. Relationship Between Commission and City.

- City and Commission are to negotiate a 7-year contract, subject to extension, for payments by City for Commission's services in meeting public health needs and for contributions to health care costs for uninsured indigent City residents.
- The transfer of real property, and other arrangements for payments, services or transfer of other property between the City and the Commission, are to be effected by separate contracts, none of which will be subject to procurement laws or ordinances.

Section 8. Powers of the Commission.

- In addition to standard corporate powers, Commission will have power to enter into partnerships, joint ventures and other kinds of affiliations with other entities, and to establish not-for-profit corporate subsidiaries, to carry out its corporate purposes.
- City Manager approval is required for any management contract for substantially all of the Network, or for any disposition of real estate originally

**ORDERED:** That the City Manager is authorized to petition the General Court for special legislation substantially in the following form:

**AN ACT ESTABLISHING THE CAMBRIDGE PUBLIC HEALTH COMMISSION**

*Be it enacted, etc. as follows:*

SECTION 1. (a) [Purpose]\* It is hereby declared for the benefit of the people of the city of Cambridge and the commonwealth, in order that there be an increase in their welfare and an improvement in their living conditions, that a new public health care system should be established for the city of Cambridge that can meet the challenges of a rapidly changing health care environment and ensure the continuous delivery of quality health care to the residents of the city and other citizens of the commonwealth within the service area of the city's public health care facilities; that the new public health care system must be able to coordinate outreach, health education, prevention, outpatient, home care, emergency, inpatient, specialty, aftercare, rehabilitation, and long term care services in order to create a comprehensive and integrated continuum of care with the goals of promoting health and well-being of all in the system's service area, meeting the public health needs of the city of Cambridge, and educating future physicians and caregivers; that a new public health commission should be created in the city of Cambridge as the successor to the city's department of health and hospitals in order to better administer, enhance and expand the public health services provided by the city; and that the new public health care system should consist of a network of health care providers joining the city's

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\*Captions included for drafting purposes only.

traditional public health services and facilities with private hospitals, community health centers and other associated community based organizations and providers.

(b) It is hereby further declared for the benefit of the people of the city of Cambridge and the commonwealth that the city be authorized to include in the new public health care system the facilities and operations of Somerville hospital; that such an affiliation would best provide for the maintenance and expansion of existing community health, primary care, specialty, emergency and inpatient services, based upon shared philosophies regarding community-based services, preventive care, improving health status, increasing access by the underserved, collaboration with community agencies and city departments, and developing services based on assessments of community needs; and that such an affiliation would maximize cost effectiveness, opportunities for future managed care contract growth and opportunities for participation with or in other regional health care systems, networks and payors.

(c) It is hereby further declared for the benefit of the people of the city of Cambridge and the commonwealth that the city should be empowered to provide for other possible future affiliations with a private, non-profit hospital or hospitals or other health care providers, provided that, in the event of a merger or consolidation, any successor entity would be committed to the historic mission of the city's health care system, including the provision of excellent and accessible health care services to the community and programs that are responsive to the multicultural and multilingual composition of the service area and to the particular needs of specific populations, including the elderly, women and children, adolescents, cultural and linguistic minorities and people at high risk for health problems.

SECTION 2. [Definitions] The following words as used in this act shall, unless the context otherwise requires, have the following meanings:

"Bonds", bonds, notes and other obligations or evidences of indebtedness issued under the provisions of this chapter.

"Cambridge hospital network", The Cambridge Hospital Community Health Network, including The Cambridge Hospital and the Neville Manor Nursing Home located in the city and currently operated under the care and control of the department of health and hospitals, and all branches thereof heretofore or hereafter established, and all other hospital and health care facilities comprising the same or appurtenant thereto or facilities necessary or convenient for the operation thereof, including, except as otherwise provided in this act, all interests in property, equipment, appurtenances, structures, facilities and other property, tangible or intangible, held by the city in connection with the ownership, maintenance and operation thereof, and also including the Cambridge Hospital Professional Services Corporation, Inc.

"City," the city of Cambridge.

"City commissioner", the commissioner of health and hospitals of the city.

"Commission", the Cambridge public health commission established by section four of this act or if such commission shall be abolished, the board, body or commission succeeding to the principal functions thereof or to whom the powers given by this act to the commission shall be given by law.

"Department", the department of health and hospitals of the city.

"Revenues", all revenues, rates, fees, charges, rents and other receipts derived from the facilities and properties of the commission, including, without limiting the generality of the foregoing, bond proceeds, proceeds of any grant or loan to the commission, investment earnings and the proceeds of insurance, condemnation, sale or other disposition of properties.

"Somerville hospital", a non-profit charitable corporation organized and existing under the laws of the commonwealth, located in the city of Somerville, and all other hospital and

health care facilities comprising the same or appurtenant thereto or necessary or convenient for the operation thereof, including, except as otherwise provided in this act, all interest in real and personal property, equipment, appurtenances, structures, facilities and other property, tangible or intangible, of such corporation.

SECTION 3. [Acquisition of Somerville hospital] (a) Notwithstanding any general or special law to the contrary, on and after the effective date of this act, the city, acting by the city commissioner with the approval of the city manager, is authorized to execute, deliver and perform its obligations under one or more agreements with Somerville hospital, and to take such other action as may be necessary and appropriate, to provide for acquisition by the city, or through entities controlled by the city, of all or a portion of the operations, assets and liabilities of Somerville hospital, including all or any portion of the facilities thereof, wherever located. Upon acquisition, the operations, assets and liabilities of the former Somerville hospital shall be consolidated with those of the Cambridge hospital network, subject to subsection (e) below. All agreements between the city and Somerville hospital necessary or desirable to effect such acquisition and consolidation of operations shall be in such form and shall have such terms and conditions as the city commissioner, with the approval of the city manager, may determine to be in the best interest of the city. All actions taken by the city and its officers and employees to effectuate such acquisition and consolidation of operations prior to the effective date of this act are hereby ratified and approved.

(b) In addition to the powers and rights granted the city by the foregoing provisions of this section, at any time after the effective date of this act the city, acting by the city commissioner with the approval of the city manager, may enter into one or more agreements with Somerville hospital to provide for the management of all or any portion of the facilities and operations of Somerville hospital by the city acting through the department, on such terms and

conditions and for such period as the city commissioner with the approval of the city manager shall determine to be in the best interest of the city.

(c) All agreements executed and delivered by the city pursuant to the authorizations contained in subsections (a) and (b) of this section three, shall be assumed by and imposed upon the commission on July 1, 1996 in accordance with section six of this act.

(d) On and after July 1, 1996, all rights and powers granted to the city under subsections (a) and (b) of this section three may be exercised only by the commission, except as otherwise provided by agreement between the city and the commission.

(e) The acquisition and consolidation of Somerville hospital by the city or the commission may be effected by any means permitted by this act, which shall include the designation of the city or the commission as the sole corporate member of Somerville hospital pursuant to chapter one hundred eighty of the General Laws.

(f) Except as otherwise provided in this act, chapters thirty-one, thirty-two, thirty-two B, one hundred fifty E and two hundred sixty-eight A of the General Laws, and all other provisions of law applicable to governmental entities but inapplicable to nonprofit corporations, shall not apply to the operations and employees of Somerville hospital upon acquisition or management thereof by the city or by the commission, for so long as Somerville hospital is constituted as a nonprofit corporation, nor shall said chapters and provisions apply to any other nonprofit corporation owned or controlled by the commission. Notwithstanding the foregoing, upon the acquisition of Somerville Hospital or the establishment or maintenance of any other nonprofit corporation owned or controlled by the commission, Somerville hospital and any other such corporation owned or controlled by the commission shall be liable in tort in accordance with and to the extent provided in chapter two hundred fifty-eight of the General Laws.

(g) Notwithstanding any general or special law to the contrary, passage of this act shall constitute a determination under section fifty-one of chapter one hundred and eleven of the General Laws that there is a need for the entity, together with its hospitals, clinics, health centers and operations, that results from any acquisition, merger or consolidation under this section. All licenses, approvals, permits, determinations, findings, awards, decisions, applications, reviews or processes applicable to the Cambridge hospital network shall, upon acquisition and consolidation of facilities and operations of Somerville hospital as provided in this section, be deemed applicable to the same extent to such facilities and operations of Somerville hospital. Any licenses, approvals, permits, determinations, findings, awards, decisions, applications, reviews or processes applicable to facilities and operations of Somerville hospital acquired by the city shall be re-issued in the name of, or transferred to, the Cambridge hospital as soon as possible after request by the city or the commission.

SECTION 4. [Establishment of Commission.] (a) There is hereby created a body politic and corporate and political subdivision of the commonwealth to be known as the Cambridge Public Health Commission. The commission is hereby constituted a public instrumentality and the exercise by the commission of the powers conferred by this act shall be deemed and held to be the performance of an essential public function. The commission shall not be subject to the supervision of any other department, commission, board, bureau, agency or officer of the city except to the extent and in the manner provided in this act.

(b) The powers of the commission shall be exercised by or under the supervision of a board (hereinafter called the board or the commission board) of eighteen members including the chief executive officer of the commission serving ex officio as a nonvoting member. The members shall also include a representative of the medical staff and two city officers or employees appointed by the city manager. The remaining fourteen public members of the initial

commission board shall be appointed by the city manager after consultation with the city health policy board; thereafter, the fourteen public members of the commission board shall be nominated by the commission board and appointed by the city manager, who may require that more than one nomination be submitted for a particular appointment. At least ten of the fourteen public members shall be residents of the city of Cambridge. The city manager shall provide for staggered terms of one, two or three years for the fourteen public members so that, as nearly as possible, one-third of the terms shall expire annually; thereafter, each public member shall be appointed for a term of three years, or in the case of an appointment made to fill a vacancy, for the unexpired term, and until his or her successor is appointed and qualified. Should the Commission enter into an affiliation or merger with another entity, the city manager upon recommendation of the Commission board may expand the board to a maximum of twenty-nine members. At all times, at least two-thirds of the public members of the board shall be Cambridge residents. The board shall establish a subcommittee that will concern itself primarily with issues relating to public health services in the city, and may establish such other subcommittees and advisory boards as it deems appropriate. Any member of the board may be removed at any time by the city manager for cause; in addition, the two members appointed in their capacity as city officers or employees may be removed by the city manager at any time and shall be removed upon termination of their employment by the city. The members of the board shall not be entitled to compensation for their services as such, but they shall be reimbursed for actual and reasonable expenses necessarily incurred in the performance of their duties.

(c) No vacancy in the membership of the board shall impair the right of a quorum to exercise the powers of the commission. A majority of the voting members of the board shall constitute a quorum, and the affirmative vote of a majority of the members voting at a meeting at which a quorum is present shall be necessary for any action taken by vote of the board. The

board shall annually elect one of its members as chairman and such other officers as it deems necessary. The provisions of sections twenty-three A to twenty-three C, inclusive, of chapter thirty-nine of the General Laws shall apply to meetings of the board, and section ten of chapter sixty-six relating to the availability of public records as defined in clause twenty-sixth of section seven of chapter four of the General Laws shall apply to the commission, except that all writings and other records concerning the following shall not be deemed to be public records for the purposes of said section ten, and executive sessions may be held to discuss or implement the following: peer review proceedings; credentialling; rates and charges; third-party payor contracts; medical records; and marketing strategies, strategic plans or other plans, analyses, evaluations, data or programs if disclosure is deemed by the board to be likely to give an unfair competitive or bargaining advantage to any person or entity. The commission shall not be deemed to be an agency for purposes of chapter thirty A of the General Laws or a governmental body for purposes of chapter two hundred sixty-eight B of the General Laws.

(d) Except as provided in subsection (f) of section three of this act, the provisions of chapter two hundred and sixty-eight A shall apply to board members, officers and employees of the commission and the commission shall be deemed to be a municipal agency for purposes of that statute, provided that members of the board shall be deemed to be special municipal employees for purposes of said chapter two hundred and sixty-eight A.

SECTION 5. [Officers and Employees.] (a) The board shall appoint, employ and determine the compensation, duties and conditions of employment of a chief executive officer, who may be removed at any time by the board, without prejudice to any contract rights. The chief executive officer shall administer the affairs of the commission, including without limiting the generality of the foregoing, matters relating to contracting, procurement, personnel and

administration, under the supervision of the board, in accordance with such authorizations as the board may from time to time reasonably adopt and continue in force.

(b) The chief executive officer shall appoint and establish reasonable compensation, benefits and other terms of employment for other employees of the commission as he or she deems necessary, including management and professional personnel. Except as otherwise herein provided, employees of the commission shall serve at the pleasure of the chief executive officer, subject to the terms of any applicable collective bargaining agreements or contracts of employment.

(c) The commission may indemnify any present or past board member, officer, employee or agent of the commission against liabilities, claims, costs and expenses, including legal expenses, in connection with any actual or threatened proceeding, including any settlement thereof approved by the board, arising by reason of any act or omission within the scope of his or her duties for the commission; provided, however, that no indemnification shall be provided to a person concerning a matter as to which such person is finally adjudicated to have acted either (i) without a good faith belief that his or her conduct was in the best interests of the commission or (ii) with reason to understand that his or her conduct was unlawful. Costs and expenses may be paid prior to a final disposition upon receipt of an undertaking, which the commission may accept without regard to the financial resources of the person indemnified, that the person receiving the benefit of payments shall repay such payments if he or she shall be finally adjudicated not to be entitled to indemnification hereunder. The commission may purchase insurance on behalf of itself and any of its board members, officers, employees or agents against any liability arising out of such person's status as such, whether or not the commission would have the power to indemnify such person against such liability.

(d) Chapter thirty-one of the General Laws shall not apply to the officers, employees and other personnel of the commission, except as provided in subsection (f) of section six of this act. Except as otherwise provided in this subsection or in subsection (f) of section three of this act, chapter one hundred and fifty E of the General Laws shall apply to the commission and for purposes of said chapter the commission shall be considered an "employer" or "public employer" as defined therein. The commission may designate a representative to act in the interest of the commission in labor relations matters with its employees. The commission shall have the authority to bargain collectively with labor organizations representing employees of the commission and to enter into agreements with such organizations relative to wages, salaries, hours, working conditions, health benefits, pension and retirement allowances, and the submission of grievances and disputes to arbitration. No collective bargaining agreement entered into by the commission, however, shall limit inherent management rights which shall include, without limiting the generality of the foregoing, the following: (i) employment, assignment and reassignment of employees, and the determination of standards therefor, (ii) termination and discharge of employees, provided that any collective bargaining agreement may protect employees against such actions on arbitrary or capricious grounds, (iii) determination of the commission's levels of service and levels of staffing and the methods, means and personnel for providing services, and (iv) supervision and control of employees. Notwithstanding the foregoing, the promotion of employees, and standards therefor, the establishment of work rules, the introduction and use of technological improvements in the workplace and the evaluation of and establishment of productivity standards for employees may be the subjects of permissive bargaining between the commission and its employees.

SECTION 6. [Transition Provisions] (a) Notwithstanding any provision of this act to the contrary, except as otherwise expressly provided in this paragraph, from the effective date

of this act until June 30, 1996, the rights and powers granted by the provisions of this act to the commission shall be exercised by the department, acting by the city commissioner, with the approval of the city manager. On and after April 1, 1996, or as soon thereafter as the members of the commission board are appointed, the commission shall undertake the following: (i) provide for the appointment of a chief executive officer and such additional staff as shall be necessary for the management and operation of the commission, after consideration of the employees of the department to be transferred to the commission as provided in this section six; (ii) adopt its public health services budget for the fiscal year commencing July 1, 1996; and (iii) provide for the transfer of the functions and employees of the department to be effective on July 1, 1996, in accordance with this section six, including without limitation negotiation of any new collective bargaining agreements with such employees to be effective on or after July 1, 1996. Notwithstanding any general or special law to the contrary, the rights and powers of the commission authorized by the provisions of this paragraph to be exercised by the commission prior to July 1, 1996, upon request of the commission to, and with the approval of, the city manager, may be exercised by personnel of the department. All expenses of the commission incurred in the performance of the rights and powers provided in this paragraph shall be borne by the city, provided that such expenses, or a budget therefor, shall have been first approved by the city manager. The city manager shall submit to the city council such supplementary appropriation orders for such expenses as he shall deem appropriate.

(b) Effective July 1, 1996, the department is hereby abolished and all rights, powers, appropriations, obligations and immunities of the department under law or contract shall be transferred to and assumed by the commission. Without limiting the generality of the foregoing, on July 1, 1996 the commission shall assume the general care and control of the Cambridge hospital network (including any facilities and operations of Somerville hospital acquired as

provided in section three of this act), except as otherwise provided in this act. In addition to the other rights or powers granted to the commission by the provisions of this act, from and after July 1, 1996, unless and until the city exercises its rights under section fifteen, the commission shall have the powers and perform the duties from time to time conferred or imposed on boards of health of cities in the commonwealth by General Laws applicable to the city, and the chief executive officer shall be deemed to be the city's commissioner of public health for all purposes under city ordinances and state law.

(c) On July 1, 1996, ownership, possession and control of the Cambridge hospital network and all other personal property under the care and custody on such date of the department and all contracts, books, papers, records, and documents of whatever description pertaining to the Cambridge hospital network or otherwise to the affairs of the department shall pass to and be vested in the commission without consideration or further evidence of transfer and shall thereafter be in the ownership, possession and control of the commission, provided, however, that the lease or transfer to the commission of real property now under the care and custody of the department shall be effected by agreement in accordance with the provisions of subsection (c) of section seven of this act; and all debts, liabilities and other obligations of the city pertaining to or on account of the department shall be assumed by and imposed upon the commission, including without limitation liabilities in tort and the obligations of the city to pay the interest and principal requirements on all bonds, notes and other evidences of indebtedness then outstanding or issued by the city at a later date in accordance with subsection 9(m) of this act for purposes pertaining to the Cambridge hospital network, provided that all such city bonds or notes shall remain general obligations of the city. Except as above provided, all actions and proceedings duly pending before, all actions and proceedings duly pending against, and all actions and proceedings duly begun by the department shall continue unabated and remain in full

force and effect notwithstanding the passage of this act and the transfer of control contemplated hereby and may, at the discretion of the court, commission, board or other body having jurisdiction, be completed before, against or by the commission.

(d) All contracts, including leases, mortgages, obligations, benefits, rights and liabilities of the city and the department which are transferred to the commission under any provision of this act shall continue in full force and effect in accordance with law and, unless prohibited by federal law or by contract terms, shall be transferred to, assumed by and imposed upon the commission by operation of law. General city ordinances relating to zoning, land use and other matters shall apply to the commission to the same extent that they would apply to any private hospital or health care provider, and, for so long as the chief executive officer is deemed to be the city's commissioner of public health, all city ordinances relating to the duties and responsibilities of the commissioner of public health shall apply to the commission and to the chief executive officer to the extent they are not inconsistent with the provisions of this act. No other ordinances or regulations of the city in effect on June 30, 1996 shall apply to the commission.

(e) On July 1, 1996 all unexpended balances of moneys in accounts of, for or on behalf of the department, including without limitation accounts receivable, grants, public trusts, bequests, gifts and other funds pertaining to the Cambridge hospital network or any other property, right or operation of the department, each as determined by the treasurer of the city with the approval of the city manager, including moneys and investments, if any, held for the payment or security of interest and principal of then outstanding bonds, notes and other evidences of indebtedness of the city as provided in this section, but excluding money and investments held by or for the account of the city retirement board on account of accrued retirement benefits under chapter thirty-two of the General Laws for employees of the

department, shall be deemed to be held in trust for and shall be transferred to the commission. Subsequent to such date, all moneys collected or received by the city from any source on account of the Cambridge hospital network and any other property, right or operation of the department transferred to the commission by operation of this act, as determined by the treasurer of the city, other than any such moneys properly allocable to a right, liability or obligation retained by the city under any provision of this act, shall be deemed to be held in trust for and shall be forthwith transferred and paid over to the commission.

(f) On July 1, 1996, every employee of the department shall become an employee of, and shall be transferred to, the commission without any loss of accrued rights to holidays, sick leave, vacations or other benefits of employment, and by such transfer, except as otherwise provided in this section, such employee's seniority, wages, salaries, hours, working conditions, health benefits, pensions and retirement allowances under law or contract shall not be impaired, provided that thereafter such employee shall perform his or her duties under the direction, control and supervision of the chief executive officer. Employees of the department who are tenured employees, as defined in section one of chapter thirty-one of the General Laws, on June 30, 1996 shall retain their existing rights under said chapter thirty-one during their period of employment in the same or a similar position by the commission; employees of the commission shall not otherwise be subject to said chapter thirty-one. Rights and obligations under collective bargaining agreements with respect to employees transferred to the commission from the department, except to the extent expressly inconsistent with this act, shall be assumed by and imposed upon the commission, and employees transferred to the commission who are subject to such agreements shall continue to be represented by the labor organizations that are parties to such agreements until such time as they elect to be otherwise represented in accordance with the provisions of chapter one hundred and fifty E of the General Laws. Existing bargaining

units as determined by the state labor relations commission for employees of the department shall remain in full force and effect for those employees transferred to the commission until the expiration date of collective bargaining agreements covering those employees. Employees transferred to the commission who are not represented by labor organizations as of June 30, 1996 shall not be accepted into bargaining units existing on that date, but they shall thereafter be afforded the right to representation pursuant to state or federal law, as the case may be. Immediately after organization of the Commission on July 1, 1996, the commission and each labor organization representing employees who have transferred to the commission shall begin bargaining for a successor agreement to replace any such agreement between the city and the labor organization representing those transferred employees. Each existing collective bargaining agreement shall remain in effect for ninety days after said July 1 or until a new agreement is reached, whichever shall occur first. Notwithstanding the foregoing, no employee of the city who is hired by the commission subsequent to July 1, 1996 shall be entitled to transfer to the commission any accrued or credited vacation, sick or personal time.

(g) Every employee of the department who immediately prior to being transferred to the commission by this section is a member of the city retirement system established under chapter thirty-two of the General Laws shall continue to be a member thereof and subject to the laws applicable thereto. No other employees of the commission shall have the right to become members of the city retirement system, except and to the extent that the commission, in its sole discretion, permits or requires any employees to become members of the city retirement system; employees who thus become members of the city retirement system shall be subject to the same laws, rules and regulations as city employees who are members of the system. The commission shall deduct from the wages of its employees who are members of the city retirement system and pay over to the Cambridge retirement board such sums as the city would deduct and pay over

if such person were an employee of the city. The commission shall annually reimburse the city for its share of any amounts appropriated by the city under the provisions of chapter thirty-two of the General Laws for or on account of retirement allowances for employees of the commission, and for its share of any amounts appropriated by the city for administrative costs of the city retirement board, based on an allocation determined by such retirement board of the years of creditable service of such employees with the commission and with the city.

(h) Notwithstanding any general or special law to the contrary, the commission may contract with any employee of the commission with respect to the establishment, continuation, maintenance and funding of any deferred compensation or other pension or retirement plan or program under state or federal law which has been maintained for such employee prior to his or her employment by the commission or which the commission thereafter agrees to maintain, and for such purpose the commission may become a trustee or sponsor of, and may make contributions to, any such plan or program. For purposes of this paragraph, the word "employee" shall have the same meaning as "employee" in section one of chapter thirty-two of the General Laws and shall also include consultants and independent contractors who are natural persons paid by the commission and whose duties require that their time be devoted to the service of the commission during regular business hours.

#### SECTION 7. [Relationship Between Commission and City]

(a) Not later than January 15 in each fiscal year the commission shall prepare and file with the city manager and the city clerk an annual assessment of the public health needs of the city. The annual public health assessment shall include an evaluation of existing local, state and federal programs and services to address the public health needs of the city and the adequacy of funding sources available for such programs and services, an assessment of programs, services and other activities provided by private public health providers to address the public

health needs of the city, including the performance of providers under contract with the commission in accordance with this act, and proposals by the commission to revise, enlarge or enhance its response to the public health needs of the city including new, expanded or revised programs or services to be provided by the commission or by public health providers under contract with it for the ensuing fiscal year.

(b) Subject to the limitations provided in this subsection, the city and the commission shall enter into a contract for an initial period not to exceed seven years for the provision of public health services in accordance with the annual public health assessments provided pursuant to subsection (a) of this section. This contract shall include projected funding for that period, commencing July 1, 1996, to address the anticipated public health needs of the city and to contribute to the health care of uninsured indigent city residents. The projected funding for that period will provide a budgetary framework for the city and the commission, with the actual funding amounts to be subject to annual appropriation by the city. The city shall reserve the right to terminate the contract if the commission does not adequately provide for the public health needs of the city or if the commission violates the terms of the contract. The contract may be amended, renewed or extended by agreement of the city and the commission.

(c) In addition to the authority granted elsewhere in this act and by other applicable laws, the commission and the city may enter into a contract or contracts from time to time providing for one or more of the following: (i) the payment of sums appropriated pursuant to subsection (b) of this section seven; (ii) the payment of any other sums for health care or other services provided to the city; (iii) services to be provided by the city to or on behalf of the commission; (iv) indemnification by the commission to the city for claims associated with the establishment and operation of the commission and its health facilities; (v) the gift, grant, sale, conveyance, loan, license or lease by the city to the commission of any real property, or any

other assets, property or facilities useful in connection with the exercise by the commission of any of its powers under this act and not transferred pursuant to the authority granted in subsection (c) of section six; (vi) any such conveyance, transfer or other disposition of real property or other assets, property or facilities by the commission to the city; (vii) the payment by the commission of debt service on indebtedness issued by the city on behalf of the commission; and (viii) such other matters as may be appropriate to accomplish the purpose hereof. No such contracts shall be subject to chapter thirty B of the General Laws or any other law or ordinance requiring competitive bidding or other procurement or disposition procedures by either the city or the commission. Any such contract or contracts shall include such terms and conditions, be for such consideration, if any, and have such term or terms of years, as the city and the commission may agree.

SECTION 8. [Powers of Commission] (a) In addition to its other powers enumerated in this act, the commission shall have the following rights and powers:

(1) to adopt by-laws for the regulation of the affairs and the conduct of its business, and to prescribe rules, regulations and policies in connection with the performance of its functions and duties;

(2) to adopt an official seal and alter the same at pleasure;

(3) to maintain an office at such place or places as it may determine;

(4) to establish its fiscal year, which shall otherwise be July first through June thirtieth;

(5) to receive, administer, expend and comply with the conditions and requirements respecting any gift, grant, donation or appropriation of any property or money;

(6) to receive and apply its revenues to the purpose of this act without appropriation or allotment by the city except as otherwise expressly provided in this act, and to invest any

moneys of the commission or under its control in such investments as are legal investments for moneys of the commonwealth;

(7) to maintain, repair, operate and improve the Cambridge hospital network and all other public health facilities under its custody and control and to provide for the cost of the foregoing and its other activities, programs and project from its revenues, appropriations, grants, the proceeds of loans, or from any other moneys legally available to the commission;

(8) to provide health care services, directly by duly licensed health care providers or by contract;

(9) to mortgage, pledge or assign any real or personal property of the commission, subject to approval of the city manager to the extent required by paragraph (13) of this section, and any money, fees, charges, or other revenue of the commission and any proceeds derived by the commission from the sale of property, insurance or condemnation awards;

(10) to make application for, receive, accept and expend any private, federal, commonwealth or city loans or grants for or in aid of any program or operations of the commission or of any facilities or other property of the commission, and to receive and accept contributions from any source of either money, property, labor or other things of value;

(11) to sue and be sued, prosecute and defend actions relating to its properties and affairs, and to be liable in tort as a public employer as defined in section one of chapter two hundred fifty-eight of the General Laws; provided, however, that the commission is not authorized to become a debtor under the United States Bankruptcy Code;

(12) to appoint or employ personnel as herein provided and to engage legal, accounting, management, financial, medical, consulting and other professional services and agents;

(13) to acquire by purchase, lease, gift or devise, or to obtain options for the acquisition of, any property or any interest therein, real or personal, improved or unimproved, tangible or intangible; to make contracts and agreements of all kinds, including but not limited to contracts for the management of its hospital and public health facilities and for the provision to the commission of public health services, and contracts for the sale, lease, as lessor or lessee, or purchase of real or personal property of any kind or description, and to execute and deliver instruments necessary or convenient for carrying out any of its purposes; to provide, develop or participate in prepaid health care services, managed care programs and insurance programs and other alternative health care delivery programs, including programs involving the acceptance of capitated payments or premiums that include the assumption of financial and actuarial risk; to establish, develop or participate in health maintenance organizations or preferred provider organizations; and to acquire, create, be a voting member of, choose directors to serve on the boards of, share common officers and directors with, be a partner in, or participate in or control, any venture, corporation, partnership, or other organization, public or private, which the commission finds operates for purposes consistent with, and in furtherance of, the purposes of the commission, including a corporation organized under chapter one hundred eighty of the General Laws in the manner specified in subsection (e) of section three; provided, however, that no contract or agreement for the management of all or substantially all of the operations of the Cambridge hospital network shall be effective without the prior approval of the city manager; and provided further that the commission shall not mortgage, assign, pledge, sell or otherwise dispose of, or lease as lessor other than in the ordinary course of business, any of the real property transferred from the city to the commission with a value in excess of one million dollars except upon the approval of the city manager, unless a different value limitation is set by agreement between the city and the commission.

(14) to manage or to contract with the city, acting by the treasurer of the city with the approval of the city manager, for the management of public trusts, bequests and other endowment funds held by or on behalf of the commission for application to the operations of the Cambridge hospital network or any other corporate purpose of the commission;

(15) to adopt, amend and repeal reasonable health regulations not inconsistent with any public health regulation of the state department of public health or with any other provision of law, and prescribe for any violation of a health regulation made under this clause a fine according to the nature of the offense; and

(16) consistent with the constitution and laws of the commonwealth, to exercise such other powers, including all powers pertaining to the department and to the properties under their custody and control held by the city on the effective date of this act not inconsistent herewith, as may be necessary or convenient for or incident to carrying out the foregoing powers and the accomplishment of the purposes of this act.

#### SECTION 9. [Indebtedness]

(a) The commission may issue bonds or notes for any of its corporate purposes, including borrowing from the Health and Educational Facilities Authority established by chapter six hundred fourteen of the acts of nineteen hundred and sixty-eight, as amended, which is hereby authorized to make loans to the commission. Except as otherwise provided in this act, the principal of, premium, if any, and interest on all bonds shall be payable solely from the particular funds provided therefor under the documents governing the issuance of the bonds and consistent with this act. The bonds shall be issued in such amounts as the commission may authorize. Bonds of each issue shall be dated, shall bear interest at such rate or rates, including rates variable from time to time as determined by such index, banker's loan rate, remarketing or index agent, or other method as may be determined by the commission and shall mature at

such time or times as may be determined by the commission except that no bond shall mature more than 40 years from the date of its issue or beyond the expiration of the expected useful life of any facilities being financed by the bonds as determined by the commission. Bonds may be made redeemable before maturity at such price or prices and under such terms and conditions as may be fixed by the commission prior to the issue of bonds. The commission shall determine the form and details and the manner of execution of bonds. The commission may sell its bonds in such manner, either at public or private sale, for such price, at such rate or rates of interest, or at such discount in lieu of interest, as the commission may determine.

(b) In addition to other lawful items, the costs to be financed by the issuance of bonds under this act may include interest during construction and for up to one year after completion of any revenue-producing facilities being financed as estimated by the commission, the cost of architectural, engineering, financial and legal services, plans, specifications, studies, expenses as may be necessary or incident to determining the feasibility or practicability of constructing such revenue-producing facilities, the financing of such construction and the placing of the facilities in operation, and such other related expenses as may be determined by the commission.

(c) Any bonds issued under this act may be secured by a resolution or by a trust or security agreement between the commission and a corporate trustee, which may be any trust company or bank having the powers of a trust company within or without the commonwealth, or by a trust or security agreement directly between the commission and the purchasers of the bonds, and such resolution or trust or security agreement shall be in such form and executed in such manner as may be determined by the commission. Such trust or security agreement or resolution may pledge or assign, in whole or in part, the revenues held or to be received by the commission including the revenues from any facilities already existing when the pledge or assignment is made, and any contract or other rights to receive the same, whether then existing

or thereafter coming into existence and whether then held or thereafter acquired by the commission, and the proceeds thereof. Such trust or security agreement or resolution may contain such provisions for protecting and enforcing the rights, security and remedies of the bondholders as may, in the discretion of the commission, be reasonable and proper and not in violation of law. Without limiting the generality of the foregoing, such agreement or resolution may include provisions defining defaults and providing for remedies in the event of default, which may include the acceleration of maturities, and covenants setting forth the duties of, and limitations on the commission in relation to the custody, safeguarding, investment and application of moneys, the issue of additional or refunding bonds, the fixing, revision and collection of fees, charges and other revenues, the use of any surplus bond proceeds, the establishment of reserves, the construction and operation of facilities of the commission, and the making and amending of contracts relating to the bonds. It shall be lawful for any bank or trust company to act as a depository or trustee of the proceeds of bonds, revenues or other moneys under a trust or security agreement or resolution and to furnish such indemnification or to pledge such securities and issue such letters or lines of credit or other credit facilities as may be required by the commission acting under this chapter. Any such trust or security agreement or resolution may set forth the rights and remedies of bondholders and of the trustee and may restrict the individual right of action by bondholders.

(d) Any bonds issued under authority of this act may be issued by the commission pursuant to lines of credit or other banking arrangement under such terms and conditions not inconsistent with this act, and under such agreements as the commission may determine to be in the best interests of the commission. In addition to other security provided herein or otherwise by law, bonds issued by the commission under this act may be secured, in whole or in part, by insurance or by letters or lines of credit or other credit or liquidity facilities issued

to the commission by any bank, trust company or other financial institution, within or without the commonwealth, and the commission may pledge or assign any of its revenues as security for the reimbursement by the commission to the issuers of such letters or lines of credit, insurance or credit or liquidity facilities of any payments made thereunder.

(e) Any pledge of revenues, contract or other rights to receive revenues, or the proceeds thereof made by the commission under this act shall be valid and binding and shall be deemed continuously perfected for the purposes of chapter one hundred and six from the time when the pledge is made; the revenues, moneys, rights and proceeds so pledged and then held or thereafter acquired or received by the commission shall immediately be subject to the lien of such pledge without any physical delivery or segregation thereof or further act; and the lien of such pledge shall be valid and binding against all parties having claims of any kind in tort, contract or otherwise against the commission, irrespective of whether such parties have notice thereof. Neither the resolution, any trust or security agreement nor any other agreement by which a pledge is created need be filed or recorded except in the records of the commission and no filing need be made under chapter one hundred and six.

(f) Any owner of a bond issued by the commission under the provisions of this act and any trustee under a trust or security agreement or resolution securing the same, except to the extent the rights herein given may be restricted by such agreement or resolution, may bring suit upon the bonds and may, either at law or in equity, by suit, action, mandamus, or other proceeding for legal or equitable relief, including proceedings for the appointment of a receiver to take possession and control of the business and properties of the commission, to operate and maintain the same, to make any necessary repairs, renewals and replacements in respect thereof and to fix, revise and collect fees and charges, protect and enforce any and all rights under the laws of the commonwealth or granted hereunder or under such trust or security agreement or

resolution and may enforce and compel the performance of all duties required by this chapter or by such agreement or resolution to be performed by the commission or by any officer of the commission.

(g) The commission may issue refunding bonds for the purpose of paying any of its bonds issued pursuant to this act at or prior to maturity or upon acceleration or redemption. Refunding bonds may be issued at such times prior to the maturity or redemption of the refunding bonds as the commission may determine. The refunding bonds may be issued in sufficient amounts to pay or provide the principal of the bonds being refunded, together with any redemption premium on the bonds, any interest accrued or to accrue to the date of payment of such bonds, the expenses of issue of the refunding bonds, the expenses of redeeming the bonds being refunded, and such reserves for debt service or other expenses from the proceeds of such refunding bonds as may be required by a trust or security agreement or resolution securing the bonds. The authorization and issue of refunding bonds, the maturities and other details of such bonds, the security for the bonds, the rights of the holders of the bonds, and the rights, duties and obligations of the commission in respect to the same shall be governed by the provisions of this act relating to the issue of the bonds other than refunding bonds insofar as the same may be applicable.

(h) Bonds, notes and other evidences of indebtedness issued or entered into by the commission under the provisions of this act shall not be deemed to be a debt or a pledge of the faith and credit of the commonwealth or of any city or town, but shall be payable solely from the revenues of the commission. All bonds, notes and other evidences of indebtedness of the commission shall contain on the face thereof a statement to the effect that neither the commonwealth nor any city or town shall be obligated to pay the same and that neither the faith

and credit nor the taxing power of the commonwealth or of any city or town is pledged to the payment of the principal of or interest on such bonds or notes.

(i) All moneys received pursuant to the provisions of this act, whether as proceeds from the issue of bonds or as revenues or otherwise, shall be deemed to be trust funds to be held and applied solely as provided in this act.

(j) Bonds issued under the provisions of this act are hereby made securities in which all public officers and public bodies of the commonwealth and its political subdivisions, all insurance companies, trust companies in their commercial departments, savings banks, co-operative banks, banking associations, investment companies, executors, administrators, trustees and other fiduciaries may properly and legally invest funds, including capital in their control or belonging to them. Such bonds are hereby made securities which may properly and legally be deposited with and received by any state or municipal officer or any agency or political subdivision, of the commonwealth for any purpose for which the deposit of bonds or obligations of the commonwealth is now or may hereafter be authorized by law.

(k) Notwithstanding any of the provisions of this act or any recitals in any bonds issued under this chapter, all such bonds shall be deemed to be investment securities under chapter one hundred and six.

(l) Bonds may be issued under this act without obtaining the consent of the emergency finance board established under the provisions of chapter forty-nine of the acts of nineteen hundred and thirty-three or of any department, division, commission, board, bureau or agency of the commonwealth or the city, and without any other proceedings or the happening of any other conditions or things than those proceedings, conditions or things which are specifically required therefor by this act, and the validity of and security for any bonds issued by the

commission shall not be affected by the existence or nonexistence of any such consent or other proceedings, conditions or things.

(m) The city may incur indebtedness on behalf of the commission in accordance with chapter forty-four of the General Laws, including indebtedness authorized by an order of the city council passed June seventh, nineteen hundred and ninety-three, as amended, for certain ambulatory care and parking facilities. The obligation of the city to pay interest and principal on indebtedness issued by the city shall be assumed by and imposed upon the commission, unless otherwise provided by agreement as authorized by subsection (c) of section seven, but such indebtedness shall remain a general obligation of the city.

SECTION 10. [Tax Exemption] The commission and all its revenues, income and real and personal property used solely by the commission in furtherance of the mission declared in section one shall be exempt from taxation and from betterments and special assessments and the commission shall not be required to pay any tax, excise or assessment to or for the commonwealth or any of its political subdivisions. Bonds issued by the commission and their transfer and the income therefrom, including any profit made on the sale thereof, shall at all times be exempt from taxation within the commonwealth.

SECTION 11. [Rates and Charges; Applications and Licenses; Payments to Commission]

(a) Subject to any limitations thereon or any approval required therefor under any other general or special law, the commission is hereby authorized to fix, revise, determine and collect fees, rates, rents and other charges for the services, programs and other activities provided by it or as a result of the operation of the properties under its custody and control. The fees, rates, rents and other charges established by the commission shall be so fixed and adjusted in respect of the aggregate thereof so as to provide revenues to the commission at least sufficient, together with all other moneys available to the commission, including all amounts appropriated to the

commission as provided in this section, to pay or provide for all operating expenses of the commission and all debts and other obligations of the commission as the same become due; to create and maintain such reserves as may be reasonably required for its operations or to secure its debts and other obligations; and to pay or provide for all necessary repairs, replacements and renewals to the properties under its custody and control and any other amounts which the commission may be obligated to pay or provide for by law or contract.

(b) Any application, review or process in relation to or in furtherance of the purposes of or contemplated by this act heretofore filed or undertaken, or any proceeding heretofore commenced or any determination, finding, or award made, by the city with the federal government, the department of public health or any other public corporation shall inure to and for the benefit of the commission to the same extent and in the same manner as if the commission has been a party to such application, review, process, or proceeding from its inception, and the commission shall be deemed a party thereto, to the extent not prohibited by any federal law. Any license, approval, permit, determination, finding, award or decision heretofore or hereafter issued or granted pursuant to or as a result of any such application, review, process or proceeding shall inure to the benefit of and be binding upon the commission and shall be assigned and transferred by the city to the commission unless such assignment and transfer is prohibited by federal law.

(c) Notwithstanding establishment of the commission, acquisition by the city or the commission of facilities and operations of Somerville hospital or establishment of Somerville hospital or any other entity as a subsidiary of the commission, the Cambridge hospital and any such subsidiary shall retain the status and characteristics of a public service hospital as defined by 114.1 CMR 36.13(2)(i)(3) and of a public hospital for purposes of determining eligibility for and determination of all payments from all governmental units for the provision of general health

supplies, care or rehabilitative services and accommodations, as those terms are defined in section thirty-one of chapter six A of the General Laws, including without limitation for purposes of determining eligibility for payments to high public payer hospitals pursuant to 114.1 CMR 36.13(10)(a)(2); disproportionate share adjustments for safety net providers pursuant to 114.1 CMR 36.13(10)(c); payments owed to or from the uncompensated care pool in accordance with regulations established pursuant to chapter one hundred eighteen F of the General Laws; and entitlement to payment from and participation in medical assistance programs established under chapter one hundred eighteen E of the General Laws.

SECTION 12. [Procurement] (a) The commission shall establish procedures for the procurement of services, supplies and materials to encourage fair and open competition and obtain satisfactory prices thereon, but shall not be subject to general or special laws regulating the procurement of services, supplies and materials, including but not limited to section thirty-nine M of chapter thirty of the General Laws, section forty-four A to forty-four J, inclusive, of chapter one hundred forty-nine of the General Laws, section thirty-eight A 1/2 to thirty-eight O of chapter seven of the General Laws and chapter thirty B of the General Laws; provided, however, that the provisions of sections twenty-six through twenty-seven F and section twenty-nine of chapter one hundred and forty-nine of the general laws shall apply to all construction contracts procured by the commission.

(b) Notwithstanding the statutory provisions specified in the preceding subsection (a), or any other general or special law to the contrary, the city may employ alternative methods for procuring design and construction services for the development of its hospital network capital facility projects, including the negotiation of a construction management or design/build contract with the selected construction manager for the design and construction of the facilities upgrading project known as the Hospital Master Plan Project and as revised through the Memorandum of

Understanding dated May fourteenth nineteen hundred and ninety-three, as amended, its checkpoint reports and the order of the city council passed June seventh, nineteen hundred and ninety-three, as amended.

SECTION 13. [Records] The commission shall at all times keep full and accurate accounts of its receipts, expenditures, disbursements, assets and liabilities, which shall be open to inspection by the city manager or any other duly appointed agent of the commonwealth or the city. The commission shall submit an annual report in writing concerning its operations to the city manager of the city and shall file a copy of such report with the city clerk within one hundred and twenty days following the close of its fiscal year, unless otherwise agreed by the city and the commission. Such report for the fiscal year ending June 30, 1997, and for each fiscal year thereafter, shall include financial statements relating to the operations and properties of the commission maintained in accordance with generally accepted accounting principles to the extent applicable and audited by an independent certified public accountant or firm of certified public accountants.

SECTION 14. [Subsequent Merger with Nonprofit Corporation.] (a) In addition to the powers granted by general and special law and by this act, including the powers granted in clause (13) of section eight of this act, the commission is hereby authorized, subject to the approval of the city council as specified in subsection (b) below, to execute, deliver and perform its obligations under one or more agreements with any private, nonprofit charitable corporation organized under the laws of the commonwealth to operate health care facilities, providing for the merger or consolidation of the operations, assets and liabilities of such corporation, and health care facilities under its ownership, custody and control, with all or a portion of the operations, assets and liabilities of the commission, provided that the corporation resulting from such merger or consolidation accepts as its mission the statement of policy set forth in subsection

desirable to effect the merger or consolidation of the operations of the commission with the operations of such corporation, including without limitation any lease or sale agreement described in this section, shall be in such form and shall have such terms and conditions as the commission may determine to be in its best interests. Without limiting the generality of the foregoing, any such merger or consolidation may be effected by one or more leases or operating agreements from the city or the commission to the corporation resulting from such merger or consolidation of all or any part of the real and personal property comprising the Cambridge hospital network and the other public health facilities of the commission and all or any part of any other property, real and personal, tangible and intangible, appurtenant thereto or necessary or desirable for the operation thereof, for such initial term, not exceeding fifty years, and such renewal terms, as may be set forth in such leases or operating agreements, and for such rental, annual or otherwise, as the commission shall determine after appraisal or other independent valuation of the fair market rental value of such property. Any such merger or consolidation may also be effected by the sale by the commission to such corporation of all or any part of such property or other assets on such terms and conditions and at such purchase price as the commission shall determine after appraisal or other independent valuation of the fair market value of such property or other assets.

(d) Notwithstanding any provision of general or special law to the contrary, the agreements between the commission and a corporation described in this section providing for the merger or consolidation of the operations of such corporation with the operations of the commission pertaining to the Cambridge hospital and the other public health facilities of the commission shall provide as a condition thereof that the corporation resulting from such merger or consolidation shall annually prepare and file with the city manager and the city clerk a report on its commitment to and provision of health care services in the prior year accompanied by a

copy of the annual report filed by the corporation for such year with the division of public charities as provided in section eight F of chapter twelve of the General Laws and including financial statements relating to the operations and properties of such corporation maintained in accordance with generally accepted accounting principles to the extent applicable and audited by an independent certified public accountant or firm of certified public accountants. Such agreements will further provide that such corporation will hold annually not less than one meeting of the corporation that will be open to the general public after notice filed with the city clerk not less than fourteen days prior to the meeting, and that such corporation will establish an office for patient advocacy to investigate, directly or by contract with an independent, non-profit organization formed for the purpose, patient complaints with respect to the delivery of hospital services.

(e) Notwithstanding any general or special law to the contrary, passage of this act shall constitute a determination under section fifty-one of chapter one hundred and eleven of the General Laws that there is a need for the corporation, together with its hospitals, clinics, health centers and operations, that results from any mergers, consolidations or acquisitions under this section, and upon application by such resulting corporation, the department of public health shall issue to such corporation as soon as possible an original license to establish and maintain such hospitals, clinics, health centers and other facilities as had been maintained and operated by the commission and by the non-profit charitable corporation prior to such mergers, consolidations or acquisitions.

(f) In the event that the operations of the commission are merged or consolidated with the operations of a non-profit charitable corporation in the manner contemplated in this section, the hospital resulting from such merger or consolidation shall be deemed to retain the status and characteristics which the commission had prior to such merger or consolidation as a public

service hospital as defined by 114.1 CMR 36.13(2)(i)(3) and as a public hospital for purposes of determining eligibility for and determination of all payments from all governmental units for the provision of general health supplies, care or rehabilitative services and accommodations, as those terms are defined in section one of chapter four hundred ninety-five of the acts of nineteen hundred and ninety-one, including without limitation for purposes of determining eligibility for payments to high public payer hospitals pursuant to 114.1 CMR 36.13(10)(a)(2); disproportionate share adjustments for safety net providers pursuant to 114.1 CMR 36.13(10)(c); payments owed to or from the uncompensated care pool in accordance with regulations established pursuant to chapter one hundred eighteen F of the General Laws; and entitlement to payment from and participation in medical assistance programs established under chapter one hundred eighteen E of the General Laws on a basis which recognizes such resulting hospital as the successor to the commission.

SECTION 15. [Board of Health Powers] Notwithstanding the provisions of subsection (b) of section six, the city shall retain the right to provide by ordinance for the designation of a new board of health or public health commissioner, who shall have the powers and perform the duties conferred or imposed by applicable General Laws upon boards of health of cities in the commonwealth, and in accordance with the terms of said ordinance.

SECTION 16. [Termination of commission] Upon termination or dissolution of the commission, the title to all funds and other properties owned by it which remain after payment or the making of provision for payment of all obligations of the commission shall vest in the city.

SECTION 17. [Provisions controlling] The provisions of this act shall be deemed to provide an exclusive, additional, alternative and complete method for the doing of the things authorized hereby and shall be deemed and construed to be supplemental and additional to, and

not in derogation of, powers conferred upon the commission by law, provided, however, that insofar as the provisions of this act are inconsistent with the provisions of any general or special law, ordinance, administrative order or regulation or any limitation imposed by a corporate or municipal charter, the provisions of this act shall be controlling.

SECTION 18. [Construction of Act] This act, being necessary for the welfare of the city and its inhabitants, shall be liberally construed to effect the purposes hereof.

SECTION 19. [Severability; constitutional requirements] The provisions of this act are severable, and if any provision hereof shall be held invalid in any circumstances, such invalidity shall not affect any other provisions or circumstances. This act shall be construed in all respects so as to meet all constitutional requirements. In carrying out the purposes and provisions of this act, all steps shall be taken which are necessary to meet constitutional requirements whether or not such steps are required by statute.

SECTION 20. [Effective date] This act shall take effect upon its passage.

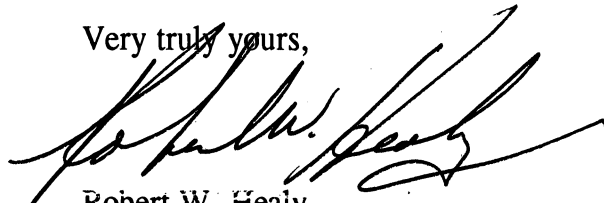
The Honorable, The City Council  
February 26, 1996  
Page 2

The Hospital and the City have been meeting regularly with representatives of the hospital labor unions to discuss the need for the creation of a public authority. These meetings have been very constructive, and we have addressed in the legislation many of the concerns raised by the unions. We expect to continue this dialogue during the public debate on the legislation and are optimistic that we will garner their support as we go forward. Additionally, the medical staff leadership and the Health Policy Board have both unanimously endorsed this proposed legislative package.

I would recommend that the City Council refer this legislation to a Committee of the Whole for full analysis and public comment. I recognize that this legislation is complex and that the City Council will require time to adequately analyze its merits. I am also mindful that the state legislature will recess on July 31. Given the pace of change in health care, it would be extremely desirable to have the legislation adopted during this legislative session.

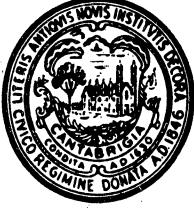
The Cambridge Hospital has developed a national reputation for innovative public health programming and primary care teaching. The City of Cambridge also has a rich tradition of providing high quality health care services to all of its residents regardless of their ability to pay. I believe that this legislation is necessary for us to continue this tradition.

Very truly yours,

A handwritten signature in black ink, appearing to read "Robert W. Healy", written in a cursive style.

Robert W. Healy  
City Manager

attachments



CITY OF CAMBRIDGE  
CAMBRIDGE, MASSACHUSETTS 02139

TEL. 349-4300  
FAX. 349-4307

EXECUTIVE DEPARTMENT  
ROBERT W. HEALY  
City Manager

February 26, 1996

RICHARD C. ROSSI  
Deputy City Manager

To The Honorable, The City Council:

We began discussions, as you will recall, last summer regarding the restructuring of the health care system in Cambridge in response to dramatic changes in health care locally and nationally. At the request of the City Council, pursuant to City Council Order 36, of June 26, 1995, I am providing to you proposed enabling legislation for the creation of The Cambridge Public Health Commission.

The aim of this legislation is to preserve the mission of The Cambridge Hospital Community Health Network (TCHCHN) and to enable us to build upon the success of the health care system over the past several years. With the tremendous changes in the health care environment and the turbulence created by the consolidation and mergers of hospitals, it is clear that the TCHCHN must have the flexibility to adjust to the rapid changes in the highly competitive health care industry. I also recognize that there must be reasonable limits placed on the potential risks to be borne by the taxpayers of the City given the uncertainty of health care financing. The proposed restructuring is a critical step necessary to maintain and strengthen the City's health care system, while meeting in a cost effective way the public health needs of the City with the comprehensiveness and high standards we have come to expect.

The Commission would be established as a separate public entity, whose powers would be exercised initially by a Board of 17 members appointed by the City Manager. The Board would appoint a Chief Executive Officer to head the new public authority. All responsibilities and functions of the City's Department of Health and Hospitals, and all current employees, would be transferred to the Commission.

The Commission would have the authority to enter into affiliation arrangements with other health care providers. Specifically, it would enable the Commission to proceed with the anticipated acquisition of Somerville Hospital. While the legislation would enable mergers or affiliation with other health care entities, the City reserves significant authority to guarantee that the public health responsibilities of the City are not compromised. The legislation provides for an initial seven year contract between the City and the Commission which will ensure that the public health needs of the City are met and that all residents of Cambridge have access to comprehensive health care services. In light of the strong financial performance of the Network over the last several years, it is expected that through this contract we can provide for the financial viability of the Network while reducing the financial impact upon the taxpayer.

Consent Agenda #11

S-259(a)

Relative to a home rule petition  
to establish a public health authority.

In City Council February 26, 1996

Referred to Health + Hospital  
Committee.