

NORTH CAROLINA DEPARTMENT OF HEALTH AND HUMAN SERVICES

**The North Carolina Medical Care Commission
809 Ruggles Drive
Raleigh, North Carolina**

MINUTES

**CALLED MEETING OF THE EXECUTIVE COMMITTEE
CONFERENCE TELEPHONE MEETING ORIGINATING
FROM THE COMMISSION'S OFFICE
SEPTEMBER 10, 2013**

11:00 A.M.

Members of the Executive Committee Present:

Lucy Hancock Bode, Chairman
Dr. George A. Binder
George H.V. Cecil
Albert F. Lockamy, RPh
Mary L. Piepenbring
Dr. Carl K. Rust

Members of the Executive Committee Absent:

Joseph D. Crocker, Vice-Chairman

Members of Staff Present:

Christopher B. Taylor, CPA, Assistant Secretary
Alice S. Creech, Bond Program Assistant

Others Present:

Alice Pinckney-Adams, Robinson Bradshaw & Hinson, PA
Mike Kelly, Ziegler Capital Markets

1. **Purpose of Meeting**

To authorize the sale of bonds, the proceeds of which are to be loaned to The Pines at Davidson, Inc.

2. **Resolution of the North Carolina Medical Care Commission Authorizing the Issuance of \$14,645,000 North Carolina Medical Care Commission Health Care Facilities Revenue Bonds (The Pines at Davidson Project) Series 2013** – Remarks were made by Mike Kelly and Alice Adams.

Executive Committee Action: A motion was made by Dr. Carl Rust, seconded by Dr. George Binder and unanimously approved with Mr. George Cecil abstaining from the vote.

WHEREAS, the North Carolina Medical Care Commission (the “Commission”) is a commission of the Department of Health and Human Services of the State of North Carolina and is authorized under Chapter 131A of the General Statutes of North Carolina, as amended (the “Act”), to borrow money and to issue in evidence thereof bonds and notes for the purpose of providing funds to pay all or any part of the cost of financing or refinancing health care facilities (including retirement facilities) and to refund bonds previously issued by the Commission; and

WHEREAS, The Pines at Davidson, Inc. (the “Corporation”) is a nonprofit corporation duly incorporated and validly existing under and by virtue of the laws of the State of North Carolina and is a “nonprofit agency” within the meaning of the Act; and

WHEREAS, the Corporation has made application to the Commission for a loan for the purpose of providing funds to (i) pay or reimburse the Corporation for paying all or a portion of the cost of constructing and equipping an expansion and renovation of its continuing care retirement facility located in Davidson, Mecklenburg County, North Carolina (the “Community”), including the construction of two new multi-story apartment buildings, containing a total of 23 new independent living units ranging in size from approximately 1,430 to 1,870 square feet and under-building parking (the “Project”), (ii) pay the interest accruing on the Bonds for fifteen months, and (iii) pay certain expenses incurred in connection with the issuance of the Bonds (as hereinafter defined) by the Commission; and

WHEREAS, the Commission has determined that the public will best be served by the proposed financing and, by a resolution adopted by the Commission on August 9, 2013, has approved the issuance of the Bonds, subject to compliance by the Corporation with the conditions set forth in such resolution, and the Corporation has complied with such conditions to the satisfaction of the Commission; and

WHEREAS, there have been presented at this meeting draft copies of the following documents relating to the issuance of the Bonds:

(a) a Trust Agreement, dated as of September 1, 2013 (the “Trust Agreement”), between the Commission and U.S. Bank National Association, as bond trustee (in such capacity, the “Bond Trustee”);

(b) a Loan Agreement, dated as of September 1, 2013 (the “Loan Agreement”), between the Commission and the Corporation;

(c) a Supplemental Indenture for Obligation No. 4 dated as of September 1, 2013 (“Supplement No. 4”) between the Corporation and U.S. Bank National Association, as master trustee (the “Master Trustee”) under the Amended and Restated Master Trust Indenture dated as of June 1, 2006 (as supplemented, the “Master Indenture”) between the Corporation and the Master Trustee;

(d) Obligation No. 4 dated as of the date of delivery thereof (“Obligation No. 4”) from the Corporation to the Commission;

(e) a Contract of Purchase, to be dated as of the date of delivery of the Bonds (the “Purchase Agreement”), between the Local Government Commission of North Carolina (the “LGC”) and STI Institutional & Government, Inc., as the initial purchaser of the Bonds (the “Purchaser”), and approved by the Commission and the Corporation;

(f) a Continuing Covenant Agreement, dated as of September 1, 2013 (the “Covenant Agreement”) between the Corporation and the Purchaser;

(g) a Supplemental Indenture for Obligation No. 5 dated as of September 1, 2013 (“Supplement No. 5,” and collectively with Supplement No. 4, the “Supplemental Indentures”) between the Corporation and the Master Trustee;

(h) Obligation No. 5 dated as of the date of delivery thereof (“Obligation No. 5,” and collectively with Obligation No. 4, the “Obligations”) from the Corporation to the Purchaser; and

(i) a First Amendment to Amended and Restated Deed of Trust dated as of September 1, 2013 (the “First Amendment to Deed of Trust”), among the Corporation, the deed of trust trustee named therein and the Master Trustee; and

WHEREAS, the Commission has determined that the Corporation is financially responsible and capable of fulfilling its obligations under the Loan Agreement, the Master Indenture, the Supplemental Indentures, the Obligations, and the Covenant Agreement; and

WHEREAS, the Commission has determined that adequate provision has been made for the payment of the principal of, redemption premium, if any, and interest on the Bonds;

NOW, THEREFORE, THE NORTH CAROLINA MEDICAL CARE COMMISSION DOES HEREBY RESOLVE, as follows:

Section 1. Capitalized words and terms used in this Series Resolution and not defined herein shall have the same meanings in this Series Resolution as such words and terms are given in the Master Indenture, the Trust Agreement and the Loan Agreement.

Section 2. Pursuant to the authority granted to it by the Act, the Commission hereby authorizes the issuance of North Carolina Medical Care Commission Health Care Facilities Revenue Bonds (The Pines at Davidson Project) Series 2013 (the "Bonds"), in the aggregate principal amount of \$14,645,000. The Bonds shall mature on January 1, 2040 and shall bear interest at such rates determined in accordance with the Trust Agreement and shall be subject to the Sinking Fund Requirements set forth in Schedule 1 hereto. During the initial Direct Purchase Period (which is fifteen years), the Bonds will bear interest at a fixed rate of 2.80% per annum.

The Bonds shall be issued as fully registered bonds in (i) denominations of \$250,000 and multiples of \$5,000 in excess thereof during any Direct Purchase Period, (ii) denominations of \$100,000 and multiples of \$5,000 in excess of \$100,000 during any Short-Term Rate Period or any Medium-Term Rate Period that is not a Direct Purchase Period, and (iii) denominations of \$5,000 and integral multiples thereof during any Fixed Rate Period that is not a Direct Purchase Period. Except during a Direct Purchase Period, the Bonds shall be issuable in book-entry form as provided in the Trust Agreement. Interest on the Bonds shall be paid at the times and at the rates determined as specified in the Trust Agreement. Payments of principal of and interest on the Bonds shall be made to the registered owners of the Bonds in such manner as is set forth in the Trust Agreement.

Section 3. The Bonds shall be subject to (i) optional, extraordinary and mandatory redemption, (ii) during any Weekly Rate Period, optional tender for purchase, and (iii) mandatory tender for purchase, all at the times, upon the terms and conditions, and at the prices set forth in the Trust Agreement.

Section 4. The proceeds of the Bonds shall be applied as provided in Section 2.08 of the Trust Agreement. The Commission hereby finds that the use of the proceeds of the Bonds for a loan to finance the cost of the Project, pay a portion of the interest accruing on the Bonds and pay costs of issuing the Bonds will accomplish the public purposes set forth in the Act.

Section 5. The forms, terms and provisions of the Trust Agreement and the Loan Agreement are hereby approved in all respects, and the Chairman or Vice Chairman (or any member of the Commission designated by the Chairman) and the Secretary or any Assistant Secretary of the Commission are hereby authorized and directed to execute and deliver the Trust Agreement and the Loan Agreement in substantially the forms presented at this meeting, together with such changes, modifications and deletions as they, with the advice of counsel, may deem necessary and appropriate, and such execution and delivery shall be conclusive evidence of the approval and authorization thereof by the Commission.

Section 6. The form, terms and provisions of the Purchase Agreement are hereby approved in all respects, and the Chairman, Vice Chairman, Secretary or any Assistant Secretary of the Commission (or any member of the Commission designated by the Chairman) is hereby authorized and directed to execute and deliver the Purchase Agreement in substantially the form

presented at this meeting, together with such changes, modifications, insertions and deletions as they, with the advice of counsel, may deem necessary and appropriate, and such execution and delivery shall be conclusive evidence of the approval and authorization thereof by the Commission.

Section 7. The forms of the Bonds set forth in the Trust Agreement are hereby approved in all respects, and the Chairman or Vice Chairman (or any member of the Commission designated by the Chairman) and the Secretary or any Assistant Secretary of the Commission are hereby authorized and directed to execute, by manual or facsimile signature as provided in such forms of the Bonds, and to deliver to the Bond Trustee for authentication on behalf of the Commission, the Bonds in definitive form, which shall be in substantially the forms presented at this meeting, together with such changes, modifications and deletions as they, with the advice of counsel, may deem necessary, appropriate and consistent with the Trust Agreement, and such execution and delivery shall be conclusive evidence of the approval and authorization thereof by the Commission.

Section 8. The forms, terms and provisions of the Supplemental Indentures, the Obligations, the First Amendment to Deed of Trust and the Covenant Agreement are hereby approved in substantially the forms presented to this meeting, together with such changes, modifications and deletions as the Chairman or Vice Chairman (or any member of the Commission designated by the Chairman) and the Secretary or any Assistant Secretary of the Commission, with the advice of counsel may deem necessary and appropriate; and the execution and delivery of the Trust Agreement as provided in Section 5 of this Series Resolution shall be conclusive evidence of the approval of the documents listed in this Section by the Commission.

Section 9. The Commission hereby approves the action of the Local Government Commission authorizing the private sale of the Bonds to the Purchaser in accordance with the Purchase Agreement at the purchase price of 100% of the principal amount thereof; provided, however, that such approval shall be of no effect if the Local Government Commission does not so authorize such sale of the Bonds.

Section 10. Upon their execution in the form and manner set forth in the Trust Agreement, the Bonds shall be deposited with the Bond Trustee for authentication, and the Bond Trustee is hereby authorized and directed to authenticate the Bonds and, upon the satisfaction of the conditions set forth in Section 2.08 of the Trust Agreement, the Bond Trustee shall deliver the Bonds to the Purchaser against payment therefor.

Section 11. U.S. Bank National Association is hereby appointed as the initial Bond Trustee for the Bonds.

Section 12. If the Bonds are converted to a Rate not in a Direct Purchase Period, the Depository Trust Company, New York, New York is hereby appointed as the initial Securities Depository of the Bonds, with Cede & Co., a nominee thereof, being the initial Securities Depository Nominee and initial registered owner of the Bonds.

Section 13. Lucy H. Bode, Chairman of the Commission, Drexdal R. Pratt, Secretary of the Commission, Christopher B. Taylor, C.P.A., Assistant Secretary of the Commission, Kathy C. Larrison, Auditor to the Commission, and Crystal Watson-Abbott, Auditor to the Commission, are each hereby appointed a Commission Representative as that term is defined in the Loan Agreement, with full power to carry out the duties set forth therein.

Section 14. The Chairman, Vice Chairman, Secretary, and any Assistant Secretary of the Commission (or any member of the Commission designated by the Chairman) are each hereby authorized and directed (without limitation except as may be expressly set forth herein) to take such action and to execute and deliver any such documents, certificates, undertakings, agreements or other instruments as they, with the advice of counsel, may deem necessary or appropriate to effect the transactions contemplated by the Trust Agreement, the Loan Agreement, the Purchase Agreement, the First Amendment to Deed of Trust and Covenant Agreement.

Section 15. This Series Resolution shall take effect immediately upon its passage.

Schedule 1

<u>Due</u> <u>January 1</u>	<u>Sinking Fund</u> <u>Requirement</u>	<u>Due</u> <u>January 1</u>	<u>Sinking Fund</u> <u>Requirement</u>
2016	\$410,000	2029	\$590,000
2017	425,000	2030	605,000
2018	435,000	2031	625,000
2019	450,000	2032	640,000
2020	460,000	2033	660,000
2021	475,000	2034	680,000
2022	485,000	2035	695,000
2023	500,000	2036	715,000
2024	515,000	2037	735,000
2025	530,000	2038	755,000
2026	545,000	2039	780,000
2027	560,000	2040*	800,000
2028	575,000		

* Maturity

Professional Fees Comparison for
The Pines at Davidson, Inc.

<u>Professional</u>	Fees Estimated In Preliminary Approval <u>Resolution*</u>	<u>Actual Fees</u>
Bank fee	**	\$18,306.25
Bank Counsel	40,000	22,000.00
Bond counsel	55,000	45,000.00
Corporation counsel	40,000	26,000.00
Feasibility/AUP	75,000	35,300.00
Financial Advisor	15,000	21,300.00
Placement Agent	**	65,000.00

*Fees in the preliminary approval resolution assumed a fixed rate publicly offered issue. Some of the fees are lower because the bonds are being purchased and held by a bank.

**The preliminary approval resolution included an estimate of \$210,000 for underwriter's discount/bank fee. Because the bonds are being privately placed with/purchased by a bank, there is no underwriter's discount, but B.C. Ziegler and Company served as placement/structuring agent.

***The Financial Advisor Fee of \$21,300.00 will be paid by The Pines at Davidson.

3. Adjournment

There being no further business, the meeting was adjourned at 11:15 a.m.

Respectfully submitted,

Christopher B. Taylor, C.P.A.
Assistant Secretary