

NORTH CAROLINA DEPARTMENT OF HEALTH AND HUMAN SERVICES

**The North Carolina Medical Care Commission
701 Barbour Drive
Raleigh, North Carolina**

MINUTES

**CALLED MEETING OF THE EXECUTIVE COMMITTEE
CONFERENCE TELEPHONE MEETING ORIGINATING
FROM THE COMMISSION'S OFFICE
MARCH 05, 2009
2:00 P.M.**

Members of the Executive Committee Present:

Lucy Hancock Bode, Chairman
Joseph D. Crocker, Vice-Chairman
George H.V. Cecil
Mary L. Piepenbring
Dr. Robert E. Schaaf

Members of the Executive Committee Absent:

Charles T. Frock
Gerald P. Cox

Members of Staff Present:

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

Others Present:

Jeff Poley, Parker Poe Adams & Bernstein, LLP

1. **Purpose of Meeting**

To authorize the sale of bonds, the proceeds of which are to be loaned to Transylvania Community Hospital, Inc.

2. **Resolution of the North Carolina Medical Care Commission Authorizing the Issuance of \$13,240,000 North Carolina Medical Care Commission Variable Rate Demand Hospital Revenue Bonds (Transylvania Regional Hospital) Series 2009.** – Remarks were made by Chris Taylor and Jeff Poley.

Executive Committee Action: Motion was made by Joseph D. Crocker, seconded by George H.V. Cecil and unanimously approved.

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; and

WHEREAS, Transylvania Community Hospital, 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 “non-profit agency” within the meaning of the Act; and

WHEREAS, the Corporation has entered into a Master Trust Indenture, dated as of November 1, 1997 (the “Master Indenture”), with First Union National Bank (succeeded by First-Citizens Bank & Trust Company), as master trustee (the “Master Trustee”).

WHEREAS, the Corporation has made application to the Commission for a loan for the purpose of providing funds, together with other available funds, to (a) refinance a taxable loan, the proceeds of which were used to pay the Project (as described in the hereafter defined Loan Agreement); and (b) pay, or reimburse the Corporation for paying, certain expenses incurred in connection with the issuance of the Bonds 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 on November 7, 2008, has approved the issuance of the Bonds (defined below), 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 Contract of Purchase, to be dated on or about March 6, 2009 (the “Purchase Agreement”), Wells Fargo Brokerage Services LLC (the “Underwriter”), and approved by the Commission and the Corporation, pursuant to which the Underwriter has agreed to purchase the Bonds on the terms and conditions set forth therein and in the Trust Agreement (as defined below);

(b) a Trust Agreement, dated as of March 1, 2009 (the “Trust Agreement”), between the Commission and First-Citizens Bank & Trust Company, as bond trustee (the “Bond Trustee”), the provisions of which relate to the issuance of and security for the Bonds and includes the form of the Bonds;

(c) a Loan Agreement, dated as of March 1, 2009 (the “Loan Agreement”), between the Commission and the Corporation;

(d) a Supplemental Indenture for Obligation No. 2, dated as of March 1, 2009 (“Supplement No. 2”), between the Corporation and the Master Trustee;

(e) Obligation No. 2, dated as of the date of delivery thereof (“Obligation No. 2”), from the Corporation to the Commission;

(f) a Supplemental Indenture for Obligation No. 3, dated as of March 1, 2009 (“Supplement No. 3” and, together with Supplement No. 2, the “Supplemental Indentures”), between the Corporation and the Master Trustee;

(g) Obligation No. 3, dated as of the date of delivery thereof (“Obligation No. 3” and, together with Obligation No. 2, the “Obligations”), from the Corporation to First-Citizens Bank & Trust Company (in such capacity, the “Bank”);

(h) a Reimbursement and Security Agreement dated as of March 1, 2009 (the “Credit Agreement”) between the Corporation and the Bank, with the form of the Bank’s letter of credit (the “Letter of Credit”) attached thereto;

(i) a confirming letter of credit dated the date of its delivery (the “Confirmation”) issued by Wells Fargo Bank, N.A. as additional security for the Bonds;

(j) a Remarketing and Interest Services Agreement dated as of March 1, 2009 (the “Remarketing Agreement”) among the Corporation, the Commission and Wells Fargo Brokerage Services, LLC (in such capacity, the “Remarketing Agent”); and

(k) an Official Statement relating to the Bonds (the Official Statement”).

WHEREAS, the Commission has determined that the Corporation is financially responsible and capable of fulfilling its obligations under the Loan Agreement, the Master Indenture, Supplement No. 2 and Obligation No. 2; 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; and

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 Agreements.

Section 2. Pursuant to the authority granted to it by the Act, the Commission hereby authorizes the issuance of North Carolina Medical Care Commission Variable Rate Demand Hospital Revenue Bonds (Transylvania Regional Hospital) Series 2009 (the “Bonds”) in the aggregate principal amount of \$13,240,000. The 2009 Bonds shall mature on February 1, 2029, 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.

The Bonds shall be issued as fully registered bonds in denominations of \$100,000 and integral multiples of \$5,000 in excess thereof during any Short-Term Rate Period or Medium-Term Rate Period or denominations of \$5,000 and integral multiples thereof during any Fixed Rate 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 forwarded by the Paying Agent 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 optional, extraordinary and mandatory redemption, 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 each of the Trust Agreement. The Commission hereby finds that the use of the proceeds of the Bonds for loans to refund certain existing taxable indebtedness of the Corporation used to pay the costs of the Project and pay certain 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, the Loan Agreement and the Remarketing 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, the Loan Agreement and the Remarketing 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 form of the Bonds set forth in the Trust Agreement is 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 applicable Bond Trustee for authentication on behalf of the Commission, the Bonds in definitive form, which shall be in substantially the form 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 and the Letters of Credit 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 in awarding the Bonds to the Underwriter at the purchase price of \$13,187,040 (representing the principal amount of the Bonds less underwriter's discount of \$52,960).

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 Underwriter against payment therefor.

Section 11. The Commission hereby approves and ratifies the use and distribution of the Official Statement in connection with the sale of the Bonds. The Chairman, Vice Chairman, Secretary or any Assistant Secretary (or any member of the Commission designated by the Chairman) is hereby authorized to execute, on behalf of the Commission, the Official Statement in substantially the form presented to this meeting, together with such changes, modifications and deletions as they, with the advice of counsel, may deem appropriate. Such execution shall be conclusive evidence of the approval thereof by the Commission. The Commission hereby approves and authorizes the distribution and use of copies of the Trust Agreement, the Loan Agreement, the Remarketing Agreement, the Supplemental Indenture, the Obligations and the Letters of Credit by the Underwriter in connection with such sale.

Section 12. First-Citizens Bank & Trust Company is hereby appointed as the initial Bond Trustee for the Bonds.

Section 13. The Depository Trust Company, New York, New York is hereby appointed as the initial Securities Depository for the Bonds, with Cede & Co., a nominee thereof, being the initial Securities Depository Nominee and initial registered owner of the Bonds.

Section 14. Christopher B. Taylor, C.P.A., Assistant Secretary of the Commission and William L. Warren, Chief of the Construction Section of the Division of Facility Services, 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 15. 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 and the Official Statement.

Section 16. The Commission hereby recommends that the Governor of the State of North Carolina approve the issuance of the Bonds pursuant to Section 147(f) of the Internal Revenue Code of 1986, as amended, and hereby requests such approval.

Section 17. This Series Resolution shall take effect immediately upon its passage.

3. Adjournment

There being no further business, the meeting was adjourned at 2:25 p.m.

Respectfully submitted,

Christopher B. Taylor
Assistant Secretary

Required Redemption of Series 2009 Bonds

| <u>February 1,</u> | <u>Sinking Fund Requirement</u> | <u>February 1,</u> | <u>Sinking Fund Requirement</u> |
|--------------------|---------------------------------|--------------------|---------------------------------|
| 2010 | \$415,000 | 2020 | \$650,000 |
| 2011 | 425,000 | 2021 | 685,000 |
| 2012 | 445,000 | 2022 | 715,000 |
| 2013 | 465,000 | 2023 | 755,000 |
| 2014 | 490,000 | 2024 | 790,000 |
| 2015 | 510,000 | 2025 | 830,000 |
| 2016 | 540,000 | 2026 | 870,000 |
| 2017 | 565,000 | 2027 | 915,000 |
| 2018 | 590,000 | 2028 | 960,000 |
| 2019 | 620,000 | 2029* | 1,005,000 |

* Maturity