

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
OCTOBER 15, 2009
11:00 A.M.**

Members of the Executive Committee Present:

Lucy Hancock Bode, Chairman
George H.V. Cecil
Gerald P. Cox
Charles T. Frock
Mary L. Piepenbring

Members of the Executive Committee Absent:

Joseph D. Crocker, Vice-Chairman
Dr. Robert Schaaf

Members of Staff Present:

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

Others Present:

Tommy Brewer, BB&T Capital Markets
Allen K. Robertson, Robinson Bradshaw & Hinson, PA

1. **Purpose of Meeting**

To authorize the sale of bonds, the proceeds of which are to be loaned to Cypress Glen Retirement Community.

2. **Resolution of the North Carolina Medical Care Commission Authorizing the Issuance of \$6,585,000 North Carolina Medical Care Commission Retirement Facilities First Mortgage Revenue Refunding Bonds (Cypress Glen Retirement Community), Series 2009A.** –Remarks were made by Tommy Brewer and Allen Robertson

Executive Committee Action: Motion was made by Mr. Gerald Cox, seconded by Mr. 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 (including retirement facilities) and to refund bonds previously issued by the Commission; and

WHEREAS, Cypress Glen Retirement Community (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, together with other available funds, to (a) refund all of the Commission’s outstanding Retirement Facilities First Mortgage Revenue Refunding Bonds (Cypress Glen Retirement Community), Series 2004B (the “2004B Bonds”), (b) refund all of the Commission’s outstanding Retirement Facilities First Mortgage Revenue Bonds (Cypress Glen Retirement Community), Series 2004D (the “2004D Bonds” and together with the 2004B Bonds, the “Refunded Bonds”), and (c) pay certain expenses incurred in connection with the authorization and issuance of the Bonds (as defined below) 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 August 14, 2009, 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 October 1, 2009 (the “Trust Agreement”), between the Commission and First-Citizens Bank & Trust Company, Raleigh, North Carolina, as bond trustee (the “Bond Trustee”);

(b) a Loan Agreement, dated as of October 1, 2009 (the "Loan Agreement"), between the Commission and Cypress Glen Retirement Community (the "Corporation");

(c) a Supplemental Indenture for Obligation No. 4, dated as of October 1, 2009 ("Supplement No. 4"), between the Corporation and First-Citizens Bank & Trust Company, as master trustee (in such capacity, the "Master Trustee") under the Master Trust Indenture, dated as of March 15, 2004 (as supplemented, the "Master Indenture"), between the Corporation and the Master Trustee;

(d) Obligation No. 4, to be dated as of the date of delivery of the Bonds ("Obligation No. 4"), from the Corporation to the Commission;

(e) a Supplemental Indenture for Obligation No. 5, dated as of October 1, 2009 ("Supplement No. 5" and together with Supplement No. 4, the "Supplemental Indentures"), between the Corporation and the Master Trustee;

(f) Obligation No. 5, to be dated as of the date of delivery of the Bonds ("Obligation No. 5" and together with Obligation No. 4, the "Obligations"), from the Corporation to Branch Banking and Trust Company;

(g) a Third Amendment to Deed of Trust, dated as of October 1, 2009 (the "Third Amendment"), among the Corporation, The Fidelity Company (the "Deed of Trust Trustee") and the Master Trustee, which amends the Deed of Trust, dated as of March 15, 2004 from the Corporation to the Deed of Trust Trustee for the benefit of the Master Trustee, as amended by a First Amendment dated as of August 1, 2004 and a Second Amendments dated as of January 1, 2005 (as amended, the "Deed of Trust");

(h) 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 and Branch Banking and Trust Company, as the initial purchaser of the Bonds (the "Bank"), and approved by the Commission and the Corporation;

(i) a Purchase in Lieu of Redemption Agreement dated October 1, 2009 (the "Purchase in Lieu of Redemption Agreement") among the Corporation, the Commission, First-Citizens Bank & Trust Company, as bond trustee for the Refunded Bonds (as defined in the Trust Agreement), and Scott & Stringfellow, LLC, trading as BB&T Capital Markets, as Remarketing Agent for the Refunded Bonds; and

(j) a Letter of Instructions to Trustee dated the date of delivery thereof (the "Letter of Instructions") from the Commission and the Corporation to First-Citizens Bank & Trust Company, as bond trustee for the Refunded Bonds; 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 Deed of Trust; 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 Retirement Facilities First Mortgage Revenue Refunding Bonds (Cypress Glen Retirement Community), Series 2009A (the "Bonds"), in the aggregate principal amount of \$6,585,000. The Bonds shall mature on October 1, 2034 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.

The Bonds shall be issued as fully registered bonds in (i) denominations of \$100,000 and any integral multiple of \$5,000 in excess of \$100,000 during any Bank-Bought Rate Period or Weekly Rate Period and (ii) denominations of \$5,000 and any integral multiples thereof during any Long-Term Rate Period or Adjustable Rate Period. While bearing interest at the Weekly Rate, Long-Term Rate or Adjustable Rate, 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 or Adjustable 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 2.10 of the Trust Agreement. The Commission hereby finds that the use of the proceeds of the Bonds for a loan to refund the Refunded 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, the Loan Agreement, the Purchase in Lieu of Redemption Agreement and the Letter of Instructions 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, the Purchase in Lieu of Redemption Agreement and the Letter of Instructions 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 and the Third Amendment 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 Bank in accordance with the Purchase Agreement at the purchase price of 100% of the principal amount thereof.

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 2.10 of the Trust Agreement, the Bond Trustee shall deliver the Bonds to the Bank against payment therefor.

Section 11. First-Citizens Bank & Trust Company is hereby appointed as the initial Bond Trustee for the Bonds.

Section 12. If the Bonds are converted to the Weekly Rate, a Long-Term Rate or an Adjustable Rate, the Depository Trust Company, New York, New York is hereby appointed as the initial Securities Depository of the 2009B 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, the Secretary of the Commission (currently William J. Horton, Acting Secretary), and Christopher B. Taylor, C.P.A., Assistant Secretary of 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 and the Purchase in Lieu of Redemption Agreement.

Section 15. All references in this Resolution to the Secretary of the Commission include any Acting Secretary of the Commission.


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 11:22 a.m.

Respectfully submitted,



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

Schedule 1

Due October 1

Sinking Fund Requirement

2023	\$1,025,000
2024	1,225,000
2025	1,250,000
2026	1,275,000
2033	600,000
2034*	1,210,000

* Maturity

