

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**

JANUARY 22, 2010

11:00 A.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:

Gerald P. Cox
Charles T. Frock

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
Tommy Brewer, BB& T Capital Markets
Richard Marvin, First Tryon Securities
Allen K. Robertson, Robinson, Bradshaw & Hinson, PA

1. **Purpose of Meeting**

To consider preliminary approvals to a Bank Qualified Bond project for United Methodist Retirement Homes and Carolina Village and to authorize the financing of certain health care equipment for the benefit of University Health Systems of Eastern Carolina, Inc. and Pitt County Memorial Hospital, Incorporated pursuant to a master equipment lease and sublease agreement.

2. **United Methodist Retirement Homes, Inc./Croasdaile Village Campus-Durham - Christopher B. Taylor and Tommy Brewer**

Executive Committee Action: A motion was made by Dr. Robert Schaaf, seconded by Ms. Mary Piepenbring with Mr. Joe Crocker leaving the call.

Resolution: The Commission grants preliminary approval to a project for United Methodist Retirement Community, Inc. to provide funds, to be used together with other available funds, to effect a current refunding or a conversion of the Series 2005B (Croasdaile Village Project) Variable Rate Demand Bonds to a Bank Qualified Bonds Mode. The bonds are to be purchased by BB&T and will have an initial put period of five years. The project is in accordance with an application received as follows:

ESTIMATED SOURCES OF FUNDS

Principal amount of Bank Qualified Bonds	\$14,415,000
Equity contribution	<u>305,000</u>
Total Source	\$14,720,000

ESTIMATED USES OF FUNDS

Refunding/conversion of Series 2005B Bonds	\$14,415,000
Underwriters discount	150,000
Accountants fee	5,000
Corporation counsel	30,000
Bond counsel	30,000
Trustee fee	5,000
Local Government Commission fee	3,500
Bank commitment fee	36,038
Bank counsel	20,000
Title insurance	15,000
Miscellaneous	<u>10,462</u>
Total	\$14,720,000

Tentative approval is given with the understanding that the governing board of United Methodist Retirement Homes, Inc. accepts the following conditions:

1. The project will continue to be developed pursuant to the applicable Medical Care Commission guidelines.
2. Any required certificate of need must be in effect at the time of the issuance of the bonds or notes.
3. Financial feasibility must be determined prior to the issuance of bonds.
4. The project must, in all respects, meet requirements of §G.S. 131A (Health Care Facilities Finance Act).
5. The Executive Committee of the Commission is delegated the authority to approve the issuance of bonds for this project and may approve the issuance of such greater principal amount of the loan as shall be necessary to finance the project; provided, however, that the amount set forth above shall not be increased by more than ten percent (10%).
6. The bonds or notes shall be sold in such a manner and upon such terms and conditions as will, in the sole judgment of the Executive Committee of the Commission, result in the lowest cost to the facility and its patients.
7. If public approval of the bonds is required for the purpose of Section 147(f) of the Internal Revenue Code of 1986, as amended (“Section 147(f)”), this tentative approval shall constitute the recommendation of the Commission that the Governor of the State of North Carolina (the “Governor”) approve the issuance of such bonds, subject to the satisfaction of the requirements of Section 147(f) concerning the holding of a public hearing prior to the submission of such recommendation to the Governor.
8. The borrower will comply with the Commission’s Resolution: Community Benefits/Charity Care Agreement and Program Description for CCRC’s as adopted on November 9, 2007. (a copy of which is attached hereto).

Based on information furnished by applicant, the project is -

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|--|-------------------------------------|-----|--------------------------|----|-------------------------------------|-----|
| 1. Financially feasible | <input checked="" type="checkbox"/> | Yes | <input type="checkbox"/> | No | <input type="checkbox"/> | N/A |
| 2. Construction and related costs are reasonable | <input type="checkbox"/> | Yes | <input type="checkbox"/> | No | <input checked="" type="checkbox"/> | N/A |

Notes: Projected Long Term Debt Coverage Ratio

2009 - 1.83
2010 - 1.79
2011 - 1.59
2012 - 1.80

Community Benefits Percentage under GS-105 7.73% for FYE 2008

Note: The Bonds should bear interest at the rate of 68% of 1 month LIBOR plus 1.862%.

3. Carolina Village, Inc. - Hendersonville - Christopher B. Taylor and Richard Marvin

Executive Committee Action: A motion was made by Mr. George H.V. Cecil, seconded by Dr. Robert Schaaf and unanimously approved.

Resolution: The Commission grants preliminary approval to a project for Carolina Village, Inc. to provide funds, to be used together with other available funds, to effect a current refunding or a conversion of the Series 2008C North Carolina Medical Care Commission (Carolina Village Project) from a variable rate letter of credit backed mode to a Bank Qualified Bond mode. The Trust Agreement for the Series 2008C Bonds will also be amended to include a Bank Qualified Bond mode. The initial put period will be for a three year period. The project is in accordance with an application received as follows:

ESTIMATED SOURCES OF FUNDS

Principal amount of bonds to be issued or converted	\$15,000,000
Equity contribution	<u>104,750</u>
Total Source	\$15,104,750

ESTIMATED USES OF FUNDS

Refunding/conversion of Series 2008C Bonds	\$15,000,000
Bank Counsel	15,000
Financial advisor	5,000
Bond counsel	25,000
Local Government Commission fee	3,500
Placement fee	<u>56,250</u>
Total	\$15,104,750

Tentative approval is given with the understanding that the governing board of Carolina Village, Inc. accepts the following conditions:

1. The project will continue to be developed pursuant to the applicable Medical Care Commission guidelines.
2. Any required certificate of need must be in effect at the time of the issuance of the bonds or notes.
3. Financial feasibility must be determined prior to the issuance of bonds.
4. The project must, in all respects, meet requirements of §G.S. 131A (Health Care Facilities Finance Act).
5. The Executive Committee of the Commission is delegated the authority to approve the issuance of bonds for this project and may approve the issuance of such greater principal amount of the loan as shall be necessary to finance the project; provided, however, that the amount set forth above shall not be increased by more than ten percent (10%).
6. The bonds or notes shall be sold in such a manner and upon such terms and conditions as will, in the sole judgment of the Executive Committee of the Commission, result in the lowest cost to the facility and its patients.
9. If public approval of the bonds is required for the purpose of Section 147(f) of the Internal Revenue Code of 1986, as amended (“Section 147(f)”), this tentative approval shall constitute the recommendation of the Commission that the Governor of the State of North Carolina (the “Governor”) approve the issuance of such bonds, subject to the satisfaction of the requirements of Section 147(f) concerning the holding of a public hearing prior to the submission of such recommendation to the Governor.
10. The borrower will comply with the Commission’s Resolution: Community Benefits/Charity Care Agreement and Program Description for CCRC’s as adopted on November 9, 2007. (a copy of which is attached hereto).

Based on information furnished by applicant, the project is -

- | | | | | | | |
|--|-------------------------------------|-----|--------------------------|----|-------------------------------------|-----|
| 1. Financially feasible | <input checked="" type="checkbox"/> | Yes | <input type="checkbox"/> | No | <input type="checkbox"/> | N/A |
| 2. Construction and related costs are reasonable | <input type="checkbox"/> | Yes | <input type="checkbox"/> | No | <input checked="" type="checkbox"/> | N/A |

Notes: Projected Long Term Debt Coverage Ratio
 2010 – 2.86
 2011 – 7.22
 2012 – 1.88

Community Benefits Percentage under GS-105 24.1. % for FYE 2008

Note: The Bonds should bear interest at the rate of 6.57% of 1 month LIBOR plus 2.15%

4. **Resolution of the North Carolina Medical Care Commission Authorizing Financing in the Aggregate Principal Amount of up to \$22,425,000 of Health Care Equipment for the Benefit of University Health Systems of Eastern Carolina, Inc. and Pitt County Memorial Hospital, Incorporated Pursuant to a Master Equipment Lease and Sublease Agreement**- Remarks were made by Allen Robertson

Executive Committee Action: A motion was made by Ms. Mary Piepenbring, seconded by Dr. Robert Schaaf 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”), (i) to finance health care facilities and pay all or any part of the cost thereof from funds available to the Commission for such purpose, (ii) to acquire personal property constituting health care facilities by lease upon such terms and at such cost as shall be agreed upon by the owner and the Commission, (iii) to lease as lessor personal property, (iv) to lease any health care facility to a non-profit agency for operation and maintenance, (v) to fix and collect rents for the use of health care facilities, and (vi) to pledge and assign the revenues and receipts from any health care facilities and any lease and the rent received thereunder; and

WHEREAS, each of University Health Systems of Eastern Carolina, Inc. (“UHSEC”) and Pitt County Memorial Hospital, Incorporated (“PCMH” and together with UHSEC, the “Sublessee”) 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 Sublessee have made application to the Commission requesting that the Commission provide financing for the cost of acquiring three helicopters for the benefit of the Sublessee pursuant to a master equipment lease and sublease agreement; and

WHEREAS, the Commission has determined that the public will best be served by the proposed financing and, by a resolution adopted on August 8, 2008, has approved the financing, subject to compliance by the Sublessee with the conditions set forth in such resolution, and the Sublessee have complied with such conditions to the satisfaction of the Commission; and

WHEREAS, there has been presented at this meeting draft copies of the following documents relating to the financing:

- (a) a Master Equipment Lease and Sublease Agreement dated as of January 1, 2010 (the “Master Agreement”) among Banc of America Public Capital Corp (“BAPCC”), the Commission and the Sublessee, and the form of Schedule (as defined in the Master Agreement)

thereto attached as Exhibit A to the Master Agreement (the Master Agreement and a Schedule thereto being referred to herein as an “Agreement” and collectively as the “Agreements”), pursuant to which the Commission will lease three helicopters to be operated by the Sublessee for the benefit of their health care facilities (collectively, the “Equipment”) from BAPCC (the obligations of the Commission to make payments to BAPCC for the use of Equipment pursuant to an Agreement being referred to herein as a “Lease” and collectively as the “Leases”) and sublease the Equipment to the Sublessee, and BAPCC, on behalf of the Commission, will pay or provide the proceeds of the Leases in the aggregate principal amount of up to \$22,425,000 to the Sublessee for the purpose of financing and reimbursing the cost of acquiring and installing the Equipment;

(b) Schedule of Property No. 1 dated as of January 28, 2010 (the “Initial Schedule”) among BAPCC, the Commission and the Sublessee for a Lease in the amount of \$5,277,659, the proceeds of which will be used to acquire one EC135 helicopter; and

(c) an Escrow Agreement dated as of January 28, 2010 (the “Initial Escrow Agreement” and, together with any other escrow agreement pertaining to an Agreement, the “Escrow Agreements”) among BAPCC, the Commission, the Sublessee and Deutsche Bank National Trust Company, as escrow agent; and

WHEREAS, the Commission has determined that the Sublessee are financially responsible and capable of fulfilling their obligations under the Agreements and the Escrow Agreement; and

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

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

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

Section 2. Pursuant to the authority granted to it by the Act, the Commission hereby authorizes the incurrence of the Leases in the aggregate principal amount of up to \$22,425,000. Each Lease shall be repaid and shall bear interest upon the terms and conditions set forth in the related Agreement. The Lease created by the Initial Schedule will bear interest at 3.162% per annum.

Section 3. Each Lease shall be subject to prepayment at the times, upon the terms and conditions, and with the premium set forth in the related Agreement.

Section 4. The proceeds of each Lease shall be applied as provided in the related Agreement and the related Escrow Agreement, if any. The Commission hereby finds that the use

of the proceeds of the Leases to finance the cost of the Equipment will accomplish the public purposes set forth in the Act.

Section 5. The forms, terms and provisions of the Master Agreement, the Initial Schedule and the Initial Escrow Agreement are hereby approved in all respects, and the Chairman, the Vice Chairman, any member of the Commission designated by the Chairman, the Secretary and the Assistant Secretary of the Commission are hereby authorized and directed to execute and deliver the Master Agreement, the Initial Schedule and the Initial Escrow 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 Chairman, the Vice Chairman, any member of the Commission designated by the Chairman, the Secretary and the Assistant Secretary of the Commission are hereby authorized and directed to execute and deliver additional Schedules, in substantially the form of Exhibit A to the Master Agreement, and Escrow Agreements, in substantially the form of the Initial Escrow Agreement, 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 7. The Chairman, the Vice Chairman, any member of the Commission designated by the Chairman, the Secretary and the Assistant Secretary of the Commission are 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, financing statements, undertakings, agreements or other instruments as they, with the advice of counsel, may deem necessary or appropriate to effect the transactions contemplated by the Agreements.

Section 8. The Commission hereby recommends that the Governor of the State of North Carolina approve the incurrence of the Leases pursuant to Section 147(f) of the Internal Revenue Code of 1986, as amended, and hereby requests such approval.

Section 9. All references in this Series Resolution to the Secretary of the Commission shall include any Acting Secretary of the Commission.

Section 10. This Resolution shall take effect immediately upon its passage.

Professional Fees Comparison for
 University Health Systems of Eastern Carolina, Inc. and Pitt County Memorial Hospital, Incorporated
Tax-Exempt Equipment Lease Program with Banc of America Public Capital Corp

Professional	Fees Estimated In Preliminary Approval Resolution	Actual Fees (Initial Program/Schedule No. 2 /Schedule No. 3)
Bond counsel	\$30,000	\$30,000 (20,000/5,000/5,000)
Bank counsel	**	17,000 (12,000/3,500/3,500)
Federal Aviation Administration counsel	**	18,000 (6,000/6,000/6,000)

**All other costs were listed as “miscellaneous costs” and estimated at a total of \$25,000.

5. Adjournment

There being no further business, the meeting was adjourned at 11:25 a.m.

Respectfully submitted,

 Christopher B. Taylor, CPA
 Assistant Secretary

