

**SOUTH DAKOTA HEALTH AND EDUCATIONAL  
FACILITIES AUTHORITY**

**MINUTES OF THE DECEMBER 21, 2012 SPECIAL MEETING**

Pursuant to due notice, the South Dakota Health and Educational Facilities Authority met on Friday, December 21, 2012 at 10:00 a.m. CST (9:00 a.m. MST), via telephone conference call. Mr. Norbert Sebade, Chairman, instructed the Secretary to call the roll.

Present:

Mr. Alan “Dick” Dempster  
Mr. Dave Fleck  
Mr. Norbert Sebade  
Mr. Mack Wyly

Absent:

Mr. Gene Lebrun  
Mr. William Lynch

Other staff and representatives of the Authority and other parties present were:

Mr. Donald Templeton, Executive Director  
Mr. Vance Goldammer, General Legal Counsel  
Dustin Christopherson, Associate Director  
Steve Corbin, Finance Officer  
Dan Bacastow, Jones Day  
Jim Breckenridge – AVERA Health  
Bert Olson – First National Bank in Sioux Falls

The Chairman declared a quorum and called the meeting to order. The notice of the meeting dated December 12, 2012 was posted at the entrance of the South Dakota Health and Educational Facility Authority prior to the meeting (*see Attachment #1*).

The Chairman asked for consideration of the minutes for the October 4, 2012 annual meeting. Mr. Mack Wyly moved to approve the minutes as presented, seconded by Mr. Dick Dempster. All members present voted aye, motion carried.

## **Avera Health Series 2012E Taxable Debt**

Mr. Templeton explained that Avera Health is purchasing St. Mary's Hospital, Maryhouse Nursing Home and Parkwood Apartments in Pierre and Gettysburg Memorial Hospital, Oahe Manor House and Oahe Villa Independent Living units in Gettysburg. Avera Health is borrowing \$50,000,000 from US Bank on a direct bank placement and not using the South Dakota Health and Educational Facilities Authority to issue the bonds. Series A - \$40,000,000 that is variable rate and short-term for a period up to 90 days and Series B - \$10,000,000 that is a fixed rate of 2.70% for 25 years with a reset at the end of seven years. Mr. Templeton reviewed the current rating for Avera Health of Standard and Poor's at A+ and Moody's is A-1. Avera Health is requesting that this borrowing be under the Master Trust Indenture. Mr. Templeton explained that the Avera outstanding loans under the Master Trust Indenture are \$318,893,349 and the South Dakota Health and Educational Facilities Authority has mortgages for those properties. This new loan would not have a mortgage. Jim Breckenridge reviewed the hospital operations. The Avera debt service coverage was 5.05 for June 30, 2012. The pro forma debt service coverage for the new \$10,000,000 long-term loan at 2.7% would be 4.97 times.

Mr. Dan Bacastow explained that the existing mortgages would most likely stay in place.

Mr. Vance Goldammer reviewed the Resolution (*see Attachment #2*). Mr. Mack Wyly moved, Mr. Dave Fleck seconded, and upon roll call, the ayes were Dempster, Fleck, Sebade and Wyly; nays: none; abstain: none.

## **The First National Bank in Sioux Falls Trustee Fee Schedule**

Mr. Bert Olson of the First National Bank in Sioux Falls described a new proposed fee schedule (*see Attachment #3*).

The new proposed fees broken out by the borrower using the 2011 outstanding bonds would reduce total fees from \$207,312 in 2011 to \$175,236.

Mr. Olson reviewed the proposed new fee schedule and indicated the Board had approved the current schedule in 2007.

The maximum initial trustee fee was reduced because of efficiencies and the bond documents are prepared in a consistent manner by Bond Counsel, which allows for easier account set up.

The escrow initial fee was reduced because today's interest rates are much lower than in the past resulting in shorter-term escrow accounts with fewer securities to purchase and hold.

The maximum annual trustee administration fee was reduced because of efficiencies and recognition of lower risk with Authority bond issues than other types of financing. All of the Authority clients are strong financially, particularly the three large health systems that issue sizeable amounts of bonds.

Vance Goldammer explained the text of the Resolution (*see Attachment #3*).

Dick Dempster moved to approve the resolution and Mack Wyly seconded, and upon roll call, the ayes were Dempster, Fleck, Sebade and Wyly; nays: none; abstain: none.

### **Proposed Legislation**

Mr. Don Templeton and Mr. Vance Goldammer explained that they met with representatives from AVERA Health, Sanford Health and Regional Health regarding the Healthcare Systems desire to eliminate the requirement for a mortgage on newly acquired property. They stated that most lenders are not requiring a mortgage and that the expenses are high for the work associated with a mortgage. Mr. Vance Goldammer explained that AVERA Health and Sanford Health had to pay high mortgage filing fees for their past Minnesota bond issues through the South Dakota Health and Educational Facilities Authority (*see Attachment #4*). Mr. Mack Wyly moved to approve the resolution and Mr. Dave Fleck seconded and upon roll call, the ayes were Dempster, Fleck, Sebade and Wyly; nays: none; abstain: none.

### **FY-2012 Annual Report and Auditor Letters**

Mr. Templeton provided to Board members with the FY-2012 Annual Report and auditor letters and explained that the FY-2012 Annual Report was completed and was pleased to report that the auditors issued a clean opinion with no audit findings or recommendations.

### **Election of Treasurer**

Mr. Templeton explained that Bill Fischer sent in his resignation from the South Dakota Health and Educational Facilities Authority effective November 30, 2012 after many years of dedicated board participation. This opened the officer position of Treasurer.

Mr. Vance Goldammer explained the attached format for the resolution for William Lynch as Treasurer (*see Attachment #5*). Mr. Dick Dempster moved and Mr. Dave Fleck seconded, and upon roll call, the ayes were Dempster, Fleck, Sebade and Wyly; nays: none; abstain: none.

### **Adjournment**

The Chairman stated there being no further business at this meeting, the meeting adjourned at 10:38 a.m.



SOUTH DAKOTA  
HEALTH AND EDUCATIONAL  
FACILITIES AUTHORITY

**Date:** December 12, 2012

**To:** Members of the South Dakota Health and Educational Facilities Authority

**From:** Don A. Templeton, Executive Director

**Re:** Notice of Special meeting

You are hereby notified that the Chairman has set Friday, December 21, 2012 as the meeting date for the special meeting of the South Dakota Health and Educational Facilities Authority to be held via telephone conference call at 10:00 a.m. CST (9:00 a.m. MST).

You may participate in the meeting by dialing **1-877-336-1828 and enter your Participant Access Code, which is 4677196 followed by the # key.**

The following members have indicated they will be available for the meeting:

Dick Dempster  
David Fleck

William Lynch  
Norbert Sebade

Mack Wyly

Attached is an agenda. Information on agenda items will be sent via Federal Express.

**Cc:** Vance Goldammer  
Dan Bacastow  
Bert Olson  
Jim Breckenridge

RESOLUTION consenting to the execution and delivery of a Third Supplemental Master Indenture (as defined herein) and authorizing and approving certain other matters.

WHEREAS, the South Dakota Health and Educational Facilities Authority (the “*Authority*”) has been created by the South Dakota Health and Educational Facilities Authority Act, as amended (the “*Act*”); and

WHEREAS, the Authority has previously issued certain outstanding indebtedness (the “*Prior Debt*”) and loaned the proceeds thereof to Avera Health (“*Avera Health*”) and/or its affiliated corporations; and

WHEREAS, Avera Health is the sole member of Avera St. Luke’s, Avera McKennan, Avera Queen of Peace, Sacred Heart Health Services d/b/a Avera Sacred Heart (“*Avera Sacred Heart*”) and Avera Marshall, and Avera Health, as such sole member, has the exclusive authority to authorize and approve indebtedness of Avera St. Luke’s, Avera McKennan, Avera Queen of Peace, Avera Sacred Heart and Avera Marshall, which, together with Avera Health, are collectively referred to herein as the “*Current Members of the Obligated Group*”, and each of which is a participating health institution as defined in the Act; and

WHEREAS, on or about December 31, 2012, Avera Health will acquire the sole corporate membership (the “*Avera St. Mary’s Acquisition*”) of St. Mary’s Healthcare Center of Pierre, South Dakota (to be named Avera St. Mary’s) (“*Avera St. Mary’s*” and, together with the Current Members of the Obligated Group, the “*Members of the Obligated Group*”); and

WHEREAS, following the Avera St. Mary’s Acquisition, Avera Health will be the sole member of Avera St. Mary’s, and Avera Health, as such sole member, will have the exclusive authority to authorize and approve indebtedness of Avera St. Mary’s, which is a participating health institution as defined in the Act; and

WHEREAS, in connection with the issuance of the Prior Debt, Avera Health, on behalf of itself and the other Members of the Obligated Group, has granted to the Authority the right to consent to the execution and delivery of certain supplements or amendments to the Restated Master Indenture (as defined herein); and

WHEREAS, the Members of the Obligated Group have previously entered into that certain Second Amended and Restated Master Trust Indenture dated as of May 1, 2012, between the Members of the Obligated Group and The First National Bank in Sioux Falls, as master trustee, as heretofore supplemented and amended (collectively, the “*Restated Master Indenture*”); and

WHEREAS, Avera Health is the Obligated Group Agent, as defined in the Master Indenture, and as such has full and exclusive power to approve, authorize and execute supplemental Master Indentures, additional Obligations and related financing documents on behalf of the Members of the Obligated Group; and

WHEREAS, the Members of the Obligated Group now desire to further amend and supplement the Restated Master Indenture pursuant to that certain Third Supplemental Master Trust Indenture (the “*Third Supplemental Master Indenture*” and, together with the Restated Master Indenture, the “*Master Indenture*”) dated December 31, 2012 among the Current Members of the Obligated Group, Avera St. Mary’s and the Master Trustee, providing for (i) the issuance of two additional Obligations under the Restated Master Indenture to secure two loans to Avera Health and the Obligated Group to be made in the aggregate amount of not to exceed \$50,000,000 from U.S. Bank National Association, which loans will be used to finance a portion of the Avera St. Mary’s Acquisition, and (ii) the entrance of Avera St. Mary’s into the Avera Health Obligated Group; and

WHEREAS, the delivery of the Third Supplemental Master Indenture and the Obligations to be issued thereunder are permitted by the terms of the Master Indenture and without the consent of any Obligation holders;

NOW, THEREFORE, Be It Resolved by the South Dakota Health and Educational Facilities Authority as follows:

*Section 1. Third Supplemental Master Indenture.* The Authority, at the request of Avera Health, does hereby consent to the execution and delivery by the parties thereto of the Third Supplemental Master Indenture; said Third Supplemental Master Indenture to be in substantially the form attached hereto and marked *Exhibit A* and hereby approved, or with such changes therein as shall be approved by Avera Health (such approval to be evidenced by the execution and delivery of the Third Supplemental Master Indenture by Avera Health) and with such changes therein as shall be approved on behalf of the Authority by the Chairman or other Member of the Authority or the Executive Director of the Authority executing the consent attached to the Third Supplemental Master Indenture, with such execution to constitute conclusive evidence of their approval on behalf of the Authority and the Authority's approval of any changes or revisions therein from the form of Third Supplemental Master Indenture attached hereto.

*Section 2. Authorization and Ratification of Subsequent Acts.* The Members, Executive Director, agents and employees of the Authority are hereby authorized and directed to do all such acts and things and to execute, consent to or accept all such documents as may be necessary to carry out and comply with the provisions of these resolutions and the document attached hereto as *Exhibit A*, and all of the acts and doings of the Members, Executive Director, officers, agents and employees of the Authority which are in conformity with the intent and

purposes of this resolution, whether heretofore or hereafter taken or done, shall be and are hereby ratified, confirmed and approved.

*Adopted this 21st day of December, 2012.*



***RESOLUTION DECLARING AN INTENTION TO ADOPT A NEW TRUSTEE FEE SCHEDULE PROVIDED BY THE FIRST NATIONAL BANK IN SIOUX FALLS (ATTACHED)***

**RECITALS**

***WHEREAS***, the South Dakota Health and Educational Facilities Authority (the “Authority”) has been created by the South Dakota Health and Educational Facilities Authority Act, as amended (the “Act”);

***NOW, THEREFORE, the SOUTH DAKOTA HEALTH AND EDUCATIONAL FACILITIES AUTHORITY HEREBY RESOLVES:***

The proposed fee schedule of the First National Bank in Sioux Falls provided by Bert Olson attached hereto has been accepted and approved by the Authority, the Executive Director, and its members.

Adopted this 21<sup>st</sup> day of December, 2012.

The First National Bank in Sioux Falls Trustee Fee Schedule

For the South Dakota Health and Educational Facilities Authority

New Fee Schedule Adopted by the SDHEFA on December 21, 2012

Effective for Calendar Year 2012

1. Initial Fees:

For initial services including:

- review bond documents and consult with legal counsel
- participate in meetings/conference calls with financing team
- coordinate bond delivery to DTC and attend the bond closing
- establish necessary records and accounts for the bond issue.
- other duties and responsibilities as requested.
- investment services may result in an additional fee to be negotiated with the borrower.

Trustee, Registrar and Paying Agent:

\$200/million of bonds issued, \$2,000 minimum, \$4500 maximum

Escrow Agent: \$500

2. Annual Administration Fees:

These fees cover all annual administrative duties including:

- prepare debt service letters, receive debt service payments and pay bondholders
- invest debt service payments in accordance with bond documents
- monitor compliance with all bond documents including continuing disclosure, arbitrage rebate, mandatory redemptions and insurance
- meet with customers as requested

Trustee, Registrar and Paying Agent: \$300/million of bonds outstanding,  
\$1,500 minimum, \$7,500 maximum

Variable Rate Processing-\$1200/year

Interest Rate Swap Processing-\$1200/year

Escrow Agent: \$500

These fees do not include out-of-pocket or travel expenses, if any.

The First National Bank in Sioux Falls reserves the right to increase fees and to charge for any extraordinary services if incurred, upon the approval of the Authority.

***RESOLUTION DECLARING AN INTENTION TO ADOPT NEW LANGUAGE IN CERTAIN CODIFIED LAWS OF THE STATE OF SOUTH DAKOTA IN RELATION TO MORTGAGE PROVISIONS OF THE SOUTH DAKOTA HEALTH AND EDUCATIONAL FACILITIES AUTHORITY (ATTACHED)***

**RECITALS**

**WHEREAS**, the South Dakota Health and Educational Facilities Authority (the “Authority”) has been created by the South Dakota Health and Educational Facilities Authority Act, as amended (the “Act”);

**NOW, THEREFORE, the SOUTH DAKOTA HEALTH AND EDUCATIONAL FACILITIES AUTHORITY HEREBY RESOLVES:**

The proposed revisions to certain codified laws generally as attached hereto with the main objective to make the requirement of a mortgage optional at the discretion of the Authority have been accepted and approved by the Authority, the Executive Director, and its members.

Adopted this 21<sup>st</sup> day of December, 2012.

1-16A-52.4. Title to facility financed through federally guaranteed securities--Mortgage--Lease prohibited. If an educational or health facility is financed or refinanced pursuant to § § 1-16A-52.1 to 1-16A-52.3, inclusive, the title to such facility shall remain in the participating educational or health institution owning the same, subject to the lien of any mortgage, **if any**, securing, directly or indirectly, the federally guaranteed securities then being purchased or to be purchased and there shall be no lease of such facility between the authority and such institution.

**Source:** SL 1979, ch 7, § 5.

---

1-16A-54.2. Amount and terms of securities purchased--Mortgage--Insurance and guaranties. Any securities purchased pursuant to § 1-16A-54.1 shall have the same principal amounts, maturities and interest rates as the bonds being issued pursuant to § 1-16A-54.1, shall **may** be secured by a first mortgage lien on the educational or health facility so being financed **if deemed advisable by the authority**, subject to such exceptions as the authority may approve **if a mortgage is required** and created by a mortgage instrument satisfactory to the authority, **if any**, and may be insured or guaranteed by others.

**Source:** SL 1976, ch 9, § 1.

---

1-16A-54.4. Title of financed facility to remain in participating institution--Mortgage--Lease prohibited. In the event an educational or health facility is financed pursuant to § § 1-16A-54.1 to 1-16A-54.3, inclusive, the title to such facility shall remain in the participating educational or health institution owning the same, subject to the lien of the mortgage, **if any**, securing the securities then being purchased and there shall be no lease of such facility between the authority and such institution.

**Source:** SL 1976, ch 9, § 2.

***RESOLUTION DECLARING THE APPOINTMENT OF WILLIAM LYNCH TO THE OPEN OFFICER POSITION OF TREASURER***

**RECITALS**

***WHEREAS***, the South Dakota Health and Educational Facilities Authority (the “Authority”) has been created by the South Dakota Health and Educational Facilities Authority Act, as amended (the “Act”);

***NOW, THEREFORE, the SOUTH DAKOTA HEALTH AND EDUCATIONAL FACILITIES AUTHORITY HEREBY RESOLVES:***

William Lynch has been appointed to fill the open Treasurer position that was vacated by William F. Fischer upon his resignation and is authorized to sign checks and transfer funds to and from the checking and savings accounts of the Authority. This appointment is accepted and approved by the Authority, the Executive Director, and its members.

Adopted this 21<sup>st</sup> day of December, 2012.