

Resolution No. 19-09-016

Sponsored by: Commissioners Jared Anderson and Tom Stinnett

A RESOLUTION AUTHORIZING THE ISSUANCE OF NOT TO EXCEED NINETY MILLION DOLLARS (\$90,000,000) IN AGGREGATE PRINCIPAL AMOUNT OF HOSPITAL REVENUE REFUNDING AND IMPROVEMENT BONDS, MAKING PROVISION FOR THE ISSUANCE, SALE AND PAYMENT OF SAID BONDS; ESTABLISHING THE TERMS THEREOF AND THE DISPOSITION OF PROCEEDS THEREFROM; PROVIDING FOR THE COLLECTION AND DISPOSITION OF REVENUES FROM THE COUNTY'S HOSPITAL FOR THE PAYMENT OF PRINCIPAL OF AND INTEREST ON THE BONDS; AND APPROVING A TRUST INDENTURE AND RELATED DOCUMENTS, AND AUTHORIZING THE EXECUTION AND DELIVERY THEREOF.

WHEREAS, Blount County, Tennessee (the "County") owns and operates the Hospital Facilities (as hereinafter defined) by and through Blount Memorial Hospital, Incorporated ("Blount Memorial"), a nonprofit corporation established pursuant to (i) Chapter 187 of 1945 Private Acts of Tennessee, (ii) a resolution adopted by the Quarterly County Court of the County on January 7, 1946 and (iii) a Charter of Incorporation issued by the State of Tennessee on January 22, 1946, for the purpose of operating the Hospital Facilities; and

WHEREAS, the Board of County Commissioners of the County has heretofore caused the County to issue its General Obligation Refunding Bond, Series 2013A, dated December 9, 2013, the proceeds of which were used to refinance capital improvements to the Hospital Facilities (the "Refunded Bond"); and

WHEREAS, the County has assumed obligations under certain interest rate swap agreements pursuant to Novation Confirmation dated as of December 30, 2013, between the County, The Public Building Authority of Blount County, Tennessee and Deutsche Bank AG, New York Branch (the "Swap Agreement"), which Swap Agreement relates to the Refunded Bond; and

WHEREAS, the Refunded Bond and the Swap Agreement are payable from the revenues of the Hospital Facilities and additionally secured by a pledge of the full faith and credit of the County; and

WHEREAS, the Refunded Bond is subject to mandatory redemption in full no later than December 30, 2019, prior to its scheduled maturity; and

WHEREAS, the County has determined that it can refinance the Refunded Bond at a cost savings to the County by issuing refunding revenue bonds and using the proceeds thereof to refund the Refunded Bond; and

WHEREAS, in connection therewith, the County has determined that it is the best interest of the County to apply funds of the Hospital Facilities to make a termination payment under the Swap Agreement and thereby discharge the County's obligations thereunder; and

WHEREAS, the refunding revenue bonds would be payable solely from and secured solely by a pledge of the revenues of the Hospital Facilities, and would not constitute a debt obligation of the County (except to the extent of the pledge of revenues of the Hospital Facilities); and

WHEREAS, Blount Memorial has also recommended that the County issue its revenue bonds to finance certain additional capital improvements to the Hospital Facilities, with said recommended bonds to also payable solely from and secured solely by a pledge of the revenues of the Hospital Facilities; and

WHEREAS, the County has determined that it is in the best interest of the County to issue revenue bonds to finance such additional capital improvements to the Hospital Facilities; and

WHEREAS, the County is authorized by the provisions of Title 9, Chapter 21, Tennessee Code Annotated (the "Act") to issue its revenue bonds for the purposes of refinancing the Refunded Bond and financing capital improvements to the Hospital Facilities; and

WHEREAS, after receiving and reviewing various proposals, the Board of County Commissioners of the County, at the request of the Board of Directors of Blount Memorial, has determined that it is necessary and advisable to accomplish the foregoing through the issuance and sale of two series of its hospital revenue bonds in an aggregate principal amount not to exceed \$90,000,000 (the "Bonds") to First Tennessee Bank, National Association, or an affiliate thereof ("First Tennessee") pursuant to the terms set forth in the commitment letter attached hereto as Exhibit A (the "Commitment Letter"); and

WHEREAS, a plan of refunding has been submitted to the State Director of Local Finance as required by the Act, and the State Director has acknowledged receipt thereof to the County and submitted a report thereon to the County, which such report is attached hereto as Exhibit B; and

WHEREAS, an initial resolution authorizing the issuance of improvement bonds has been adopted and will be published in the manner required by the Act; and

WHEREAS, the County and Blount Memorial intend to enter into a trust indenture (the "Indenture") to provide for the issuance of the Bonds and to provide for the disposition of the proceeds of the Bonds upon their issuance, the form of which such indenture has been presented to the Board of County Commissioners at this meeting; and

WHEREAS, it is the intention of the Board of County Commissioners of the County to adopt this resolution for the purpose of approving the Indenture (as hereinafter defined) and authorizing the issuance of the Bonds, establishing the terms thereof and the disposition of proceeds therefrom, and providing for the payment of principal of and interest on the Bonds; and

NOW, THEREFORE, BE IT RESOLVED by the Board of County Commissioners of Blount County, Tennessee, as follows:

Section 1. Authority. The bonds authorized by this resolution are issued pursuant to the Act.

Section 2. Definitions. The following terms shall have the following meanings in this resolution unless the text expressly or by necessary implication requires otherwise:

- (a) "Blount Memorial" shall have the meaning given to such term in the recitals hereof;
- (b) "Bonds" shall mean each of the hospital revenue bonds authorized herein;

(c) “Code” shall mean the Internal Revenue Code of 1986 and all lawful regulations promulgated or proposed thereunder;

(d) “Commitment Letter” shall have the meaning given to such term in the recitals hereof;

(e) “County” shall mean Blount County, Tennessee;

(f) “First Tennessee” shall mean First Tennessee Bank National Association or an affiliate thereof.

(g) “Governing Body” shall mean the Board of County Commissioners of the County;

(h) “Gross Revenues” means the gross revenues of the Hospital from all sources and the gross revenues of the County relating to the operation of the Hospital Facilities, including (i) patient fees (whether paid by patient or by any other party) and other charges payable by or on behalf of the patients of the Hospital Facilities, (ii) all revenues, rents and income derived by Blount Memorial or the County from the operation of the Hospital Facilities, and (iii) any appropriations by the County pursuant to Chapter 187, Tennessee Private Acts of 1945.

(i) “Hospital Facilities” shall mean the complete hospital facility known as the “Blount Memorial Hospital” owned by the County or Blount Memorial and operated through Blount Memorial, together with all ancillary and related facilities and buildings, appurtenances and improvements thereto and all equipment therefor now owned or hereafter acquired by the County or Blount Memorial while the Bonds remain outstanding, including all real and personal property of every nature comprising part of the facility or used or useful in connection therewith;

(j) “Indenture” means the Trust Indenture by and among the County, Blount Memorial and the Trustee, which shall be entered into contemporaneously with the issuance of the Bonds and shall be in substantially the form presented to the Governing Body with this Resolution;

(k) “Projects” shall mean capital improvements to the Hospital Facilities;

(l) “Refunded Bond” shall mean the County’s General Obligation Refunding Bond, Series 2013A, dated December 9, 2013;

(m) “Swap Agreement” means that certain Novation Confirmation dated as of December 30, 2013, between the County, The Public Building Authority of Blount County, Tennessee and Deutsche Bank AG, New York Branch (the “Swap Agreement”) relating to the assumption by the County of certain interest rate swap agreements related to the Refunded Bond.

(n) “Trustee” shall mean trustee for the Bonds appointed by the County Mayor, or any successor, acting as trustee under the Indenture.

Section 3. Findings of the Governing Body. It is hereby found and determined by the Board of County Commissioners that the refunding of the Refunded Bond will result in a reduction in debt service over the term of the Refunded Bond, thereby effecting a cost savings to the County.

Section 4. Authorization and Terms of the Bonds.

(a) For the purposes of providing funds for the (i) refunding of the Refunded Bond and (ii) the financing of the Projects, there are hereby authorized to be issued hospital revenue bonds of the County in an aggregate principal amount not to exceed \$90,000,000. The Bonds shall consist of two separate bonds, as set forth below, and each series shall be dated its date of issuance. The Bonds will be purchased by First Tennessee pursuant to a Credit Agreement or similar agreement (the "Credit Agreement") which, together with the Indenture herein described, shall contain terms and conditions substantially as set forth in the Commitment Letter. The terms and provisions in the form of Credit Agreement attached hereto as Exhibit C are hereby approved. The Governing Body hereby authorizes and directs the County Mayor to execute and the County Clerk to attest, without further consultation with the Governing Body, the Credit Agreement on behalf of the County. The County Mayor and County Clerk are further authorized and directed to fill in omissions in the Credit Agreement and to make such changes to the Credit Agreement as they shall deem appropriate.

(b) The first Bond (the "Series A Bond") shall be designated as "Hospital Revenue Refunding Bond, Series 2019A" and shall bear interest at a variable rate calculated as 82.5% of the sum of the 10-year U.S. Treasury Rate plus 0.83%, as provided in the Commitment Letter (described therein as "Facility 1"). The final maturity date of the Series A Bond shall be not later than the final maturity of the Refunded Bond, and the Series A Bond shall amortize in a manner which substantially approximates the stated amortization schedule of the Refunded Bond. The Series A Bond shall be subject to redemption at the option of the County at any time, at the price described in the Credit Agreement. The interest rate with respect to the Series A Bond may be subject to increase in certain situations such as an event of default by the County with respect to the Bonds or the Credit Agreement, a determination that the Series A Bond is not exempt from federal income tax, or as a result of certain changes in law affecting the rate of return on the Series A Bond received by First Tennessee; provided, however, in no event may the interest rate exceed the maximum rate permitted by law.

(c) The second Bond (the "Series B Bond") shall be issued in a par amount not to exceed \$20,000,000 and shall be designated as "Hospital Revenue Improvement Bond, Series 2019B" and shall bear interest at a fixed rate calculated as 82.5% of the sum of the 10-year U.S. Treasury Rate plus 0.83%, as provided in the Commitment Letter (described therein as "Facility 1"). The final maturity date of the Series B Bond shall be not later than ten years from the issuance of the Series B Bond, and the Series B Bond shall amortize in a manner which results in approximately level debt service on the Series B Bonds during the term thereof. The Series B Bond shall be subject to redemption at the option of the County at any time, at the price described in the Credit Agreement. The interest rate with respect to the Series B Bond may be subject to increase in certain situations such as an event of default by the County with respect to the Series B Bond or the Credit Agreement, a determination that the Series B Bond is not exempt from federal income tax, or as a result of certain changes in law affecting the rate of return on the Series B Bond received by First Tennessee; provided, however, in no event may the interest rate exceed the maximum rate permitted by law.

The provisions of this Section 4 are subject to the provisions of Section 9 hereof.

The Bonds shall be signed by the County Mayor and attested by the County Clerk in any manner consistent with the requirements of the Act.

Section 5. Source of Payment. The Bonds shall be payable solely from and secured by a pledge of the Gross Revenues as set forth in the Indenture and such other funds, accounts and revenues pledged by Blount Memorial. The Bonds do not constitute a debt of the State of Tennessee or Blount County (other than with respect to the Gross Revenues).

Section 6. Forms of Bonds. The Bonds shall be in substantially the forms set forth in the Indenture, the omissions therein to be appropriately completed when such Bonds are prepared and delivered.

Section 7. Indenture. The terms and provisions in the Indenture attached hereto as Exhibit D are hereby approved, and the Bonds shall be issued pursuant to the Indenture and secured by the Indenture. The Governing Body hereby authorizes and directs the County Mayor to execute and the County Clerk to attest, without further consultation with the Governing Body, the Indenture on behalf of the County. The County Mayor and County Clerk are further authorized and directed to fill in omissions in the Indenture and to make such changes to the Indenture as they shall deem appropriate.

The Governing Body hereby authorizes the County Mayor to appoint a Trustee to serve as Trustee under the Indenture.

Section 8. Covenants of County; Remedies of Bondholders. The covenants and agreements of the County with respect to the application of the proceeds of the Bonds, the use and operation of the Hospital Facilities, the remedies of owners of the Bonds, the duties and payment of the Trustee under the Indenture, and all other covenants included therein, are hereby approved.

Section 9. Sale of Bonds.

(a) The Bonds shall be sold at negotiated sale to First Tennessee at a price of not less than par, as shall be determined by the County Mayor.

(b) To facilitate the sale of the Bonds in a manner that is in the best interest of the County, the County Mayor, in consultation with the First Tennessee, is authorized (i) alter the redemption provisions of the Bonds; (ii) sell any or all of the Bonds as term bonds with annual mandatory redemption requirements; (iii) to change the dated date of the Bonds to a date other than the date of issuance, (iv) to designate the series of the Bonds, (v) adjust principal and interest payment dates of the Bonds so long as the term of the Bonds conform to the parameters set forth in Section 4 above and (vi) to provide that the purchase price of the Bonds not be funded until up to 45 days after the issuance of the Bonds in order to reduce the County's interest cost during the period after the Bonds are issued but before the Refunded Bond can be redeemed.

(c) The County Mayor and the County Clerk, or either of them, are authorized to cause the Bonds to be authenticated and delivered in accordance with the Indenture, and to execute, publish and deliver all certificates and documents, as they shall deem necessary in connection with the sale and delivery of the Bonds. The form of the Bonds as set forth in the Indenture shall be conformed to reflect any changes made pursuant to this Section 9.

Section 10. Disposition of Bond Proceeds. The proceeds of the Bonds shall be applied as follows:

(a) the proceeds of the Series A Bonds will be used first to refund the Refunded Bond, and second to pay costs of issuance of the Series A Bonds, as set forth in the Indenture.

(b) the proceeds of the Series B Bond will be used to pay the costs of the Projects and costs of issuance of the Series B Bond, as set forth in the Indenture.

Section 11. Retirement of Refunded Bond and Termination of Swap Agreement.

(a) The County Mayor and the County Clerk, or either of them, are hereby authorized and directed to take all steps necessary to pay in full, principal, premium, if any, and interest, and retire the Refunded Bond or provide for the payment and retirement of the Refunded Bond.

(b) The termination of the Swap Agreement is hereby approved, and the County hereby authorizes the application of funds of the Hospital Facilities to make the termination payment necessary to terminate the Swap Agreement and discharge the County's obligations with respect thereto. The County Mayor and the County Clerk, or either of them, are hereby authorized and directed to take all steps necessary to accomplish the foregoing.

Section 12. Escrow Agreement. For the purpose of providing for the payment of the principal of, premium, if any, and interest on the Refunded Bond, the County Mayor is hereby authorized to execute on behalf of the County an escrow agreement as he deems necessary to accomplish the refunding of the Refunded Bond in the most cost effective manner.

Section 13. Federal Tax Matters. The County recognizes that the purchasers and owners of the Bonds will have accepted them on, and paid therefor a price that reflects the understanding that interest thereon is excludable from gross income for purposes of federal income taxation under laws in force on the date of delivery of the Bonds. In this connection, the County agrees that it shall take no action or omit to take any action which may cause the interest on any of said Bonds to be included in gross income for federal income taxation. Notwithstanding the foregoing, if, in the opinion of nationally recognized bond counsel, the interest on the Bonds or any portion thereof cannot be excluded from gross income for Federal income tax purposes, then the Bonds or any portion thereof may be issued as taxable Bonds. It is the reasonable expectation of the Governing Body of the County that the proceeds of the Bonds will not be used in a manner which will cause the Bonds to be "arbitrage bonds" within the meaning of Section 148 of the Code, and to this end the said proceeds of the Bonds and other related funds established for the purposes herein set out shall be used and spent expeditiously for the purposes described herein. The Governing Body further covenants and represents that in the event it shall be required by Section 148(f) of the Code to pay any investment proceeds of the Bonds to the United States government, it will make such payments as and when required by said Section 148(f) and will take such other actions as shall be necessary or permitted to prevent the interest on the Bonds from becoming taxable. The County Mayor and the County Clerk, or either of them, are authorized and directed to make such certifications in this regard in connection with the sale of the Bonds as either or both shall deem appropriate, and such certifications shall constitute a representation and certification of the County.

Section 14. Discharge and Satisfaction of Bonds. If the County shall pay and discharge the indebtedness evidenced by any of the Bonds in the manner provided for in the Indenture then the indebtedness evidenced by such Bonds shall be discharged and satisfied and all covenants, agreements and obligations of the County to the holders of such Bonds shall be fully discharged and satisfied and shall thereupon cease, terminate and become void.

Section 15. Separability. If any section, paragraph or provision of this resolution shall be held to be invalid or unenforceable for any reason, the invalidity or unenforceability of such section, paragraph or provision shall not affect any of the remaining provisions of this resolution.

Section 16. Repeal of Conflicting Resolutions and Effective Date. All other resolutions and orders, or parts thereof, in conflict with the provisions of this resolution are, to the extent of such conflict, hereby repealed, and this resolution shall be in immediate effect from and after its adoption.

Section 17. Debt Management Policies. The Governing Body finds that the issuance of the Bonds is consistent with its debt management policies.

Adopted and approved this 10th day of September, 2019.

Chairman

County Mayor

ATTEST:

County Clerk

STATE OF TENNESSEE)
)
COUNTY OF BLOUNT)

I, Gaye Hasty, hereby certify that I am the duly qualified and acting County Clerk of Blount County, Tennessee (the “County”), and as such official I further certify that attached hereto is a copy of excerpts from the minutes of a regular meeting of the governing body of the County held on September 10, 2019; that these minutes were promptly and fully recorded and are open to public inspection; that I have compared said copy with the original minute record of the meeting in my official custody; and that this copy is a true, correct and complete transcript from the original minute record insofar as the original record relates to not to exceed \$90,000,000 Hospital Revenue Bonds of the County.

WITNESS my official signature and seal of the County this ____ day of _____, 2019.

County Clerk

(SEAL)

EXHIBIT A

Commitment Letter

(attached)

EXHIBIT B

State Refunding Report

(attached)

EXHIBIT C

Form of Credit Agreement

(attached)

EXHIBIT D

Form of Indenture

(attached)

26915319.6