

Minutes of the New Jersey Health Care Facilities Financing Authority meeting held on August 28, 2008 on the fourth floor of Building #4, Station Plaza, 22 South Clinton Avenue, Trenton, New Jersey.

The following **Authority Members** were in attendance:

Gus Escher (Chairing as Vice-Chair), Public Member; Ulysses Lee, Public Member; Mike Keevey, Designee of the Commissioner of Human Services; Crosby Sherman, Designee of the Commissioner of Banking & Insurance, and John Calabria, Designee of the Commissioner of Health and Senior Services).

The following **Authority staff members** were in attendance:

Mark Hopkins, Dennis Hancock, Lou George, James L. Van Wart, Steve Fillebrown, Suzanne Walton, Susan Tonry, Carole Conover, Michael Ittleson, Marji McAvoy, Bill McLaughlin, and Rhonda Robins.

The following **representatives from State offices and/or the public** were in attendance:

Maryann Kicenuik, Leonard La Barbiera, Windels Marx Lane & Mittendorf; Thomas Baldosaro, David Murray, South Jersey Hospital; Howard Eichenbaum, Gluck, Walrath, & Lanciano, LLP; Danielle Cheung, Robert Smith, J. P. Morgan Chase; David Mebane, Thomas Scott, Saint Barnabas Health Care System; Jack Swire, Wachovia; Mishael Azam, Assembly Majority Office; Joseph Neal, Governor's Authorities Unit; and, Cliff Rones, Deputy Attorney General.

## **CALL TO ORDER**

Gus Escher called the meeting to order at 10:13 A.M. and announced that this was a regular meeting of the Authority, held in accordance with the schedule adopted at the May 22, 2008 Authority meeting. Complying with the Open Public Meetings Act and the Authority's By-laws, notice of this meeting was delivered to all newspapers with mailboxes at the Statehouse, including *The Star-Ledger* and the *Courier Post*, enough in advance to permit the publication of an announcement at least 48 hours before the meeting.

## **APPROVAL OF MINUTES**

### **A. June 26, 2008 Authority Meeting**

Minutes from the Authority's June 26, 2008 meeting were presented for approval at the July meeting. With only two of the three votes needed, the motion to approve the minutes did not carry. Mr. Escher and Mr. Lee's votes were recorded and the minutes were presented again at this meeting. Mr. Keevey attended the June meeting and cast his vote. Mr. Keevey voted yes, and the motion to approve the June minutes passed.

### **B. July 24, 2008 Authority Meeting**

Minutes from the Authority's July 24, 2008 meeting were presented for approval. Ulysses Lee made a motion to approve the minutes; Mr. Escher seconded. Mr. Escher voted yes,

Mr. Lee voted yes, Mr. Calabria abstained, Mr. Sherman voted yes, and Mr. Keevey voted yes. The motion to approve the July 24, 2008 meeting minutes passed.

## ***BOND SALE REPORT***

### ***A. St. Joseph's Hospital & Medical Center***

Dennis Hancock reported to the Members that staff recently priced \$248,910,000 of bonds on behalf of St. Joseph's Healthcare System. Even though the System's financial position has improved over the last few years, the rating agencies were not satisfied that the turnaround is complete and will withstand future attacks. As a result, Standard & Poor's and Moody's rated the bonds "BBB-" and "Ba1", respectively. Management was given the opportunity to tell their turnaround story at face-to-face presentations in Boston and New York City, as well as during an investor conference call. These were helpful, but as with the rating agencies, some investors were not completely convinced and indicated that the bonds did not meet their internal credit standards. On July 30th, the Senior Manager suggested that we enter the market with 3 term bonds: a 2015 maturity with a coupon of 5¾% to yield 6.10%, a 2018 maturity with a coupon of 6% to yield 6.5%, and a 2038 maturity with a coupon of 6 5/8% to yield 7%. These were rates higher than we've recently seen, but we did recognize that we had a story credit with one rating that was non-investment grade and a general healthcare interest rate market that was extremely volatile and saturated with refinancings caused by the auction rate situation. The System indicated to staff that it was prepared to move forward with these rates. Numerous funds placed orders for the bonds but in amounts that were only enough in total to have the underwriter offer to buy the bonds at the proposed levels. The final all-in true interest cost is 7.21%.

### ***B. Somerset Medical Center***

Dennis Hancock stated that on August 6, 2008, staff set the initial weekly interest rate for the Somerset transaction. This \$26 million issue is rated "Aa2/VMIG1" based on a letter of credit provided by TD Bank, N.A., which had recently acquired Commerce Bank. The underwriter estimated that the weekly SIFMA index would be set at 1.90% and, therefore, suggested that the bonds be marketed at that rate. Staff, based on other Commerce backed letter of credit issues, convinced the underwriter to market at the 1.88% level. After receiving a substantial number of orders, the manager offered to underwrite at a 1.85% rate. Ultimately, the SIFMA rate for the week was set at 1.8%. Since the initial pricing, the interest rate has been reset at 5 basis points below the SIFMA index.

## ***CAPITAL ASSET PROGRAM LOAN APPROVAL***

### ***South Jersey Health System***

Suzanne Walton began by introducing Tom Baldosaro, Vice President of Finance for South Jersey Hospital, and Dave Murray, Controller.

Ms. Walton noted that a summary of a loan application from South Jersey Hospital, Inc. was included in the meeting material. South Jersey would like to borrow \$12,022,000 from the Capital Asset Program. The proceeds of the loan will be used to finance and reimburse South Jersey Hospital for routine capital equipment, finance renovations associated with the expansion of the emergency department and other Hospital areas located at the Elmer Division and pay the related costs of issuance.

South Jersey Hospital, Inc. consists of two acute care hospitals: the Regional Medical Center in Cumberland County, New Jersey and the Elmer Division in Salem County, New Jersey and two health centers, the Bridgeton Health Center, which provides inpatient and outpatient psychiatric services, outpatient services (including a satellite emergency department) and administrative services and the Vineland Health Center, which provides outpatient services.

Ms. Walton stated that Members received historical financial and utilization data in their meeting material. South Jersey Hospital has been profitable for the periods 2005 through 2007. In 2005, operating results were impacted by one time expenses related to fees for anesthesia and radiology. Prior to the one time adjustments, South Jersey Hospital had income from operations of approx. \$5.1 million. Year to date unaudited numbers continue to reflect positive operating and bottom line performance. Cash and Board Designated Funds have grown from \$144 million in 2005 to \$203 million to date.

Ms. Walton reported that with regard to utilization statistics, the Hospital is well utilized. In response to the slight decline in market share in 2007, the Hospital formed a committee to develop a marketing campaign targeted to physicians and the community at large. The results have been positive as indicated by their year to date March numbers. In addition to increased volume, payor mix also improved.

Financial ratios are strong and outperforming the 2007 statewide medians for DCH, Cushion Ratio, Days in Accounts Receivable and Debt Service Coverage.

Based upon this data and their own analysis, JPMorgan Chase Bank has approved the loan subject to South Jersey Hospital providing a Note under the Master Trust Indenture. The loan will be secured on parity with the existing Series 2002, 2004 and 2006 bondholders, which includes a pledge of gross receipts of the Obligated Group, and a mortgage on the RMC, and substantially all of the Hospital's property, plant and equipment.

Mr. Esher commented that under the current circumstances, it is nice to hear a good report on a hospital.

Mr. Keevey moved to approve the requested CAP loan on behalf of South Jersey Health System; Ulysses Lee seconded. Mr. Escher voted yes, Mr. Lee voted yes, Mr. Calabria voted yes, Mr. Sherman voted yes, and Mr. Keevey voted yes. The vote was unanimous and the motion carried.

**AB RESOLUTION NO. II-21**  
*(attached)*

***NEGOTIATED SALE REQUEST***  
***Saint Barnabas Health Care System***

Mr. Hopkins began by introducing Tom Scott, Vice President of Corporate Finance and David Mebane, Vice President and General Counsel of Saint Barnabas Health Care System. Saint Barnabas has signed a Memorandum of Understanding with the Authority to undertake a tax-exempt financing, the proceeds of which will be used to (i) refund the Series 2001A and 2001B bonds issued by the Authority on behalf of Saint Barnabas; (ii) refund an Authority Capital Asset Program loan to Saint Barnabas made in 2003; and (iii) pay costs of issuance. Saint Barnabas is seeking to finance a total of approximately \$111,300,000 through the Authority. Two or more series of bonds may be issued, at both fixed and variable rates.

The outstanding amount of bonds issued by the Authority on behalf of Saint Barnabas or its affiliates is approximately \$785 million. The Series 2001A and 2001B bonds to be refunded were issued in the original principal amounts of \$41.2 million and \$79.2 million, respectively. As of June 30, 2008, the amount outstanding on those bonds was \$34.4 million and \$70.3 million, respectively. The 2003 Capital Asset Program loan to be refunded was made in the original principal amount of \$16.3 million, of which approximately \$8.5 million was outstanding as of June 30, 2008.

Incorporated under the name of Saint Barnabas Corporation, but doing business as Saint Barnabas Health Care System, Saint Barnabas is a not-for-profit holding company. It is the sole corporate member or sole shareholder of numerous affiliated organizations and subsidiaries, including six acute care hospitals; Saint Barnabas Medical Center in Livingston, Newark Beth Israel Medical Center in Newark, Monmouth Medical Center in Long Branch, Community Medical Center in Toms River, Kimball Medical Center in Lakewood and Clara Maass Medical Center in Belleville. Saint Barnabas also operates nine long-term nursing facilities, two assisted living facilities, several ambulatory care centers, four home care agencies, the SBHCS Foundation and affiliated foundations, as well as entities that provide pharmacies, biomedical engineering services, security and protection services, pharmaceutical purchasing services and corporate functions.

Mr. Hopkins reported that according to the consolidated audited financial statements provided with the Memorandum of Understanding, Saint Barnabas Health Care System generated a loss from operations of approximately \$54.3 million for 2007, and \$30.2 million for 2006. It should be noted that the loss in 2007 includes \$35.3 million in closure costs related primarily to Union Hospital, and the deficiency in 2006 includes \$6.2 million in closure costs for Country Manor at Dover, as well as operating losses at Community Medical Center, Kimball Medical Center, and Union Hospital. Unaudited information for the first six months of 2008 shows a loss from operations of \$4.3 million.

Saint Barnabas has asked that the Authority permit the use of a negotiated sale based on: (i) the sale of a complex or poor credit; (ii) the large issue size; (iii) the volatile market conditions; and (iv) the expected use of variable rate debt. These reasons are considered under the Authority's policy regarding Executive Order #26, to be a justification for the use of a negotiated sale. Therefore, staff recommended the consideration of the resolution approving the use of a negotiated sale and the forwarding of a copy of the justification in support of said resolution to the State Treasurer.

Gus Esher questioned Mr. Scott as to what they expected their rating to be. Mr. Scott replied that initially their intent was to convert their auction rate bonds to fixed rate; however, that would not create the economic benefit that they were seeking. Therefore, at this time, their plan is to refund the auction rate bonds with a variable rate financing, which would be rated on the basis of the bank that provides the letter of credit.

Mr. Sherman moved to adopt the resolution approving the pursuit of a negotiated sale on behalf of Saint Barnabas Health Care, and then forwarding a copy of the justification in support of said resolution to the State Treasurer. Mr. Keevey seconded. Mr. Escher voted yes, Mr. Lee voted yes, Mr. Calabria voted yes, Mr. Sherman voted yes, and Mr. Keevey voted yes. The vote was unanimous and the motion carried.

**AB RESOLUTION NO. II-22**  
*(attached)*

***AMENDMENT TO LOAN AGREEMENT FOR INSURANCE COVENANT  
Saint Barnabas Health Care System***

Susan Tonry began by introducing David A. Mebane, Senior Vice President, Legal Affairs, Saint Barnabas Health Care System and reported that Saint Barnabas Health Care System (“System”) has a history of managing its general and hospital professional liability exposure through self-funded plans. Beginning in the mid 1980’s, these exposures were funded in the Saint Barnabas Medical Center Self-Insurance Trust Fund (the “Trust Fund”). In 1997, Commercial Professional Insurance Company, Ltd. (“CPIC”), a wholly-owned captive insurance company domiciled in Bermuda, was incorporated and assumed the liabilities of the pre-existing Trust Fund. In 1999, CPIC began providing general and hospital professional liability coverage for all hospitals in the System.

It was not until the issuance of the Series 2006 bonds that the System was required to obtain a Qualified Insurance Rating for its captive on an annual basis from a Qualified Rating Agency. In 2007, the System engaged S&P to perform this rating analysis and obtained the necessary rating.

At this time, the System is requesting an amendment to the loan agreement to adopt the Authority’s existing policy, whereby the insurance covenant provides for EITHER a Qualified Insurance Rating OR a series of professional certifications that the Authority can rely upon, indicating that the captive is sufficiently funded and is compliant with the laws and regulations for captive insurance companies.

Ms. Tonry stated that the System has submitted, in advance of this meeting, all certifications required for compliance under the new policy as adopted at our February, 2008 Authority meeting. Maryann Kicenuik from Windels, Marx, Lane, and Mittendorf acted as Bond Counsel and has reviewed the documents related to the Series 2006 bonds and provided, along with the proposed amendment, an opinion as required in the documents that states the amendment is permitted and will not, in and of itself, adversely affect the rights of bondholders.

Based on this review, Staff is recommending the approval of the amendment to the Insurance Covenant as proposed.

Mr. Sherman questioned whether this has been done in the past to which Ms. Tonry replied that since the new covenant was adopted, the hospitals with captive insurance companies that had the previous rating requirement language in their documents have been coming to the Authority for an amendment. Mr. Hopkins further stated that by adopting the resolution in February 2008 making the policy change, it did not globally change the bond documents that were previously issued; therefore, any hospital that has the old language in their documents will need to come before the Members for an amendment. Going forward, loan documents will reflect the new language.

Mr. Keevey moved to approve the amendment to the loan agreement for the Insurance Covenant for Saint Barnabas Health Care System. Mr. Sherman seconded. Mr. Escher voted yes, Mr. Lee voted yes, Mr. Calabria voted yes, Mr. Sherman voted yes, and Mr. Keevey voted yes. The vote was unanimous and the motion carried.

**AB RESOLUTION NO. II-23**

**NOW, THEREFORE, BE IT RESOLVED**, that the Authority hereby approves the “AMENDMENT TO LOAN AGREEMENT DATED AS OF DECEMBER 1, 2006 Between NEW JERSEY HEALTH CARE FACILITIES FINANCING AUTHORITY And SAINT BARNABAS CORPORATION RELATING TO THE \$72,120,000 NEW JERSEY HEALTH CARE FACILITIES FINANCING AUTHORITY REVENUE BONDS, SAINT BARNABAS HEALTH CARE SYSTEM ISSUE, SERIES 2006A and RELATING TO \$124,999,653 NEW JERSEY HEALTH CARE FACILITIES FINANCING AUTHORITY REVENUE BONDS, SAINT BARNABAS HEALTH CARE SYSTEM ISSUE, SERIES 2006B DATED AS OF SEPTEMBER 1, 2008”. (*attached*).

***APPROVAL OF NEW REMARKETING AGENT***

***Capital Asset Program***

James L. Van Wart advised that the Capital Asset Program, Series A-D were issued in four Series of \$25 million each in 1985 for the purpose of providing a rotating loan pool. The Bonds will mature in 2035. The Bonds were issued in a variable rate mode and are remarketed on a weekly basis. UBS Securities (“UBS”) has been the Remarketing Agent for the Bonds since they took over for Paine Weber, which had been the Remarketing agent since the bonds were issued.

On June 5, 2008, UBS announced that as part of a decision to exit the institutional municipal securities business, it would transfer its institutional VRDO business to another qualified dealer. At that time, there was no date set for that transfer. However, on August 5<sup>th</sup>, UBS notified us that the Remarketing responsibilities were being transferred to DEPFA First Albany Securities LLC (“First Albany”) on August 14<sup>th</sup>. In July, after Mr. Van Wart consulted with the Attorney General’s office, staff solicited pricing quotes, along with other pertinent information (Exhibit 1) from four Firms that had previously been qualified to be Remarketing Agents for Authority issues. Those Firms were Goldman Sachs & Co., Merrill Lynch & Co., Morgan Stanley, and Wachovia Bank, N.A.

Mr. Van Wart stated that the requested information was received from two of the four firms, namely Merrill Lynch & Co. (“Merrill”) and Morgan Stanley (“Morgan”).

Mr. Van Wart reported that both firms are very comparable in terms of their VRDO Remarketing portfolios. Merrill currently has \$5.8 billion vs. \$5.3 billion at Morgan. Their spreads to the Securities Industry and Financial Markets Association index were also comparable. The pricing proposals were as follows:

	<u>Merrill</u>	<u>Morgan</u>
Annual Remarketing Fee (bps)	15	8
Other Annual Fee	NONE	NONE
Upfront Fee	\$.075/&1000	NONE

As a result of these replies, staff recommends that Morgan Stanley be appointed the Remarketing Agent in lieu of First Albany for the Capital Asset Program. As a point of information, the Program had been paying UBS 10 basis points per year.

In response to Mr. Esher’s question, Mr. Van Wart stated that, according to our language, UBS had the right to transfer their duties as Remarketing Agent to another firm at their will.

Staff recommended that the Members appoint Morgan Stanley as the remarketing agent for the Capital Asset Program in lieu of First Albany. Mr. Lee moved to appoint Morgan Stanley as the remarketing agent; Mr. Keevey seconded. Mr. Escher voted yes, Mr. Lee voted yes, Mr. Calabria voted yes, Mr. Sherman voted yes, and Mr. Keevey voted yes. The vote was unanimous and the motion carried.

**AB RESOLUTION NO. II-24**

**NOW, THEREFORE, BE IT RESOLVED**, that the Authority hereby appoints Morgan Stanley as the remarketing agent for the Authority's Capital Asset Program in lieu of First Albany.

***AMENDMENT TO THE 2008 BUDGET***

***Special Counsel for Barnert Bankruptcy***

Marji McAvoy reminded the Members that Barnert Hospital filed for bankruptcy under Chapter 11 on August 15, 2007 with an outstanding balance of \$25,685,000 on the 1999 bonds issued by the Authority on behalf of Barnert.

The Attorney General's office appointed the firm of Blank, Rome LLP to represent the Authority in the bankruptcy proceedings and to assist the Authority in the filing of claims for FHA insurance.

On April 8th of this year, the mortgage for the 1999 issue was assigned to the U.S. Department of Housing and Urban Development. A partial mandatory redemption of these bonds was paid to bondholders on April 24th. The remaining principal outstanding balance of the bonds was called on August 1, 2008.

At the December 2007 board meeting, Members voted to increase the 2007 budget in order to pay the appointed bond counsel for their fees incurred through November 30, 2007. At the April 2008 board meeting, Members voted to increase the 2008 budget by \$185,000 in order to pay the bond counsel fees incurred from December 1, 2007 through March 31, 2008, plus an estimated \$35,000 to pay expected future invoices.

After payment of the April, May, and June bond counsel fees and expenses, there remained only \$2,823.66 in the budget. We have now received an invoice for the month of July in the amount of \$5,790.35, and the budget is insufficient to cover this invoice. Blank Rome has estimated that the work remaining should be approximately \$2,500.

Staff recommends that the 2008 budget be amended by transferring \$10,000 from the "Consultant-Commission on Rationalizing Health Care in NJ" to the "Special Counsel for Hospital Bankruptcies" line item in order to pay the remaining bond counsel fees and expenses incurred. A lower-than-anticipated bill from the Consultant has resulted in unused funds in the Consultant line item.

Ms. McAvoy also noted that a formal opinion letter from Blank Rome stated that the \$159,064.07 held in escrow by the Authority for payment of the Mortgage Insurance Premium for Barnert may be retained by the Authority. A copy of this letter was included in the meeting material.

Mr. Sherman offered a motion to amend the 2008 budget as recommended by staff in order to pay Blank, Rome LLP for services as Special FHA Counsel on the Barnert bankruptcy transaction; Mr. Keevey seconded. Mr. Escher voted yes, Mr. Lee voted yes, Mr. Calabria voted

yes, Mr. Sherman voted yes, and Mr. Keevey voted yes. The vote was unanimous and the motion carried.

**AB RESOLUTION NO. II-25**

**NOW, THEREFORE, BE IT RESOLVED**, that the Authority hereby amends its 2008 budget by transferring \$10,000 into the “Special Counsel for Hospital Bankruptcies” budget line item from the “Consultant-Commission on Rationalizing Health Care in NJ” budget line item in order to make a payment in the amount of \$5,790.35 to Blank, Rome LLP for fees incurred in July 2008 as well as approximately \$2,500 in remaining fees for special counsel services regarding the Barnert Hospital bankruptcy.

***WAIVER OF THE REQUIREMENT FOR 30 DAY NOTICE FOR THE ACCELERATION OF BONDS FOR PASCACK VALLEY HOSPITAL***

Mark E. Hopkins advised that the Authority has received a request from the Bond Trustee to waive the 30 day notice requirement for acceleration of the bonds issued by the Authority on behalf of Pascack Valley Hospital (“Pascack”) in 1998 and 2003. As background, the Authority issued approximately \$38.2 million and \$51.2 million in bonds on behalf of Pascack in 1998 and 2003, respectively. As of June 30, 2008, approximately \$31.7 million and \$49.5 million were outstanding on each series, respectively.

As the Authority Members may recall, Pascack filed for bankruptcy in 2007 and subsequently closed and was purchased by Touro Medical College and Hackensack University Medical Center. The Bankruptcy Court approved a settlement agreement last week that will become final on September 2<sup>nd</sup> (the “Settlement Agreement”). Under the terms of the Settlement Agreement, the bondholders of the 1998 and 2003 bonds are expected to receive an initial amount of approximately \$50 million from the proceeds of the bankruptcy estate.

In order to make a lump sum payment to bondholders from the bankruptcy estate pursuant to the Settlement Agreement, the principal and interest on the bonds must be accelerated. The Bank of New York Mellon, as Bond Trustee, is authorized under the bond resolution, to accelerate the principal and interest on the bonds upon 30 days notice to the Authority after a notice of an event of default is provided. The bankruptcy filing was an event of default and notice was filed of that event of default on November 5, 2007.

The Bank of New York Mellon has asked the Authority to consider waiving the 30 day notice required for acceleration of the bonds in order to more quickly provide the bondholders with their initial distribution from the Settlement Agreement.

Staff believes that there is no harm in waiving the 30 day notice requirement for acceleration. In fact, it will benefit bondholders by allowing them to get some of their money back more quickly.

Mr. Lee moved to waive, at the request of Pascack Valley Hospital’s Trustee, the requirement for a 30 day notice for the acceleration of our bonds issued in 1998 and 2003, which declared bankruptcy last year. Mr. Keevey seconded. Mr. Escher voted yes, Mr. Lee voted yes, Mr. Calabria voted yes, Mr. Sherman voted yes, and Mr. Keevey voted yes. The vote was unanimous and the motion carried.

**AB RESOLUTION NO. II-26**

**NOW, THEREFORE, BE IT RESOLVED**, that the Authority hereby approves the Trustee's request to waive the requirement for a 30 day notice for the acceleration of the bonds issued in 1998 and 2003 by the Authority on behalf of Pascack Valley Hospital, which declared bankruptcy last year.

***AUTHORITY EXPENSES***

Gus Escher referenced a summary of Authority expenses and invoices. Mr. Keevey offered a motion to approve the bills and to authorize their payment; Mr. Calabria seconded. Mr. Escher voted yes, Mr. Lee voted yes, Mr. Calabria voted yes, Mr. Sherman voted yes, and Mr. Keevey voted yes. The vote was unanimous and the motion carried.

**AB RESOLUTION NO. II-27**

**WHEREAS**, the Authority has reviewed memoranda dated August 21, 2008, summarizing all expenses incurred by the Authority in connection with FHA Mortgage Servicing, Trustee/Escrow Agent/Paying Agent fees, and general operating expenses in the amounts of \$676,226.23, \$72,913.38 and \$531.08 respectively, and has found such expenses to be appropriate;

**NOW, THEREFORE, BE IT RESOLVED**, that the Authority hereby approves all expenses as submitted and authorizes the execution of checks representing the payment thereof.

***STAFF REPORTS***

Gus Escher thanked staff for their preparation of staff reports, including the Project Development Summary, Cash Flow Statement, and the Legislative Advisory were distributed to the Members.

Before beginning his Executive Director's report, Mr. Hopkins stated that in the past few months, he had become aware of some crimes that had been committed in and around the vicinity of the Authority's parking garage. Because of these reports, Mr. Hopkins asked staff to look into getting additional reserved parking spaces in the garage. At the present time, the Authority pays for parking for all staff members and has 7 reserved parking spaces on the ground floor (at an additional cost of \$10 per month each) for use by Senior Staff with 3 spaces going to staff members who were chosen in a drawing. For safety reasons, staff is asking for approval from the Members to secure 18 additional reserved spaces so that all staff members can have a reserved space either on the ground floor or the first floor. The cost to the Authority for the remainder of 2008 will be approximately \$720, which is covered in this year's budget under parking expenses. In 2009, Mr. Hopkins intends to include enough in the parking budget to continue providing these additional spaces so that all Authority staff can have reserved spaces.

Mr. Lee made a motion to approve 18 additional reserved parking spaces for Authority staff as of September 1, 2008. Mr. Keevey seconded the motion. Mr. Escher voted yes, Mr. Lee

voted yes, Mr. Calabria voted yes, Mr. Sherman voted yes, and Mr. Keevey voted yes. The vote was unanimous and the motion carried.

**AB RESOLUTION NO. II-28**

**NOW, THEREFORE, BE IT RESOLVED**, that the Authority hereby approves staff securing 18 additional reserved parking spaces for use by Authority staff as of September 1, 2008.

Mr. Hopkins then offered the following items in his Executive Director's Report:

1. Mr. Hopkins noted that he had previously asked the Authority Members if they were available for a special meeting the week of September 8th to hold a TEFRA hearing and to consider a contingent bond sale on behalf of the Solaris HATP financing. However, yesterday, the second working group meeting was held to review the bond documents and it was determined then, that due to a few outstanding issues and the timing of notice for the TEFRA hearing, a special meeting would not be required. It is expected we will hold the TEFRA hearing and contingent bond sale at the Authority's regular meeting on September 25th.
2. Hospital News:
  - a. The Commissioner of Health and Senior Services approved Solaris' Certificate of Need application to close Muhlenberg Regional Medical Center. The approval letter contained 18 conditions on the closure including the requirement that Solaris needed to continue operating a satellite emergency department at the site for five years and needed to provide transportation from the site to JFK Medical Center.
  - b. Hackensack University Medical Center has applied for a Certificate of Need to reopen the former Pascack Valley Hospital as a full service general hospital but with fewer beds.
3. Authority News:
  - a. Neetu Thukral, one of our Assistant Account Administrators, is leaving the Authority tomorrow to pursue her studies in cosmetology, with the goal of opening her own salon in 2010. Replacing Neetu will be Edwin Fuentes, who will be joining the Authority starting September 2, 2008. Edwin graduated from Ocean County College with an Associates degree in General Studies with an emphasis on Computer Science and Business Studies. He intends to continue his education part-time to get a bachelors degree in accounting.
4. Legislation:
  - a. At the June Authority meeting, Mr. Hopkins described five bills related to the recommendations in the report from the NJ Commission on Rationalizing Health Care Resources, which had passed both houses of the legislature. As Mr. Hopkins mentioned at the last meeting, the bill creating the Health Care Stabilization Fund was signed into law by the Governor on June 30, 2008. The four remaining bills were signed into law by the Governor on August 8, 2008. The bills, respectively: (i) limit what hospitals can charge uninsured patients; (ii) require hospitals to have one public meeting annually; (iii) require that all members of a hospital's governing body attend training; and (iv) enable the State to monitor hospital finances and create an early warning system with methods of remediation. The

Authority Members received several news articles about the new legislation in their packets this month. Several more articles on the legislation and other matters have been provided today.

***ADJOURNMENT***

As there was no further business to be addressed, Mr. Keevey moved to adjourn the meeting, Mr. Sherman seconded. Mr. Escher voted yes, Mr. Lee voted yes, Mr. Calabria voted yes, Mr. Sherman voted yes, and Mr. Keevey voted yes. The vote was unanimous and the motion carried, and the meeting was adjourned at 10:54 A.M.

I HEREBY CERTIFY THAT THE  
FOREGOING IS A TRUE COPY OF  
MINUTES OF THE NEW JERSEY  
HEALTH CARE FACILITIES  
FINANCING AUTHORITY MEETING  
HELD ON AUGUST 28, 2008.

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Dennis Hancock  
Assistant Secretary

**AB RESOLUTION NO. II-21**

**NEW JERSEY HEALTH CARE FACILITIES FINANCING AUTHORITY**

**A RESOLUTION APPROVING A CAPITAL ASSET PROGRAM LOAN TO  
SOUTH JERSEY HOSPITAL, INC.**

**Adopted August \_\_, 2008**

**WHEREAS**, South Jersey Hospital, Inc. (the “Borrower”) has requested that the New Jersey Health Care Facilities Financing Authority (the “Authority”) finance the costs of a project consisting of the payment and/or reimbursement of the costs of capital assets described on Attachment A-1 attached hereto, together with expenses related to such financing (collectively the “Project”) as more fully described on Attachment A-1 attached hereto and made a part hereof, through the Authority’s pooled financing program funded from the proceeds of the Authority’s \$100,000,000 Variable Rate Demand Revenue Bonds (Hospital Capital Asset Financing Program) 1985 Series A, B, C and D (the “Bonds”); and

**WHEREAS**, such financing for the Project will be made pursuant to a Loan Agreement to be entered into between the Authority and the Borrower (the “Loan Agreement”), which will be assigned by the Authority to The Bank of New York, as Trustee (the “Pool Trustee”); and

**WHEREAS**, to secure the obligations arising under the Loan Agreement, the Borrower will issue and deliver a promissory note (the “Note”) under and pursuant to that certain Fourth Supplemental Indenture to the Master Trust Indenture dated as of May 15, 2002, as amended and supplemented to the date hereof (the “Master Trust Indenture”);

**NOW, THEREFORE, BE IT RESOLVED**, by the Authority as follows:

1. The Authority hereby approves a loan to the Borrower in an amount of up to \$12,022,000 for the purpose of financing the costs of the Project, subject to the Borrower meeting all requirements of the Loan Agreement and the Master Trust Indenture.
2. Pursuant to the provisions of the Trust Agreement securing the Authority’s Capital Asset Financing Program, the authorized officers of the Authority are hereby authorized and directed to execute the Loan Agreement and any other documentation deemed necessary and appropriate by the Authority’s counsel to complete the financing of the Project for the Borrower.
3. The authorized officers of the Authority are hereby authorized and directed to take such other action as may be necessary or appropriate in order to effectuate the financing of the Project for the Borrower in accordance with the foregoing sections and recitals hereof.
4. All prior resolutions of the Authority, or any portions thereof, to the extent inconsistent with this Resolution, are hereby repealed.

5. This Resolution shall take effect ten (10) days, exclusive of Saturdays, Sundays and public holidays, after delivery to the Governor of the minutes of the meeting of the Authority at which this Resolution is adopted, or such earlier time as the Governor signs a statement of approval, all in accordance with Subsection (1) of Section 4 of the New Jersey Health Care Facilities Financing Authority Law, as amended.

**AB RESOLUTION NO. II-22**

**RESOLUTION OF INTENT TO ISSUE REVENUE BONDS BY  
NEGOTIATED TRANSACTION PURSUANT TO  
EXECUTIVE ORDER NO. 26**

*Saint Barnabas Health Care System*

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**WHEREAS**, the New Jersey Health Care Facilities Financing Authority (the “Authority”) was duly created and now exists under the New Jersey Health Care Facilities Financing Authority Law, P.L. 1972, c. 29, N.J.S.A. 26:2I-1 et seq., as amended (the “Act”), for the purpose of ensuring that all health care organizations have access to financial resources to improve the health and welfare of the citizens of the State; and,

**WHEREAS**, the Authority issues its bonds from time to time for the achievement of its authorized purposes; and

**WHEREAS**, on October 25, 1994, the Governor issued Executive Order No. 26 which sets forth procedures by which an issuer may determine the method of sale of bonds or notes; and,

**WHEREAS**, on December 8, 1994, the Authority adopted Section 2 of its policy which was developed to implement Executive Order No. 26, which requires an Authority resolution to pursue a negotiated sale of bonds; and,

**WHEREAS**, on March 28, 1996, the Authority amended its policy related to Executive Order No. 26; and,

**WHEREAS**, the Authority’s policy states that a negotiated sale of bonds will be conducted if it is determined by the Authority that it would better serve the requirements of a particular financing; and,

**WHEREAS**, a negotiated transaction would be permitted in circumstances including, but not limited to, the sale of bonds for a complex or poor credit; the development of a complex financing structure, including those transactions that involve the simultaneous sale of more than one series with each series structured differently; volatile market conditions; large issue size; programs or financial techniques that are new to investors; or, for variable rate transactions; and,

**WHEREAS**, Saint Barnabas Health Care System has entered into a Memorandum of Understanding with the Authority to pursue a revenue bond financing (the “Financing”); and,

**WHEREAS**, Saint Barnabas Health Care System has requested that the Authority consider approving the pursuit of a negotiated sale; and,

**WHEREAS**, the Financing could be considered a complex or poor credit; and

**WHEREAS**, market conditions could be considered volatile; and,

**WHEREAS**, the proposed issue size could be considered large; and,

**WHEREAS**, Saint Barnabas Health Care System is considering the issuance of variable rate bonds for all or a portion of the Financing; and,

**WHEREAS**, the Authority is desirous of being responsive to Saint Barnabas Health Care System's request; and,

**WHEREAS**, the aforementioned resolution and justification in support of such resolution must be filed, within five days of its adoption, with the State Treasurer;

**NOW, THEREFORE, BE IT RESOLVED**, that, based upon the above findings, the Authority hereby determines that it would better serve the requirements of this Financing to conduct a negotiated sale; and,

**BE IT FURTHER RESOLVED**, that the Executive Director is hereby directed and authorized to transmit a copy of this Resolution and justification in support of such resolution to the State Treasurer.

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AMENDMENT TO LOAN AGREEMENT

DATED AS OF DECEMBER 1, 2006

Between

NEW JERSEY HEALTH CARE FACILITIES FINANCING AUTHORITY

And

SAINT BARNABAS CORPORATION

RELATING TO \$72,120,000 NEW JERSEY HEALTH CARE FACILITIES FINANCING  
AUTHORITY REVENUE BONDS, SAINT BARNABAS HEALTH CARE SYSTEM ISSUE,  
SERIES 2006A

And

RELATING TO \$124,999,653.65 NEW JERSEY HEALTH CARE FACILITIES FINANCING  
AUTHORITY REVENUE BONDS, SAINT BARNABAS HEALTH CARE SYSTEM ISSUE,  
SERIES 2006B

DATED AS OF SEPTEMBER 1, 2008

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**AMENDMENT TO LOAN AGREEMENT DATED AS OF DECEMBER 1, 2006  
BY AND BETWEEN THE NEW JERSEY HEALTH CARE FACILITIES  
FINANCING AUTHORITY AND SAINT BARNABAS CORPORATION**

This Amendment to the Loan Agreement Dated as of December 1, 2006 (the “**Original Agreement**”) by and between the New Jersey Health Care Facilities Financing Authority (the “**Authority**”), a public body corporate and politic and a political subdivision of the State of New Jersey, and Saint Barnabas Corporation, a non-profit corporation, duly incorporated and subsisting under the laws of the State of New Jersey (the “**Institution**” or the “**Borrower**”) dated as of September 1, 2008 (the “**Amendment**”).

**WITNESSETH:**

**WHEREAS**, the Institution has obtained financial assistance from the Authority, to (i) acquire equipment and other capital budget items used by members of the Saint Barnabas Health Care System (the “**System**”), (ii) construct and/or renovate portions of the facilities of the members of the System, including but not limited to the facilities set forth on Schedule A attached to the Series Resolution (as hereinafter defined), (iii) refund all or a portion of certain outstanding maturities of certain prior bonds issued by the Authority or the New Jersey Economic Development Authority for the benefit of Members of the Obligated Group (as defined in the Original Agreement) (the “**Refunding Project**”) ((i), (ii) and (iii) being the “**2006 Project** or the “**Project**”), (iv) fund the Debt Service Reserve Fund established for the Series 2006 Bonds under the established Series Resolution and (v) pay certain costs incidental to the issuance and sale of the Series 2006 Bonds (as hereinafter defined), including deposits to certain funds created under the General Resolution (as hereinafter defined) or under the Series Resolution ;

**WHEREAS**, the Authority to accomplish the purposes of the New Jersey Health Care Facilities Financing Authority Law, P.L. 1972, C.29, as amended (the “**Act**”), has provided funds to the Institution for the Project;

**WHEREAS**, the Authority and the Institution have entered into a Loan Agreement dated as of December 1, 2006 (the “**Original Agreement**”) in connection with the Series 2006 Bonds wherein the Authority has loaned the proceeds of the Series 2006 Bonds to the Institution and wherein the Institution has agreed to, among other things, make certain loan payments to the Authority, all as set forth in the Original Agreement;

**WHEREAS**, the Authority has issued its \$72,120,000 New Jersey Health Care Facilities Financing Authority Revenue Bonds, Saint Barnabas Health Care System Issue, Series 2006A (the “**Series 2006A Bonds**”) and \$124,999,653.65 New Jersey Health Care Facilities Financing Authority Revenue Bonds, Saint Barnabas Health Care System Issue, Series 2006B (the “**Series 2006B Bonds**”) under and pursuant to the Authority’s General Health Care Facilities Registered Bond Resolution adopted by the Authority on October 29, 1992 (the “**General Resolution**”) and by a Series Resolution adopted on November 21, 2006 (the “**Series Resolution**” and together with the General Resolution, the “**Resolutions**”);

**WHEREAS**, the Institution has requested that the Authority amend certain paragraphs of Section 6.9 of the Original Agreement, which paragraphs relate, among other things, to the

requirements imposed by the Authority in connection with the establishment by the Institution of any captive insurance or self-insurance programs, through execution by the parties of this Amendment to the Original Agreement (the “**Amendment**”);

**WHEREAS**, the Institution has established a captive insurance company program and the Authority has previously approved the form of such program (the “**Accepted Plan**”) subject to the receipt by the Authority, on an annual basis, of certain items, including receipt of, among other things, a Qualified Insurance Rating (as defined in the Original Agreement) from an Insurance Rating Agency (as defined in the Original Agreement);

**WHEREAS**, the Authority desires to amend the Original Agreement to incorporate its new policy which allows for other items to be provided by the Institution if it so wishes, in lieu of a Qualified Insurance Rating;

**WHEREAS**, Section 8.3 of the Original Agreement permits the Institution and the Authority to amend the Original Agreement so long as the rights of the holders of the Series 2006 Bonds are not adversely affected;

**WHEREAS**, the Authority has obtained an opinion of Windels Marx Lane & Mittendorf LLP, bond counsel, to the effect that the Amendment, in and of itself, will not adversely affect the rights of the holders of the Bonds; and

**WHEREAS**, by resolution adopted on August 28, 2008, the Authority authorized this amendment to the Original Agreement.

**NOW, THEREFORE**, for and in consideration of the premises herein, and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereto hereby agree that the Original Agreement shall be amended as follows:

## ARTICLE I

### AMENDMENT TO ORIGINAL AGREEMENT

#### Amendment to Section 6.9.

Section 6.9 of the Original Agreement is hereby amended by deleting paragraphs 6.9.2, 6.9.4, 6.9.5 and 6.9.6 and replacing such paragraphs in their entirety with the following new paragraphs, and adding an additional new paragraph 6.9.7:

“6.9.2 All policies and certificates of insurance required hereby shall be open to inspection by the Authority and the Trustee at all reasonable times. Certificates of insurance describing such policies shall be furnished by the Borrower to the Authority and the Trustee at or prior to the delivery of the Bonds and annually upon renewal of each policy. Within seven and one-half months of the Borrower’s Fiscal Year end, the Borrower shall furnish to the Authority and the Trustee: (i) an insurance reporting form describing such policies as evidenced by insurance certificates; (ii) a certificate signed by the chief financial officer or the Vice President/Legal of the Borrower stating that such insurance meets all requirements of this Agreement and (iii) a certification addressed to the Borrower, the Trustee and the Authority by an Independent Insurance Consultant that the types and amounts of coverage provided are customary and reasonable for institutions of similar type and size taking into account the service mix provided by the Borrower. The Borrower will provide additional proof of insurance coverage at any time, upon reasonable request by the Authority or the Trustee.

“6.9.4 The Authority has heretofore accepted a certain plan of self-insurance and captive insurance in lieu of the insurance required by paragraphs (c), (d) and (h) (trustees and officers liability only) of Section 6.08 of the General Resolution (the “**Accepted Plan**”). Upon the written request of the Borrower, an Authorized Officer of the Authority reserves the right to permit modifications of or substitutions for the Accepted Plan or modifications of or substitutions for the other types of insurance required to be maintained by paragraph 6.9.1 hereof, including permission for the Borrower to be covered by self insurance or to have a captive insurance company program in whole or in part for any such coverage, all upon such terms and conditions as the Authority may require. In making its decision to permit such modifications or substitutions, the Authority shall consider the potential risk to the Borrower and the Authority, the availability of insurance, the terms upon which insurance is available, the cost of available insurance, and the effect of such terms and such rates upon the Borrower’s costs and charges for its services. In making any such determinations, the Authority may request and rely upon reports provided by the Borrower’s retained professionals. In addition, the Borrower will provide (i) an actuarial study prepared by a licensed independent actuary, (ii) a legal opinion that there will be no material adverse effect for reimbursement under Medicare and Medicaid programs or any governmental programs providing similar benefits or establishing rates and charges for health care services, (iii) a detailed structure of the self insurance or captive insurance program including the oversight committee and all service providers, including legal firms and accountants, (iv) a list of employed physicians covered under the program (self insurance and captive insurance program approval will be limited to employed physicians only), (v) a list of incidents to be reported to Borrower’s current insurer prior to the effective date of the

self insurance or captive insurance program, (vi) insurance trust agreements or captive insurance program licenses issued by the appropriate corporate or governmental body, and (vii) list of excess insurance carriers and reinsurance providers. The Borrower shall pay any fees charged by such Independent Insurance Consultant and other professionals and any expenses incurred by the Authority.

The Authority shall give written notice to the Trustee of any modifications or substitutions approved by the Authority pursuant to this paragraph 6.9.4 and shall indicate in such notice the effective date of such modifications or substitutions. The Authority's decisions to permit the modifications or substitutions aforesaid shall be in the Authority's sole and absolute discretion.

“6.9.5 In the event that the Borrower self insures or insures through a captive insurance company, the Borrower shall at commencement of such coverage, and on an annual basis (no later than the anniversary date of the commencement of such coverage), either obtain a Qualified Insurance Rating and provide such rating report to the Authority or:

- (i) provide a certification addressed directly to the Borrower, the Trustee, and the Authority from a licensed independent actuary specializing in the type of insurance being provided and not unacceptable to the Authority, that based upon an actuarial study, the total discounted held reserves plus capital and surplus in the self insurance or captive insurance program, limited to those funds that cannot be drawn upon by the Borrower for use in operations or otherwise unrelated to payment of claims, are at least equal to the discounted 75th percent confidence level (that expected total unpaid losses will not exceed the total indicated funding level for such coverage) and identifying the assumptions relied upon by the actuary in its determination; such assumptions shall not be unacceptable to the Authority; and
- (ii) provide an opinion of counsel addressed directly to the Borrower, the Trustee, and the Authority that the self insurance or captive insurance program is in compliance with the laws and regulations of the state and/or country of domicile, and not in contravention of any laws or regulations of the State of New Jersey; and
- (iii) provide evidence to the Trustee, and the Authority that the self insurance or captive insurance program has been audited by a nationally recognized independent firm of public accountants and has received an unqualified opinion, with the form of such opinion to be not unacceptable to the Authority.

The provisions of this subsection 6.9.5 are intended by the parties to replace in their entirety the Authority's previous reporting and funding requirements applicable to the Accepted Plan.

“6.9.6 In the event that the Borrower is not able to comply with paragraph 6.9.5, the Borrower shall procure insurance as required under paragraph 6.9.1 of this Section within 90

days of the anniversary date (referred to in paragraph 6.9.5) or by such other date approved in writing by an Authorized Officer of the Authority.

“6.9.7 Notwithstanding anything set forth herein to the contrary, the provisions of paragraph 6.9.5 may be amended and supplemented by the Authority in its sole and absolute discretion, and without the consent of the holder of the Bonds, the Trustee, or the Borrower, in order that such provisions shall be consistent with the Authority’s policies then in effect.”

**ARTICLE II**  
**MISCELLANEOUS**

**Ratification of Provisions of the Original Agreement.**

The Original Agreement, as amended by this Amendment, is in all respects ratified and shall remain in full force and effect. The Original Agreement and this Amendment shall be read, taken and construed as one and the same instrument.

**Effective Date.**

This Amendment shall become effective as of the day and year first written above upon execution hereof by the parties hereto.

**Counterparts.**

This Amendment may be executed in multiple counterparts each of which shall be an original and each of which shall constitute but one and the same instrument.

**IN WITNESS WHEREOF**, the parties hereto have each caused this Amendment to be executed by their duly authorized officers as of the date first written above.

Attest:

NEW JERSEY HEALTH CARE  
FACILITIES FINANCING AUTHORITY

By: \_\_\_\_\_

By: \_\_\_\_\_

Attest:

SAINT BARNABAS CORPORATION

By: \_\_\_\_\_

By: \_\_\_\_\_