

IN THE UNITED STATES BANKRUPTCY COURT
FOR THE EASTERN DISTRICT OF TEXAS
SHERMAN DIVISION

IN RE:	§	
	§	
GAINESVILLE HOSPITAL DISTRICT	§	Case No. 17-40101
D/B/A NORTH TEXAS MEDICAL	§	
CENTER, ¹	§	Adv. No. 17-04072
	§	
DEBTOR.	§	Chapter 9
	§	

**DEBTOR’S MOTION FOR VALIDATION AND APPROVAL OF
SETTLEMENT AGREEMENT BETWEEN THE DEBTOR AND
THE OFFICE OF INSPECTOR GENERAL**

TO THE HONORABLE BRENDA T. RHOADES,
UNITED STATES BANKRUPTCY JUDGE:

Gainesville Hospital District d/b/a North Texas Medical Center (the “District” or the “Debtor”) and the United States of America, acting through the United States Department of Justice and on behalf of the Office of Inspector General of the Department of Health and Human Services (“OIG”, and together with the Debtor, the “Parties”) respectfully request entry of an order validating and approving the Settlement Agreement between the Parties. In support of the Motion, the Parties submit the following:

1. The Court has jurisdiction over this matter pursuant to 28 U.S.C. §§ 1334 and 157. This is a core proceeding pursuant to 28 U.S.C. § 157(b). Venue is proper pursuant to 28 U.S.C. §§ 1408 and 1409.
2. On January 17, 2017 (the “Petition Date”), the Debtor filed a voluntary petition for relief under chapter 9 of title 11 of the United States Code (the “Bankruptcy Code”) in the United States Bankruptcy Court for the Eastern District of Texas (the “Bankruptcy Court”),

¹ The last four digits of the Debtor’s federal tax identification number are: 1664. The location of the Debtor’s principal place of business and the service address for the Debtor is: 1900 Hospital Blvd., Gainesville, TX 76240.

thereby commencing the above-captioned municipal debt adjustment case (the “Case”). The Bankruptcy Court held a hearing on February 28, 2017 on the Debtor’s qualification under the Bankruptcy Code, and on March 1, 2017, the Bankruptcy Court entered its Order for Relief.

3. The Debtor filed its bond validation suit (the “Validation Petition”) in the form of an adversary proceeding entitled the Original Complaint/Petition for Expedited Declaratory Judgment [Adv. Case No. 17-04072, Dkt. No. 1], on July 28, 2017 (the “Validation Petition Date”).

4. The Validation Petition sought to establish and validate the Debtor’s authority to issue limited tax general obligation refunding bonds, from time to time in one or more series as may be necessary (the “Bonds”), pursuant to Chapter 1207 of the Texas Government Code, to restructure and refinance the Debtor’s general or special obligations identified in the Validation Petition (the “Validated Obligations”).

5. After a hearing on the Validation Petition on August 21, 2017, the Court entered the Declaratory Judgment (the “Judgment”) [Adv. Case No. 17-04072, Dkt. No. 22] on August 22, 2017, authorizing the Debtor to issue Bonds to restructure and refinance the Debtor’s Validated Obligations. The Judgment provides, in pertinent part:

(hhh) Upon a satisfactory showing to this Court that the amounts the District is obligated to pay in satisfaction of one or more of the Obligations which, in whole or in part, do not qualify for immediate refunding at the time this Court signs its final judgment prayed for herein, are at that time (1) due and owing in the amounts submitted, (2) sufficiently definite to qualify for refunding under the Refunding Law, and (3) that such amounts do not exceed the “not to exceed” amounts set forth in the Petition, such amounts, by a signed and entered order of this Court, will be deemed legally binding, incontestable liabilities of the District, the District may issue Bonds that meet the requirements of the parameters heretofore established).

6. Pursuant to the Judgment, the liability of the Debtor in connection with the Request for Information for Assistance dated September 22, 2016 and the Supplemental Request for Information for Assistance dated March 1, 2017 from the OIG, together with the costs of issuance of Bonds to be issued for the purpose of refunding such liability, is a general or special obligation of the Debtor which constitutes a Validated Obligation to be refunded with Bonds in an amount not to exceed \$5,100,000 (the “OIG Obligation”).

7. In connection with the OIG Obligation, the Parties entered into a settlement agreement (the “Settlement Agreement”), pursuant to which the Debtor agreed to pay to the OIG \$1,320,000 in exchange for the OIG’s release of any civil or administrative monetary claims against the Debtor under the federal False Claims Act, 42 U.S.C. §§ 3729-3733; the Civil Monetary Penalties Law, 42 U.S.C. § 1320a-7a; the Program Fraud Civil Remedies Act, 31 U.S.C. §§ 3801-3812; or the common law theories of payment by mistake, unjust enrichment, and fraud (the “OIG Liability”).

8. As required by the Judgment, the Debtor now seeks to establish that the OIG Obligation is a due and owing amount which is sufficiently definite to qualify for refunding under Chapter 1207, Texas Government Code (together with its predecessor statute, 717k-3, the “Refunding Law”) in an amount that does not exceed the amount of \$5,100,000 authorized by the Judgment.

9. Pursuant to the Settlement Agreement, the Parties submit that the Debtor is obligated to pay to the OIG a total of \$1,320,000 in full satisfaction of the OIG Liability, and that proceeds of the Bonds used to refund the OIG Obligation will be sufficient to pay all amounts payable pursuant to the Settlement Agreement plus related costs of issuance in satisfaction of the OIG Obligation.

WHEREFORE, the Parties respectfully request that the Court (a) grant the Motion for validation and approval of the Settlement Agreement in the amount of \$1,320,000 and (b) order that such amounts are deemed legally binding, incontestable liabilities of the District and that the District may issue Bonds in a principal amount sufficient to satisfy the OIG Obligation of \$1,320,000 plus an amount necessary to pay costs of issuance related to such Bonds, that meet the requirements of the parameters established in the Judgment.

Dated: July 10, 2018
Dallas, Texas

Respectfully submitted,

NORTON ROSE FULBRIGHT US LLP

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**COUNSEL FOR THE DEBTOR AND
DEBTOR-IN-POSSESSION**

CERTIFICATE OF SERVICE

The undersigned attorney hereby certifies that a true and correct copy of the foregoing Application was served upon the counsel and parties of record, electronically through the Bankruptcy Court's Electronic Case Filing System on those parties that have consented to such service.

/s/ Julie Goodrich Harrison