



REQUEST FOR BOARD ACTION

ITEM NO. 7

DATE OF MEETING: August 15, 2011

REQUESTED BY: Dave McCole, Finance Officer

SHORT TITLE: Resolution Approving a Financial Advisory Agreement with First Southwest Company

BACKGROUND: Pender County will be issuing debt instruments in the coming years for new capital projects and/or refinancing of existing debt instruments. The County Manager and Finance Director recommend the County secure the professional services of First Southwest Company to advise the County regarding the issuance and sale of certain evidences of indebtedness or debt obligations that may be authorized and issued or otherwise created or assumed by Pender County from time to time during the period in which this Agreement shall be effective. First Southwest Company is willing to provide its professional services and its facilities as financial advisor in connection with all programs of financing as may be considered and authorized by Pender County during the period in which this Agreement shall be effective.

A copy of the proposed agreement is attached. Services will include financial planning, debt management and financial implementation. First Southwest has assisted the County recently in capital improvement development and financial planning, and in a recent bond refinancing. The services have been of very high quality, and First Southwest has an impeccable record of quality service to local governments and authorities.

The agreement provides fees for the services will be negotiated at the time of issuance of debt instruments.

SPECIFIC ACTION REQUESTED: To consider a resolution approving the Financial Advisory Agreement with First Southwest Company.

COUNTY MANAGER'S RECOMMENDATION

Respectfully recommend approval.

RB
Initial

RESOLUTION

NOW, THEREFORE BE IT RESOLVED by the Pender County Board of Commissioners that:

the Board hereby approves the Financial Advisory Agreement with First Southwest Company. The County Manager/Chairman is authorized to execute any documents necessary to implement this resolution.

AMENDMENTS:

MOVED _____ SECONDED _____

APPROVED _____ DENIED _____ UNANIMOUS _____

YEA VOTES: Brown ___ Tate ___ Rivenbark ___ Ward ___ Williams ___

George Brown, Chairman 8/15/11
Date

ATTEST 8/15/11
Date

FINANCIAL ADVISORY AGREEMENT

This Financial Advisory Agreement (the "Agreement") is made and entered into by and between Pender County, North Carolina ("Issuer") and First Southwest Company ("FSC") effective as of the date executed by the Issuer as set forth on the signature page hereof.

WITNESSETH:

WHEREAS, the Issuer will have under consideration from time to time the authorization and issuance of indebtedness in amounts and forms which cannot presently be determined and, in connection with the authorization, sale, issuance and delivery of such indebtedness, Issuer desires to retain an independent financial advisor; and

WHEREAS, the Issuer desires to obtain the professional services of FSC to advise the Issuer regarding the issuance and sale of certain evidences of indebtedness or debt obligations that may be authorized and issued or otherwise created or assumed by the Issuer (hereinafter referred to collectively as the "Debt Instruments") from time to time during the period in which this Agreement shall be effective; and

WHEREAS, FSC is willing to provide its professional services and its facilities as financial advisor in connection with all programs of financing as may be considered and authorized by Issuer during the period in which this Agreement shall be effective.

NOW, THEREFORE, the Issuer and FSC, in consideration of the mutual covenants and agreements herein contained and other good and valuable consideration, do hereby agree as follows:

SECTION I DESCRIPTION OF SERVICES

Upon the request of an authorized representative of the Issuer, FSC agrees to perform the financial advisory services stated in the following provisions of this Section I; and for having rendered such services, the Issuer agrees to pay to FSC the compensation as provided in Section IV hereof.

A. Financial Planning. At the direction of Issuer, FSC shall:

1. Survey and Analysis. Conduct a survey of the financial resources of the Issuer to determine the extent of its capacity to authorize, issue and service any Debt Instruments contemplated. This survey will include an analysis of any existing debt structure as compared with the existing and projected sources of revenues which may be pledged to secure payment of debt service and, where appropriate, will include a study of the trend of the assessed valuation, taxing power and present and future taxing requirements of the

Issuer. In the event revenues of existing or projected facilities operated by the Issuer are to be pledged to repayment of the Debt Instruments then under consideration, the survey will take into account any outstanding indebtedness payable from the revenues thereof, additional revenues to be available from any proposed rate increases and additional revenues, as projected by consulting engineers employed by the Issuer, resulting from improvements to be financed by the Debt Instruments under consideration.

2. Future Financings. Consider and analyze future financing needs as projected by the Issuer's staff and consulting engineers or other experts, if any, employed by the Issuer.

3. Recommendations for Debt Instruments. On the basis of the information developed by the survey described above, and other information and experience available, submit to the Issuer recommendations regarding the Debt Instruments under consideration, including such elements as the date of issue, interest payment dates, schedule of principal maturities, options of prior payment, security provisions, and such other provisions as may be appropriate in order to make the issue attractive to investors while achieving the objectives of the Issuer. All recommendations will be consistent with the goal of designing the Debt Instruments to be sold on terms which are advantageous to the Issuer, including the lowest interest cost consistent with all other considerations.

4. Market Information. Advise the Issuer of our interpretation of current bond market conditions, other related forthcoming bond issues and general information, with economic data, which might normally be expected to influence interest rates or bidding conditions so that the date of sale of the Debt Instruments may be set at a favorable time.

5. Elections. In the event it is necessary to hold an election to authorize the Debt Instruments then under consideration, FSC will assist in coordinating the assembly of such data as may be required for the preparation of necessary petitions, orders, resolutions, ordinances, notices and certificates in connection with the election, including assistance in the transmission of such data to a firm of municipal bond attorneys ("Bond Counsel") retained by the Issuer.

B. Debt Management and Financial Implementation. At the direction of Issuer, FSC shall:

1. Method of Sale. Evaluate the particular financing being contemplated, giving consideration to the complexity, market acceptance, rating, size and structure in order to make a recommendation as to an appropriate method of sale, and:

a. If the Debt Instruments are to be sold by an advertised competitive sale, FSC will:

(1) Supervise the sale of the Debt Instruments, reserving the right, alone or in conjunction with others, to submit a bid for any Debt Instruments issued under this Agreement which the Issuer advertises for competitive bids; however, in keeping with the provisions of Rule G-23 of the Municipal Securities Rulemaking Board, FSC will request and obtain written consent to bid prior to submitting a bid, in any instance wherein FSC elects to bid, for any installment of such Debt Instruments;

(2) Disseminate information to prospective bidders, organize such informational meetings as may be necessary, and facilitate prospective bidders' efforts in making timely submission of proper bids;

(3) Assist the staff of the Issuer in coordinating the receipt of bids, and the tabulation and comparison of submitted bids; and

(4) Advise the Issuer regarding the best bid and provide advice regarding acceptance or rejection of the bids.

b. If the Debt Instruments are to be sold by negotiated sale, FSC will:

(1) Upon request, counsel with the Issuer in the selection of an investment banking firm to serve as manager of an underwriting syndicate for the purpose of negotiating the purchase of the Debt Instruments.

(2) Cooperate with and assist any selected managing underwriter and their counsel in connection with their efforts to prepare any Official Statement or Offering Memorandum. FSC will cooperate with and assist the underwriters in the preparation of a bond purchase contract, an underwriters agreement and other related documents. The costs incurred in such efforts, including the printing of the documents, will be paid in accordance with the terms of the Issuer's agreement with the underwriters, but shall not be or become an obligation of FSC, except to the extent specifically provided otherwise in this Agreement or assumed in writing by FSC.

(3) Assist the staff of the Issuer in the safekeeping of any good faith checks, to the extent there are any such, and provide a cost comparison, for both expenses and interest which are suggested by the underwriters, to the then current market.

(4) Advise the Issuer as to the fairness of the price offered by the underwriters.

2. Offering Documents. Coordinate the preparation of the notice of sale and bidding instructions, official statement, official bid form and such other documents as may be required and submit all such documents to the Issuer for examination, approval and certification. After such examination, approval and certification, FSC shall provide the Issuer with a supply of all such documents sufficient to its needs and distribute by mail or, where appropriate, by electronic delivery, sets of the same to prospective purchasers of the Debt Instruments. Also, FSC shall provide copies of the final Official Statement to the purchaser of the Debt Instruments in accordance with the Notice of Sale and Bidding Instructions.

3. Credit Ratings. Make recommendations to the Issuer as to the advisability of obtaining a credit rating, or ratings, for the Debt Instruments and, when directed by the Issuer, coordinate the preparation of such information as may be appropriate for submission to the rating agency, or agencies. In those cases where the advisability of personal presentation of information to the rating agency, or agencies, may be indicated, FSC will arrange for such personal presentations, utilizing such composition of representatives from the Issuer as may be finally approved or directed by the Issuer.

4. Trustee, Paying Agent, Registrar. Upon request, counsel with the Issuer in the selection of a Trustee and/or Paying Agent/Registrar for the Debt Instruments, and assist in the negotiation of agreements pertinent to these services and the fees incident thereto.

5. Financial Publications. When appropriate, advise financial publications of the forthcoming sale of the Debt Instruments and provide them with all pertinent information.

6. Consultants. After consulting with and receiving directions from the Issuer, arrange for such reports and opinions of recognized independent consultants as may be appropriate for the successful marketing of the Debt Instruments.

7. Auditors. In the event formal verification by an independent auditor of any calculations incident to the Debt Instruments is required, make arrangements for such services.

8. Issuer Meetings. Attend meetings of the governing body of the Issuer, its staff, representatives or committees as requested at all times when FSC may be of assistance or service and the subject of financing is to be discussed.
9. Printing. To the extent authorized by the Issuer, coordinate all work incident to printing of the offering documents and the Debt Instruments.
10. Bond Counsel. Maintain liaison with Bond Counsel in the preparation of all legal documents pertaining to the authorization, sale and issuance of the Debt Instruments.
11. Changes in Laws. Provide to the Issuer copies of proposed or enacted changes in federal and state laws, rules and regulations having, or expected to have, a significant effect on the municipal bond market of which FSC becomes aware in the ordinary course of its business, it being understood that FSC does not and may not act as an attorney for, or provide legal advice or services to, the Issuer.
12. Delivery of Debt Instruments. As soon as a bid for the Debt Instruments is accepted by the Issuer, coordinate the efforts of all concerned to the end that the Debt Instruments may be delivered and paid for as expeditiously as possible and assist the Issuer in the preparation or verification of final closing figures incident to the delivery of the Debt Instruments.
13. Debt Service Schedule; Authorizing Resolution. After the closing of the sale and delivery of the Debt Instruments, deliver to the Issuer a schedule of annual debt service requirements for the Debt Instruments and, in coordination with Bond Counsel, assure that the paying agent/registrars and/or trustee has been provided with a copy of the authorizing ordinance, order or resolution.
14. Exercising Calls and Refunding. Provide advice and assistance with regard to exercising any call and/or refunding of any outstanding Debt Instruments.
15. Capital Improvements Programs. Provide advice and assistance in the development of any capital improvements programs of the Issuer.
16. Long-Range Planning. Provide advice and assistance in the development of other long range financing plans of the Issuer.
17. Post-Sale Services. Subsequent to the sale and delivery of Debt Instruments, review the transaction and transaction documentation with legal counsel for the Issuer,

Bond Counsel, auditors and other experts and consultants retained by the Issuer and assist in developing appropriate responses to legal processes, audit procedures, inquiries, internal reviews and similar matters.

**SECTION II
TERM OF AGREEMENT**

This Agreement shall become effective as of the date executed by the Issuer as set forth on the signature page hereof and, unless terminated by either party pursuant to Section IV of this Agreement, shall remain in effect thereafter for a period of five (5) years from such date. Unless FSC or Issuer shall notify the other party in writing at least thirty (30) days in advance of the applicable anniversary date that this Agreement will not be renewed, this Agreement will be automatically renewed on the fifth anniversary of the date hereof for an additional one (1) year period and thereafter will be automatically renewed on each anniversary date for successive one (1) year periods.

**SECTION III
TERMINATION**

This Agreement may be terminated with or without cause by the Issuer or FSC upon the giving of at least thirty (30) days' prior written notice to the other party of its intention to terminate, specifying in such notice the effective date of such termination. In the event of such termination, it is understood and agreed that only the amounts due FSC for services provided and expenses incurred to the date of termination will be due and payable. No penalty will be assessed for termination of this Agreement.

**SECTION IV
COMPENSATION AND EXPENSE REIMBURSEMENT**

The fees due to FSC for the services set forth and described in Section I of this Agreement with respect to each issuance of Debt Instruments during the term of this Agreement shall be negotiated prior to the issuance of any debt by the Issuer. FSC shall be paid by the Issuer upon submission of properly certified invoices.

**SECTION V
MISCELLANEOUS**

1. Choice of Law. This Agreement shall be construed and given effect in accordance with the laws of the State of North Carolina.

2. Binding Effect; Assignment. This Agreement shall be binding upon and inure to the benefit of the Issuer and FSC, their respective successors and assigns; provided however, neither party hereto may assign or transfer any of its rights or obligations hereunder without the prior written consent of the other party.

3. Entire Agreement. This instrument contains the entire agreement between the parties relating to the rights herein granted and obligations herein assumed. Any oral or written representations or modifications concerning this Agreement shall be of no force or effect except for a subsequent modification in writing signed by all parties hereto.

FIRST SOUTHWEST COMPANY

By: _____

Janice T. Burke, Senior Vice President

PENDER COUNTY, NORTH CAROLINA

By: _____

Printed name: _____

Title: _____

Date: _____

ATTEST:

PRE-AUDIT CERTIFICATION

This instrument has been pre-audited in the manner required by the Local Government Budget and Fiscal Control Act, _____, Finance Director

About FirstSouthwest

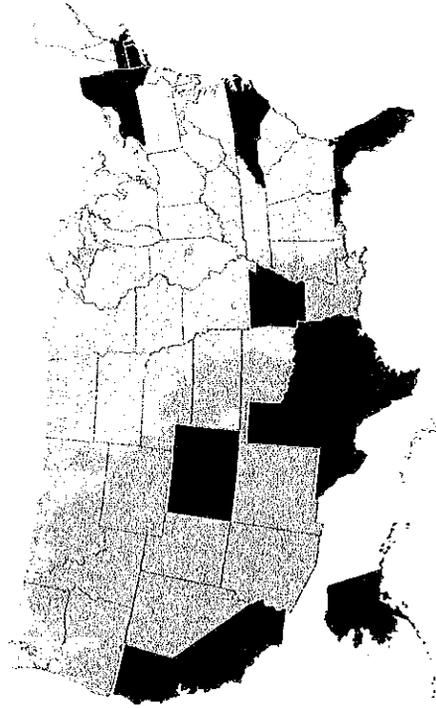
Public Finance Overview

- Privately held firm founded in 1946
- Public Finance is core business of FirstSouthwest
 - Nationally, a consistent leading financial advisor
 - Prominent underwriter growing both in short- and long-term markets
 - Diverse staff of public finance banking, underwriting and sales professionals
- Registered Broker/Dealer with transparency and accountability
 - Provides firsthand market knowledge and insights
 - Subject to SEC and FINRA regulation; adheres to MSRB rules
 - Professionals maintain and keep current with continuing education requirements
- Offers more services related to and complementary of public finance than does any other firm:
 - Continuing Disclosure
 - Arbitrage Rebate
 - Structured Products
 - Investment Management
 - Pension Consulting
 - Public Private Partnership Consulting

FirstSouthwest at a Glance

- ✓ Founded in 1946
- ✓ 360 employees; 147 employees in public finance
- ✓ 23 offices in 11 states and Washington D.C.
 - ✓ Headquartered in Dallas, Texas
- ✓ Tenured employees comprise 34% of total staff
 - ✓ # 1 Financial Advisor in the Nation*
- ✓ Represents clients in nearly every state in the country

PENDER COUNTY, NORTH CAROLINA



*Source: MuniAnalytics, number of bond and note issues completed from (6/2005 - 7/2010)

About FirstSouthwest

Top Ranked Public Finance Advisor

FirstSouthwest Company - A Top Ranked Financial Advisory Firm

January 1, 2010-December 31, 2010

Source: *MuniAnalytics (run on 1/3/2011)*

National (Ranked by Number of Issues)

Rank	Firm	Par Amount (\$Mil)	# of Issues
1	FirstSouthwest	33,274	870
2	Public Fin Mgmt	58,510	830
3	Fiscal Adv Mkt	3,162	451
4	Ehlers & Associates	1,859	385
5	Capital Markets Adv	3,638	302

North Carolina (Ranked by Par Amount)

Rank	Firm	Par Amount (\$Mil)	# of Issues
1	FirstSouthwest	919	11
2	DEC Associates	916	15
3	Davenport	700	19
4	Waters & Company	612	7
5	Public Financial Mgmt	597	4

About FirstSouthwest

Carolina Experience

Counties:

- Mecklenburg County, NC
- New Hanover County, NC
- Pender County , NC
- Union County , NC
- Lexington County, SC

Cities:

- Corneliuss
- Fayetteville
- Greenville
- Jacksonville
- Mooresville
- Sanford

Other:

- State of North Carolina
- State of South Carolina –DOT

Utilities:

- Anderson Joint Regional Water System (SC)
- Greenville Utilities Commission
- Fayetteville Public Works Commission
- Piedmont Triad Water Authority
- Grand Strand Water and Sewer Authority (SC)

Higher Education:

- Appalachian State University
- East Carolina University
- Elizabeth City State University
- University of North Carolina Board of Governors
- UNC Pembroke
- UNC Wilmington
- NC Central University

About FirstSouthwest

Ancillary Services to Further Support Public Finance Clients

Arbitrage Rebate Calculation Services	Provides calculations for approximately 400 clients on more than 2,900 bond issues, totaling \$129 billion par amount
Continuing Disclosure Services	Provides services for approximately 550 clients and annually files more than 650 reports
Investment Management	Actively manages approximately \$6.4 billion for 33 state and local governments; also serves as the investment advisor for an additional \$5.3 billion
Structured Products	During the five-year period ending December 31, 2010, served as swap advisor on approximately 150 transactions, totaling \$13.34 billion in notional amount and served as bidding and structuring agent on approximately 320 transactions, totaling \$23.37 billion in bond proceeds
OPEB Consulting	Members of FirstSouthwest have reviewed over 1,100 pension and OPEB actuarial studies and related CAFRs. Our firm has worked with independent actuaries to review pension studies, including TMRS members. In some cases, there were material changes.

Source: Internal Database

Introductions

FirstSouthwest Team

PROJECT TEAM

Janice T. Burke Senior Vice President Charlotte Office 26 Years of Experience	Amy Vitner Vice President Charlotte Office 14 Years of Experience	Rick Petillo Vice President Charlotte Office 9 Years of Experience
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ANALYTICAL AND PROJECT SUPPORT

Kelly Cavender
Analyst
Charlotte Office
1 Year of Experience

SPECIALIST TEAM MEMBERS

CREDIT ANALYSIS

Mary-Katherine C. Sells
Vice President
Dallas Office
20 Years of Experience

LONG-TERM UNDERWRITING

Mark McGruder
Vice President
Dallas Office
22 Years of Experience

Janice T. Burke

Senior Vice President



- **Areas of Focus**
 - Provides financial advisory services to local governments, authorities, universities and hospitals on the authorization, sale and delivery of all types of tax exempt or taxable debt
 - Develops financing plans for multi- year capital improvement plans
 - Prepares debt affordability studies and debt management guidelines
 - Develops funding plans/strategies for economic development

- **Profile**
 - Joined First Southwest in November 2005
 - Has more than 26 years experience in public finance
 - Served as Deputy State Treasurer and Secretary of the North Carolina Local Government Commission
 - Responsible for the issuance of all state debt
 - Participated in more than \$9 billion of state debt issues
 - Responsible for the approval, issuance, and monitoring of virtually all local government debt including general obligation bonds, revenue bonds, special obligation bonds, revolving loans and installment purchase transactions
 - Served as the Secretary-Treasurer of the North Carolina Capital Facilities Finance Agency, the agency through which all North Carolina private colleges and universities issue tax-exempt debt

- **Accomplishments**
 - 2006 Member in Government Award, North Carolina Association of Certified Public Accountants

- **Education**
 - Bachelor of Science, Business Administration, major in Accounting, East Carolina University

- **Current Affiliations**
 - North Carolina GFOA
 - North Carolina Association of Certified Public Accountants
 - Carolinas Municipal Advisory Council, board member

- **Licenses Held**
 - Registered Representative of the Financial Industry Regulatory Authority (FINRA)
 - Uniform Securities Agent, Series 63
 - General Securities Representative, Series 7
 - Certified Public Accountant in the State of North Carolina

Contact Information:

5925 Carmegie Blvd.

Suite 104

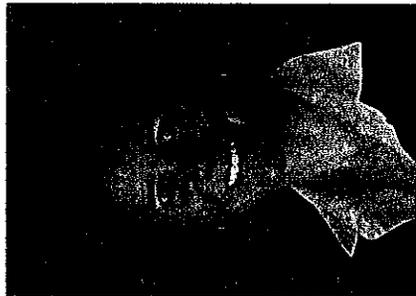
Charlotte, NC 28209

Telephone: 704.975.6555

janice.burke@firstsw.com

Amy Vitner

Vice President



- **Area of Focus**
 - Specializes in technical and analytical investment banking services for a variety of Southeastern clients
- **Profile**
 - Joined First Southwest in 2009
 - Prior public finance experience includes eight years with Banc of America Securities, three years with Wachovia and two years with Commerce Capital
 - Responsible for identification of refunding & restructuring opportunities, modeling higher complexity transactions & transaction management
 - Involved with the structuring and sale of over \$25 billion of new money and refunding bond issues
 - Experience with wide range of bond and swap transactions, including: fixed rate, variable rate, pool transactions, forward refundings, commercial paper, integration of interest rate swaps, basis swaps and swaptions
 - Specific issuer experience with a variety of municipal state and local entities in the Carolinas, including the State of North Carolina, City of Charlotte, Grand Strand Water and Sewer Authority, City of Greensboro, Board of Governors of the University of North Carolina, City of Charleston, among others.

Contact Information:

5925 Carnegie Blvd.
Suite 104

Charlotte, NC 28209

Telephone: 704.654.3451
amy.vitner@firstsw.com

- **Education**
 - Bachelor of Science in Applied Mathematics, Philadelphia University
- **Licenses Held**
 - Registered Representative of the Financial Industry Regulatory Authority (FINRA)
 - General Securities Representative, Series 7
 - Uniform Securities Agent, Series 63

Rick Petillo

Vice President



- **Areas of Focus**
 - Provides financial advisory services to local governments, authorities, universities and hospitals
 - Analyzes borrower's existing debt structure for restructuring opportunities and advises on strategies to address and optimize existing financial products
 - Advises issuers on opportunities and considerations related to public-private development opportunities

- **Profile**
 - Joined FirstSouthwest in March 2011
 - Has nine years experience in public finance
 - Prior to joining FirstSouthwest worked in Public Finance at Citigroup and Bank of America Merrill Lynch providing investment banking services to non-profit and municipal issuers nationwide with a focus in the Southeast and Carolinas
 - Extensive experience structuring, negotiating and executing complex tax-exempt and taxable transactions including interest rate risk management strategies and bond proceeds reinvestment solutions
 - Experience structuring and executing public-private partnership transactions such as student /workforce housing and economic development transactions
 - Notable experience includes transactions for the City of Charlotte, Union County, UNC Charlotte, Duke University Health System, Mary Washington University, Old Dominion University, the University of Texas System, University of Maryland at College Park Foundation, and Marshall University among others.

- **Education**
 - Bachelor of Science -- Economics and Computer Science, Duke University *magna cum laude*

- **Licenses Held**
 - Registered Representative of the Financial Industry Regulatory Authority (FINRA)
 - General Securities Representative, Series 7
 - Uniform Securities Agent, Series 63

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