



REQUEST FOR BOARD ACTION

ITEM NO. 10.

DATE OF MEETING: August 6, 2012

REQUESTED BY: Claiburn B. Watson, Finance Officer

SHORT TITLE: Resolution Providing for the Authorization, Sale and Issue of Not More Than \$2,040,000 in General Obligation School Refunding Bonds, Series 2012A to Refinance the County's Outstanding General Obligation School Bonds, Series 2008.

BACKGROUND: In 2008, \$3,425,000 was refinanced from an original 1997 General Obligation School Bonds issue. Since interest rates are close to historic lows, the County's outstanding General Obligation School Bonds, Series 2008 are presently a good candidate for refinancing.

SPECIFIC ACTION REQUESTED: To consider and provide for final Board authorization by resolution for the issuance of not more than \$2,040,000 in County General Obligation School Refunding Bonds. Specifically, this resolution provides for the following:

Formally authorizes the sale of not more than \$2,040,000 in School Refunding Bonds, to refinance the County's 2008 School Bonds;

1. Formally authorizes the sale of \$2,040,000 in school bonds;
2. Formally pledges the County's taxing power to provide for payment on the bonds, if that becomes necessary;
3. Approves the proposed form of the bond itself;
4. States the County's agreement to comply with the relevant provisions of federal tax law; and
5. Authorizes County staff to complete the process of issuing the bonds, and approves the steps to that end previously taken. This includes authorizing generally to take all appropriate action to close these bonds and refund the old bonds.

COUNTY MANAGER'S RECOMMENDATION

Respectfully recommend approval.


Initial

RESOLUTION

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

the attached Resolution hereby provides for the issuance of General Obligation School Refunding Bonds, Series 2012A to be not more than \$2,040,000 to refinance the County's 2008 School Bonds.

The Chairman/County Manager is authorized to execute any/all documents necessary to implement this resolution.

MOVED _____ SECONDED _____

APPROVED _____ DENIED _____ UNANIMOUS

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

George R. Brown, Chairman 08/06/12
Date

ATTEST 08/06/12
Date

**Resolution for the Sale of General Obligation School
Refunding Bonds in the Maximum Amount of \$2,040,000**

WHEREAS --

Pender County has previously approved the issuance of general obligation refunding bonds (the "Bonds") to refinance the County's general obligation school refunding bond originally issued in 2008 (the "2008 Bond").

Branch Banking & Trust Company (the "Bank") has submitted a proposal for the purchase of the Bonds, and the County has determined to accept the proposal.

BE IT RESOLVED by the Board of Commissioners of Pender County, North Carolina, as follows:

1. *Determination To Sell Bonds to the Bank* - The County will issue and sell the Bonds and use the proceeds to pay the outstanding balance of the 2008 Bond.

The County accepts the Bank's proposal, dated July 20, 2012, for the purchase of the Bonds. The County asks the North Carolina Local Government Commission (the "LGC") to sell the Bonds to the Bank at a private sale, substantially in accordance with the Bank's proposal and this resolution.

2. *Bond Payment Provisions* - The County's Finance Officer is authorized and directed to determine the final aggregate principal amount of Bonds to be issued, the principal and interest payment schedule for the Bonds and the prepayment terms of the Bonds. The Finance Officer will execute a certificate prior to the initial delivery of the Bonds determining such matters, and this certificate will be conclusive evidence of the Finance Officer's approval and determination of such matters.

The Bonds in final form, however, must provide (a) for the principal amount of the Bonds to be not more than \$2,040,000, (b) for the first principal payment on the Bonds to be due not later than June 1, 2013, (c) for the Bonds to bear interest at an annual interest rate not to exceed 1.96%, and (d) for the final maturity of the Bonds not to extend beyond the final maturity of the 2008 Bond.

Principal, prepayment premium (if any) and interest on the Bonds will be payable in lawful money of the United States of America.

3. *Form of Bonds* -- The Bonds initially will take the form of a single fully-registered bond to be designated "General Obligation School Refunding Bond, Series 2012A." This Bond will be dated the date of its initial delivery to the Bank (the "Closing Date") and will be numbered R-1 for identification. The Bond will be fully registered as to payment of principal and interest, and will be registered initially in the name of the Bank or its designee.

The Bond will be substantially in the form set out in Exhibit A, with such changes as the officers signing the Bond may approve. The delivery of the Bond to the Bank will be conclusive evidence of such officers' approval of the final form of the Bond.

The Bond must be signed by the manual or facsimile signature of the Chairman of this Board or the County Manager. The County's seal must be affixed to the Bond (or a facsimile of the seal printed on the Notes) and attested by the manual or facsimile signature of the Clerk to this Board. No Bond will be valid unless at least one signature appearing on the Bond is manually applied; the manual signature may be the signature of an LGC official that is required by law to appear on the Bond.

4. *Pledge of Faith, Credit and Taxing Power* -- The County's full faith and credit are hereby irrevocably pledged for the payment of the principal of and interest on the Bonds. Unless other funds are lawfully available and appropriated for timely payment of the Bonds, the County will levy and collect an annual ad valorem tax, without restriction as to rate or amount, on all locally taxable property in the County sufficient to pay the principal of and interest on the Bonds as the same become due.

5. *Disbursement of Bond Proceeds* -- The Board directs the Finance Officer to determine, in consultation with the LGC, the procedures for the disbursement of the proceeds of the Bonds for the payment of the 2008 Bond and other costs.

6. *Finance Officer as Registrar; Payments to Registered Owners* -- (a) The County's Finance Officer is appointed Registrar for the Bonds. As Registrar, the Finance Officer must maintain appropriate books and records of the ownership of the Bonds.

(b) The County will treat the registered owner of each Bond as the person exclusively entitled to payment of principal, prepayment premium, if any, and interest and the exercise of all rights and powers of the owner, except that the County will make all payments to the person shown as owner on the registration books at the end of the calendar day on the 15th day (whether or not a business day) of the month preceding each payment date. The County will make payments by federal reserve wire transfer (or other transfer of immediately available funds) sent to such registered owner on the payable date.

(c) The Registrar must not, however, register the transfer of any portion of the Bonds to any person or entity other than a bank, an insurance company or a similar financial institution unless the LGC has previously approved the transfer.

7. *Finance Officer To Complete Bond Closing* - The Board directs the Finance Officer and all other County officers and employees to take all proper steps to have the Bonds prepared and executed in accordance with their terms and to deliver the Bonds to the Bank upon payment for the Bonds.

The Board authorizes the Finance Officer to hold the executed Bonds, and any other documents authorized or permitted by this resolution, in escrow on the County's behalf until the conditions for the delivery of the Bonds and other documents have been completed to the Finance Officer's satisfaction, and thereupon to release the executed Bonds and other documents for delivery to the appropriate persons or organizations.

Without limiting the generality of the foregoing, the Board specifically authorizes the Finance Officer (a) to enter into such agreements or take such other actions as such officer may deem appropriate to provide for the refunding contemplated by this resolution (such as giving notice of redemption to the existing bondholders), and (b) to approve changes to any documents, agreements or closing certifications previously signed by County officers or employees, subject to the provisions of this resolution and provided that any such changes do not substantially alter the intent of such certificates from that expressed in the forms of such certificates as originally signed. The Finance Officer's authorization of the release of any such document for delivery will constitute conclusive evidence of such officer's approval of any changes.

In addition, the Finance Officer is authorized to take all appropriate steps for the efficient and convenient carrying out of the County's on-going responsibilities with respect to the Bonds. This authorization includes, without limitation, contracting with third parties for reports and calculations that may be required under the Bonds, this resolution or otherwise with respect to the Bonds.

8. *Covenants As To Tax Matters* - The County will not take or omit to take any action the taking or omission of which will cause the Bonds to be "arbitrage bonds," within the meaning of Section 148 of the "Code" (as defined below), or "private activity bonds" within the meaning of Code Section 141, or otherwise cause interest on the Bonds to be includable in gross income for federal income tax purposes. Without limiting the generality of the foregoing, the County will comply with any Code provision that may require the County at any time to pay to the United States any part of the earnings derived from the investment of the proceeds of the Bonds, and the County will pay any such required rebate from its general funds. For the purposes of this resolution, "Code" means the United States Internal Revenue Code of 1986, as amended, including applicable Treasury regulations.

9. *Bonds Are "Bank-Qualified" Obligations* -- The County intends that the Bonds will be "qualified tax-exempt obligations" for the purpose of Code Section 265(b)(3), which provides certain tax advantages for financial institutions investing in obligations similar to the Bonds.

10. *Call of 2008 Bond for Redemption* - The Board directs the Finance Officer, on the County's behalf, to make a final irrevocable call for redemption of the 2008 Bond. The Finance Officer will make this call for redemption by the execution and delivery of an appropriate certificate in connection with the original delivery of the Bonds.

11. *Approval of Bond Counsel* -- The Board confirms the selection of Robert M. Jessup, Jr. of Sanford Holshouser LLP to serve as the County's bond counsel with respect to the Bond.

12. *Miscellaneous Provisions* -- All County officers and employees are authorized to take all such further action as they may consider necessary or desirable in connection with the furtherance of the purposes of this resolution. All such prior actions of County representatives are ratified. Upon the absence, unavailability or refusal to act of the Chairman, the County Manager or the Finance Officer, any of such officers may assume any responsibility or carry out any function assigned to another officer. In addition, the Vice Chairman or any Deputy or Assistant Clerk may assume any responsibility or carry out any function assigned to the Chairman or the Board Clerk, respectively, in this resolution. All other Board proceedings, or parts thereof, in conflict with this resolution are repealed, to the extent of the conflict. This resolution takes effect immediately.

* * * * *

I certify as follows: that the foregoing resolution (which includes the attached Exhibit A) was properly adopted at a meeting of the Board of Commissioners of Pender County, North Carolina; that this meeting was properly called and held on August 6, 2012; that a quorum was present and acting throughout the meeting; and that this resolution has not been modified or amended, and remains in full effect as of today.

Dated this ____ day of August, 2012.

[SEAL]

Clerk, Board of Commissioners
Pender County, North Carolina

Exhibit A -- Form of Refunding Bond

REGISTERED BOND NUMBER R-1

August ___, 2012

\$2,040,000

**UNITED STATES OF AMERICA
STATE OF NORTH CAROLINA**

PENDER COUNTY

General Obligation School Refunding Bond, Series 2012A

PENDER COUNTY, NORTH CAROLINA (the "County"), for value received, promises to pay to

BRANCH BANKING & TRUST COMPANY

its successors and registered assigns (the "Bondholder"), the principal sum of

**TWO MILLION FORTY THOUSAND DOLLARS
(\$2,040,000)**

together with interest on the unpaid principal from the date of this Bond until payment of the entire principal sum at the annual rate of 1.96%, subject to prepayment as provided below, in installments of principal and interest on dates and in amounts as shown on Schedule I.

Interest will be calculated on the basis of a 360-day year consisting of twelve 30-day months. Principal and interest are payable in lawful money of the United States of America.

The County may prepay the principal of this Bond, in whole but not in part, on any regular payment date, with 15 days' prior notice to the Bondholder, upon payment of the principal amount to be prepaid plus interest accrued to the payment date and a prepayment premium of 1% of the principal amount prepaid.

In all events, and notwithstanding any other provisions of this Bond, (1) all payments on this Bond will be applied first to interest accrued and unpaid to the payment date and then to principal, and (2) if not sooner paid, the entire principal of and interest on this Bond will be due and payable on June 1, 2017.

This Bond is issued pursuant to a Bond Order of July 23, 2012, and a Bond Resolution of August 6, 2012, each adopted by the County's governing Board of Commissioners, and the Constitution and laws of the State of North Carolina, including the Local Government Bond Act. This Bond constitutes the entire issue of refunding bonds authorized by that Bond Order.

The County's full faith and credit are pledged for the payment of principal of and interest on this Bond.

This Bond is fully registered as to both principal and interest. Transfer of this Bond may be registered upon books maintained for that purpose by the County's Finance Officer, who has been appointed Registrar, at 805 S. Walker Street, Burgaw, North Carolina 28425, or such successor office as the Registrar may designate in writing to the Bondholder. The Registrar will not, however, register the transfer of any portion of the Bonds to any person or entity other than a bank, an insurance company or a similar financial institution unless the North Carolina Local Government Commission has previously approved the transfer.

The Registrar will treat the registered owner of this Bond as the person exclusively entitled to payment of principal of, premium, if any, and interest on this Bond and the exercise of all other rights and powers of the owner hereof, except that the County will make payments to the person shown as the registered owner at the end of the calendar day on the 15th day (whether or not a business day) of the month preceding the payment date. The County will make payments by federal reserve wire transfer (or other transfer of immediately available funds) sent to such registered owner on the payable date.

This Bond is a "qualified tax-exempt obligation" for the purposes of Section 265(b)(3) of the Internal Revenue Code of 1986, as amended.

The County intends that North Carolina law will govern the interpretation of the terms of this Bond.

All acts, conditions and things required by the Constitution and laws of the State of North Carolina to happen, exist or be performed precedent to and in the issuance of this Bond have happened, exist and have been performed, and the issue of Bonds of which this Bond is one, together with all other indebtedness of the County, is within every debt and other limit prescribed by the Constitution and laws of the State of North Carolina.

IN WITNESS WHEREOF, the County has caused this Bond to be signed by the Chairman of its Board of Commissioners, its seal to be affixed hereto and attested by the Clerk to such Board, and this Bond to be dated August __, 2012.

(SEAL)

ATTEST:

**PENDER COUNTY,
NORTH CAROLINA**

[sample only - do not sign]
Michael N. Duvall
Clerk,
Board of Commissioners

By: [sample only - do not sign]
George Brown
Chairman,
Board of Commissioners

[\$2,040,000 General Obligation School Refunding Bond, Series 2012A]

CERTIFICATE OF LOCAL GOVERNMENT COMMISSION

The Bonds have been approved by
the North Carolina Local Government
Commission in accordance with the
Local Government Bond Act.

[Sample only - do not sign]

T. Vance Holloman
Secretary, Local Government Commission

TRANSFER OF BOND

Transfer of this Bond may be registered by the registered owner or its duly authorized attorney upon presentation to the Registrar, who will note the transfer in books kept by the Registrar for that purpose and in the registration blank below.

<u>Date of Re-registration</u>	<u>Name of New Registered Owner</u>	<u>Signature of Registrar</u>

**[\$2,040,000 General Obligation School Refunding Bond, Series 2012A,
of Pender County, North Carolina]**

Schedule I – Principal and Interest Payment Schedule

Principal is payable annually on each June 1 in years and amounts as shown below. Interest is payable on each June 1 and December 1, beginning December 1, 2012, at the annual rate of 1.96% until paid. The schedule below shows the expected interest payment amounts.

[Complete schedule to be determined]

Payment	Principal Amount (\$)	Interest Amount (\$)	Total (\$)
12/1/2012	--- 0 ---		
6/1/2013	385,000.00		
12/1/2013	--- 0 ---		
6/1/2014	430,000.00		
12/1/2014	--- 0 ---		
6/1/2015	425,000.00		
12/1/2015	--- 0 ---		
6/1/2016	465,000.00		
12/1/2016	--- 0 ---		
6/1/2017	335,000.00		

**[\$2,040,000 General Obligation School Refunding Bond, Series 2012A,
of Pender County, North Carolina]**