



REQUEST FOR BOARD ACTION

ITEM NO. 16.

DATE OF MEETING: September 4, 2012

REQUESTED BY: Claiburn B. Watson, Finance Officer

SHORT TITLE: Resolution Providing for the Adoption and Final Approval of Terms and Documents for the County's 2012 Installment Financing to Provide for Refinancing of County Water and Sewer District Bonds.

BACKGROUND: At the Board's meeting on August 20, 2012, the Board of Commissioners determined to carry out an installment financing, as authorized under Section 160A-20 of the North Carolina General Statutes, to provide funds to the County for use in purchasing refunding bonds from the County's water and sewer districts, thereby refinancing existing bonds of these districts and providing debt service savings for the districts. The refinancing plan calls for the County to issue limited obligation bonds, which will be sold to investors and which will represent interests in the installment payments to be paid by the County.

SPECIFIC ACTION REQUESTED: To consider the resolution for the adoption and final approval of terms and documents for the County's 2012 Installment Financing to provide for refinancing of County Water and Sewer District Bonds.

Specifically, this resolution provides for the following:

1. Determination To Proceed with Financing – The Board confirms its decision to carry out the proposed installment financing as described above.
2. Approval of Documents; Direction To Execute Documents – The Board approves the forms of the Documents submitted to this meeting. The Board authorizes and directs the Board's Chairman and the County Manager, or either of them, to execute and deliver those Documents to which the County is a party.
3. County To Purchase District Bonds – The Board authorizes the County's purchase of general obligation refunding bonds from the following three County water and sewer districts: Rocky Point – Topsail Water & Sewer District, Scott's Hill Water & Sewer District and Maple Hill Water District.

4. Underwriters for Bonds – The Board appoints Robert W. Baird & Co. as the managing underwriter for the County’s limited obligation bonds, and appoints BB&T Capital Markets as the co-managing underwriter for the bonds.
5. Approval of Official Statement for Bond Offering – The Board authorizes and approves the underwriters’ distribution of the Official Statement to prospective purchasers of the bonds. The Official Statement as so distributed must be in substantially the form presented to this meeting, which is hereby approved, with such completions and changes as the Finance Officer may approve. The prior actions of the Finance Officer and other County representatives, in collaboration with the underwriters and the LGC staff, in preparing the text of the Official Statement are ratified.
6. Authorization to County Officers To Complete Closing – The County Manager, the Finance Officer and all other County officers and employees are directed to take all proper steps to complete the financing in accordance with the terms of this resolution.
7. Completing Official Statement after Sale – After the County has completed the sale of the bonds to the underwriters, the Finance Officer is authorized and directed to prepare, in collaboration with the underwriters, a final Official Statement within the meaning of Rule 15c2-12.
8. Miscellaneous Provisions – All County officers and employees are authorized to take all such further action as they may consider necessary or desirable in furtherance of the purposes of this resolution. All such prior actions of County officers and employees are ratified. Upon the absence, unavailability or refusal to act of the County Manager, the Board’s Chairman or the Finance Officer, any other of such officers may assume any responsibility or carry out any function assigned in this resolution. In addition, upon the unavailability of the Chairman or the Clerk, respectively, any of the rights or responsibilities directed to such officers may be carried out or exercised by the Vice Chairman or any Deputy or Assistant Clerk. 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.

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 adoption and final approval of terms and documents for the County's 2012 Installment Financing to provide for refinancing of County Water and Sewer District Bonds. The Chairman/County Manager is authorized to execute any/all documents necessary to act on this resolution.

MOVED _____ SECONDED _____

APPROVED _____ DENIED _____ UNANIMOUS

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

George R Brown, Chairman 9/4/12
Date

ATTEST 9/4/12
Date

Resolution Providing Final Approval of Terms and Documents for County's 2012 Installment Financing To Provide for Refinancing of County Water and Sewer District Bonds

WHEREAS --

The Pender County Board of Commissioners has previously determined to carry out an installment financing, as authorized under Section 160A-20 of the North Carolina General Statutes, to provide funds to the County for use in purchasing refunding bonds from the County's water and sewer districts, thereby refinancing existing bonds of these districts and providing debt service savings for the districts. The refinancing plan calls for the County to issue limited obligation bonds, which will be sold to investors and which will represent interests in the installment payments to be paid by the County.

The County's Finance Officer has made available to the Board members the draft documents listed on Exhibit A (the "Documents"), along with a draft of an official statement (the "Official Statement") relating to the County bonds, which is designed to provide appropriate information about the County and the financing to prospective investors in the bonds.

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

1. *Determination To Proceed with Financing* -- The Board confirms its decision to carry out the proposed installment financing as described above.

2. *Approval of Documents; Direction To Execute Documents* -- The Board approves the forms of the Documents submitted to this meeting. The Board authorizes and directs the Board's Chairman and the County Manager, or either of them, to execute and deliver those Documents to which the County is a party. The Documents in their respective final forms must be in substantially the forms presented, with such changes as the Chairman or the County Manager may approve. The execution and delivery of any Document by an authorized County officer will be conclusive evidence of such officer's approval of any such changes.

The Documents in final form, however, must provide for the principal amount of limited obligation bonds to not exceed \$25,000,000 and a financing term not to extend beyond December 31, 2044. The collateral pledged to the repayment of the County's obligations under the Documents will include the refunding bonds acquired by the County that are to be issued by the water districts benefiting from this transaction. The amount financed by the County may include amounts to pay financing expenses and other necessary and incidental costs.

3. ***County To Purchase District Bonds*** – The Board authorizes the County’s purchase of general obligation refunding bonds from the following three County water and sewer districts: Rocky Point – Topsail Water & Sewer District, Scott’s Hill Water & Sewer District and Maple Hill Water District. These purchases will be completed pursuant to terms of bond purchase agreements between the County and each District in substantially the form of the draft of an agreement for Rocky Point – Topsail referenced in Exhibit A, subject to minor adjustments and completion of financing terms as may appear in the final forms of the agreements. In any event, the maximum amount of bonds that the County will purchase from each District will be (a) \$22,800,000 in the case of Rocky Point – Topsail, (b) \$3,000,000 in the case of Scott’s Hill and (c) \$400,000 in the case of Maple Hill. The payment terms of the district bonds will be designed such that the payments, in the aggregate, will be sufficient in times and amounts to provide full and timely payment of the County’s related obligations.

4. ***Underwriters for Bonds*** -- The Board appoints Robert W. Baird & Co. as the managing underwriter for the County’s limited obligation bonds, and appoints BB&T Capital Markets as the co-managing underwriter for the bonds.

5. ***Approval of Official Statement for Bond Offering*** - The Board authorizes and approves the underwriters’ distribution of the Official Statement to prospective purchasers of the bonds. The Official Statement as so distributed must be in substantially the form presented to this meeting, which is hereby approved, with such completions and changes as the Finance Officer may approve. The prior actions of the Finance Officer and other County representatives, in collaboration with the underwriters and the LGC staff, in preparing the text of the Official Statement are ratified.

The Board acknowledges that it is the County’s responsibility, and ultimately the Board’s responsibility, to ensure that the Official Statement in its final form neither contains an untrue statement of a material fact nor omits to state a material fact required to be included therein for the purpose for which such Official Statement is to be used or necessary to make the statements therein, in light of the circumstances under which they were made, not misleading. By adopting this resolution, the Board members acknowledge and accept their own responsibility for causing the County to fulfill these responsibilities for the Official Statement.

The County deems the Official Statement as distributed by the underwriter to be a “final official statement” within the meaning of Rule 15c2-12 of the Securities Exchange Act of 1934, as amended (“Rule 15c-12”), except for the omission of certain final bond pricing and other information that Rule 15c2-12 allows to be omitted.

6. Authorization to County Officers To Complete Closing – The County Manager, the Finance Officer and all other County officers and employees are directed to take all proper steps to complete the financing in accordance with the terms of this resolution.

The Board authorizes the Finance Officer to hold executed copies of all financing documents authorized or permitted by this resolution in escrow on the County's behalf until the conditions for their delivery have been completed to such officer's satisfaction, and thereupon to release the executed copies of the 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 approve any additional agreements appropriate to carry out the plan of financing contemplated by this resolution, including agreements for the custody or investment of financing proceeds, appointment of additional underwriters and agreements for appropriate professional services, and (b) to approve changes to any documents or closing certifications previously signed by County officers or employees, provided that such changes do not conflict with this resolution or substantially alter the intent of the document from that expressed in the form originally signed. The Finance Officer's authorization of the release of any document for delivery will constitute conclusive evidence of such officer's approval of the final form.

In addition, the Finance Officer is authorized and directed to take all appropriate steps for the efficient and convenient carrying out of the County's on-going responsibilities with respect to the bonds and the financing. 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.

7. Completing Official Statement after Sale – After the County has completed the sale of the bonds to the underwriters, the Finance Officer is authorized and directed to prepare, in collaboration with the underwriters, a final Official Statement within the meaning of Rule 15c2-12. The Finance Officer is authorized to approve the final form of the document as such a final official statement. The County, together with the underwriter, will arrange for the delivery within seven business days of the date the bonds are sold of a reasonable number of copies of the final Official Statement to the underwriter for delivery to each potential investor requesting a copy of the final Official Statement and to each person or entity to which the underwriters initially sell any portion of the bonds.

8. Miscellaneous Provisions -- All County officers and employees are authorized to take all such further action as they may consider necessary or desirable in furtherance of the purposes of this resolution. All such prior actions of County officers and employees are ratified. Upon the absence, unavailability or refusal to act of the County Manager, the Board's Chairman or the Finance Officer, any other of such officers may assume any responsibility or carry out any function assigned in this resolution. In addition, upon the unavailability of the Chairman or the Clerk, respectively, any of the rights or responsibilities directed to such officers may be carried out or exercised by the

Vice Chairman or any Deputy or Assistant Clerk. 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.

Exhibit A -- Draft Documents

(a) A draft dated August 17, 2012, of an Installment Financing Contract to be dated on or about October 1, 2012 (the "Financing Contract"), between the County and Pender County Public Facilities Company (the "Company), providing for the advance of funds to the County for the County's use in purchasing the district bonds, and further providing for the County's obligation to repay the amounts advanced.

(b) A draft dated August 17, 2012, of a Trust Agreement to be dated on or about October 1, 2012, between the Company and U.S. Bank National Association, as Trustee, providing for the issuance of limited obligation bonds to generate funds for the advance to the County under the Financing Contract. The bonds are payable from amounts paid by the County under the Financing Contract.

(c) A draft dated August 17, 2012, of a Bond Purchase Agreement to be dated on or about September 27, 2012, between the County and Rocky Point – Topsail Water and Sewer District, providing for the District's sale to the County of the District's general obligation refunding bond.

(d) A draft of a Bond Purchase Agreement to be dated on or about September 27, 2012, providing for the obligations of the underwriters to purchase the bonds. The Bond Purchase Agreement includes a Letter of Representation to be delivered by the County. The final form of this Agreement will set out the final principal amount, principal payment schedule and interest rates for the County bonds.

I certify as follows: that the foregoing resolution 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 September 4, 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 September, 2012.

[SEAL]

Clerk, Board of Commissioners
Pender County, North Carolina