

**REQUEST FOR BOARD ACTION**

**HENDERSON COUNTY  
BOARD OF COMMISSIONERS**

**MEETING DATE:** March 9, 2005

**SUBJECT:** **FINANCING RESOLUTION - HUMAN SERVICES BUILDING  
AND DANA ELEMENTARY SCHOOL CONSTRUCTION  
PROJECTS**

**ATTACHMENTS:** **Financing Resolution  
Notice of Public Hearing**

**SUMMARY OF REQUEST:**

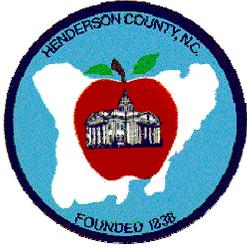
Staff is presenting a resolution drafted by our bond counsel to the Board of Commissioners for consideration concerning the proposed installment contract financing for the Human Services Building and Dana Elementary School Projects. First, the resolution makes the necessary findings for the undertaking and authorizes the preparation of an installment purchase financing contract which will provide the funding for these two projects.

Second, the resolution authorizes the Chairman and Staff to submit an application to the Local Government Commission for its required approval of the installment purchase financing contract. The resolution also authorizes staff to apply for municipal bond insurance with respect to the contract and approves the financing team necessary to complete the process.

Last, the resolution calls for a required public hearing on the financing documents to be held on the Board of Commissioner's March 23, 2005 meeting date at 11:00 a.m. and directs the Clerk to the Board to cause a notice of the public hearing to be published in the local newspaper.

**COUNTY MANAGER'S RECOMMENDATION/BOARD ACTION REQUESTED:**

It would be appropriate for the Board to approve the attached resolution drafted by our bond counsel at today's meeting which will authorize the necessary actions that will need to be taken to carry out the financing and set the required public hearing for the Board's March 23<sup>rd</sup> meeting at 11:00 a.m.



HENDERSON COUNTY  
OFFICE OF THE COUNTY MANAGER

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# MEMO

**TO: Board of Commissioners**

**FROM: David E. Nicholson  
County Manager**

**DATE: March 9, 2005**

**SUBJECT: Financing – Capital Projects**

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The purpose of this memo is to outline several issues associated with the financing of our and the School System's capital projects. At this evening's meeting, the Board is being requested to formally begin the financing for the Human Services Building and Dana Elementary School. I will also use this memo to discuss the financing of the other projects that the Board will be considering during this calendar year.

At the last Joint School Facility Committee meeting, the School System provided an update on their projects and associated costs. They plan to accept bids for Dana – Phase 1 in April with an anticipated financing cost of \$10,350,000. The last projection for the Hillandale project from their architect was \$13,569,000. However, the Board of Education and Staff are still discussing this project and their other needs and will update the Joint Schools Facility Committee at the March 23, 2005 meeting. The current estimate for these two projects is \$23,919,000. The debt service for Fiscal Year 2005-06 will be \$2,085,367. This will require an increase in the property tax of 2.5 cents. These amounts do not include any land purchase for a new elementary school and the projects such as construction of this new school that may be requested in the Spring of 2006.

We will be accepting bids for the construction of the new Human Services Building in April. The total financing cost for this project is projected at \$14,000,000 which includes refinancing of the outstanding loan, fees and other previously paid expenses. This amount is \$2,283,000 less than the previous design that included County Administration and Land Development's Departments. I am also working with the Historic Courthouse Corporation and an architect on the renovation and addition to the Historic Courthouse. The total cost of the project is to some extent dependent on the issue of the Federal Grant. The Corporation would like to see the current annexes be removed and a larger annex be constructed behind the main building. This plan would cost considerably more than the plan just to add the service annex. For the purposes of this memo, I have used a projected cost for the plan just to add the service annex. I am proposing that we use the current debt service payment on the Spartanburg Highway site, the funds appropriated for the Historic Courthouse and our reduced debt service payment for next fiscal year to pay the entire new debt service payment for the County projects. I will not be proposing any additional property tax increase for the Human Services Building and Historic Courthouse projects.

Tonight, the Board is requested to take action on the following items.

1. Financing Resolution
2. Set Public Hearing on the Financing Documents
3. Updated Reimbursement Resolution – HSB
4. Updated Reimbursement Resolution - Dana

Extract from Minutes of a regular meeting of the Board of Commissioners (the "Board") of the County of Henderson, North Carolina held in the Commissioners' Meeting Room, 100 North King Street, Hendersonville, North Carolina 28792, at 5:30 p.m. on March 9, 2005.

The following members were present:

The following members were absent:

Also present:

Commissioner \_\_\_\_\_ moved that the following resolution (the "*Resolution*"), a copy of which was made available to the Board and which was read by title:

**RESOLUTION OF THE BOARD OF COMMISSIONERS OF THE COUNTY OF HENDERSON, NORTH CAROLINA, AUTHORIZING THE NEGOTIATION OF AN INSTALLMENT FINANCING CONTRACT, DIRECTING THE PUBLICATION OF NOTICE WITH RESPECT THERETO AND MAKING CERTAIN FINDINGS AND DETERMINATIONS IN CONNECTION THEREWITH**

**I. UNDERTAKINGS**

**WHEREAS**, the Board of Commissioners (the "Board") of the County of Henderson, North Carolina (the "County"), desires to provide for design, the acquisition, construction, renovation and equipping of an elementary school and the design, acquisition, construction and equipping of a human services department building (collectively, the "Facilities"); and

**WHEREAS**, the Board now proposes to finance the Facilities through an installment financing contract (the "Contract") with Henderson County Governmental Financing Corporation, Hendersonville, North Carolina ("the Corporation"), obligating the County to repay in installments the amount financed at a fixed annual interest rate of not more than 5.5% over a term not exceeding 20 years, resulting in a total amount financed not to exceed \$26,000,000 (excluding reserves and costs of issuance); and

**WHEREAS**, pursuant to N.C.G.S. Section 160A-20, the County is authorized to finance the design, acquisition, construction, renovation and equipping of the Facilities by entering into the Contract and a deed of trust (the "Deed of Trust") that create in the Facilities and the sites on which they are located a security interest to secure payment of the obligation thereby created; and

**WHEREAS**, subject to the prior approval of the Local Government Commission of North Carolina (the "LGC") pursuant to N.C.G.S. Section 159-148, the County intends to finance the cost of the Facilities pursuant to N.C.G.S. Section 160A-20 by executing and

delivering to the Corporation or other financing entity the Contract providing for the financing of a principal amount not to exceed \$26,000,000 (excluding reserves and costs of issuance); and

**WHEREAS**, the County intends to apply for municipal bond insurance to guarantee payments by the County under the Contract; and

## **II. UNDERTAKINGS NECESSARY**

**WHEREAS**, the County staff has advised the Board, and the Board hereby finds and determines, that the County must design, acquire, construct, renovate and/or equip the Facilities in order to maintain and enhance the County's public school and certain administrative facilities to enable the County to perform its public functions, and that the Facilities will benefit the County and its residents; and

**WHEREAS**, a public hearing must be held to receive public comment on the desirability of installment financing for the Facilities, and the Board received evidence supporting the need for such financing; and

**WHEREAS**, the Board finds and determines that the undertakings are necessary and expedient for the aforesaid reasons and that the Facilities be financed under the terms, conditions and parameters heretofore stated and to be further determined with more particularity at a later date; and

## **III. FUNDS NOT EXCESSIVE**

**WHEREAS**, the sums to fall due under the Contract can be included in the County's budget without difficulty; and

**WHEREAS**, the above factors lead to the conclusion that the payments under the Contract are not excessive for the stated purposes of designing, acquiring, constructing, renovating and/or equipping the Facilities; and

## **IV. TRANSACTION A PUBLIC PURPOSE**

**WHEREAS**, the County Attorney has advised the County that the Facilities are authorized by law and are purposes for which public funds may be expended pursuant to the Constitution and laws of the State of North Carolina; and

## **V. INSTALLMENT PURCHASE FINANCING DESIRABLE**

**WHEREAS**, the Board finds and determines that short term or pay-as-you-go financing for the Facilities would place strains on the County's ability to fund general operations and education without a significant tax increase; and

**WHEREAS**, use of the County's unobligated fund balance to finance the Facilities would reduce the fund below the guideline established by the LGC and would not be in the County's best interest; and

**WHEREAS**, the use of non-voted debt would not provide sufficient funds to complete the Facilities in a timely manner; and

**WHEREAS**, although the cost of financing under the proposed Contract is greater than the cost of general obligation bond financing, installment contract financing would be preferable to general obligation bond financing because a general obligation bond authorization probably could not be perfected in a timely manner and would not permit the alternative financing structures and repayment provisions available in the proposed negotiated installment contract financing; and

**WHEREAS**, the proposed cost of financing the Facilities is too great an amount to be funded by current appropriations; and

**WHEREAS**, the Board finds and determines that installment contract financing is therefore the most viable and efficient alternative and that the cost of such financing is reasonable; and

#### **VI. COMPLIANCE WITH DEBT MANAGEMENT CONTROLS**

**WHEREAS**, past audit reports of the County indicate that its debt management and contract obligations payment policies have been carried out in strict compliance with the law and the County has not been censured by the LGC, external auditors, or any other regulatory agencies in connection with such management; and

#### **VII. ESTIMATED TAX INCREASE**

**WHEREAS**, the Board estimates that the County's ad valorem tax rate will not be significantly increased in order to sustain the proposed financing; and

#### **VIII. NO DEFAULT**

**WHEREAS**, the County is not in default in meeting any of its debt service or contract obligations; and

#### **IX. APPLICATION**

**WHEREAS**, it is the Board's intention to adopt this Resolution for the purpose of authorizing the design, acquisition, construction, renovation and/or equipping of the Facilities, making certain findings and determinations, approving the submission of an application for approval of the Contract to the LGC and authorizing such other acts deemed necessary and advisable to carry out the design, acquisition, construction, renovation and/or equipping of the Facilities.

NOW THEREFORE, BE IT RESOLVED BY THE BOARD OF COMMISSIONERS OF THE COUNTY OF HENDERSON, NORTH CAROLINA, as follows:

Section 1. The Chairman of the Board, the County Manager, the Finance Director and the Clerk to the Board are hereby authorized and directed on behalf of the County to proceed

with the preparation of the Contract providing for the financing of an amount not to exceed \$26,000,000 (excluding reserves and costs of issuances) at an annual interest rate not to exceed 5.5% and a term not to exceed 20 years, and otherwise proceed with the plan of financing for the Facilities described at this meeting.

Section 2. The Chairman of the Board, the County Manager, the Finance Director and the Clerk to the Board are hereby authorized and directed to submit an application for the LGC's approval of the Contract pursuant to N.C.G.S. Section 160A-20 and Section 159-148, and to execute a sworn statement of debt of the County pursuant to N.C.G.S. Section 159-150, in connection with the financing of the Facilities.

Section 3. The County staff is hereby authorized to apply for municipal bond insurance with respect to the Contract.

Section 4. The financing team of LeBoeuf, Lamb, Greene & MacRae, L.L.P., as special counsel, BB&T Capital Markets, a division of Scott & Stringfellow, Inc. as underwriter, Robinson, Bradshaw & Hinson P.A., as underwriter's counsel, and First-Citizens Bank & Trust Company, as trustee, is approved.

Section 5. This Resolution shall become effective immediately upon its adoption and shall supersede any and all previous resolutions regarding the design, acquisition, construction, renovation and/or equipping of the Facilities on an installment financing basis.

Section 6. That a public hearing (the "Public Hearing") shall be conducted by the Board of Commissioners on March 23, 2005 at 11:00 a.m. in the Commissioners' Meeting Room of the County Administration Building at 100 North King Street, Hendersonville, North Carolina, concerning the Contract, the Deed of Trust, the proposed design, acquisition, construction, renovation and/or equipping of the Facilities and any other transactions contemplated therein and associated therewith.

Section 7. The Clerk to the Board is hereby directed to cause a notice of the Public Hearing to be published once in a qualified newspaper of general circulation within the County on March 10, 2005.

On motion of Commissioner \_\_\_\_\_, seconded by Commissioner \_\_\_\_\_, the foregoing resolution entitled "RESOLUTION OF THE BOARD OF COMMISSIONERS OF THE COUNTY OF HENDERSON, NORTH CAROLINA, AUTHORIZING THE NEGOTIATION OF AN INSTALLMENT FINANCING CONTRACT, DIRECTING THE PUBLICATION OF NOTICE WITH RESPECT THERETO AND PROVIDING FOR CERTAIN OTHER RELATED MATTERS THERETO AND MAKING CERTAIN FINDINGS AND DETERMINATIONS IN CONNECTION THEREWITH" was duly adopted by the following vote:

AYES:

NAYS:

**EXHIBIT A**  
**NOTICE OF PUBLIC HEARING**  
**ON WHETHER THE BOARD OF COMMISSIONERS**  
**FOR THE COUNTY OF HENDERSON, NORTH CAROLINA**  
**SHOULD APPROVE A PROPOSED INSTALLMENT FINANCING**  
**CONTRACT TO FINANCE THE COST OF CERTAIN PROJECTS**

NOTICE IS HEREBY GIVEN that the Henderson County Board of Commissioners (the "Board") will hold a public hearing on March 23, 2005 at 11:00 a.m. in the Commissioners' Meeting Room of the County Administration Building, 100 North King Street, Hendersonville, North Carolina for the purpose of considering whether the Board for the County of Henderson, North Carolina (the "County") should approve a proposed installment financing contract and certain related documents under which the County would obtain financing pursuant to North Carolina General Statutes § 160A-20, as amended, to finance the cost of the Projects hereinafter described and under which the County would secure the repayment of it of moneys advanced pursuant to such installment financing contract by granting a security interest in the Projects and related sites and property thereof under a deed of trust. The Projects consist of (a) the design, acquisition, construction, renovation and equipping of the Dana Elementary School to be located at 690 Ridge Road in Dana, North Carolina and (b) the design, acquisition, construction, renovation and equipping of a County Human Services Building to be located at 1220 Spartanburg Highway in Hendersonville, North Carolina. The combined cost of constructing the Projects is estimated at approximately \$26,000,000. Drafts of proposed financing documents are available for inspection in the office of the County Manager. All persons interested in this public hearing are encouraged to attend and express their views.

/s/ Elizabeth W. Corn  
Clerk, Board of Commissioners  
Henderson County, North Carolina

Published: March 10, 2005