

REQUEST FOR BOARD ACTION

HENDERSON COUNTY

BOARD OF COMMISSIONERS

MEETING DATE: 4 April 2005

SUBJECT: Approval of Installment Financing for Dana Elementary School and Human Services Building Construction

ATTACHMENT(S): Proposed resolution

SUMMARY OF REQUEST:

Attached is a proposed resolution for consideration by the Board. This resolution would give final approval to the past negotiations for and the future execution of the financing documents for the Dana School and Human Services Building construction projects. The most important material terms are that the financing is for a maximum of \$26,000,000.00, due not later than May 1, 2025, and that the annual interest rate will be between 5.097% and 5.23%.

The financing documents referred to in this resolution were included in your agenda packet for 23 March 2005 meeting, and are available at the County offices. They were the subject of a public hearing before you on 23 March 2005.

Staff will be available to provide further information if requested.

COUNTY MANAGER RECOMMENDATION/BOARD ACTION REQUESTED:

The County manager recommends approval of this resolution.

**RESOLUTION APPROVING AN INSTALLMENT
FINANCING OF SCHOOL AND COUNTY ADMINISTRATIVE
FACILITIES AND THE SALE OF NOT MORE THAN \$26,000,000
CERTIFICATES OF PARTICIPATION, SERIES 2005A
AND AUTHORIZING THE EXECUTION AND DELIVERY
OF DOCUMENTS IN CONNECTION THEREWITH**

WHEREAS, there have been available at this meeting substantially final drafts of the following:

- (1) A form of the Installment Financing Contract to be dated May 1, 2005 (the "Contract") between the Henderson County, North Carolina (the "County") and the Henderson County Governmental Financing Corporation (the "Corporation");
- (2) A form of the Deed of Trust and Security Agreement to be dated May 1, 2005 (the "Deed of Trust"), from the County to a trustee for the benefit of the Corporation;
- (3) A form of the Indenture of Trust to be dated May 1, 2005 (the "Indenture") between the Corporation and First-Citizens Bank & Trust Company, as trustee (the "Trustee");
- (4) A form of the Preliminary Official Statement (the "Preliminary Official Statement") relating to the Certificates of Participation, Series 2005A (the "Certificates");
- (5) A form of the Contract of Purchase to be dated on or about April __, 2005 (the "Purchase Contract") between Wachovia Bank, National Association, on behalf of itself and on behalf of Scott & Stringfellow, Inc., trading as BB&T Capital Markets (the "Underwriters") and the Corporation;
- (6) A form of the Letter of Representation to be dated on or about April __, 2005 (the "Letter of Representation") from the County to the Underwriter;
- (7) A form of the Lease Agreement to be dated May 1, 2005 (the "Lease") between the County and the Henderson County Board of Public Education (the "Board of Education");
- (8) A form of the Agency Agreement to be dated May 1, 2005 (the "Agency Agreement") between the County and the Board of Education; and
- (9) A form of Conditional Assignment of Construction Contracts and Plans and Specifications to be dated May 1, 2005 (the "Assignment") between the Board of Education and the Trustee.

WHEREAS, the Board of Commissioners of the County duly conducted a public hearing on March 23, 2005, regarding the Contract to finance the acquisition, construction, renovation and equipping of the Dana Elementary School and the Henderson County Human Services Building (collectively, the "Facilities") and the acquisition of real property related there to, and the Board received evidence supporting the need for such financing; and

WHEREAS, the Board of Commissioners of the County desires to approve the proposed installment financing of the Facilities and the execution, sale and delivery of the Certificates and to authorize other actions in connection therewith;

NOW, THEREFORE, BE IT RESOLVED by the Board of Commissioners of the County as follows:

- (1) All actions heretofore taken by the County Manager, the Finance Director, and the Acting County Attorney effectuating the proposed installment financing of the Facilities are hereby approved, ratified and authorized pursuant to and in accordance with the transactions contemplated by the documents referred to above.
- (2) The Board hereby finds and determines in connection with the Contract and the transactions contemplated thereby that (a) such Contract is necessary or expedient to the County, (b) such proposed Contract, under current circumstances, is preferable to a bond issue of the County for the same purpose, (c) the sums estimated to fall due under such Contract are adequate and not excessive for its proposed purpose, (d) the County's debt management procedures and policies are good and its debt will continue to be managed in strict compliance with the law, (e) any increase in taxes necessary to meet the sums estimated to fall due under the Contract will not be excessive and (f) the County is not in default regarding any of its debt service obligations.
- (3) Each of the Contract, the Deed of Trust, the Letter of Representation, the Lease Agreement and the Agency Agreement, in the form submitted to this meeting, is hereby approved, in substantially such form and the Chairman or Vice Chairman of the Board, the County Manager, the Finance Director, the County Attorney or Acting County Attorney and the Clerk to the Board are each hereby authorized and directed to execute and deliver each of those documents on behalf of the County, with such changes, insertions or omissions as they may approve with the advice of counsel (including provisions that relate to a municipal bond insurance policy procured by the County, their execution thereof to constitute conclusive evidence of their approval).
- (4) The Indenture, the Purchase Contract and the Assignment, in the forms submitted to this meeting, are hereby approved with such changes, insertions or omissions as they may approve with the advice of counsel, including provisions (if applicable) that relate to a municipal bond insurance policy procured by the County.
- (5) Each of the Preliminary Official Statement and the final Official Statement in the form of the Preliminary Official Statement submitted to this meeting, is hereby approved, in substantially such form, with such changes, insertions and omissions as appropriate, and the use thereof in connection with the public offering and sale of the Certificates is hereby authorized. The Chairman or Vice Chairman of the Board and the County Manager, Finance Director and County Attorney or Acting County Attorney are hereby authorized and directed to execute and deliver on behalf of the County, the final Official Statement in substantially such form, with such changes, insertions and omissions as they may

approve with the advice of counsel, their execution thereof to constitute conclusive evidence of their approval.

- (6) Subject to the limitations set forth herein, the County Manager is hereby authorized to approve the terms of the Certificates, including but not limited to, the aggregate principal amount and the dates and amounts of maturities thereof, the redemption provisions thereof and the interest rates thereon; provided that: (i) the principal amount of the Certificates shall not exceed \$26,000,000; (ii) the final maturity date of the Certificates shall be no later than May 1, 2025; and (iii) the true interest cost and the effective interest rate thereof shall not exceed 5.097% and 5.23%, respectively.
- (7) The Chairman or Vice Chairman of the Board, the County Manager, the Finance Director, the Clerk to the Board, and the County Attorney or Acting County Attorney are hereby authorized to take any and all such further action and to execute and deliver such other documents as may be necessary or advisable to carry out the intent of this Resolution and to effect the installment financing pursuant to the Contract, including, without limitation, procuring a municipal bond insurance policy and entering into tax compliance certificates and agreements. Without limiting the generality of the foregoing, each of the County Manager and Finance Director is authorized to approve all details of the financing, including without limitation, the amount advanced under the Contract (which shall not exceed \$26,000,000), the annual payments under the Contract, the interest rates with respect to such payments, the term of the Contract, and the discount below or premium above the principal amount of the Certificates at which the Certificates are sold to the Underwriters. Execution of the Contract by the Chairman or Vice Chairman of the Board or the County Manager and Finance Director shall conclusively evidence approval of all such details of the financing.

This Resolution shall become effective immediately upon its adoption.

This the 4th day of April, 2005.

HENDERSON COUNTY BOARD OF COMMISSIONERS

BY: _____
William L. Moyer, Chairman

ATTESTED BY:

[SEAL]

Elizabeth W. Corn, Clerk to the Board