

REQUEST FOR BOARD ACTION

HENDERSON COUNTY BOARD OF COMMISSIONERS

MEETING DATE: September 20, 2006

SUBJECT: Vehicle Financing Proposals

ATTACHMENTS: Summary of Rates Received
Bank of America Proposal
Draft Resolution
Draft Installment Financing Contract

SUMMARY OF REQUEST:

Included in the current year budget is debt service to pay for the installment purchase financing of new vehicles to replace vehicles in the County's fleet that either had leases expiring during the fiscal year or were requested and approved as new vehicle replacements for certain departments. Due to the large number of vehicles (32) to replace, staff is recommending installment purchase contract financing by making payments over a three year period at a very low interest rate to lessen the impact on the budget for the current and future fiscal years.

Staff requested proposals from financial institutions to finance the purchase of thirty-two (32) new vehicles at a total cost not to exceed \$690,000. Twenty-six (26) of the new vehicles are for the Sheriff's Department and six (6) are new trucks or vans for other County Departments. Attached (Exhibit A) for the Board's review are the results of the financing proposals that were received from eight financial institutions.

Bank of America has been certified as the lowest responsive proposal (Exhibit B) to finance the new vehicles for a 3-year term at a bank-qualified interest rate of 3.75 percent. The total annual debt service payments required would be \$244,255.36. The first quarterly payment of \$61,063.84 would be due in January 2007. Staff budgeted debt service to make the first two quarterly payments that would be due in the current fiscal year's budget.

Staff recommends that the Board consider approving the attached resolution (Exhibit C) accepting and approving the proposal received from Bank of America and authorizing the Chairman and staff to execute the required financing documents. A draft copy (Exhibit D) of the bank's installment purchase contract is attached for the Board's review and will be in essentially the same final form that the County has entered into with Bank of America on previous financings for vehicles and voting equipment with the current proposed terms. No formal approval by the Local Government Commission or a public hearing is required to enter into an installment purchase contract financing for vehicles.

COUNTY MANAGER'S RECOMMENDATION:

It would be appropriate for the Board to adopt the attached resolution at today's meeting approving the Bank of America vehicle financing proposal and authorizing the Chairman and staff to execute the required documents to close this transaction.

Henderson County
2006 Vehicle Financing Proposals
Summary of Rates Received
September 8, 2006

<u>Financial Institution:</u>	<u>3-Yr Fixed Interest Rate</u>
Bank of America	3.75%
Suntrust	3.91%
First Citizens	4.16%
RBC Centura	4.24%
BB&T	4.27%
Wachovia	5.22%
Carolina First	5.46%
Mountain 1 st	5.95%



Mark T. Stanley
Vice President
Government Equipment Finance
Banc of America Public Capital Corp

Banc of America Public Capital Corp
CA5-705-04-01
555 California St., 4th Floor
San Francisco, CA 94104
Email: mark.t.stanley@bankofamerica.com
Tel: (415) 765-1836

September 6, 2006

J. Carey McLelland
Finance Director
Henderson County Finance Department
Historic Courthouse Annex
113 N. Main Street
Hendersonville, NC 28792

Re: Vehicle Financing Proposal

Dear Carey:

Banc of America Public Capital Corp (the tax exempt financing and government leasing affiliate of Banc of America Leasing & Capital, LLC) is pleased to submit our financing proposal described in the attached Summary of Terms and Conditions (the "Term Sheet"). Please review the Term Sheet and contact me if you have any questions.

This proposal letter and the Term Sheet include only a brief description of the principal terms of the Proposed Transaction. Please understand that this proposal is not a commitment or offer to lease, and does not create any obligation for Lender. Lender will not be responsible or liable for any damages, consequential or otherwise, that may be incurred or alleged by any person or entity, including Lessee, as a result of this proposal letter. Lender will notify you in writing of its decision if Lender agrees to proceed with the Proposed Transaction after completing its review and analysis.

To accept this proposal, please sign the enclosed copy of this letter and return it, by no later than October 6, 2006 to **Banc of America Public Capital Corp, 555 California Street, 4th Floor, San Francisco, CA 94104, Attention: Mark Stanley.**

If you should have any questions, please feel free to contact me.

Sincerely,

A handwritten signature in black ink, appearing to read "Mark T. Stanley", written over a large, faint circular stamp or watermark.

Mark T. Stanley
Vice President
Government Equipment Finance
(415) 765-1836

The undersigned, by its authorized representative below, accepts the above proposal, agrees to furnish Banc of America Public Capital Corp ("Lender"), its successors and assigns, any information relating to the business or financial condition of the borrower or its affiliates, and authorizes Lender, Bank of America, N.A. and their affiliates to disclose to, discuss with and distribute such information (and any information they may already have) to any other affiliates or proposed assignees or successors of Lender.

County of Henderson, NC

By: _____

Title: _____

Date: _____

Federal ID #: _____

Insurance Information:

Carrier: _____

Contact: _____

Telephone No. _____



SUMMARY OF TERMS AND CONDITIONS

Date: September 6, 2006

Borrower: County of Henderson, NC ("Borrower")

Lender: Banc of America Public Capital Corp, the tax exempt financing and government leasing affiliate of Banc of America Leasing & Capital, LLC ("Lender")

Maximum

Purchase Price: The lower of \$690,000.00 and the fair market value of the Equipment, which may with Lender's prior consent include soft costs such as freight, installation and taxes paid up-front by Lender not to exceed a percentage of the Maximum Purchase Price approved by Lender. The fair market value of the Equipment is subject to verification by an independent third party appraiser.

Commencement Date: No later than October 25, 2006.

Term: 3 Years

Interest Rate: **3.75%** Fixed

A sample amortization schedule is attached to this proposal.

The above interest rate will be held until October 25, 2006. Subsequently, the fixed interest rate will be calculated at funding according to the following formula: 5 year U.S. Treasury times .65, plus 68 basis points.

Index: The indexes on which the above tax-exempt rate is based are the 5-Year U.S. Treasury obligations per Bloomberg on 8/31/06.

Type of

Financing: Installment Financing Agreement. The Installment Financing Agreement will include language intended to comply with NC General Statute Section 160A-20. The Installment Financing Agreement will include non-appropriation of funds language.

Title and Security

Interest: Lender will have a first lien on the equipment reflected on the Certificate of Title.

Early

Termination: Borrower may, upon 30 days notice, prepay in full all amounts then outstanding under the Loan, including accrued interest, principal balance, other unpaid charges, with **no prepayment penalty.**

Documents: Documents in form and substance satisfactory to Lender and its local counsel must be executed and delivered.

Non-Appropriation

Termination: Borrower affirms that funds are available for the current fiscal year and reasonably believes that sufficient funds can be obtained to make all payments during each subsequent fiscal year. Borrower will regularly budget for and otherwise use its best efforts to obtain funds for the continuation of the payments in this transaction.

Insurance: Borrower will provide, at its expense, liability and casualty insurance (with such deductibles as Lender may approve).

**Opinion of
Counsel:**

Borrower's counsel shall deliver an opinion to Lender at closing in form and substance satisfactory to Lender concerning the due authorization, execution, delivery, and enforceability of the contract.

**Assignment by
Lender:**

Lender may sell, assign or encumber all or any part of its right, title and interest in the financing without Borrower's prior written consent; however, in no event shall Lender assign this agreement as a public offer of participation. Borrower's consent is to a private placement transaction only, within the meaning of applicable federal securities laws. This financing may be offered and sold solely to one or more persons who are reasonably believed to be qualified institutional buyers or accredited investors and who make certain other representations concerning their status as experienced investors.

Escrow**Account:**

If Borrower so desires, subject to compliance with applicable regulations under the Internal Revenue Code, including, but not limited to arbitrage regulations, the proceeds of the financing may be deposited in an escrow acceptable to Lender, and disbursements made therefrom to pay for Equipment upon the execution and delivery of an acceptance certificate (and related documents) by Borrower and approved by Lender.

Credit Due**Diligence:**

In order to complete its credit due diligence, Lender will require Borrower to provide:

- Three years of most recent financial statements;
- Most recent fiscal year budget;
- Insurance Certificate.

Utilization Period

Expiration Date: The latest date for any funding will be December 31, 2006.

Banc of America Public Capital Corp.
MUNI Equivalent
Amortization Schedule

Borrower HENDERSON COUNTY
Prepared Sep-06-2006 9:25 by MARK STANLEY
Comment VEHICLES

Date	debt service number	interest 3.75%	principal	debt service	balance
10/6/2006	-	-	-	-	690,000.00
1/6/2007	1.00	6,468.76	54,595.08	61,063.84	635,404.92
4/6/2007	2.00	5,956.93	55,106.91	61,063.84	580,298.01
7/6/2007	3.00	5,440.30	55,623.54	61,063.84	524,674.47
10/6/2007	4.00	4,918.83	56,145.01	61,063.84	468,529.46
1/6/2008	5.00	4,392.47	56,671.37	61,063.84	411,858.08
4/6/2008	6.00	3,861.18	57,202.67	61,063.84	354,655.42
7/6/2008	7.00	3,324.90	57,738.94	61,063.84	296,916.47
10/6/2008	8.00	2,783.60	58,280.25	61,063.84	238,636.23
1/6/2009	9.00	2,237.22	58,826.62	61,063.84	179,809.60
4/6/2009	10.00	1,685.72	59,378.12	61,063.84	120,431.48
7/6/2009	11.00	1,129.05	59,934.80	61,063.84	60,496.68
10/6/2009	12.00	567.16	60,496.68	61,063.84	-
TOTAL		42,766.11	690,000.00	732,766.11	



RESOLUTION

WHEREAS, staff requested proposals to finance the purchase of new vehicles by installment contract and Bank of America was certified as the lowest responsive proposal received; and

WHEREAS, there had been presented to the Board of Commissioners (“the Board”) a draft Installment Purchase Contract and Acquisition Fund and Account Control Agreement (“the Agreements”) to finance the purchase of thirty-two (32) new vehicles at a total cost not to exceed \$690,000, which includes the associated 3 percent highway use tax on each vehicle, by installment contract as allowed by N.C.G.S. 160A-20; and

WHEREAS, the Board desires to accept the Agreements to finance the purchase of the new vehicles with Bank of America at an annual non-bank qualified interest rate of 3.75 percent, making level, quarterly payments over a three (3) year term.

NOW THEREFORE, it is hereby resolved by the Henderson County Board of Commissioners:

1. The County hereby accepts the proposal from Bank of America to finance the purchase of new vehicles for the County.
2. The Agreements are hereby approved, and the Chairman of the Board, the County Manager, the County Attorney, and the Finance Director as the case may be, are hereby authorized and directed to execute the Agreements and to deliver the same to the appropriate counter parties, and the Clerk to the Board is hereby authorized and directed to affix the Unit’s seal to the Agreements and to attest the same. The Agreements shall be in substantially the form submitted at this meeting, which is hereby approved, with such changes as may be approved by the officer executing such agreement, such officer’s execution to constitute conclusive evidence of approval of any such changes. The final agreements will provide for the County to finance a total of not more than \$690,000; for the County to repay the amounts advanced to bear interest at an annual rate of not more that 3.75 percent; the term of the Agreements shall not exceed three (3) years; and the level, quarterly payments to be made under the Agreements.
3. This resolution shall become effective immediately upon its adoption.

This the 20th day of September, 2006.

HENDERSON COUNTY BOARD OF COMMISSIONERS

BY: _____
 William L. Moyer, Chairman

ATTESTED BY:

[OFFICIAL SEAL]

 Elizabeth W. Corn, Clerk to the Board



EXHIBIT D

(SEE ELECTRONIC VERSION FOR FULL DOCUMENT)

EQUIPMENT INSTALLMENT FINANCING AGREEMENT

This Equipment Installment Financing Agreement (the “*Agreement*”) dated as of _____, and entered into between Banc of America Public Capital Corp, a Kansas corporation (“*Lender*”), and _____, a [municipal corporation] [body corporate and politic] existing under the laws of the State of North Carolina (“*Purchaser*”).

WITNESSETH:

WHEREAS, Purchaser is a duly and validly created, organized and existing public body politic, duly created and existing under and by virtue of the Constitution and laws of the State of North Carolina; and

WHEREAS, Purchaser has the power, pursuant to Section 160A-20 of the General Statutes of North Carolina, to enter into installment contracts to finance the purchase of personal property, including property to be affixed or attached to real estate as fixtures; and

WHEREAS, Purchaser has requested Lender to advance certain funds to enable Purchaser to finance the purchase and installation of certain Equipment described herein and Purchaser desires to obtain such advance from Lender and to purchase and install the Equipment pursuant to the terms and conditions set forth herein; and

WHEREAS, Purchaser is authorized under the constitution and laws of the State to enter into this Agreement hereto for the purposes set forth herein; and

WHEREAS, the governing body of Purchaser has authorized the execution and delivery of this Agreement pursuant to a resolution adopted by the governing board of Purchaser on _____, 20__; and

WHEREAS, the obligation of Purchaser to make Installment Payments (as hereinafter defined) and other payments required under this Agreement shall constitute a limited obligation payable solely from currently budgeted appropriations of Purchaser and shall not constitute a pledge of the faith and credit of Purchaser within the meaning of any constitutional debt limitation or as otherwise prohibited by the North Carolina Constitution; and

WHEREAS, in order to further secure the obligations of Purchaser hereunder, Purchaser desires to grant a security interest in the Equipment for the benefit of Lender; and

WHEREAS, no deficiency judgment may be rendered against Purchaser in any action for breach of a contractual obligation under this Agreement, and the taxing power of Purchaser is not