

REQUEST FOR BOARD ACTION

HENDERSONCOUNTY

BOARD OF COMMISSIONERS

MEETING DATE: August 6, 2012

SUBJECT: Series 2005A COPs Refinancing

PRESENTER: J. Carey McLelland/Charles Russell Burrell

ATTACHMENT(S): Bond Pricing of 2005A COPS
Proposed Refinancing Resolution
Draft Refinancing Documents

SUMMARY OF REQUEST:

Staff recommends refinancing a portion of the County's Series 2005A Certificate of Participation (COPs) debt issue. The Series 2005A COPs funded the construction of the Human Services Building and renovations and new construction to the Dana Elementary School. The nominal rate of interest on the remaining certificates ranges from 4.375% to 5.25%, as shown on the attached "Bond Pricing". The most current estimate that Staff has been provided of rates to refinance a portion of this outstanding debt is in the mid 2 percent range with an estimated total interest savings in excess of \$1 million over the remaining term. Bids from interested financial institutions are due in August 8th.

Attached is a resolution authorizing the refinancing drafted by bond counsel which:

- Includes the necessary findings for the undertaking and authorizes the modification of the installment purchase financing contract to refinance all or a portion of the certificates; and,
- Requires an aggregate "savings threshold" of at least three and one half percent (3.5%) of the principal amount refinanced (net).

The amount still owed on this indebtedness is \$18,590,000 as of June 30, 2012 of which \$14,300,000 is proposed to be refinanced.

BOARD ACTION REQUESTED:

Request that the Board consider approving the attached refinancing resolution.

If the Board is so inclined, the following motion is suggested:

I move that the Board adopt the re-financing resolution.

BOND PRICING

Henderson County, North Carolina
 Certificates of Participation, Series 2005A
 Final Pricing

Bond Component	Maturity Date	Amount	Rate	Yield	Price	Call Date	Call Price
Serials:							
	05/01/2006	630,000	3.500%	2.740%	100.723		
	05/01/2007	645,000	3.500%	2.880%	101.179		
	05/01/2008	765,000	3.000%	3.020%	99.942		
	05/01/2009	945,000	3.500%	3.160%	101.259		
	05/01/2010	685,000	4.000%	3.280%	103.277		
	05/01/2011	435,000	4.000%	3.460%	102.890		
	05/01/2012	1,430,000	5.000%	3.590%	108.627		
	05/01/2013	1,430,000	5.000%	3.710%	108.831		
	05/01/2014	1,430,000	4.500%	3.810%	105.201		
	05/01/2015	1,430,000	5.000%	3.910%	108.928		
	05/01/2016	1,430,000	5.250%	4.000%	110.195	C 05/01/2015	100.000
	05/01/2017	1,430,000	5.250%	4.050%	109.763	C 05/01/2015	100.000
	05/01/2018	1,030,000	5.000%	4.150%	106.882	C 05/01/2015	100.000
	05/01/2019	1,430,000	5.250%	4.080%	109.505	C 05/01/2015	100.000
	05/01/2020	1,430,000	5.250%	4.130%	109.077	C 05/01/2015	100.000
	05/01/2021	1,430,000	5.250%	4.170%	108.736	C 05/01/2015	100.000
	05/01/2022	1,430,000	5.000%	4.330%	105.378	C 05/01/2015	100.000
	05/01/2023	1,430,000	5.000%	4.370%	105.047	C 05/01/2015	100.000
	05/01/2024	1,430,000	5.000%	4.410%	104.717	C 05/01/2015	100.000
	05/01/2025	430,000	4.375%	4.530%	97.975		
		22,725,000					
Bifurcated:							
	05/01/2010	750,000	3.500%	3.280%	101.001		
	05/01/2011	1,000,000	5.000%	3.460%	108.244		
	05/01/2018	400,000	4.000%	4.170%	98.308		
	05/01/2025	1,000,000	5.000%	4.450%	104.389	C 05/01/2015	100.000
		3,150,000					
		25,875,000					

EXTRACTS FROM MINUTES OF THE BOARD OF COMMISSIONERS

A regular meeting of the Board of Commissioners of the County of Henderson, North Carolina, was duly held on August 6, 2012 at 5:30 p.m. in the Commissioners' Meeting Room, Henderson County Historic Courthouse, 1 Historic Courthouse Square, Hendersonville, North Carolina. Chairman Tommy Thompson presiding.

The following members were present:

The following members were absent:

* * * * *

Commissioner _____ moved that the following resolution, copies of which having been made available to the Board of Commissioners, be adopted:

RESOLUTION OF THE COUNTY OF HENDERSON, NORTH CAROLINA APPROVING AN AMENDMENT TO AN INSTALLMENT FINANCING CONTRACT TO PROVIDE FOR THE REFINANCING OF EXISTING COUNTY OBLIGATIONS

WHEREAS, the County of Henderson, North Carolina (the "County") is a political subdivision validly existing under the Constitution, statutes and laws of the State (the "State");

WHEREAS, the County has the power, pursuant to the General Statutes of North Carolina, to (1) purchase real and personal property, (2) enter into installment purchase contracts to finance the purchase or improvement of real and personal property used, or to be used, for public purposes, and

(3) grant a security interest in some or all of the property purchased or improved to secure repayment of the purchase price;

WHEREAS, the County has previously entered into an Installment Financing Contract dated as of May 1, 2005 (the "2005 Contract") with the Henderson County Governmental Financing Corporation (the "Corporation") in order to pay the capital costs to (a) design, acquire, construct, renovate and equip Dana Elementary School and (2) design, acquire, construct, renovate and equip the County's Human Services Facility (collectively, the "2005 Projects") and provided a security interest in each of the 2005 Projects and the sites on which they are located through a Deed of Trust and Security Agreement dated as of May 1, 2005 (the "2005 Deed of Trust"), from the County to the deed of trust trustee named therein; and

WHEREAS, the Board of Commissioners of the County of Henderson, North Carolina (the "Board of Commissioners"), determines that it is in the best interest of the County to enter into an amendment to the 2005 Contract (the "First Amendment") with the Corporation to refinance a portion of its installment payment obligations under the 2005 Contract;

WHEREAS, the Board hereby reaffirms each of the findings it made with respect to the 2005 Contract in the resolution adopted by the Board on April 4, 2005;

WHEREAS, the Corporation will execute and deliver a Refunding Limited Obligation Bond, Series 2012, Evidencing Proportionate Undivided Interests in Rights to Receive Revenues Pursuant to the 2005 Contract (the "2012 Bond") to a financial institution to be determined by the Finance Director to provide the funds to refinance a portion of the County's installment payment obligations under the 2005 Contract;

WHEREAS, there have been described to the Board of Commissioners forms of the First Amendment and an Escrow Agreement to be dated as of September 1, 2012 (the "Escrow Agreement," and together with the First Amendment, the "Instruments") between the County and U.S. Bank National Association, as escrow agent, copies of which have been made available to the Board of Commissioners, which the Board of Commissioners proposes to approve, enter into and deliver to effectuate the proposed refinancing;

WHEREAS, it appears that the Instruments are in appropriate form and are appropriate instruments for the purposes intended;

WHEREAS, the County has filed an application to the LGC for approval of the First Amendment; and

WHEREAS, Parker Poe Adams & Bernstein LLP will serve as bond counsel and Stephens Inc. will serve as placement agent (collectively, the "Financing Team") to the County;

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

Section 1. Ratification of First Amendment. That all actions of the County, the Chairman of the Board of Commissioners (the "Chairman"), the Clerk to the Board of Commissioners (the "Clerk"), the County Manager, the County Finance Director, the County Attorney and their respective designees, whether previously or hereinafter taken, in effectuating the proposed financing are hereby approved, ratified and authorized pursuant to and in accordance with the transactions contemplated by the First Amendment.

Section 2. Authorization to Execute the First Amendment. That the County approves the refinancing of a portion of its installment payment obligations under the 2005 Contract in accordance with the terms of the First Amendment, which will be a valid, legal and binding obligation of the County in accordance with its terms. The form and content of the First Amendment shall be and the same hereby are in all respects authorized, approved and confirmed, and the Chairman, the Clerk and the County Manager and their respective designees shall be and they hereby are authorized, empowered and directed to execute and deliver the First Amendment, including necessary counterparts, in substantially the form and content presented to the Board of Commissioners, but with such changes, modifications, additions or deletions therein as to them seems necessary, desirable or appropriate, their execution thereof to constitute conclusive evidence of the County's approval of any and all changes, modifications, additions or deletions therein from the form and content of the First Amendment presented to the Board of Commissioners, and that from and after the execution and delivery of the First Amendment, the Chairman, the Clerk, the County Manager and the County Finance Director are hereby authorized, empowered and directed to do all such acts and things and to execute all such documents as may be necessary to carry out and comply with the provisions of the First Amendment as executed.

Section 3. Authorization to Execute the Escrow Agreement. That the form and content of the Escrow Agreement shall be and the same hereby are in all respects authorized, approved and confirmed, and the Chairman, the Clerk and the County Manager and their respective designees shall be and they hereby are authorized, empowered and directed to execute and deliver the Escrow Agreement, including necessary counterparts, in substantially the form and content presented to the Board of Commissioners, but with such changes, modifications, additions or deletions therein as to them seems necessary, desirable or appropriate, their execution thereof to constitute conclusive evidence of the County's approval of any and all changes, modifications, additions or deletions therein from the form and content of the Escrow Agreement presented to the Board of Commissioners, and that from and after the execution and delivery of the Escrow Agreement, the Chairman, the Clerk, the County Manager and the County Finance Director are hereby authorized, empowered and directed to do all such acts and things and to execute all such documents as may be necessary to carry out and comply with the provisions of the Escrow Agreement as executed.

Section 4. County Representative. That the Chairman, the County Manager and Finance Director are hereby designated as the County's Representative to act on behalf of the County in connection with the transaction contemplated by the First Amendment, and the Chairman, the County Manager and Finance Director are authorized to proceed with the refunding in accordance with the First Amendment and to seek opinions as a matter of law from the County Attorney, which County Attorney is authorized to furnish on behalf of the County, and opinions of law from such other attorneys for all documents contemplated hereby as required by law. The Chairman, the Clerk, the County Manager and the Finance Director of the County or their respective designees are hereby authorized, empowered and directed to do any and all other acts and to execute any and all other documents, which they, in their discretion, deem necessary and appropriate to consummate the transactions contemplated by the First Amendment or as they deem necessary or appropriate to implement and carry out the intent and purposes of this Resolution.

Section 5. Savings Threshold. That the Chairman, the County Manager and the Finance Director are hereby authorized to do any and all other things necessary to complete the steps necessary for the execution and delivery of the First Amendment, but the County will not execute and deliver the First Amendment unless the refinancings resulting therefrom results in an aggregate net present value savings to the County of at least 3.5% of the principal amount refinanced and a net present value savings to the County of at least 2% of the principal amount refinanced, all as shown in the financing statistics produced by the placement agent.

*Section 6. **Financing Team.*** The Financing Team is hereby approved.

*Section 7. **Severability.*** That if any section, phrase or provision of this Resolution is for any reason declared to be invalid, such declaration does not affect the validity of the remainder of the sections, phrases or provisions of this Resolution.

*Section 8. **Repealer.*** That all motions, orders, resolutions and parts thereof, in conflict herewith are hereby repealed.

*Section 9. **Effective Date.*** That this Resolution is effective on the date of its adoption.

STATE OF NORTH CAROLINA)
)
COUNTY OF HENDERSON) SS:

*I, Teresa Wilson, Clerk to the Board of Commissioners of the County of Henderson, North Carolina, **DO HEREBY CERTIFY** that the foregoing is a true and exact copy of a resolution entitled “**RESOLUTION OF THE COUNTY OF HENDERSON, NORTH CAROLINA APPROVING AN AMENDMENT TO AN INSTALLMENT FINANCING CONTRACT TO PROVIDE FOR THE REFINANCING OF EXISTING COUNTY OBLIGATIONS**” adopted by the Board of Commissioners of the County of Henderson, North Carolina in regular session convened on the 6th day of August, 2012, as recorded in the minutes of the Board of Commissioners of the County of Henderson, North Carolina.*

***WITNESS**, my hand and the seal of the County of Henderson, North Carolina, this the ___ day of August, 2012.*

(SEAL)

Teresa Wilson, Clerk to the Board of Commissioner
County of Henderson, North Carolina

**AMENDMENT NUMBER ONE
TO THE INSTALLMENT FINANCING CONTRACT**

THIS AMENDMENT NUMBER ONE TO THE INSTALLMENT PURCHASE CONTRACT dated as of September 1, 2012 by and between **HENDERSON COUNTY GOVERNMENTAL FINANCING CORPORATION** (the “*Corporation*”), a nonprofit corporation duly created and existing under the laws of the State of North Carolina, and the **COUNTY OF HENDERSON, NORTH CAROLINA**, a political subdivision duly organized under the laws of the State of North Carolina (the “*County*”), amending an Installment Financing Contract dated as of May 1, 2005 (the “*2005 Contract*”) between the Corporation and the County.

WITNESSETH:

WHEREAS, the Corporation and the County entered into the 2005 Contract for the purposes outlined therein; and

WHEREAS, the Corporation has executed and delivered \$25,875,000 Certificates of Participation (Henderson County Projects), Series 2005A (the “*2005A Certificates*”), of which \$18,590,000 is currently outstanding, pursuant to an Indenture of Trust dated as of May 1, 2005 (the “*2005 Indenture*”) between the Corporation and First-Citizens Bank & Trust Company, the successor to which is U.S. Bank National Association, (the “*Trustee*”), as trustee;

WHEREAS, under the 2005 Indenture, Additional Certificates (as defined therein) may be executed and delivered to pay for the refunding of all or any portion of the Certificates (as defined in the 2005 Indenture) then Outstanding (as defined in the 2005 Indenture); and

WHEREAS, the County wishes to amend the 2005 Contract under Article IX of the 2005 Indenture in order to refund a portion of the Refunded 2005A Certificates (as defined herein); and

NOW, THEREFORE, THIS AMENDMENT NUMBER ONE TO THE INSTALLMENT PURCHASE CONTRACT WITNESSETH:

Section 1. Definitions. Capitalized, undefined terms used herein have the meaning assigned to them in the 2005 Contract, the 2005 Indenture and the First Supplement. In addition, the following words and terms used herein have the meanings set forth below:

“*Contract*” means, collectively, the 2005 Contract and this First Amendment.

“*Escrow Agent*” means U.S. Bank National Association and its successors and assigns.

“*Escrow Agreement*” means that certain Escrow Agreement dated as of September 1, 2012 between the County and the Escrow Agent.

“*Escrow Fund*” means the escrow fund created under Section 2.01 of the Escrow Agreement.

“*First Amendment*” means this Amendment Number One to the Installment Financing Contract dated as of September 1, 2012 between the Corporation and the County and any amendments or supplements thereto, including the Payment Schedule attached hereto, amending the 2005 Contract.

“*First Supplement*” means Supplemental Trust Agreement, Number 1 dated as of September 1, 2012 between the Corporation and the Trustee and any amendments or supplements thereto, supplementing and amending the 2005 Indenture.

“*Refunded 2005A Certificates*” means \$[14,300,000] of the 2005A Certificates maturing [on and after May 1, 2016], to be defeased and prepaid with a portion of the proceeds of the 2012 Bond.

“*2005 Contract*” means the Installment Financing Contract dated as of May 1, 2005 between the County and the Corporation.

“*2005 Deed of Trust*” means the Deed of Trust and Security Agreement dated as of May 1, 2005 between the County, as Grantor, and the Corporation, as Beneficiary.

Section 2. *Amendments to the 2005 Contract.*

(a) The definitions of the following terms in the 2005 Contract are replaced with the following definitions:

“*Advance*” means the amount of \$[, ,000] advanced by the Corporation to enable the County to acquire, construct, install and equip the Facilities under the terms of the Contract, as such amount may be amended in connection with the execution and delivery of Additional Certificates pursuant to Section 2.11 of the Indenture.

“*Payment Schedule*” means the document attached hereto and incorporated herein by reference which sets forth the County’s Installment Payments.

(b) Section 3.4(a) of the 2005 Contract is hereby deleted and replaced with the following:

“(a) So long as no Event of Default under Section 7.01 of the Indenture shall have occurred and be continuing, the County shall have the option to prepay or provide for the prepayment of the portion of the Advance relating to the 2005A Certificates on or after May 1, 2015 [and the portion of the Advance relating to the 2012 Bond on or after _____] in full or in part in the amount of \$5,000 or any integral multiple thereof, on 45 days’ written notice to the Trustee, at a prepayment price equal to the then applicable prepayment price of the Certificates, including any required prepayment premium under Section 4.01(a) of the Indenture.”

[Extraordinary prepayment?]

(c) Exhibit C attached to this First Amendment is inserted as and replaces Exhibit C to the 2005 Contract.

Section 3. *Payment Schedule.* The Payment Schedule attached to the 2005 Contract is replaced by the Payment Schedule attached hereto, and after the date of this First Amendment, the County agrees to make all Installment Payments in the amounts and at the times shown in the Payment Schedules attached hereto.

Section 4. *Representations, Warranties and Covenants of the County and the Corporation.* The County hereby represents and warrants that the representations, warranties and covenants in Article VI of the 2005 Contract are true and correct as of the date of the execution and delivery of this First Amendment as if made on the date of the execution and delivery of this First Amendment.

Section 5. *Arbitrage and Tax Covenants.* The County covenants that it will not take or permit, or omit to take or cause to be taken, any action that would adversely affect the exclusion from gross income of the recipient thereof for federal income tax purposes of that portion of the interest components of the Installment Payments intended as of the date hereof to be excluded from gross income of the recipient thereof for federal income tax purpose and, if it should take or permit, or omit to take or cause to be taken, any such action, the County will take or cause to be taken all lawful actions within its power necessary to rescind or correct such actions or omissions promptly upon having knowledge thereof. The County acknowledges that the continued exclusion of that portion of the interest on the interest component of the Installment Payments from the Owner's gross income for federal income tax purposes intended as of the date hereof to be excluded from gross income of the recipient thereof for federal income tax purpose depends, in part, on compliance with the arbitrage limitations imposed by Section 148 of the Code.

The County covenants that it will comply with all the requirements of Section 148 of the Code, including the rebate requirements, and that it will not permit at any time any of the proceeds of the 2012 Bond or other funds under its control or under any fund created in the Trust Agreement to be used, directly or indirectly, to acquire any asset or obligation, the acquisition of which would cause the 2012 Bond to be an "*arbitrage bond*" for purposes of Section 148 of the Code. The County covenants that it will comply and will direct the Trustee to comply with the investment instructions in the Arbitrage and Tax Regulatory Certificate with respect to the 2012 Bond.

[SIGNATURES BEGIN ON FOLLOWING PAGES]

IN WITNESS WHEREOF, the Corporation and the County have caused this First Contract Amendment to be executed in their respective names and their respective seals to be hereto affixed and attested by their duly authorized officials or officers, all as of the date first above written.

**HENDERSON COUNTY GOVERNMENTAL
FINANCING CORPORATION**

[SEAL]

By: _____
Mark Williams
President

Attest:

Steven D. Wyatt
Secretary

[COUNTERPART SIGNATURE PAGE TO AMENDMENT NUMBER ONE TO THE
INSTALLMENT FINANCING CONTRACT BETWEEN HENDERSON COUNTY GOVERNMENTAL FINANCING
CORPORATION AND THE COUNTY OF HENDERSON, NORTH CAROLINA]

COUNTY OF HENDERSON, NORTH CAROLINA

[SEAL]

By: _____
Tommy Thompson
Chairman, Board of Commissioners

Attest:

Teresa Wilson
Clerk to the Board of Commissioners

[COUNTERPART SIGNATURE PAGE TO AMENDMENT NUMBER ONE TO THE
INSTALLMENT FINANCING CONTRACT BETWEEN HENDERSON COUNTY GOVERNMENTAL FINANCING
CORPORATION AND THE COUNTY OF HENDERSON, NORTH CAROLINA]

CONSENTED TO AND ACCEPTED:

U.S. BANK NATIONAL ASSOCIATION,
as Trustee

By: _____
Shawna L. Hale
Vice President

[SIGNATURES CONTINUED ON THE FOLLOWING PAGE]

[COUNTERPART SIGNATURE PAGE TO AMENDMENT NUMBER ONE TO THE
INSTALLMENT FINANCING CONTRACT BETWEEN HENDERSON COUNTY GOVERNMENTAL FINANCING
CORPORATION AND THE COUNTY OF HENDERSON, NORTH CAROLINA]

THIS CONTRACT AMENDMENT HAS BEEN
APPROVED UNDER THE PROVISIONS
OF THE NORTH CAROLINA GENERAL
STATUTES, § 159-152.

Secretary of the Local Government Commission

PAYMENT SCHEDULE

RELATED TO 2005A CERTIFICATES

<u>DATE</u>	<u>PRINCIPAL COMPONENT</u>	<u>INTEREST COMPONENT</u>	<u>TOTAL PAYMENT</u>
11/01/2012		\$103,675	\$103,675
05/01/2013	\$1,430,000	103,675	1,533,675
11/01/2013		67,925	67,925
05/01/2014	1,430,000	67,925	1,497,925
11/01/2014		35,750	35,750
05/01/2015	<u>1,430,000</u>	<u>35,750</u>	<u>1,465,750</u>
TOTAL	\$4,290,000	\$414,700	\$4,704,700

RELATED TO 2012 BOND

<u>DATE</u>	<u>PRINCIPAL COMPONENT</u>	<u>INTEREST COMPONENT</u>	<u>TOTAL PAYMENT</u>
05/01/2013			
11/01/2013			
05/01/2014			
11/01/2014			
05/01/2015			
11/01/2015			
05/01/2016			
11/01/2016			
05/01/2017			
11/01/2017			
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05/01/2021			
11/01/2021			
05/01/2022			
11/01/2022			
05/01/2023			
11/01/2023			
05/01/2024			
11/01/2024			
05/01/2025			
TOTAL			

ESCROW AGREEMENT

ESCROW AGREEMENT dated as of September 1, 2012 between the **COUNTY OF HENDERSON, NORTH CAROLINA** (the “*County*”) and **U.S. BANK NATIONAL ASSOCIATION**, as escrow agent (the “*Escrow Agent*”), being authorized to accept and execute trusts of the character herein set out under and by virtue of the laws of the State of North Carolina.

WITNESSETH:

WHEREAS, the County, in order to pay the capital costs to (a) design, acquire, construct, renovate and equip Dana Elementary School and (2) design, acquire, construct, renovate and equip the County’s Human Services Facility (collectively, the “*2005 Projects*”), entered into an Installment Financing Contract dated as of May 1, 2005 (the “*2005 Contract*”) between Henderson County Governmental Financing Corporation (the “*Corporation*”) and the County, whereby the County purchased the 2005 Projects;

WHEREAS, the Corporation has executed and delivered \$25,875,000 Certificates of Participation (Henderson County Projects), Series 2005A (the “*2005A Certificates*”), of which \$18,590,000 is currently outstanding, pursuant to an Indenture of Trust dated as of May 1, 2005 (the “*2005 Indenture*”) between the Corporation and First-Citizens Bank & Trust Company, the successor to which is U.S. Bank National Association, (the “*Trustee*”), as trustee;

WHEREAS, the County wishes to prepay the outstanding 2005A Certificates maturing [on and after May 1, 2016] (the “*Refunded 2005A Certificates*”) in advance of their maturities;

WHEREAS, for the purpose of refinancing a portion of the 2005 Projects, the County has, pursuant to Section 160A-20 of the General Statutes of North Carolina, entered into Amendment Number One to the 2005 Contract dated as of September 1, 2012 (the “*First Contract Amendment*,” and together with the 2005 Contract, the “*Contract*”);

WHEREAS, the Corporation has executed and delivered a Refunding Limited Obligation Bond, Series 2012A (the “*2012A Bond*”), evidencing proportionate undivided interests in rights to receive certain Revenues (as hereinafter defined) under the Contract pursuant to the 2005 Indenture, as supplemented by the Supplemental Indenture, Number 1 dated as of September 1, 2012 (the “*First Supplement*” and collectively with the 2005 Indenture, the “*Indenture*”) between the Corporation and the Trustee;

WHEREAS, pursuant to the Contract and the Indenture and for the purpose of the County refinancing a portion of the 2005 Projects, a portion of the proceeds of the 2012 Bonds will be deposited in the Escrow Fund established under this Agreement and applied to the purchase of Federal Securities, the proceeds of which are to be applied to the prepayment of the Refunded 2005A Certificates; and

WHEREAS, this Agreement sets forth the understandings and agreements of the County and the Escrow Agent with respect to the Refunded 2005A Certificates and the Escrow Fund;

NOW, THEREFORE, in consideration of the mutual covenants and agreements contained in this Agreement, and intending to be legally bound, the County and the Escrow Agent covenant and agree:

ARTICLE I

DEFINITIONS

As used in this Agreement, unless clearly implied, the following terms have the following meanings:

“Agreement” means this Escrow Agreement dated as of September 1, 2012 between the County and the Escrow Agent.

“County” means the County of Henderson, North Carolina, or any successor to its functions.

“Escrow Agent” means U.S. Bank National Association, and its successors and assigns.

“Escrow Fund” means the Escrow Fund created in Section 2.01 which is to be applied to the payment of Refunded 2005A Certificates as provided herein.

“Federal Securities” means (a) direct obligations of the United States of America for the payment of which the full faith and credit of the United States of America is pledged; (b) obligations issued by any agency controlled or supervised by and acting as an instrumentality of the United States of America, the payment of the principal of and interest on which is fully guaranteed as full faith and credit obligations of the United States of America (including any securities described in (a) or (b) issued or held in the name of the Trustee in book entry form on the books of the Department of Treasury of the United States of America), which obligations, in either case, are held in the name of the Trustee and are not subject to redemption or purchase prior to maturity at the option of anyone other than the Owner; (c) any bonds or other obligations of any state of the United States of America or of any agency, instrumentality or local governmental unit of any such state which are (i) not callable prior to maturity or (ii) as to which irrevocable instructions have been given to the trustee or escrow agent of such bonds or other obligations by the obligor to give due notice of redemption and to call such bonds for redemption on the date or dates specified, and which are rated by Moody’s and S&P within the highest rating category and which are secured as to principal, redemption premium, if any, and interest by a fund consisting only of cash or bonds or other obligations of the character described in clause (a) hereof which fund may be applied only to the payment of such principal of and interest and redemption premium, if any, on such bonds or other obligations on the maturity date or dates thereof or the specified redemption date or dates pursuant to such irrevocable instructions, as appropriate; or (d) direct evidences of ownership of proportionate interests in future interest and principal payments on specified obligations described in (a) held by a bank or trust company as custodian, under which the owner of the investment is the real party in interest and has the right to proceed directly and individually against the obligor on the underlying obligations described in (a), and which underlying obligations are not available to satisfy any claim of the custodian or any person claiming through the custodian or to whom the custodian may be obligated.

“First Supplement” means Supplemental Indenture, Number 1 dated as of September 1, 2012 between the Corporation and the Trustee.

“Indenture” means, collectively, the 2005 Indenture and the First Supplement.

“Refunded 2005A Certificates” means the outstanding 2005A Certificates maturing [on and after May 1, 2016], to be defeased and prepaid with a portion of the proceeds of the 2012 Bond.

“State” means the State of North Carolina.

“*Trustee*” means U.S. Bank National Association, as successor to First-Citizens Bank & Trust Company, as trustee under the 2005 Indenture.

“*2005A Certificates*” means the \$25,875,000 Certificates of Participation (Henderson County Projects), Series 2005A, executed and delivered under the 2005 Indenture, of which \$18,590,000 is currently outstanding.

“*2005 Contract*” means the Installment Financing Contract dated as of May 1, 2005 between the County and the Corporation.

“*2005 Indenture*” means the Indenture of Trust dated as of May 1, 2005 between the Corporation and the Trustee.

“*2012 Bond*” means the \$[] Refunding Limited Obligation Bond, Series 2012 executed and delivered under the Indenture.

“*Verification Report*” means, collectively, the Cash Flow and Yield Verification Report dated September 1, 2012 issued by [Verification Agent] with respect to the 2012 Bond.

ARTICLE II

CREATION OF ESCROW FUND

Section 2.01. Escrow Fund. There is hereby created and established with the Escrow Agent a special and irrevocable escrow fund designated the Escrow Fund to be held in the custody of the Escrow Agent separate and apart from other funds and accounts of the County or the Escrow Agent.

Section 2.02. Initial Deposit. Concurrently with the execution of this Agreement, the County has caused the Trustee to deposit with the Escrow Agent, and the Escrow Agent acknowledges receipt of \$[] from the proceeds of the 2012 Bond. In addition, the County shall transfer to the Escrow Agent \$[] from County funds to be deposited in the Escrow Fund. Concurrently with the receipt of such funds, the Escrow Agent shall deposit \$[] in the Escrow Fund. Amounts deposited in the Escrow Fund will be simultaneously applied to the purchase of the Federal Securities described in Schedule II hereto (“*Schedule II*”), except to the extent of balances designated in Schedule II to be uninvested. The Federal Securities shall mature in principal amounts and pay interest in such amounts so that sufficient moneys will be available to pay (1) the maturing interest with respect to the Refunded 2005A Certificates until May 1, 2015 and (2) 100% of the principal of the Refunded 2005A Certificates, on May 1, 2015, at which time the outstanding principal and interest with respect to the Refunded 2005A Certificates will be paid in full.

The County hereby finds and determines, in reliance on the Verification Report, that the investments described in Schedule II are advantageous in yield and maturity date to provide sufficient moneys to prepay the Refunded 2005A Certificates and to comply with United States Department of the Treasury regulations adopted or applicable pursuant to the Internal Revenue Code of 1986, as amended.

The County hereby finds and determines, in reliance on the Verification Report, that the investment of money in the Escrow Fund will mature in principal amounts and pay interest in such amounts so that sufficient moneys will be available to pay the principal and interest with respect to the Refunded 2005A Certificates as the same mature and become due on prepayment, as applicable, as set

forth in Schedule I hereto. The County shall timely deposit in the Escrow Fund such additional amounts as may be required to meet fully when due the amounts set forth in Schedule I (“*Schedule I*”). Notice of any insufficiency shall be given by the Escrow Agent as promptly as possible, but the Escrow Agent shall not be responsible (subject to Section 4.04 below) for any insufficiency of funds or the County’s failure to make deposits required by this Agreement. The Escrow Agent will not make any disbursement under this Agreement until it possessed sufficient funds for such disbursement.

Section 2.03. Irrevocable Deposit; Control. The deposit in the Escrow Fund of the proceeds of the 2012 Bonds shall constitute an irrevocable deposit of such monies exclusively for the benefit of the Refunded 2005A Certificates and such money and Federal Securities, together with any income or interest earned thereon, shall be held in trust and shall be applied solely to the payment of the principal of and interest on the Refunded 2005A Certificates as the same mature and become due on prepayment, as applicable, as set forth in Schedule I hereto. Subject to the requirements set forth herein for the use of the Escrow Fund and the moneys and investments therein, including, without limitation, Section 3.02, the County covenants and agrees that the Escrow Agent shall have full and complete control and authority over and with respect to the Escrow Fund and money and investments therein and that the County shall not exercise any control or authority over and with respect to the Escrow Fund and the money and investments therein.

The County irrevocably directs the Trustee to call the Refunded 2005A Certificates for prepayment on May 1, 2015.

ARTICLE III

DUTIES OF THE ESCROW AGENT; FEES AND COSTS

Section 3.01. Payments on Refunded 2005A Certificates. The Escrow Agent, without further authorization and direction from the County, shall pay to the Trustee pursuant to wiring instructions set forth as Exhibit C hereto, from moneys available in the Escrow Fund, on the date on which each payment of principal and interest falls due, money sufficient to pay the principal and interest falling due with respect to the Refunded 2005A Certificates as set forth in Schedule I hereto. Payments with respect to the Refunded 2005A Certificates are to be made from the maturing principal of and interest on the Federal Securities or other money in the Escrow Fund securing the Refunded 2005A Certificates and shall be made to the persons entitled thereto.

Section 3.02. Investment of Escrow Fund. The Escrow Agent shall purchase or cause to be purchased those Federal Securities listed in Schedule II solely from the money deposited by the County in the Escrow Fund. The Escrow Agent shall apply the money deposited in the Escrow Fund and the Federal Securities, together with any income or interest earned thereon, in accordance with this Agreement. The Escrow Agent has no power or duty to invest any money held hereunder or to make substitutions of the Federal Securities held hereunder or to sell, transfer or otherwise dispose of the Federal Securities acquired hereunder except as otherwise provided herein. The Escrow Agent may, on the request of the County, sell or redeem all or a portion of the Federal Securities held for the credit of the Escrow Fund and reinvest the required proceeds of such sale or redemption, in Federal Securities designated in such request of the County, but only on receipt by the Escrow Agent of:

- (a) a certificate of an independent certified public accountant stating that after giving effect to such request the Federal Securities held for the credit of such account are of such maturities and interest payment dates and bear such interest as will, without further investment or reinvestment of either the principal amount thereof or the

interest earnings thereon, be sufficient together with all cash and other immediately available invested funds held for the credit of such account to pay the principal of, and interest with respect to the Refunded 2005A Certificates when due and as described in this Agreement; and

(b) an opinion of counsel acceptable to the County and the Escrow Agent, which must be nationally recognized bond counsel, stating that the Refunded 2005A Certificates are deemed defeased and that the compliance with such request of the County will not adversely affect the exclusion from gross income for federal income tax purposes of the interest with respect to the Refunded 2005A Certificates.

The liability of the Escrow Agent for the payment of the principal and interest with respect to the Refunded 2005A Certificates pursuant to this Section is limited to the cash available for such purposes in the Escrow Fund. The County shall not direct the Escrow Agent to exercise any of its powers to cause any part of the money or funds at any time in the Escrow Fund to be used directly or indirectly to acquire any obligations which would cause any Refunded 2005A Certificate to be an “arbitrage bond” within the meaning of Section 148 of the Internal Revenue Code of 1986, as amended.

Section 3.03. Escrow Agent’s Fees. The Escrow Agent’s fees for and in carrying out the provisions of this Agreement have been fixed, which fees are to be paid by the County as they are due from funds of the County and not from funds in the Escrow Fund. The County will bear all costs of publication and mailing of notices required by this Agreement or the Indenture. The Escrow Agent is not liable for any loss resulting from any investment made at the direction of the County pursuant to the terms and provisions of this Agreement. In addition to fixed fees, the County will also pay out of pocket expenses, including reasonable attorney’s fees. Section 4.11 herein applies to the payment of expenses as described in this Section but not to the payment of fees, which are fixed.

Section 3.04. Escrow Agent Generally.

(a) The Escrow Agent has no responsibility to the County or any person in connection herewith except as specifically provided herein and is not responsible for anything done or omitted to be done by it, except for its own negligence or default in the performance of any obligation imposed on it hereunder.

(b) Subject to the exception in paragraph (a) as to its own negligence or default in the performance of any obligation imposed on it hereunder, the Escrow Agent has no responsibility for verifying the genuineness, correctness, or competence of any document, instrument or writing, and shall not be charged with knowledge or notice of any fact or circumstance not specifically set forth herein.

(c) The Escrow Agent may act on any written notice, request, waiver, consent, certificate, receipt, authorization, power of attorney, or other instrument or document from the County’s Finance Director which the Escrow Agent reasonably and in good faith believes to be genuine and to be what it purports to be.

(d) The Escrow Agent has no duty to determine or inquire into the happening or occurrence of any event or contingency or the performance or failure of performance of the County with respect to arrangements or contracts with others. The Escrow Agent may request from the County or any person such reasonable evidence as the Escrow Agent in its discretion deems necessary to determine any fact relating to the occurrence of any event or contingency and in this connection may inquire and consult

with the County, among others, at any time. The County shall provide such evidence to the Escrow Agent and the Escrow Agent is entitled to rely thereon.

(e) The Escrow Agent has no liability for following any instructions given by the County or in this Escrow Agreement or set forth in any court or administrative order.

(f) The Escrow Agent may resign and thereby become discharged from the trusts hereby created by notice in writing given to the County not less than 30 days before such resignation is to take effect. The Escrow Agent agrees to serve as Escrow Agent until a successor is appointed. Such resignation is effective immediately, however, on the appointment of a successor Escrow Agent if such successor Escrow Agent is appointed before the expiration of said notice period. If such appointment of a successor Escrow Agent is not made within 30 days after the date that such resignation was to take effect as provided in the notice thereof given to the County, then the Escrow Agent may apply to a court of competent jurisdiction to appoint a successor Escrow Agent and give notice thereof to the County and not object to the County's intervention therein.

The Escrow Agent may be replaced by the County and thereby become discharged from the trusts hereby created by notice in writing given from the County to the Escrow Agent not less than 30 days before such replacement is to take effect. The Escrow Agent agrees to serve as Escrow Agent until a successor is appointed. Such replacement is effective immediately, however, on the appointment of a successor Escrow Agent if such successor Escrow Agent is appointed before the expiration of said notice period.

(g) If a disagreement or dispute arises under this Escrow Agreement, or if adverse claims or demands are made in connection with this Agreement or any property involved herein or affected hereby, the Escrow Agent may petition a court of competent jurisdiction, within the limitations set forth in Section 4.07, to resolve the disagreement or dispute or adverse claims or demands and must, at the time of filing such petition, give notice thereof to the County. In connection therewith, the Escrow Agent may (but is not required to) tender into the custody of the court all money or property in its hands under the terms of this Escrow Agreement, and then be discharged from all further duties under this Escrow Agreement. The filing of any such legal proceeding does not deprive Escrow Agent of its compensation earned before such filing.

Section 3.05. Notices to Refunded 2005A Certificate Owners. The Trustee shall give notice to the owners from time to time of the Refunded 2005A Certificates in accordance with the instructions received from the County from time to time in connection with this Agreement. The Trustee will cause a notice of prepayment, substantially in the form attached to this Agreement as Exhibit A, to be mailed to the parties and in the manner set forth on Exhibit A. In addition, the Trustee will cause a notice of defeasance, substantially in the form attached to this Agreement as Exhibit B, to be mailed to the parties and in the manner set forth on Exhibit B.

ARTICLE IV

GENERAL PROVISIONS

Section 4.01. Escrow Fund Irrevocable. The Escrow Fund hereby created is irrevocable and the owners of the Refunded 2005A Certificates are hereby granted an express lien on the Escrow Fund until applied in accordance with this Agreement.

The Escrow Agent shall hold the Escrow Fund as a separate trust fund wholly segregated from all other funds and accounts held in any capacity and shall make disbursements from such accounts only in accordance with the provisions of this Agreement. The principal of and interest on the Federal Securities shall not be reinvested except as provided in Section 3.02, and the Escrow Agent shall not sell or dispose of such securities except as provided in Section 3.02.

Under no circumstances shall the Escrow Agent have a lien on the Escrow Fund for its charges, fees and expenses and under no circumstances shall the Escrow Agent make any claim against the Escrow Fund for such charges, fees and expenses.

Section 4.02. Report. The Escrow Agent shall deliver to the County on or before the sixth business day of each month, beginning October 8, 2012, a report of each transaction relating to the Escrow Fund through the last business day of the preceding month.

Section 4.03. Refunded 2005A Certificate Owner Rights. The Escrow Agent and the County agree that the owners of the Refunded 2005A Certificates have a beneficial and vested interest in the Escrow Fund as herein provided. It is therefore recited, understood and agreed that, until the provisions hereof have been fully carried out, this Agreement (a) may be amended only to cure ambiguity or correct manifest error without the prior written consent of all of the owners of the Refunded 2005A Certificates and (b) is not subject to amendment for any other reason or revocation except with the prior written consent of all of the owners of the Refunded 2005A Certificates.

Section 4.04. Deficiency. If there is any deficiency in the Escrow Fund, the County will remedy such deficiency by paying to the Escrow Agent the amount of such deficiency. The Escrow Agent is not liable for any such deficiency, except as may be caused by its negligence or misconduct or default in the performance of any obligation imposed on it hereunder.

Section 4.05. Termination. This Agreement terminates when all payments of the principal and interest with respect to the Refunded 2005A Certificates required to be made to the owners of the Refunded 2005A Certificates as set forth in Schedule I have been made.

Section 4.06. Severability. If any one or more of the covenants or agreements provided in this Agreement on the part of the parties hereto to be performed are determined by a court of competent jurisdiction to be contrary to law, (a) such covenant or agreement is to be deemed and construed to be severable from the remaining covenants and agreements herein contained and in no way affect the validity of the remaining provisions of this Agreement, (b) the County shall provide notice thereof to Moody's Investors Service at 7 World Trade Center at 250 Greenwich Street, New York, New York 10007, Attn: Public Finance Rating Desk/Refunded Certificates; to Standard & Poor's Ratings Services, a Standard & Poor's Financial Services LLC business, at 55 Water Street, New York, New York 10041; and to Fitch Ratings, at One State Street Plaza, 31st Floor, New York, New York, 10004.

Section 4.07. Law. This Agreement is governed exclusively by the laws of the State. It inures to and is binding on the parties hereto and their respective successors and assigns. This Agreement is deemed made in Henderson County, North Carolina. The exclusive forum and venue for all actions arising out of this Agreement is the North Carolina General Court of Justice, in Henderson County. Such actions shall neither be commenced nor removed to federal court. This Section shall not apply to subsequent actions to enforce a judgment entered in actions heard pursuant to this Section.

Section 4.08. Counterparts. This Agreement may be executed in several counterparts, all or any of which are regarded for all purposes as one original and constitute one and the same instrument.

Section 4.09. Notices. Any notice or other communication to be given under this Agreement shall be in writing and may be given by certified mail (postage prepaid, return receipt requested), telegraph or personal delivery, if to the County of Henderson, North Carolina, 113 North Main Street, Hendersonville, North Carolina 28792, Attention: Finance Director, and if to the Escrow Agent, to [U.S. Bank National Association, 214 N. Tryon Street, 27th Floor, Charlotte, NC 28202, Attn: Corporate Trust Department].

Section 4.10. Covenants of County or Corporation not Covenants of Officials Individually. No covenant, stipulation, obligation or agreement contained herein shall be deemed to be a covenant, stipulation, obligation or agreement of any present or future member, director, agent, officer or employee of the County or the Local Government Commission of North Carolina in his or her individual capacity, and neither the members of the County Council of the County, the members of the Local Government Commission of North Carolina nor any other member, director, agent, officer or employee of the County or the Local Government Commission of North Carolina is subject to any personal liability under this Agreement.

Section 4.11. References to Fees and Expenses. Wherever this Agreement contains a reference to fees or expenses, such reference is deemed to include the word “reasonable” as an antecedent thereto.

IN WITNESS WHEREOF, the Escrow Agent and the County have caused this Agreement to be executed and attested by their duly authorized officers, as of the 1st day of September, 2012.

U.S. BANK NATIONAL ASSOCIATION, as
Escrow Agent

By: _____
Shawna L. Hale
Vice President

[SIGNATURES CONTINUED ON FOLLOWING PAGE]

[COUNTERPART SIGNATURE PAGE TO THE ESCROW AGREEMENT]

COUNTY OF HENDERSON, NORTH CAROLINA

By: _____
Steven D. Wyatt
County Manager

SCHEDULE I

PAYMENT SCHEDULE FOR REFUNDED 2005A CERTIFICATES

<u>DATE</u>	<u>PRINCIPAL</u>	<u>INTEREST</u>
11/01/12		
05/01/13		
11/01/13		
05/01/14		
11/01/14		
05/01/15	\$18,590,000	

The Refunded 2005A Certificates maturing on and after May 1, 2016 are to be called on May 1, 2015 at the principal amount thereof without premium, plus accrued interest to the prepayment date.

SCHEDULE II

FEDERAL SECURITIES

<u>TYPE OF SECURITY</u>	<u>MATURITY DATE</u>	<u>PAR AMOUNT</u>	<u>COUPON</u>
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An amount equal to \$[] has been deposited in the Escrow Fund on the Issue Date to establish the Initial Cash Balance in the Escrow Fund and shall be held uninvested as cash.

EXHIBIT A

NOTICE OF PREPAYMENT

\$25,875,000

***Certificates of Participation, Series 2005A
(Henderson County Projects)***

***Evidencing Proportionate Undivided Interests in Rights
to Receive Certain Revenues pursuant to an Installment Financing Contract between
Henderson County Governmental Financing Corporation and the County of Henderson, North
Carolina***

<u>*CUSIP</u>	<u>MATURITY</u>	<u>RATE</u>	<u>PRICE</u>	<u>AMOUNT</u>
	May 1, 2016	5.25%	100%	\$1,430,000
	May 1, 2017	5.25	100	1,430,000
	May 1, 2018	4.00	100	400,000
	May 1, 2018	5.00	100	1,030,000
	May 1, 2019	5.25	100	1,430,000
	May 1, 2020	5.25	100	1,430,000
	May 1, 2021	5.25	100	1,430,000
	May 1, 2022	5.00	100	1,430,000
	May 1, 2023	5.00	100	1,430,000
	May 1, 2024	5.00	100	1,430,000
	May 1, 2025	5.00	100	1,000,000
	May 1, 2025	4.375	100	430,000

Notice is hereby given by the County of Henderson, North Carolina of its intention to prepay the Certificates of Participation, Series 2005A, Evidencing Proportionate Undivided Interests in Rights to Receive Certain Revenues pursuant to an Installment Financing Contract between Henderson County Governmental Financing Corporation and the County of Henderson, North Carolina (the "Refunded 2005A Certificates") maturing on and after May 1, 2016 on May 1, 2015 (the "Prepayment Date") at the prepayment price (the "Prepayment Price") of 100% of the principal amount thereof without premium, plus accrued interest to the Prepayment Date.

Since the Refunded 2005A Certificates are held under the book entry system, payment will be made directly to the registered holder. United States Treasury Obligations and uninvested cash sufficient to pay the Prepayment Price have been deposited with the Escrow Agent. Consequently, on the Prepayment Date, the Refunded 2005A Certificates will cease to bear interest.

When presenting the Refunded 2005A Certificates for payment, holders of the Refunded 2005A Certificates should provide their tax identification number (via Form W-9) to avoid withholding at the current rate of 28% of the principal paid as required by Federal Tax Law. Those holders who are required to provide their correct taxpayer identification number on IRS Form W-9 and who fail to do so may also be subject to an IRS penalty. Accordingly, please provide all appropriate certifications when presenting the Refunded 2005A Certificates for payment.

COUNTY OF HENDERSON, NORTH CAROLINA

**By: U.S. BANK NATIONAL ASSOCIATION , as
trustee**

Date: [Between March 2, 2015 and March 31, 2015]

To: DTC by electronic mail to redemptionnotification@dtcc.com.

LGC by U.S. Mail.

EMMA, by posting electronically, in PDF format, to www.MSRB.org/msrb1/control/default.asp.

Ambac Assurance Corporation, by U. S. Mail

EXHIBIT B

NOTICE OF DEFEASANCE

\$25,875,000

Certificates of Participation, Series 2005A

(Henderson County Projects)

Evidencing Proportionate Undivided Interests in Rights

***to Receive Certain Revenues pursuant to an Installment Financing Contract between
Henderson County Governmental Financing Corporation and the County of Henderson, North
Carolina***

<u>*CUSIP</u>	<u>MATURITY</u>	<u>RATE</u>	<u>PRICE</u>	<u>AMOUNT</u>
	May 1, 2016	5.25%	100%	\$1,430,000
	May 1, 2017	5.25	100	1,430,000
	May 1, 2018	4.00	100	400,000
	May 1, 2018	5.00	100	1,030,000
	May 1, 2019	5.25	100	1,430,000
	May 1, 2020	5.25	100	1,430,000
	May 1, 2021	5.25	100	1,430,000
	May 1, 2022	5.00	100	1,430,000
	May 1, 2023	5.00	100	1,430,000
	May 1, 2024	5.00	100	1,430,000
	May 1, 2025	5.00	100	1,000,000
	May 1, 2025	4.375	100	430,000

NOTICE IS HEREBY GIVEN by the County of Henderson, North Carolina (the “County”) that, pursuant to the Indenture of Trust dated as of May 1, 2005 (the “2005 Indenture”) between Henderson County Governmental Financing Corporation (the “Corporation”) and First-Citizens Bank & Trust Company, the successor to which is U.S. Bank National Association, as trustee (the “Trustee”), authorizing the execution and delivery of the Certificates of Participation, Series 2005A (Henderson County Projects) Evidencing Proportionate Undivided Interests in Rights to Receive Certain Revenues pursuant to an Installment Financing Contract between the Corporation and the County of Henderson, North Carolina (the “2005A Certificates”), that there has been deposited with U.S. Bank National Association, as escrow agent, pursuant to an Escrow Agreement dated as of September 1, 2012, certain Federal Securities, as permitted under the 2005 Indenture, the principal of and the interest on which when due, and without reinvestment thereof, are sufficient to pay (1) the maturing interest with respect to the 2005A Certificates maturing on and after May 1, 2016 (the “Refunded 2005A Certificates”), until May 1, 2015 (the “Prepayment Date”), and (2) 100% of the principal of the Refunded 2005A Certificates on the Prepayment Date, at which time the outstanding principal and interest with respect to the Refunded 2005A Certificates will be paid in full. The Trustee has received irrevocable written instructions from the County to prepay the Refunded 2005A Certificates on the Prepayment Date. Consequently, on the Prepayment Date, the Refunded 2005A Certificates will cease to bear interest. The Refunded 2005A Certificates are deemed to have been paid in accordance with Article VI of the 2005 Indenture.

COUNTY OF HENDERSON, NORTH CAROLINA

By: U.S. BANK NATIONAL ASSOCIATION, as trustee

Date: [As soon as practicable after the execution and delivery of the Escrow Agreement]

To: DTC by electronic mail to redemptionnotification@dtcc.com.

LGC by U.S. Mail.

EMMA, by posting electronically, in PDF format, to www.MSRB.org/msrb1/control/default.asp.
Ambac Assurance Corporation, by U. S. Mail.