

**COLUMBUS COUNTY**  
**BOARD OF COMMISSIONERS**

**MINUTES**

The Honorable Board of Columbus County Commissioners met in their said office at 112 West Smith Street, Whiteville, NC at 7:30 P.M., February 19, 2001 to hold their regularly scheduled Board Meeting, it being the third Monday.

**BOARD MEMBERS PRESENT:**

Spruell R. Britt, Chairman

Sammie Jacobs, Vice Chairman

David L. Dutton, Jr.

Amon E. McKenzie

Bill Memory

Lynwood Norris

C.E. Wilson

James E. Hill, Jr., County Attorney

Dempsey B. Herring  
County Administrator

Ida L. Smith  
Clerk to Board

Chairman Britt called the regularly scheduled Board Meeting to order and Commissioner Jacobs gave the invocation.

**BOARD MINUTES APPROVAL**

A motion was made by Commissioner Norris, seconded by Commissioner McKenzie and passed unanimously to approve the February 5, 2001 Board Minutes, as recorded.

**WATER & SEWER DISTRICT V - ACCEPTED PETITION AND APPROVED  
HOLDING A BOND REFERENDUM**

Jack Miller, representing residents of the Mollie/Pireway/Nakina areas, addressed the Board regarding the Water and Sewer District V's defeat in the General Primary that was held in November 2000 and presented the Board with a petition with three-hundred (300)

signatures of residents requesting the Commissioners to pursue the development of a water system for their community.

Dempsey B. Herring, County Administrator, stated that five million dollars, plus has been obligated for Water and Sewer District V and will be held by Rural Development until March 31, 2001.

A motion was made by Commissioner Norris, seconded by Commissioner Dutton and passed unanimously to accept the Water and Sewer District V petition and approved for a Bond Referendum to be scheduled by Dempsey B. Herring, County Administrator.

### **CONSENT AGENDA ITEMS**

A motion was made by Commissioner Jacobs, seconded by Commissioner Dutton and passed unanimously to approve the consent agenda items as follows.

#### **Refunds:**

Request a refund in the name of Hobbs, Helen C., c/o Mickey & Cris Hobbs, 6114 Joe Brown Hwy. S., Chadbourn, N.C. 28431. Paid user fee on old store that is vacant and does not have a trash can. Amount \$125.00, Value \$0.00, Year 2000, Account # 09-14830, Bill # 96760.

Request a refund in the name of Stocks, Ray, 1197 Ervin T. Richardson Rd., Nakina, N.C. 28455. Paid on a mobile home and the Old Dock fire fee that is double listed in the name of Raven Stocks. Amount \$183.80, Value \$7,350.00, Year 2000, Account # 03-24460, Bill # 14223.

Request a refund in the name of Walters, H.G. (Dr.), 220 Jefferson St., Whiteville, N.C. 28472. Paid on property that is double listed in the name of Jerry Lamont Carter, (Etal). Amount \$405.36, Value \$56,300.00, Year 2000, Account # 11-28644, Bill # 17220.

Request a refund in the name of Ward, Roger Dale, 12326 James B. White Hwy. S., Whiteville, N.C. 28472. Customer was overcharged on his user fee due to a computer error. Amount \$60.00, Value \$0.00, Year 2000, Account # 06-41288, Bill # 17872.

Request a refund in the name of Bullock, Manley O., P.O. Box 402, Tabor City, NC 28463. Paid user fee but does not have a trash container. Amount \$65.00, Value \$0.00, Year 2000, Account # 06-05628, Bill # 84147.

Request a refund in the name of Etheridge, Sandra, 3856 Old Wilmington Rd., Hallsboro,, N.C. 28442. Paid user fee but does not have a trash container. One will be delivered for 2001. Amount \$125.00, Value \$0.00, Year 2000, Account # 11-00411, Bill # 89760.

**Releases:**

Release the Special District in the name of Garrell, Corbett L. Property not located in the Acme Delco Fire District. Amount \$22.82, Value \$19,017.00, Year 2000, Account # 15-15220, Bill # 91983.

Release the User Fee in the name of Bass, Robert A., Jr. There are no dwellings on this parcel of land. Amount \$125.00, Value \$0.00, Year 2000, Account # 01-03538, Bill # 80960.

Release the User Fee in the name of Beck, Mary M. House is vacant. Amount \$125.00, Value \$0.00, Year 2000, Account # 09-00930, Bill # 81252.

Release the User Fee in the name of Brown, Cecil. No trash can at this location. Amount \$65.00, Value \$0.00, Year 2000, Account # 04-01560, Bill # 83119.

Release the User Fee in the name of Brown, Myron. Billed with two user fees. There is only one mobile home at this location. Amount \$125.00, Value \$0.00, Year 2000, Account # 15-05970, Bill # 83472.

Release the User Fee in the name of Butler, David. Overcharge on user fee due to computer error. Amount \$160.00, Value \$0.00, Year 2000, Account # 13-05914, Bill # 84373.

Release the User Fee in the name of C S & C Construction. House is being remodeled and they do not have a trash can. Amount \$100.00, Value \$0.00, Year 1999, Account # 13-01645, Bill # 3714.

Release the User Fee in the name of C S & C Construction. House is being remodeled and they do not have a trash container at this time. Amount \$125.00, Value \$0.00, Year 2000, Account # 13-01645, Bill # 84609.

Release the User Fee in the name of Campbell, John N. House is unlivable. Amount \$30.00, Value \$0.00, Year 1992, Account # 11-05240, Bill # 68404.

Release the User Fee in the name of Campbell, John W. House is unlivable. Amount \$30.00, Value \$0.00, Year 1993, Account # 11-05240, Bill # 65246.

Release the User Fee in the name of Campbell, John W. House is unlivable. Amount \$30.00, Value \$0.00, Year 1994, Account # 11-05240, Bill # 24313.

Release the User Fee in the name of Campbell, John W. House is unlivable. Amount \$60.00, Value \$0.00, Year 1995, Account # 11-05240, Bill # 95407.

Release the User Fee in the name of Campbell, John W. House is unlivable. Amount \$60.00, Value \$0.00, Year 1996, Account # 11-05240, Bill # 40273.

Release the User Fee in the name of Campbell, John W. House is unlivable. Amount \$100.00, Value \$0.00, Year 1997, Account # 11-05240, Bill # 38229.

Release the User Fee in the name of Campbell, John W. House is unlivable. Amount \$100.00, Value \$0.00, Year 1998, Account # 11-05240, Bill # 42390.

Release the User Fee in the name of Campbell, John W. House is unlivable. Amount \$100.00, Value \$0.00, Year 1999, Account # 11-05240, Bill # 3936.

Release the User Fee in the name of Campbell, John W. House is unlivable. Amount \$125.00, Value \$0.00, Year 2000, Account # 11-05240, Bill # 84822.

Release the User Fee in the name of Cartrette, Elois T. Mobile home is vacant. Amount \$125.00, Value \$0.00, Year 2000, Account # 10-02365, Bill # 85416.

Release the User Fee in the name of Daniel, Billy J. Customer uses a commercial hauler. Amount \$125.00, Value \$0.00, Year 2000, Account # 09-06531, Bill # 87635.

Release the User Fee in the name of Causey, Terry. There is no trash can at this location. Amount \$125.00, Value \$0.00, Year 2000, Account # 07-00202, Bill # 85659.

Release the User Fee in the name of George, James H. Overcharge on user fee due to a computer error. Amount \$285.00, Value \$0.00, Year 2000, Account # 12-09160, Bill # 92259.

Release the User Fee in the name of Gibbs, Freddie. There is no trash can at this location. Amount \$125.00, Value \$0.00, Year 2000, Account # 01-05345, Bill # 92426.

Release the User Fee in the name of Graham, Annie Doris (Etal). House inside the city limits is vacant. Amount \$85.00, Value \$0.00, Year 2000, Account # 13-15815, Bill #

93565.

Release the User Fee in the name of Godwin, Gary D. Customers use a commercial hauler. Amount \$410.00, Value \$0.00, Year 2000, Account # 13-15260, Bill # 92636.

Release the User Fee in the name of Hemingway, Joseph. No trash can at this location. Amount \$100.00, Value \$0.00, Year 1999, Account # 01-39057, Bill # 14748.

Release the User Fee in the name of Hemingway, Joseph. Did not have a trash can in 2000. A container has been delivered for 2001. Amount \$125.00, Value \$0.00, Year 2000, Account # 01-39057, Bill # 95862.

Release the User Fee in the name of Jerome, Arthur E. Overcharge on user fee is due to a computer error. Amount \$285.00, Value \$0.00, Year 2000, Account # 03-01307, Bill # 98483.

Release the User Fee in the name of Johnson, Gradey B. Customer billed with three user fees. Two of his mobile homes are vacant and he only has one trash container. Amount \$175.00, Value \$0.00, Year 1999, Account # 15-05351, Bill # 17418.

Release the User Fee in the name of Johnson, Gradey B. Customer billed with three user fees. Two of his mobile homes are vacant and he only has one trash container. Amount \$250.00, Value \$0.00, Year 2000, Account # 15-05351, Bill # 98599.

Release the User Fee in the name of Johnson, Gradey B. (Trustee). Billed with two user fees. Only has one house on this parcel of land. Amount \$100.00, Value \$0.00, Year 1999, Account # 15-24871, Bill # 17419.

Release the User Fee in the name of Johnson, Gradey B. (Trustee). Overcharge on user fee due to a computer error. Amount \$285.00, Value \$0.00, Year 2000, Account # 15-24871, Bill # 98600.

Release the User Fee in the name of Larrimore, Marvin. Overcharge on user fee due to a computer error. Amount \$285.00, Value \$0.00, Year 2000, Account # 01-51353, Bill # 41.

Release the User Fee in the name of Larrimore, Stacey A. There is no trash can at this location. Amount \$125.00, Value \$0.00, Year 2000, Account # 13-23001, Bill # 46.

Release the User Fee in the name of Lewis, Joe. There is no trash can at this location.

Amount \$100.00, Value \$0.00, Year 1998, Account # 03-13200, Bill # 57428.

Release the User Fee in the name of Lewis, Joe. There is no trash can at this location.

Amount \$100.00, Value \$0.00, Year 1999, Account # 03-13200, Bill # 19442.

Release the User Fee in the name of Lewis, Joe. There is no trash can at this location.

Amount \$125.00, Value \$0.00, Year 2000, Account # 03-13200, Bill # 693.

Release the User Fee in the name of McCaskill, Gregory. Mobile home is vacant.

Amount \$100.00, Value \$0.00, Year 1999, Account # 15-24697, Bill # 20910.

Release the User Fee in the name of McCaskill, Gregory. Mobile home is vacant.

Amount \$125.00, Value \$0.00, Year 2000, Account # 15-24697, Bill # 2210.

Release the User Fee in the name of McGill, Roosevelt. House is vacant. Amount \$125.00, Value \$0.00, Year 2000, Account # 01-55700, Bill # 2527.

Release the User Fee in the name of Moore, Jack R. There are no dwellings on this parcel of land. Amount \$125.00, Value \$0.00, Year 2000, Account # 15-27657, Bill # 4483.

Release the User Fee in the name of Norris, Jettie P. There is no trash container at this location. Amount \$125.00, Value \$0.00, Year 2000, Account # 06-27860, Bill # 5786.

Release the User Fee in the name of Phillips, Earline. Billed with two user fees, should be one. They put two single wides together and made a double wide. Amount \$100.00, Value \$0.00, Year 1997, Account # 06-28892, Bill # 58065.

Release the User Fee in the name of Phillips, Earline. Billed with two user fees, should be one. They put two single wide homes together to make a double wide. Amount \$100.00, Value \$0.00, Year 1998, Account # 06-28892, Bill # 63074.

Release the User Fee in the name of Phillips, Earline. Billed with two user fees, should be one. They put two single wide homes together to make a double wide. Amount \$100.00, Value \$0.00, Year 1999, Account # 06-28892, Bill # 25353.

Release the User Fee in the name of Phillips, Earline. Overcharge on user fee due to a computer error. Amount \$285.00, Value \$0.00, Year 2000, Account # 06-28892, Bill # 6801.

Release the User Fee in the name of Richardson, Henry, Jr. No trash can at this address. Amount \$125.00, Value \$0.00, Year 2000, Account # 11-22721, Bill # 8968.

Release the User Fee in the name of Robinson, Brenda. Release a portion of the user fee. House is located inside the city limits. Amount \$60.00, Value \$0.00, Year 2000, Account # 01-76806, Bill # 9195.

Release the User Fee in the name of Smith, Ruther. Overcharge on user fee due to a computer error. Amount \$160.00, Value \$0.00, Year 2000, Account # 06-33740, Bill # 12382.

Release the User Fee in the name of Strickland, Rodney V. All mobile homes are unlivable. Amount \$410.00, Value \$0.00, Year 2000, Account # 10-16600, Bill # 14606.

Release the User Fee in the name of Thurman, Laconya T. There is no trash container at this location. Amount \$125.00, Value \$0.00, Year 2000, Account # 11-27725, Bill # 15745.

Release the Property Value in the name of Antone, Minnie. Release the value of a old house that has been torn down and replaced with a double wide. Double wide is listed. Amount \$239.48, Value \$15,900.00, Year 2000, Account # 08-00260, Bill # 79961.

Release the Property Value in the name of Bracey, Wesley. Release the value of a double wide and the Acme Delco fire fee that is double listed in the name of Wesley & Tracie Bracey. Amount \$283.18, Value \$17,120.00, Year 2000, Account # 15-03881, Bill # 82681.

Release the Property Value in the name of Currie, Luther. Release the value of an house and the Welches Creek fire fee that burned in October, 1997. Amount \$217.03, Value \$15,100.00, Year 1998, Account # 14-04140, Bill # 44917.

Release the Property Value in the name of Currie, Luther. Release the value of a house and the Welches Creek fire fee that burned in October 1997. Amount \$217.03, Value \$15,100.00, Year 1999, Account # 14-04140, Bill # 6551.

Release the Property Value in the name of Currie, Luther. Release the value of a house and the Welches Creek fire fee that burned in October, 1997. Amount \$405.80, Value \$15,100.00, Year 2000, Account # 14-04140, Bill # 87518.

Release the Property Value in the name of Fowler, Everitt B. Release property value that is double listed in the name of Berkley & Merlene Fowler. Amount \$39.60, Value

\$5,500.00, Year 2000, Account # 06-11085, Bill # 91141.

Release the Property Value in the name of Gelenzinsky, Jerry W. Release value of boat that was destroyed during hurricane in 1995 or 1996. Amount \$7.04, Value \$1,013.00, Year 1999, Account # 10-05803, Bill # 51793.

Release the Property Value in the name of Gibson, Melissa. Release the value of a mobile home and the Old Dock fire fee that is double listed in the name of James McKeithan. Amount \$184.75, Value \$6,790.00, Year 2000, Account # 03-03319, Bill # 92454.

Release the Property Value in the name of Gore, Rifton J., III. Release the value of a hog house that is double listed in the name of Powell & Sons. Amount \$83.52, Value \$11,600.00, Year 2000, Account # 06-03326, Bill # 93363.

Release the Property Value in the name of Hammonds, Marcus R. Release the value of an out building and the Klondyke fire fee that is double listed in the name of Annie Pearl Hammond. Amount \$13.18, Value \$1,740.00, Year 1996, Account # 13-17520, Bill # 49436.

Release the Property Value in the name of Hammonds, Marcus R. Release the value of an out building and the Klondyke fire fee that is double listed in the name of Annie Pearl Hammond. Amount \$13.77, Value \$1,740.00, Year 1998, Account # 13-17520, Bill # 51992.

Release the Property Value in the name of Hammonds, Marcus R. Release the value of an out building and the Klondyke fire fee that is double listed in the name of Annie Pearl Hammond. Amount \$13.77, Value \$1,740.00, Year 1999, Account # 13-17520, Bill # 13854.

Release the Property Value in the name of Hammonds, Marcus R. Release the value of an out building and the Klondyke fire fee that is double listed in the name of Annie Pearl Hammond. Amount \$14.22, Value \$1,740.00, Year 2000, Account # 13-17520, Bill # 94926.

Release the Property Value in the name of Jenkins, Jimmy. Release the value of a double wide and the Cerro Gordo fire fee that is double listed in the name of Mario & Clementine Thompson. Amount \$455.37, Value \$44,700.00, Year 1997, Account # 16-09241, Bill # 50595.

Release the Property Value in the name of King, Lyle R. & Judy. Release the value of a mobile home and the Old Dock fire fee that is double listed in the name of Lyle R. King (Etal). Amount \$146.16, Value \$2,406.00, Year 2000, Account # 03-12553, Bill # 99545.



Release the Property Value in the name of Lee, Rhonda. Release the value of a mobile home that was severely damaged by a storm and was torn down in 1999. Amount \$145.39, Value \$2,575.00, Year 2000, Account # 01-52141, Bill # 255.

Release the Property Value in the name of Long, Alex. Release the value of a mobile home and the Williams fire fee that was sold prior to January 1, 2000. Amount \$230.80, Value \$12,330.00, Year 2000, Account # 09-16927, Bill # 937.

Release the Property Value in the name of Long, Odom. Release the value of a mobile home that was destroyed by a storm. Amount \$149.63, Value \$1,227.00, Year 2000, Account # 06-04308, Bill # 1227.

Release the Property Value in the name of McClland, Mona. Release the value of a mobile home that is double listed in the name of Mona Faye Rooks McClland. Amount \$285.46, Value \$20,260.00, Year 2000, Account # 01-54981, Bill # 2214.

Release the Property Value in the name of McKeithan, John Archie, Jr. Release the value of a double wide that was not on the property January 1, 2000. Amount \$294.48, Value \$40,900.00, Year 2000, Account # 15-04233, Bill # 2617.

Release the Property Value in the name of McPherson, Carl, Jr. Release the value of a boat that was sold years ago. Amount \$17.28, Value \$2,400.00, Year 2000, Account # 09-18060, Bill # 3091.

Release the Property Value in the name of Nance, Harvey (Etal). Release the property value that is double listed in the name of Retha M. Edwards. Amount \$30.58, Value \$4,400.00, Year 1999, Account # 13-13411, Bill # 23648.

Release the Property Value in the name of Nance, Harvey (Etal). Release the property value that is double listed in the name of Retha M. Edwards. Amount \$31.68, Value \$4,400.00, Year 2000, Account # 13-13411, Bill # 4992.

Release the Property Value in the name of Nealy, Chris. Release the value of a mobile home that is double listed in the name of Grady Christopher Nealy. Amount \$257.21, Value \$22,960.00, Year 2000, Account # 13-02934, Bill # 5209.

Release the Property Value in the name of Noble, Jamie. Release the value of a mobile home that is double listed in the name of W.B. & Earlene Nobles. Amount \$171.79,

Value \$5,908.00, Year 2000, Account # 13-29303, Bill # 5413.

Release the Property Value in the name of Powell, Eva Lee. Release the property value and the Evergreen fire fee that is double listed in the name of Eva P. Shaw. Amount \$357.83, Value \$33,500.00, Year 1998, Account # 12-22041, Bill # 63600.

Release the Property Value in the name of Powell, Eva Lee. Release the property value and the Evergreen fire fee that is double listed in the name of Eva P. Shaw. Amount \$357.83, Value \$33,500.00, Year 1999, Account # 12-22041, Bill # 25891.

Release the Property Value in the name of Powell, Eva Lee. Release the property value and the Evergreen fire fee that is double listed in the name of Eva P. Shaw. Amount \$391.20, Value \$33,500.00, Year 2000, Account # 12-22041, Bill # 7371.

Release the Property Value in the name of Sarvis, Phil. Release the value of a mobile home and the Brunswick fire fee (5.59) and the Whiteville Rescue fee (1.60) that was billed to Mr. Sarvis in error. Release user fee in the amount of \$285.00. Amount \$57.53, Value \$7,990.00, Year 2000, Account # 01-78835, Bill # 9865.

Release the Property Value in the name of Strickland, Margaret. Release the value of a mobile home that is double listed in the same name with a different account number. Amount \$173.16, Value \$9,570.00, Year 1999, Account # 09-02908, Bill # 32877.

Release the Property Value in the name of Strickland, Margaret. Release the value of a mobile home that is double listed in the same name with a different account number. Amount \$196.20, Value \$8,990.00, Year 2000, Account # 09-02908, Bill # 14543.

Release the Property Value in the name of Theodorakis, George & Betty. Release the value of a boat that was traded for a pontoon boat in 1998. Amount \$51.60, Value \$6,750.00, Year 1999, Account # 08-18840, Bill # 52434.

Release the Property Value in the name of Thompson, Mario & Clementine. Release the value of a double wide home and the Cerro Gordo fire fee that is double listed in same name with a different bill number Amount \$448.08, Value \$39,400.00, Year 2000, Account # 16-15961, Bill # 15594.

Release the Property Value in the name of Williams, Linda Faye. Release the value of a mobile home that is double listed in the name of Mary Williams. Amount \$88.61, Value

\$2,980.00, Year 2000, Account # 13-44056, Bill # 19438.

Release the Property Value in the name of Williams, Linda Faye. Release the value of a mobile home that is double listed in the name of Mary Medina Williams. Amount \$89.63, Value \$3,110.00, Year 2000, Account # 13-02658, Bill # 19437.

Release the Property Value in the name of Worley, William & Daphane. Release the value of farm equipment that was sold years ago. Amount \$63.69, Value \$8,042.00, Year 2000, Account # 16-18283, Bill # 20474.

**Budget Amendments:**

Accept	10-336-0400 Good Shepherd 4-H Grant	\$ 1,900
Expend	10-602-3300 Departmental Supplies	\$ 1,900
Accept	10-336-0500 Good Shepherd EFNEF Grant	\$ 1,900
Expend	10-603-3300 Departmental Supplies	\$ 835
Expend	10-603-7400 Capital Outlay	\$ 1,065
Appropriate	10-399-0000 Fund Balance Appropriated	\$ 32,786
Decrease	10-430-0300 Part-time Salaries	(\$ 22,385)
Decrease	10-430-2100 Rent	(\$ 910)
Decrease	10-430-3200 Office Supplies	(\$ 9,233)
Increase	10-430-4500 Contract	\$ 21,228
Increase	10-430-1600 M/R Equipment	\$ 1,087
Increase	10-430-2600 Advertising	\$ 4,685
Increase	10-430-5300 Dues	\$ 65
Increase	10-430-7400 Capital Outlay	\$ 18,021
Increase	10-430-0200 Salaries	\$ 17,284
Increase	10-430-0500 FICA	\$ 1,841
Increase	10-430-0700 Retirement	\$ 1,103
Decrease	10-348-0005 NC ITS - E911 Wireless Emergency Telephone System	(\$ 36,000)
Decrease	10-536-1600 M/R Equipment	(\$ 18,000)
Decrease	10-536-5700 Miscellaneous Expense	(\$ 18,000)
Increase	72-302-0000 Wireless E-911 Revenue	\$ 36,000
Expend	72-526-1600 M/R Equipment	\$ 18,000
Expend	72-526-5700 Miscellaneous Expense	\$ 18,000
Accept	10-348-1100 Migrant Dental Health Funds	\$ 4,650
Expend	10-594-0200 Salaries	\$ 4,650
Appropriate	10-399-0000 Fund Balance	\$ 99,961
Expend	10-506-7200 Building/Animal Control	\$ 99,961
Appropriate	Employee Expense (Insurance)	\$ 1,382,472
Appropriate	Employee Deductions	\$ 401,268
Appropriate	Fund Balance	\$ 9,054
Expend	Insurance - Fixed Costs-Employees	\$ 353,595

Expend	Insurance - Claim Liability	\$ 1,439,199
Accept	12-336-0501 Donations - Bolton SC	\$ 9,424
Expend	12-613-3300 Departmental Supplies	\$ 3,769
Expend	12-613-7200 Capital Outlay/Buildings	\$ 5,655
Transfer	12-399-0000 Fund Balance	\$ 5,383
Transfer	12-329-0000 Interest	\$ 326
Expend	12-613-3300 Departmental Supplies	\$ 185
Expend	12-613-5700 Miscellaneous	\$ 1,124
Expend	12-613-1300 Utilities	\$ 4,400
Accept	12-348-0100 Federal Grant	\$ 23,795
Accept	12-348-0101 Federal Grant	\$ 5,197
Accept	12-348-0401 Federal Grant	\$ 5,524
Accept	12-348-0402 Federal Grant	\$ 4,871
Accept	12-348-0503 Federal Grant	\$ 5,197
Expend	12-608-7400 Capital Outlay	\$ 5,524
Expend	12-612-7300 Capital Outlay/Improvements	\$ 4,247
Expend	12-612-7400 Capital Outlay	\$ 950
Expend	12-613-3300 Departmental Supplies	\$ 3,195
Expend	12-613-7200 Capital Outlay/Buildings	\$ 20,600
Expend	12-618-3300 Departmental Supplies	\$ 971
Expend	12-618-7200 Capital Outlay/Buildings	\$ 2,000
Expend	12-618-7400 Capital Outlay	\$ 1,900
Expend	12-619-3300 Departmental Supplies	\$ 3,997
Expend	12-619-7400 Capital Outlay	\$ 1,200

**MEETING RECESSED - WATER & SEWER AUTHORITY II MEETING**

At 7:37 P.M., a motion was made by Commissioner Norris, seconded by Commissioner McKenzie and passed unanimously to recess the Board Meeting for the purpose of holding a Columbus County Water & Sewer District II Meeting and to act as the Water and Sewer Authority.

The minutes of the meeting are recorded in the Columbus County Water & Sewer District II Minute Book.

**ADJOURNMENT - WATER DISTRICT II MEETING**

The meeting adjourned at 7:42 P.M.

**WATER & SEWER DISTRICT III - AUTHORITY MEETING**

Immediately, thereafter, A motion was made by Commissioner Norris, seconded by Commissioner Jacobs and passed unanimously to hold a Columbus County Water & Sewer District III Meeting to act as the Water and Sewer Authority.

The minutes of the meeting are recorded in the Columbus County Water & Sewer District III Minute Book.

**ADJOURNMENT - WATER DISTRICT III**

A motion was made by Commissioner Wilson, seconded by Commissioner Memory to adjourn the meeting at 7:45 P.M.

**REGULARLY SCHEDULED BOARD MEETING RESUMED**

Immediately, thereafter, Chairman Britt called the regularly scheduled Board Meeting back to order and the following business was transacted.

**WATER & SEWER DISTRICT II - RESOLUTION PROVIDING THE ISSUANCE OF \$6,500,000 WATER BOND ANTICIPATION NOTES**

A motion was made by Commissioner Norris, seconded by Commissioner Jacobs and passed unanimously to approve the following Resolution.

A regular meeting of the Board of Commissioners for the County of Columbus, North Carolina, as the governing body of the Columbus County Water and Sewer District II, in Columbus County, North Carolina, was held in the Commissioners' Chambers on the Second Floor of the Columbus County Courthouse Annex at 112 West Smith Street, in Whiteville, North Carolina, the regular place of meeting, at 7:30 P.M., on February 19, 2001.

**Present:** Chairman Spruell R. Britt, presiding, and Commissioners Sammie Jacobs, David L. Dutton, Jr., Amon E. McKenzie, Bill Memory, Lynwood Norris and C.E. Wilson.

**Absent:** None

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Commissioner Norris introduced the following resolution, a copy of which had been provided to each Commissioner and which was read by its title:

**RESOLUTION PROVIDING FOR THE ISSUANCE  
OF \$6,500,000 WATER BOND ANTICIPATION NOTES**

BE IT RESOLVED by the Board of Commissioners for the County of Columbus, North Carolina, as the governing body of the Columbus County Water and Sewer District II, in Columbus County, North Carolina:

**Section 1.** The Board of Commissioners for the County of Columbus, North Carolina, as the governing body of the Columbus County Water and Sewer District II, in Columbus County, North Carolina, has determined and does hereby find, declare and represent:

(a) That an order authorizing not exceeding \$6,500,000 Water Bonds of the Columbus County Water and Sewer District II, in Columbus County, North Carolina (the "District") was adopted by the Board of Commissioners for the County, as the governing body of the District (the "Board"), on October 20, 1997, which order was approved by the vote of a majority of the qualified voters of the District who voted thereon at a referendum duly called and held on December 16, 1997.

(b) That none of said bonds has been issued and that there are outstanding \$6,500,000 Water Bond Anticipation Notes of the District, which notes are dated August 1, 2000, mature on March 28, 2001 and were issued in anticipation of the receipt of the proceeds of the sale of all of said bonds.

(c) That it is necessary to issue \$6,500,000 notes at this time in anticipation of the receipt of the proceeds of the sale of all of said bonds, all of the proceeds thereof to be applied to the payment of said outstanding notes at their maturity.

**Section 2.** In anticipation of the receipt of the proceeds of the sale of all of said bonds, the issuance of \$6,500,000 negotiable notes of the District is hereby authorized, which notes shall be designated "Water Bond Anticipation Notes", shall be dated March 27, 2001, shall mature on June 27, 2001, without option of prior payment, and shall bear interest at a rate to be determined by the Local Government Commission of North Carolina at the time said notes are sold, which interest shall be payable at the maturity of said notes on the basis of a 360-day year, consisting of twelve 30-day months. No interest coupons shall be attached to said notes. Said notes shall be payable as to both principal and interest at such bank or trust company, shall have such denomination or denominations of not less than \$100,000 and shall bear such number or numbers as may be fixed by the Chairman of the Board after the award of said notes by the Local Government Commission of North Carolina, and both the principal of and the interest on said notes shall be payable in any coin or currency of the

United States of America which at the time of payment is legal tender for the payment of public and private debts.

**Section 3.** Said notes shall be signed by the Chairman of the Board and the Clerk to the Board and the corporate seal of the District shall be impressed on said notes. The form of said notes and the endorsements to be placed upon the reverse thereof shall be substantially as follows:

No. \_\_\_\_\_ \$ \_\_\_\_\_

**United States of America**

**State of North Carolina**

**County of Columbus**

**COLUMBUS COUNTY WATER AND SEWER DISTRICT II**

**Water Bond Anticipation Note**

The Columbus County Water and Sewer District II, a body politic and corporate in the County of Columbus, North Carolina, is justly indebted and for value received hereby promises to pay to the bearer on the 27th day of June 2001, the principal sum of

\_\_\_\_\_ THOUSAND DOLLARS

and to pay interest thereon from the date hereof on the basis of a 360-day year, consisting of twelve 30-day months, at the rate of \_\_\_\_\_ per centum (\_\_\_\_%) per annum, payable upon the presentation and surrender of this note at its maturity. Both the principal of and the interest on this note are payable at \_\_\_\_\_, in \_\_\_\_\_, in any coin or currency of the United States of America which at the time of payment is legal tender for the payment of public and private debts. For the prompt payment hereof, both principal and interest as the same become due, the faith and credit of said District are hereby irrevocably pledged.

This note is given for money borrowed in the amount of the face of this note in anticipation of the receipt of the proceeds of the sale of a like amount of Water Bonds, duly authorized by an order adopted by the Board of Commissioners for the County of Columbus, North Carolina, as the governing body of said District, on October 20, 1997, which was approved by the vote of a majority of the qualified voters of said District who voted thereon

at a referendum duly called and held on December 16, 1997. This note is issued pursuant to and in full compliance with The Local Government Bond Act, as amended, Article 9, as amended, of Chapter 159 of the General Statutes of North Carolina and a resolution duly passed by said Board.

It is hereby certified and recited that all acts, conditions and things required by the Constitution and laws of North Carolina to happen, exist and be performed precedent to and in the issuance of this note have happened, exist and have been performed in regular and due form and time as so required and that the total indebtedness of said District, including this note, does not exceed any constitutional or statutory limitation thereon.

IN WITNESS WHEREOF, said District, pursuant to a resolution of said Board, has caused this note to be signed by the Chairman of said Board and the Clerk to said Board and the corporate seal of said District to be impressed hereon, all as of the 27th day of March 2001.

[Manual signature]  
Chairman

[Manual signature]  
Clerk

[To be endorsed upon reverse of notes]

Local Government  
Commission Series No. \_\_\_\_\_

The issuance of this note has been approved under the provisions of The Local Government Bond Act of North Carolina.

ROBERT M. HIGH

Secretary, Local Government Commission

[Manual signature]  
Designated Assistant

**Section 4.** The actions of the County Attorney, the County Manager and the Finance Officer of the County of Columbus, North Carolina in applying to the Local Government Commission of North Carolina to approve, advertise and sell said notes and in publishing a notice relating to the sale of said notes are hereby approved, ratified and confirmed, and the Local Government Commission of North Carolina is hereby requested to ask for bids for said notes by printing and distributing circulars relating to the sale of said notes.



**Section 5.** The District covenants that, to the extent permitted by the Constitution and laws of the State of North Carolina, it will comply with the requirements of the Internal Revenue Code of 1986, as amended (the "Code"), except to the extent that the District obtains an opinion of bond counsel to the effect that noncompliance would not result in interest on said notes being includable in the gross income of their owners for purposes of federal income taxation.

**Section 6.** The District hereby further finds, declares and represents that (a) it reasonably expects that it, all subordinate entities thereof and all entities which issue obligations on behalf of the District (all within the meaning of Section 265(b)(3)(E) of the Code) will not issue in the aggregate more than \$10,000,000 of tax-exempt obligations (not counting certain current refunding obligations and private-activity bonds except for qualified 501(c)(3) bonds as defined in the Code) during calendar year 2001 and (b) no entity has been or will be formed or availed of to avoid the limits described above. In addition, the District hereby designates each of said notes as a "qualified tax-exempt obligation" for the purposes of Section 265(b)(3) of the Code.

**Section 7.** The officers, agents and employees of the District are hereby authorized and directed to do all acts and things required of them by the provisions of said notes and this resolution for the full, punctual and complete performance of the terms, covenants, provisions and agreements therein and herein.

**Section 8.** This resolution shall take effect upon its passage.

Thereupon Commissioner Norris moved the passage of the foregoing resolution entitled: "RESOLUTION PROVIDING FOR THE ISSUANCE OF \$6,500,000 WATER BOND ANTICIPATION NOTES", and Commissioner Jacobs seconded the motion, and such resolution was passed by the following vote:

**Ayes:** Commissioners Spruell R. Britt, Sammie Jacobs, David L. Dutton, Jr., Amon E. McKenzie, Bill Memory, Lynwood Norris, and C.E. Wilson.

**Noes:** None.

\*\*\*\*\*

I, Ida L. Smith, Clerk to the Board of Commissioners for the County of Columbus,

North Carolina, as the governing body of the Columbus County Water and Sewer District II, in Columbus County, North Carolina, DO HEREBY CERTIFY that the foregoing has been carefully copied from the actually recorded minutes of a regular meeting of said Board held on February 19, 2001, the record having been made in Minute Book No. 26 of the minutes of said Board, beginning at page 177 and ending at page 182, and is a true copy of so much of said minutes as relates in any way to the issuance of \$6,500,000 Water Bond Anticipation Notes of said District.

I DO HEREBY FURTHER CERTIFY that a schedule of regular meetings of said Board, stating, with respect to the month of February 2001, that regular meetings of said Board are held in the Commissioners' Chambers on the Second Floor of the Columbus County Courthouse Annex at 112 West Smith Street, in Whiteville, North Carolina, on the first and third Mondays of each month at 8:00 A.M. and 7:30 P.M., respectively, has been on file in my office as of a date not less than seven days before the date of said meeting in accordance with G.S. §143-318.12.

WITNESS my hand and the corporate seal of said District, this 19<sup>th</sup> day of February 2001.

/s/ Ida L. Smith

Clerk to the Board of Commissioners

\*\*\*\*\*

**SUMMARY NOTICE OF SALE  
\$6,500,000  
GENERAL OBLIGATION  
COLUMBUS COUNTY WATER AND SEWER DISTRICT II,  
NORTH CAROLINA  
WATER BOND ANTICIPATION NOTES**

Sealed bids will be received by the Local Government Commission of North Carolina at its office in the Seaboard Building, 1<sup>st</sup> Floor, 413 North Salisbury Street, Raleigh, North Carolina, 27603-1385 until 11 o'clock A.M., North Carolina Time,

**March 13, 2001**

such bids to be opened in public at said time and place on said day, for the purchase of \$6,500,000 Water Bond Anticipation Notes of the Columbus County Water and Sewer

District II, in Columbus County, North Carolina, dated March 27, 2001 and maturing June 27, 2001. The notes are not subject to prior redemption.

Copies of the Offering Information and Bid Form relating to the notes may be obtained from the Local Government Commission (919-807-2350). Each bid must be submitted on a bid form in the Offering Information and Bid Form. The notes will be delivered on or about March 27, 2001.

LOCAL GOVERNMENT COMMISSION

Raleigh, North Carolina

By: Robert M. High

Secretary of the Commission

**FINANCE - FIXED ASSETS CAPITALIZATION POLICY AMENDED**

Gayle Godwin, Finance Officer, requested the Board to consider amending the Fixed Assets Capitalization Policy from \$500.00 to \$1,000.00 as recommended by Thompson, Price, Scott, Adams & Company, P.A., Columbus County Auditors.

A motion was made by Commissioner Wilson, seconded by Commissioner Norris and passed unanimously to approve amending the Fixed Assets Capitalization Policy from \$500.00 to \$1,000.00 as requested by Gayle Godwin, Finance Officer, effective July 1, 2001.

**EMERGENCY SERVICES - RESOLUTION AUTHORIZING THE EXECUTION AND DELIVERY OF AN INSTALLMENT PURCHASE CONTRACT WITH WACCAMAW BANK**

A motion was made by Commissioner Norris, seconded by Commissioner Memory and passed unanimously to adopt the following Resolution.

**RESOLUTION**

The governing body for Columbus County, North Carolina, held a regular meeting at the Commissioners' Chambers, 112 West Smith Street, the regular place of meeting, on February 19, 2001, at 7:30 P.M.

**Present:** Commissioners Spruell R. Britt, Sammie Jacobs, David L. Dutton, Jr., Amon E. McKenzie, Bill Memory, Lynwood Norris and C.E. Wilson.

**Absent:** None.

**Also Present:** Dempsey B. Herring, County Administrator, James E. Hill, Jr.,  
County Attorney and Ida L. Smith, Clerk to the Board.

\*\*\*\*\*

Commissioner Norris introduced the following resolution which was read:

**RESOLUTION AUTHORIZING THE EXECUTION AND DELIVERY OF AN INSTALLMENT PURCHASE CONTRACT WITH WACCAMAW BANK TO FINANCE THE ACQUISITION OF CERTAIN EQUIPMENT FOR USE BY THE COLUMBUS COUNTY EMERGENCY SERVICES. AUTHORIZING THE EXECUTION AND DELIVERY OF RELATED INSTRUMENTS, AND DETERMINING OTHER MATTERS IN CONNECTION THEREWITH**

**BE IT RESOLVED** by the governing body for the County of Columbus, North Carolina (the "Purchaser"):

**Section 1.** The governing body does hereby find and determine:

- a) The Columbus County Emergency Services proposes the acquisition of certain equipment, which may include fixtures as more fully described in the hereinafter mentioned Contract (collectively, the "Equipment");
- b) After consideration, the governing body has determined that the most advantageous manner of financing thereof is by an installment contract pursuant to Section 160A-20 of the General Statutes of North Carolina, as amended;
- c) Pursuant to said Section 160A-20, the Columbus County Emergency Services is authorized to finance the acquisition of personal property, including fixtures, by installment contracts that create a security interest in the property financed to secure repayment of the financing; and
- d) Waccamaw Bank ("Waccamaw") has proposed that Waccamaw finance the Equipment pursuant to an Installment Purchase Contract between the Purchaser and Waccamaw (the "Contract") and a related Escrow Agreement between the Purchaser and Waccamaw (the "Escrow Agreement").

**Section 2.** The governing body hereby authorizes and directs the Name of Authorized Officers to execute, acknowledge and deliver the Contract and Escrow Agreement on behalf of the Purchaser in such form and substance as the person executing and delivering such instruments on behalf of the Purchaser shall find acceptable. The Clerk is hereby authorized to affix the official seal of the Columbus County Emergency Services to the Contract and Escrow Agreement and attest the same.

**Section 3.** The proper officers of the Purchaser are authorized and directed to execute and deliver any and all papers, instruments, opinions, certificates, affidavits and other documents and to do or cause to be done any and all other acts and things necessary or proper for carrying out this Resolution and the Contract and the Escrow Agreement.

**Section 4.** Notwithstanding any provision of the Contract or the Escrow Agreement, no deficiency judgment may be rendered against the Purchaser in any action for breach of a contractual obligation under the Contract or the Escrow Agreement and the taxing power of the Purchaser is not and may not be pledged directly or indirectly to secure any moneys due under the Contract, the security provided under the Contract being the sole security for Waccamaw in such instance.

**Section 5.** The Purchaser covenants that, to the extent permitted by the Constitution and laws of the State of North Carolina, it will comply with the requirements of the Internal Revenue Code of 1986, as amended (the "Code") as required so that interest on the Purchaser's obligations under the Contract will not be included in the gross income of Waccamaw.

**Section 6.** The Purchaser hereby represents that it reasonably expects that it, all subordinate entities thereof and all entities issuing obligations on behalf of the Purchaser will not issue in the aggregate more than \$10,000,000 of tax-exempt obligations (not counting private-activity bonds except for qualified 501(c)(3) bonds as defined in the Code) during calendar year 2001. In addition, the Purchaser hereby designates the Contract and its obligations under the Contract as a "qualified tax-exempt obligation" for the purposes of the Code.

**Section 7.** This Resolution shall take effect immediately upon its passage.

Upon motion of Commissioner Norris, seconded by Commissioner Memory, members of the governing body, the foregoing resolution entitled "**RESOLUTION AUTHORIZING THE EXECUTION AND DELIVERY OF AN INSTALLMENT PURCHASE CONTRACT WITH WACCAMAW BANK TO FINANCE THE ACQUISITION OF CERTAIN EQUIPMENT, AUTHORIZING THE EXECUTION AND DELIVERY OF RELATED INSTRUMENTS, AND DETERMINING OTHER MATTERS IN CONNECTION THEREWITH**" was passed by the following vote:

**Ayes:** Commissioners Britt, Jacobs, Dutton, McKenzie, Memory, Norris and Wilson.

**Noes:** None.

**PASSED AND ADOPTED THIS 19<sup>th</sup> DAY OF FEBRUARY, 2001.**

\*\*\*\*\*

I, Ida L. Smith, Clerk for the County of Columbus, North Carolina **DO HEREBY CERTIFY** that the foregoing has been carefully copied from the actually recorded minutes of the governing body of said Columbus County at a regular meeting held on February 19, 2001, the record having been made in the minutes of said governing body, and is a true copy of so much of said minutes as relates in any way to the passage of a resolution providing for the authorization of the Installment Purchase Contract referred to therein.

**I DO HEREBY FURTHER CERTIFY** that a schedule, stating that the regular meetings of the Council are held on the first Monday of each month at 8:00 A.M. and the third Monday of each month at 7:30 P.M., respectively, at Whiteville, North Carolina, was on file with me for at least seven calendar days prior to said meeting, all in accordance with G.S. 143-318.12.

**WITNESS** my hand and corporate seal of said Columbus County, this 19<sup>th</sup> day of February 2001.

/s/ Ida L. Smith, Columbus County Clerk

(SEAL)

**EMERGENCY SERVICES - INSTALLMENT PURCHASE CONTRACT**

A motion was made by Commissioner Norris, seconded by Commissioner McKenzie, and passed unanimously to approve the following Installment Purchase Contract with Waccamaw Bank.

**INSTALLMENT PURCHASE CONTRACT****EQUIPMENT**

**THIS INSTALLMENT PURCHASE CONTRACT**, dated as of the 19<sup>th</sup> day of February 2001 (the "Contract") by and between **WACCAMAW BANK**, a North Carolina banking corporation (the "Bank"); and Columbus County, North Carolina, a body politic and corporate of the State of North Carolina, ("the Purchaser");

**WITNESSETH :**

**WHEREAS**, the 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**, the 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**, the Bank desires to advance certain funds to enable the Purchaser to finance the purchase and installation of the Equipment (as hereinafter defined) and the Purchaser desires to obtain said advance from the Bank and to purchase and install the Equipment pursuant to the terms and conditions hereinafter set forth; and

**WHEREAS**, the obligation of the Purchaser to make Installment Payments (as hereinafter defined) and other payments required under Section 3 hereof shall constitute a limited obligation payable solely from currently budgeted appropriations of the Purchaser and shall not constitute a pledge of the faith and credit of the Purchaser within the meaning of any constitutional debt limitation or as otherwise prohibited by the North Carolina Constitution; and

**WHEREAS**, the Bank and the Purchaser each have duly authorized the execution and delivery of this Contract.

**NOW THEREFORE**, for and in consideration of the premises and of the covenants hereinafter contained, and other valuable consideration the parties hereto agree as follows:

**SECTION I. DEFINITIONS**

For purposes of this Contract, the following definitions will apply:

1.1 "Equipment" means all of the property described in Exhibit A attached hereto, including any Equipment to be affixed to or attached to real estate as fixtures.

1.2 "Escrow Deposit Agreement" means the Escrow Deposit Agreement dated as of date by and between the Purchaser and the Bank pursuant to which the Bank agrees to

hold the Escrow Funds on behalf of the Purchaser and to advance such Escrow Funds in accordance with the terms thereof.

1.3 "Escrow Fund" means the funds deposited by the Purchaser with the Bank pursuant to the terms of the Escrow Deposit Agreement.

1.4 "Fixtures" means all or any part of the Equipment to be installed, constructed or repaired as fixtures on the Real Property.

1.5 "Installment Payments" means those payments made by the Purchaser to the Bank as described in Section 3 of this Contract and in the Payment Schedule.

1.6 "Local Government Commission" means the Local Government Commission of North Carolina established pursuant to Chapter 159 of the North Carolina General Statutes.

1.7 "Net Proceeds" when used with respect to any proceeds from policies of insurance required hereunder or proceeds of any condemnation award arising out of the condemnation of all or any portion of the Equipment, means the amount remaining after deducting from the gross proceeds thereof all expenses (including, without limitation, attorneys' fees and costs) incurred in the collection of such proceeds.

1.8 "Payment Schedule" means the document labelled "Payment Schedule" attached hereto as Exhibit B and incorporated herein by reference which describes the Purchaser's Installment Payments.

1.9 "Prime Rate" means Bank's prime rate, which is one of the Bank's variable rate indices for credit extensions and is set by the Bank at its discretion based on the Bank's perception of market interest rate levels, trends and general economic conditions. It is not tied to any specific index published by any third party and is not represented by the Bank to be the lowest rate at which the Bank extends credit.

1.10 "Purchase Price" means the amount described in Exhibit B hereto which will be advanced by the Bank to enable the Purchaser to finance the purchase and construction, installation or repair of the Equipment, under the terms of this Contract.

1.11 "Real Property" means the land and any improvements thereon and appurtenances thereto as described on Exhibit G and incorporated herein by reference.

## **SECTION 2. ADVANCE OF PURCHASE PRICE**

The Bank agrees to advance the Purchase Price to the Purchaser and the Purchaser agrees to borrow the Purchase Price from the Bank to be applied in accordance with the terms and conditions of this Contract. The proceeds of the Purchase Price shall be used to



purchase and to install, construct or repair the Equipment. The advance by the Bank shall be made by the deposit by the Bank to the Escrow Fund of the Purchase Price. The Purchase Price may be invested pending disbursement, and shall be disbursed to acquire and to construct or repair the Equipment in accordance with the Escrow Deposit Agreement. The Purchaser shall pay any additional sums necessary to purchase and install, construct or repair the Equipment and shall provide evidence of the payment of such additional sums to the Bank upon request.

### **SECTION 3. INSTALLMENT PAYMENTS AND OTHER PAYMENTS**

3.1 Amounts and Times of Installment Payments and Other Payments. The Purchaser shall repay, subject to the provisions of Section 13 hereof entitled "Limited Obligation of the Purchaser," the Purchase Price in installments as provided in Exhibit B to this Contract. Each installment shall be deemed to be an Installment Payment and shall be paid in the amounts and at the times set forth in the Payment Schedule except as provided herein. Installment Payments shall be sufficient in the aggregate to repay the Purchase Price together with interest thereon at a per annum rate equal to the rate per annum described in Exhibit B hereto. A portion of each Installment Payment is interest.

Interest on the Purchase Price as set forth on Exhibit B is based upon a 360-day year, with twelve (12) thirty (30) day months. The amortization schedule is based on all payments being received by the Bank on the scheduled due date. The Bank reserves the right to increase the initial payment to reflect any additional interest accruing prior to the end of the initial interest period.

3.2 Place of Payments. All payments required to be made to the Bank hereunder shall be made at the Bank's principal office or as may be otherwise directed by the Bank or its assignee.

3.3 Late Charges. Should the Purchaser fail to pay any Installment Payment or any other sum required to be paid to the Bank within fifteen (15) days after the due date thereof, the Purchaser shall pay a late payment charge equal to four percent (4%) of the delinquent payment.

3.4 Abatement of Installment Payments. Subject to Section 13 hereof entitled "Limited Obligation of the Purchaser," there shall be no abatement or reduction of the Installment Payments or other payments by the Purchaser for any reason, including but not limited to, and defense, recoupment, setoff, counterclaim, or any claim (real or contingent) arising out of or related to the Equipment. The Purchaser assumes and shall bear the entire

risk of loss and damage to the Equipment from any cause whatsoever, it being the intention of the parties that the Installment Payments and other payments shall be made in all events unless the obligation to make such Installment Payments and other payments is terminated as otherwise provided herein.

3.5 Prepayment of Installment Payments. Provided the Purchaser is not in default of its obligations hereunder, it shall have the option to prepay the outstanding Installment Payments designated as principal, in full and at any time, at a prepayment price equal to one hundred one percent (101 %) of the principal balance at the time of prepayment, together with accrued interest to the date of prepayment, upon thirty (30) days prior written notice to the Bank.

#### **SECTION 4. NATURE OF CONTRACT**

This Contract is an installment contract and security agreement pursuant to Section 160A-20 and Article 9 of Chapter 25 (the "Uniform Commercial Code -Secured Transactions") of the General Statutes of North Carolina.

#### **SECTION 5. RESPONSIBILITIES AND COVENANTS OF THE PURCHASER**

5.1 Care and Use. The Purchaser shall use the Equipment in a careful and proper manner, in compliance with all applicable laws and requisitions, and, at its sole cost and expense or at the cost or expense of a third party other than the Bank, shall service, repair and maintain the Equipment so as to keep the Equipment in good condition, repair, appearance and working order for the purposes intended, ordinary wear and tear excepted, and shall replace any part of the Equipment as may from time to time become worn out, lost, stolen, destroyed or damaged or is unfit for use. Any and all additions to or replacements of the Equipment and all parts thereof shall constitute accessions to the Equipment and shall be subject to all terms and conditions of this Contract and included in the term "Equipment" as used in this Contract. If requested by the Bank, the Purchaser shall enter into or cause to be entered into, and maintained in full force and effect during the term of this Contract, manufacturer's or supplier's standard maintenance contracts satisfactory to the Bank covering the Equipment and shall comply with all of its obligations thereunder. The Purchaser shall furnish evidence to the Bank upon Bank's request of such signed maintenance contracts at or prior to the date of this Contract and the payment of all charges and premiums therefor.

5.2 Inspection. The Bank shall have the right upon reasonable prior notice to the Purchaser to enter into and upon the premises where the Equipment is located to inspect the

Equipment and observe its use during normal business hours.

5.3 Alterations. Without the prior written consent of the Bank, which consent shall not be unreasonably withheld, the Purchaser shall not make any alterations, modifications or attachments to the Equipment which cannot be removed without materially damaging the functional capabilities or economic value of the Equipment.

5.4 Utilities. The Purchaser shall pay, when due, all charges for utility services used in connection with the Equipment. There shall be no abatement of the Installment Payments on account of interruption of any such services.

5.5 Taxes. The Purchaser shall pay, when due, any and all taxes levied by any governmental body as a result of the Purchaser's ownership, possession, or use of the Equipment or as a direct or indirect result of the purchase of the Equipment by the Purchaser.

5.6 Risk of Loss. Subject to the provisions of Section 13 hereof entitled "limited Obligation of the Purchaser," the Purchaser shall bear all risk of loss to and condemnation of the Equipment. In the event of loss or damage to or condemnation of the Equipment, the Purchaser shall either (a) continue to make the Installment Payments due hereunder and repair or replace the Equipment, or (b) prepay in full the principal components of the outstanding Installment Payments in accordance with Section 3.5 hereof. Said repair or replacement of the Equipment shall meet with the satisfaction of the Bank.

5.7 Performance by the Bank of the Purchaser's Responsibilities. Any performance required of the Purchaser or any payments required to be made by the Purchaser may, if not timely performed or paid, be performed or paid by the Bank, and, in that event, the Bank shall be immediately reimbursed by the Purchaser for such payments and for any costs and expenses, legal or otherwise, associated with the payments or other performance by the Bank, with interest thereon at a per annum rate equal to the Prime rate in effect on the last business day of the calendar month preceding the payment (but not exceeding the maximum rate, if any, permitted by applicable law).

5.8 Financial Statements. The Purchaser agrees that it will furnish the Bank at such reasonable times as the Bank shall request current audited financial statements and the Purchaser's annual budget as submitted or approved, and permit the Bank or its agents and representatives to inspect the Purchaser's books and records and make extracts therefrom at its own expense during regular business hours and in a manner which will not disrupt the normal business routine of the Purchaser. The Purchaser represents and warrants to the Bank that all financial statements which have been delivered to the Bank in connection with this

Contract fairly and accurately reflect the Purchaser's financial condition and there has been no material adverse change in the Purchaser's financial condition as reflected in the financial statements since the date thereof.

5.9 Other Responsibilities and Conditions. Simultaneously with the execution of this Contract and prior to the advancement of any funds hereunder by the Bank, the Purchaser shall cause to be provided to the Bank the following;

- (a) An Incumbency and Authorization Certificate in the form of Exhibit C attached hereto;
- (b) An Opinion Letter of counsel for the Purchaser in the form of Exhibit D attached hereto;
- (c) A Federal Income Tax Certificate in the form of Exhibit E attached hereto;
- (d) A certificate in the form of Exhibit F attached hereto or other proof of insurance on the Equipment satisfactory to the Bank;
- (e) Certified copies of resolutions of the Purchaser's governing body authorizing the Purchaser to enter into this Contract and carry out its terms;
- (f) Properly executed UCC financing statements as required by Section 6.1 hereof sufficient in form and substance and filed in all necessary locations to perfect a first lien in the Equipment;
- (g) The Purchaser will provide an opinion letter from bond counsel, in form and substance and from an attorney satisfactory to the Bank, which states that the interest on the Purchaser's obligations under the Contract will not be included in the gross income of the Bank for Federal and North Carolina income tax purposes, will not be an item of tax preference for purposes of the Federal alternative minimum income tax and that such obligations are "qualified tax exempt obligations" within the meaning of Section 265(b)(3) of the Internal Revenue Code of 1986;
- (h) Copies of all documents furnished by the Purchaser to the Local Government Commission and issued by the Local Government Commission in connection with this Contract, including the certified approval by the Secretary of the Local Government Commission of this Contract and the transactions contemplated hereunder (if approval by the Local Government Commission of the transactions contemplated hereunder is required by Law);
- (i) An Escrow Deposit Agreement in a form satisfactory to Bank; and

- (j) Executed originals of any other documents and instruments required by Bank in connection with this Contract.

5.10 Special Tax Covenants. The Purchaser covenants that: (a) it will make no use of the monies advanced by the Bank (the "Proceeds") which would cause this Contract to be an "arbitrage bond" within the meaning of Section 148 of the Internal Revenue Code of 1986, as amended (the "Code"), or the Treasury Regulations promulgated thereunder; (b) so long as the Contract remains in effect, the Purchaser will comply with the requirements of the Code and the applicable Treasury Regulations promulgated thereunder and will not take or omit to take any action which will cause the interest paid or payable under this Contract to be includible in the gross income of the registered owner hereof; (c) the Equipment shall be used exclusively for essential governmental purposes of the Purchaser and no use shall be made of the proceeds or of the Equipment, directly or indirectly, which would cause this Contract to be a "private activity bond" within the meaning of Section 141 of the Code; (d) no part of the payment of principal or interest under this Contract is or shall be guaranteed, in whole or in part, by the United States or any agency or instrumentality thereof; (e) no portion of the proceeds shall be used, directly or indirectly, in making loans the payment of principal or interest with respect to which are to be guaranteed, in whole or in part, by the United States or any agency or any instrumentality thereof; and (f) the Purchaser shall not lease or otherwise make any of the Equipment available to any entity if such lease or other availability would cause the interest portion of the Installment Payments to be included in the gross income of the Bank under the Code for income tax purposes.

The Purchaser shall furnish promptly all information necessary to permit the Bank to file on or before its due date IRS Form 8038-G. The Purchaser shall not take or omit to take any action that may cause a loss of the federal, state or local tax-exempt status of this Contract or the interest thereon.

## **SECTION 6. SECURITY INTEREST; LIENS**

6.1 Security Interest. The Purchaser hereby grants to the Bank a security interest in the Equipment and in any and all additions, accessions, repairs, replacements, substitutions, and modifications to the Equipment, and all proceeds of all the foregoing, including any insurance proceeds paid because of loss or damage to the Equipment to the extent necessary to secure the Purchaser's payment obligations to the Bank under this Contract. The Purchaser shall execute and cause to be filed, at the Purchaser's expense, financing statements and other related documents that are necessary under Article 9 of Chapter 25 (the "Uniform

Commercial Code - Secured Transactions") of the General Statutes of North Carolina to perfect a first lien security interest by filing and to maintain that first lien security interest in perfected form. If the Equipment is or includes one or more motor vehicles, the ownership of which is or are evidenced by a certificate of title(s), the Purchaser shall cause the Bank's lien to be properly shown on such title(s) as a first lien security interest.

The Equipment other than the Fixtures is and shall throughout the term of this Contract be and remain personal property, regardless of whether the Equipment is now or may become in any manner affixed or attached to real estate or any building or fixtures on real estate. No portion of the Equipment may be affixed or attached to real estate or any building or fixtures on real estate other than the Real Property. If the Equipment is permanently located on any real estate, including the Real Property, not owned in fee simple by the Purchaser, or if such real estate, including Real Property, is subject to any liens, the Purchaser shall obtain a waiver of any rights in and to the Equipment (including the rights of levy and distraint) from the person who gives the Purchaser permission to use the real property on which the Equipment is located and from any holder of liens on the real estate, including the Real Property on which the Equipment is located.

6.2 Liens. The Purchaser shall not directly or indirectly create, incur, assume or suffer to exist any lien, charge, security interest, encumbrance or claim on or with respect to the Equipment (except the security interest granted to the Bank). The Purchaser shall promptly, at its own expense, take such action as may be necessary to duly discharge any such lien, security interest, charge, encumbrance or claim if the same shall arise at any time. The Purchaser shall reimburse the Bank for any expense incurred by it in order to discharge or remove any such lien, security interest, encumbrance or claim.

## **SECTION 7. INSURANCE AND UNFORSEEN LOSSES**

7.1 Insurance. The Purchaser shall obtain and maintain, at its expense, at all times until termination of this Contract a primary policy of insurance covering the Equipment and providing the insurance protection described in this Section. The Purchaser shall maintain at its own expense fire, casualty, public liability, property damage and theft insurance, and such other insurance in such amounts and with such deductibles, if permitted, as required by the Bank from time to time. The Equipment shall be insured in an amount at least equal to its replacement value. All such insurance shall be maintained with such insurance company or companies as shall be satisfactory to the Bank and shall provide that losses shall be payable to the Bank and the Bank shall be named as additional insured with respect to all

such insurance The Purchaser shall deliver to the Bank the policies of insurance or duplicates thereof or other evidence satisfactory to the Bank of such insurance coverage. Each insurer shall agree by endorsement upon the policy or policies issued by it that (i) it will give thirty (30) days prior written notice to the Bank of the cancellation or material modification of such policy; and (ii) the coverage of the Bank shall not be terminated, reduced or affected in any manner regardless of any breach or violation by the Purchaser of any warranties, declarations and conditions of such insurance. The Purchaser agrees to cooperate fully in all accident insurance investigations, claims and litigation proceedings. The Purchaser shall cooperate fully with the Bank in filing any proof of loss with respect to any insurance policy described above. In no event shall the Purchaser voluntarily settle, or consent to the settlement of, any proceeding arising out of any insurance claim with respect to the Equipment without the written consent of the Bank.

7.2 Condemnation. Any condemnation award paid as a result of the exercise of the power of eminent domain over the Equipment or any part thereof by any governmental body or any person or entity acting under governmental authority, which is not utilized by the Purchaser to repair or replace the Equipment to the satisfaction of the Bank shall be paid to the Bank in accordance with Section 3.5 hereof, and the Purchaser shall be entitled to the balance, if any.

## **SECTION 8. WARRANTIES AND REPRESENTATIONS OF THE PURCHASER**

The Purchaser warrants and represents to the Bank (all such representations and warranties being continuing) as follows:

(a) The Purchaser is a public body politic duly created and existing under the laws of the State of North Carolina as a political subdivision of the State of North Carolina, and has all powers necessary to enter into the transactions contemplated by this Contract and to carry out its obligations hereunder;

(b) This Contract and all other documents relating hereto, have been duly and validly authorized, approved, executed and delivered by the Purchaser, and the performance by the Purchaser of its obligations under such documents has been approved and authorized under all laws, regulations and procedures applicable to the Purchaser, including, but not limited to, compliance with all applicable public meeting and bidding requirements, and the transactions contemplated by this Contract and all other documents relating hereto constitute a public purpose for which public funds may be expended pursuant to the Constitution and

laws of the State of North Carolina and, assuming due authorization, execution and delivery hereof by the Bank, constitute valid, legal and binding obligations of the Purchaser, enforceable in accordance with their respective terms, except as enforcement thereof may be limited by general principles of equity or by bankruptcy, insolvency and other laws affecting the enforcement of creditors' rights generally and as those other laws may be further limited by the provisions of Section 160A-20 of the General Statutes of North Carolina, as amended;

(c) No approval or consent is required from any governmental authority with respect to the entering into or performance by the Purchaser of this Contract and the transactions contemplated hereby, or, if any such approval is required, it has been duly obtained, including any applicable approval of the Local Government Commission as evidenced by the Secretary's certificate hereon;

(d) There is no action, suit, proceeding or investigation at law or in equity before or by any court, public board or body pending or, to the best of the Purchaser's knowledge, threatened, against or affecting the Purchaser challenging the validity or enforceability of this Contract or any other documents relating hereto, or the performance of the Purchaser's obligations hereunder, and compliance with the provisions hereof, under the circumstances contemplated hereby, does not and will not in any material respect conflict with, constitute on the part of the Purchaser a breach of or default under, or result in the creation of a lien or other encumbrance on any property of the Purchaser (except as contemplated herein) pursuant to any agreement or other instrument to which the Purchaser is a party, or any existing law, regulation court order or consent decree to which the Purchaser is subject;

(e) There are no liens or encumbrances on the Equipment other than the lien created by this Contract;

(f) A resolution relating to the performance by the Purchaser of this Contract and the transactions contemplated hereby has been duly adopted, is in full force and effect, and has not been in any respect amended, modified, revoked or rescinded;

(g) The purchase of the Equipment is essential to the proper, efficient and economical operation of the Purchaser and the delivery of its service and the Equipment will provide an essential use and permit the Purchaser to carry out public functions that it is authorized by law to perform;

(h) The security interest granted by the Purchaser to the Bank in the Equipment shall have been duly perfected and shall constitute a first lien security interest in the Equipment;  
and



(i) The Purchaser has designated its obligation hereunder as a "qualified tax-exempt obligation" within the meaning of Section 265(b)(3) of the Code. The Purchaser (i) has not, does not expect to and shall not issue, directly or indirectly through subordinate units, more than \$10,000,000 of tax-exempt obligations (other than private activity bonds) during this calendar year and (ii) has not and shall not designate during this calendar year more than \$10,000,000 of its obligations (or of its subordinate units) as "qualified tax-exempt obligations".

#### **SECTION 9. INDEMNIFICATION**

To the extent permitted by applicable law, the Purchaser hereby agrees to indemnify protect and save the Bank, the Escrow Agent and the Local Government Commission (if Local Government Commission approval of the Contract is required) and the members and employees of each of the foregoing harmless from all liability, obligations, losses, claims, damages, actions, suits, proceedings, costs and expenses, including attorneys fees, arising out of, connected with, or resulting directly or indirectly from the Equipment, including without limitation, the possession, condition or use thereof. The indemnification arising under this section shall continue in full force and effect notwithstanding the payment in full of all obligations under this Contract.

#### **SECTION 10. WARRANTIES**

10.1 No Representations by the Bank. The Purchaser acknowledges that it has inspected the Equipment and found the Equipment to be satisfactory and acknowledges and agrees that it has selected the Equipment based upon its own judgment and disclaims any reliance upon any statements or representations made by the Bank with respect thereto.

10.2 Disclaimer By the Bank. THE BANK MAKES NO WARRANTIES OR REPRESENTATIONS, EXPRESS OR IMPLIED, AS TO THE CONDITION, MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE OF THE EQUIPMENT OR ANY OTHER REPRESENTATION OR WARRANTY WITH RESPECT TO THE EQUIPMENT .

#### **SECTION 11. DEFAULT AND REMEDIES**

11.1 Definition of Event of Default. The Purchaser shall be deemed to be in default hereunder upon the happening of any of the following events of default (each, an "Event of Default"):

- A. The Purchaser shall fail to make any Installment Payment or fail to pay any other sum hereunder when due; or

- (b) The Purchaser shall fail to perform or observe any term, condition, or covenant of this Contract or shall breach any warranty by the Purchaser herein or therein contained; or
- (c) Proceedings under any bankruptcy, insolvency, reorganization, or similar litigation shall be instituted by or against the Purchaser, or a receiver, custodian, or similar officer shall be appointed for the Purchaser or any of its property, and such proceedings or appointments shall not be vacated or fully stayed after the institution or occurrence thereof; or
- (d) Any warranty, representation, or statement made by the Purchaser herein or in any other document executed or delivered in connection herewith is found to be incorrect or misleading in any material respect on the date made; or
- (e) An attachment, levy, or execution of a security interest or lien is levied upon or against the Equipment.

11.2 Remedies on Default. Subject to Section 13 herein entitled "Limited Obligation of the Purchaser", upon the occurrence of any Event of Default, the Bank may exercise anyone or more of the following remedies as the Bank in its sole discretion shall elect:

- (a) Declare the entire principal amount of the Installment Payments and all accrued interest and other charges immediately due and payable without notice or demand to the Purchaser;
- (b) Proceed by appropriate court action to enforce performance by the Purchaser of the applicable covenants of this Contract or to recover for the breach thereof;
- (c) Exercise all the rights and remedies of a secured party or creditor under the Uniform Commercial Code of the State of North Carolina and the general laws of the State of North Carolina with respect to the enforcement of the security interest granted or reserved hereunder, including without limitation, to the extent permitted by law, take possession of any collateral without any court order or other process of law and without liability for entering the premises and sell, lease, sublease, or make other disposition of the same in a commercially reasonable manner for the account of the Purchaser, and apply the proceeds of any such sale, lease, sublease, or other disposition, after deducting all costs and expenses, including court costs and attorneys' fees,

incurred with the recovery, repair, storage, and other sale, lease or sublease, or other disposition costs, toward the balance due under this Contract and, thereafter, shall pay any remaining proceeds to the Purchaser;

- (d) Terminate this Contract as to all or any part of the Equipment and use, operate, lease, or hold all or any part of the Equipment as the Bank in its sole discretion may decide;
- (e) Take possession of any proceeds of the Equipment, including Net Proceeds;  
or
- (d) Pursue any other remedy available at law or equity to the Bank.

11.3 Further Remedies. A termination hereunder all occur only on notice by the Bank to the Purchaser and only with respect to such portion of the Equipment as the Bank specifically elects to terminate in such notice. Except as to those portions of the Equipment with respect to which there is a termination, this Contract shall remain in full force and effect and the Purchaser shall be and remain liable for the full performance of all of its obligations hereunder. All remedies of the Bank are cumulative and may be exercised concurrently or separately. The exercise of anyone remedy shall not be deemed an election of such remedy or preclude the exercise of any other remedy. The Purchaser agrees to pay to the Bank all court costs and reasonable attorney fees incurred by Bank in enforcing the Bank's rights and remedies under this Contract.

## **SECTION 12. ASSIGNMENT**

12.1 Assignment by the Purchaser. The Purchaser agrees not to sell, assign, lease, sublease, pledge, or otherwise encumber or suffer a lien or encumbrance upon or against any interest in this Contract or Equipment (except for the lien and security interest of the Bank therein) without the Bank's prior written consent.

12.2 Assignment by the Bank. The Bank may, at any time and from time to time, assign all or any part of its interest in the Equipment and/or this Contract, including without limitation, the Bank's rights to receive the Installment Payments and any additional payments due and to become due hereunder. Any assignment made by the Bank or any subsequent assignee may be made only to a bank, insurance company, or similar financial institution or, if this Contract is subject to the approval of the Local Government Commission, any other entity approved by the Local Government Commission. No such assignment shall grant or purport to grant any greater interest or rights than those held by the Bank pursuant to this Contract. The Bank or its designees may assign or reassign either this contract or a partial

interest herein. All assignments by the Bank shall be subject to the following rules and conditions:

- (a) The Bank shall send written notice of the assignment and its effective date to the Purchaser before it makes the assignment. Such notification shall be forwarded to the Purchaser at least 30 days before the effective date of the assignment. The notification shall include an executed copy of the assignment document and shall specify the assignee's name and address, and shall provide the Purchaser with instructions for making payments after the effective date of the assignment. The requirement of 30 days notice may be waived in writing by the Purchaser.
- (b) The Purchaser shall not be obligated to make payments to anyone other than the Bank until the notification specified in part (a) of this Section is received by the Purchaser or until the effective date of the assignment, whichever is later. Should the Purchaser incorrectly make payments to the Bank after, the conditions specified in the preceding sentence are met, the Bank shall return those payments to the Purchaser.
- (c) When it receives the notification specified in part (a) of this section, the Purchaser shall send a written acknowledgment of the same to the Bank and shall record the assignment in the Purchaser's "book entry system".
- (d) The Bank shall require each of its assignees (1) to conform to the notification requirements of this section in the event of further assignments, and (2) to require such conformity from that assign's assignees.
- (e) The Purchaser shall execute, at the Bank's request, a notice of assignment and other related documents that are reasonably necessary to protect the security interest in the Equipment or in this Contract and to maintain those security interests in perfected form.

After the giving of notice described above to the Purchaser, the Purchaser shall thereafter make all payments in accordance with the notice to the assignee named therein and shall, if so requested, acknowledge such assignment in writing, but such acknowledgment shall in no way be deemed necessary to make the assignment effective.

### **SECTION 13. LIMITED OBLIGATION OF THE PURCHASER**

No provision of this Contract shall be construed or interpreted as creating a pledge of the faith and credit of the Purchaser within the meaning of any Constitutional debt limitation.

No provision of this Contract shall be construed or interpreted as creating a pledge of the faith and credit of the Purchaser within the meaning of the Constitution of the State of North Carolina. This Contract shall not directly or indirectly or contingently obligate the Purchaser to make any payments beyond the amount appropriated, if any, in the sole discretion of the Purchaser for any fiscal year in which this Contract shall be in effect. The Purchaser may at the end of any fiscal year terminate its future Installment Payment obligations under this Contract if the Purchaser has not appropriated sufficient funds to make the next fiscal year's scheduled Installment Payments; however, during each fiscal year, the Purchaser shall exercise its best efforts to appropriate funds for Installment Payments due in the next fiscal year. If the Purchaser elects to terminate this Contract for such reason, it shall deliver the Equipment, at its own expense, to any location within the State of North Carolina designated by the Bank. No deficiency judgment may be rendered against the Purchaser in any action for breach of a contractual obligation under this Contract and the taxing power of the Purchaser is not and may not be pledged directly or indirectly to secure any moneys due under this Contract. No provision of this Contract shall be construed to pledge or to create a lien on any class or source of the Purchaser's moneys other than the Escrow Fund created pursuant to the Escrow Agreement referenced in Section 5.9(I). To the extent of any conflict between this Section any other provision of this Contract, this Section shall take priority.

#### **SECTION 14. TAX-EXEMPT INTEREST**

14.1 Intent of Parties. It is the intention of the parties hereto that the interest portion of the Installment Payments paid by the Purchaser to the Bank under this Contract shall be tax-exempt under Section 103 of the United States Internal Revenue Code.

14.2 Determination or Event of Taxability. If at any time there is a Determination of Taxability or Event of Taxability, as such terms are hereinafter defined, the principal portion of the indebtedness of the Purchaser to the Bank which is represented by the Installment Payments shall, from and after the Date of Taxability, as hereinafter defined, bear interest at the Prime Rate, as the Prime Rate fluctuates from time to time, plus one percent (1 %) per annum (the "Alternative Rate of Interest") payable from the Date of Taxability to such time. In such event, the Purchaser also shall be required to pay to the Bank all amounts, if any, which may be necessary to reimburse the Bank for any interest, penalties, or other charges assessed by the Internal Revenue Service and the Department of Revenue of the State of North Carolina against the Bank by reason of the Bank's failure to include the interest portion of the Installment Payments in its gross income for income tax purposes.

Installment Payment amounts under this Contract shall be increased as a result of the increased interest rate and additional interest as a result of said rate increase on all previous payments shall be paid to the Bank upon demand therefore. The Purchaser shall pay to the Bank the above mentioned Alternative Rate of Interest notwithstanding any transfer by the Bank or payment or prepayment by the Purchaser prior to the date such Determination of Taxability was made.

An Event of Taxability shall mean any event, occurrence, or situation, resulting from an action, or failure to act, by the Purchaser, the effect of which is to cause the interest portion of the Installment Payments to be includible in the gross income of the Bank for federal income tax purposes. A Determination of Taxability shall mean a determination that the interest portion of the Installment Payments is included in gross income of the Bank for federal income tax purposes, which determination shall be deemed to have been made upon the occurrence of the first to occur of the following: (a) the date on which the Bank is advised in writing by the Commissioner or any District Director of the Internal Revenue Service that, as a consequence of an action, or failure to act, by the Purchaser, the interest portion of the Installment Payments (hereinafter called "Interest") is included in the gross income of the Bank for federal income tax purposes; (b) the date on which the Purchaser receives notice from the Bank that the Bank has been advised (i) in writing that the Internal Revenue Service has issued a statutory notice of deficiency or similar notice to the Bank which asserts, in effect, that Interest received by the Bank is included in the gross income of the Bank for federal income tax purposes, as a result of an action, or failure to act, by the Purchaser, or (ii) by an opinion of counsel received by the Bank which concludes, in effect, that Interest is included in the gross income of the Bank for federal income tax purposes as a result of an action, or failure to act, by the Purchaser; (c) the day on which the Purchaser is advised in writing by the Commissioner or any District Director of the Internal Revenue Service that there has been issued a public or private ruling of the Internal Revenue Service that the Interest is included in the gross income of the Bank for federal income tax purposes as a result of an action, or failure to act, by the Purchaser; or (d) the day on which the Purchaser is advised in writing by counsel to the Bank that a final determination from which no further right of appeal exists, has been made by a court of competent jurisdiction in the United States of America in a proceeding with respect to which the Purchaser has been given written notice and an opportunity to participate and defend that the Interest is included in the gross income of the Bank for federal income tax purposes, as a result of an action, or failure to act, by the

Purchaser.

The Date of taxability shall mean the first date upon which Interest is included in the gross income of the Bank for federal income tax purposes as a result of an Event of Taxability or a Determination of Taxability.

If at any time there is a Change in Deductibility (hereinafter defined), the interest rate payable hereunder shall increase to the rate which will provide to the Bank the effective yield which it would have received had there not been a Change in Deductibility. A "Change in Deductibility" means any determination by the Internal Revenue service or any court of competent jurisdiction that the obligation of the Purchaser hereunder is not a "qualified tax-exempt obligation" within the meaning of Section 265(b)(3) of the Internal Revenue Code as a result or as a consequence of (i) an action, or failure to act, by the Purchaser or (ii) a breach of any representation or warranty made by the Purchaser to the Bank relating to the status of this Contract as a qualified tax-exempt obligation as defined above, including but not limited to the representations and warranties contained in Section 8(i) of this Contract.

14.3 Duty to Notify the Bank. The Purchaser agrees to give prompt written notice to the Bank upon the Purchaser's receipt of any oral or written notice or information from any source whatsoever to the effect that an Event of Taxability or a Determination of Taxability has occurred.

## **SECTION 15. MISCELLANEOUS**

15.1 Waiver. No covenant or condition of this Contract can be waived except by the written consent of the Bank. Any failure of the Bank to require strict performance by the Purchaser or any waiver by the Bank of any terms, covenants, or conditions herein shall not be construed as a waiver of any other breach of the same or any other term, covenant, or condition herein.

15.2 Severability. In the event any portion of this Contract shall be determined to be invalid under any applicable law, such provision shall be deemed void and the remainder of this Contract shall continue in full force and effect.

15.3 Governing Law. This Contract shall be construed, interpreted, and enforced in accordance with the laws of the State of North Carolina.

15.4 Notices. Any and all notices, requests, demands, and other communications given under or in connection with this Contract shall be effective only if in writing and either personally delivered or mailed by registered or certified United States mail, postage prepaid, return receipt requested, addressed to the address of the recipient as described in this

document, and shall be deemed to be received on the third day after the day it was deposited in the United States mail or on the day it was actually received, whichever is earlier.

15.5 Section Headings. All section headings contained herein are for convenience of reference only and are not intended to define or limit the scope of any provision of this Contract.

15.6 Entire Contract. This Contract, together with the Exhibits and attachments hereto, constitutes the entire Contract between the parties and this Contract shall not be modified, amended, altered, or changed except by written agreement signed by the parties.

15.7 Binding Effect. Subject to the specific provisions of this Contract, this Contract shall be binding upon and inure to the benefit of the parties and their respective successors and assigns.

15.8 Time. Time is of the essence of this Contract and each and all of its provisions.

15.9 Execution in Counterparts. This Contract may be executed in any number of counterparts, each of which shall be an original and all of which shall constitute but one and the same instrument.

IN WITNESS WHEREOF, the parties hereto have caused this Contract to be executed as of the day and year first above written.

**COLUMBUS COUNTY GOVERNMENT**

(SEAL)

By: /s/ **Spruell R. Britt**

Title: **Chairman**

Attest:

/s/ **Ida L. Smith**

Title: **Clerk to Board**

**WACCAMAW BANK**

By: /s/ **James G. Graham**

Title: **President**

Attest:

Title: \_\_\_\_\_

\*\*\*\*\*

This instrument has been preaudited in the manner required by the Local Government Budget and Fiscal Control Act.

/s/ Gayle B. Godwin, Finance Officer



**Purchaser's Address:**

**Columbus County Government  
111 Washington Street  
Whiteville, N. C. 28472  
Attention: Dempsey B. Herring**

**Bank's Address:**

**Waccamaw Bank  
P.O. Box 2009  
Whiteville, NC 28472  
Attn: James G. Graham**

**EXHIBIT A****DESCRIPTION OF EQUIPMENT**

Installment Purchase Contract Date:

Purchaser: Columbus County Government

Purchase Price: \_\_\_\_\_

Description and  
Serial Number

Department and Location of Equipment  
Purpose or Function After Delivery

(Insert Description or Attach Exhibit A-1)

**COLUMBUS COUNTY GOVERNMENT**

By: /s/ Dempsey B. Herring, Administrator

Date: \_\_\_\_\_

**SOIL & WATER CONSERVATION - EMERGENCY WATERSHED PROTECTION**

A motion was made by Commissioner Norris, seconded by Commissioner Jacobs, and passed unanimously to approve the following Amendment Number 2 to Project Agreement.

**STATE: North Carolina**

**COUNTY: Columbus**

**PROJECT: Emergency Watershed Protection**

- Paragraph A. Attachment B. is hereby revised to add the following work:

<u>DSR Number</u>	<u>Description of Work</u>	<u>Estimated Cost</u>
47-10-4	Stream Debris Removal & Disposal Bella Coola/Big Creek Lake Waccamaw Watershed Lake Waccamaw East Quad.	\$19,000.00

- The total estimated cost of construction is increased from \$789,110.00 to \$808,110.00.

3. As a result of the revision to Paragraph A. as shown above, the estimated cost of construction and vegetation is hereby changed as follows. Paragraphs B.1. and C.1. are revised accordingly.

	<u>From</u>	<u>To</u>	<u>Net Change</u>
NCRS	\$591,832.50	\$606,082.50	\$14,250.00
SPONSORS	<u>\$197,277.50</u>	<u>\$202,027.50</u>	<u>\$ 4,750.00</u>
<b>TOTAL</b>	<b>\$789,110.00</b>	<b>\$808,110.00</b>	<b>\$19,000.00</b>

4. All other terms and conditions remain the same.

**COLUMBUS COUNTY BOARD OF COMMISSIONERS**

/s/ Spruell R. Britt

**Chairman**

**Date: February 19, 2001**

**UNITED STATES DEPARTMENT OF AGRICULTURE  
NATURAL RESOURCES CONSERVATION SERVICE**

**By:** \_\_\_\_\_  
**Title:** Assistant State Conservation (Ops)  
**Date:** \_\_\_\_\_

**ADMINISTRATOR'S UPDATE**

Dempsey B. Herring, County Administrator, presented the Board with the following memorandum regarding County budget deficits due to state shortfalls and discussed with the Commissioners the effect it will have on the County.

**MEMO TO: County Commissioners**

**FROM: Dempsey B. Herring, County Administrator**

**DATE: February 19, 2001**

**SUBJECT: Budget Deficits - from State Shortfalls**

As you are aware, the State Government of North Carolina is facing a critical budget shortfall. Consequently, because of this shortfall at State level, major revenue that has been promised to counties by legislation is being withheld. Too, an increase in cost for the Medicaid Program in the 2000-2001 Budget of approximately eight (8%) percent and a tremendous increase of projected cost in the 2001-2002 local Medicaid share must be paid by local dollars. The six hundred thousand and 00/100 (\$600,000.00) dollars Inventory Tax being withheld to Columbus County is not a gift but a promised revenue by the North Carolina General Assembly. What is worse is that this amount was budgeted in the preparation of the 2000-2001 Budget and now in the seventh (7th) month, the money is taken away leaving a six hundred thousand and 00/100 (\$600,000.00) dollars deficit. If the Inventory Tax is withheld in the 2001-2002 Budget, the shortfall will be one million two hundred thousand and 00/100 (\$1,200,000.00) dollars. This equates to a five (\$.05) cents

increase on the County Tax Rate. We must operate under a balanced budget by State Law and this loss will make it difficult without major local tax increases.

The State is estimating its Medicaid shortfall at one hundred fifty million and 00/100 (\$150,000,000.00) dollars passing on in this year's Budget an estimated cost to Columbus County of eight (8%) percent of additional cost to local programs. This increase leaves an approximate seven hundred thousand and 00/100 (\$700,000.00) dollars shortfall in the 2000-2001 Budget. The County, in the 2000-2001 Budget, pays three million seven hundred thousand and 00/100 (\$3,700,000.00) dollars for Medicaid. In the 2001-2002 projections from the State, Columbus County's portion is estimated at five million three hundred thousand and 00/100 (\$5,300,000.00) dollars representing an increase of one million six hundred thousand and 00/100 (\$1,600,000.00) dollars and an increase of ten (\$.10) cents on the County Tax Rate which totals twenty-three (\$.23) cents of Ad Valorem Taxes for Medicaid for 2001-2002 Budget. This increase equals one-third (1/3) of the Ad Valorem Taxes collected for property taxes.

At the local level, Debt Service payments will be affected particularly for past construction of schools and County buildings. Too, we are basically under a mandate to provide additional detention and jail space. Debt Service for the new proposed facility will be, in the first five (5) years, around four hundred fifty thousand and 00/100 (\$450,000.00) dollars annually, but will decrease afterwards. Any additional projects will have to be put on hold. An additional two (\$.02) cents on the tax rate will be necessary to cover this Debt Service for the Detention Facility.

The County's Fund Balance or undesignated dollars serves as a savings account for the County. We are presently at fourteen (14%) percent and are required, by law, to maintain an eight (8%) percent level. Over the past five (5) years, we have used from eight hundred thousand and 00/100 (\$800,000.00) dollars to one million two hundred thousand and 00/100 (\$1,200,000.00) dollars of this savings fund annually to reduce the solid waste cost for the citizens of the County. In the 2000-2001 Budget, we will use around eight hundred thousand and 00/100 (\$800,000.00) dollars to keep the property tax rate down, as well as solid waste fees down for the citizens. The use of Fund Balance funds have kept the tax rate down by an average of five (\$.05) cents over the past five (5) years. This year, eight hundred thousand and 001/00 (\$800,000.00) dollars would represent four (\$.04) cents on the tax bill should we have to take these savings to pay for State-mandated programs and losses. We do not have the luxury to use Fund Balance funds to pay for the State cuts and

increases and pay for cuts for the local citizens.

To cover all these increases and shortfalls, we would have to increase the Property Tax Rate by thirty-four (\$.34) cents in the 2001-2002 Budget Year. This, in itself, is an unrealistic amount to place on local government and its citizens who pay property tax. Consequently, I am asking your permission to institute some measure to try to meet the financial crisis that we face. My suggestions are as follows:

1. Freeze all hiring - except one hundred (100%) percent grant-funded positions.
2. Freeze travel - essential day meetings only - no overnight.
3. Withhold five (5%) percent of all budgets (in an escrow account) - to include all County Departments, Schools, Community College and Mental Health.
4. Request a meeting immediately with our local Legislative Delegation.
5. Petition Governor's Office for the second (2nd) installment of the Inventory Tax.
6. Request measures from the General Assembly which will allow local governments to create revenue (i.e. = additional one (\$.01) cent Sales Tax).

#### REVENUE/LOST REVENUE/SHORTFALL ESTIMATES

##### Lost Revenue - Inventory Tax:

Budget for 2000-2001	\$1,200,000.00
Payment Withheld	\$ 600,000.00
LOSS:	\$ 600,000.00 (\$ .03 on Tax Rate)

##### Medicaid:

2000-2001 Additional Cost in present Budget Rate)	\$ 700,000.00 (\$ .03+ on Tax
---	----------------------------------

2000-2001 County Share	3.7 Million
2001-2002 Projected Cost Share	5.3 Million
Increase for 2001-2002	1.6 Million
5.3 Million for Medicaid represents <u>twenty-three (\$.23) cents</u> on Tax Rate = 2001-2002 Budget	
5.3 Million represents one-third (1/3) of total Ad Valorem Tax Collection for Personal Property	

Fund Balance 2000-2001 = 6 Million

Debt Service 2000-2001 = 2.2 Million

**School Bonds  
County Buildings**

**Future Debt Service for Detention Center:**

**\$460,000.00 Annually first five (5) years, decreasing after five (5) years**

**Two (\$ .02) cents on Tax Rate**

**Solid Waste:**

**2000-2001 Subsidize \$800,000+**

**Four (\$ .04) cents on Tax Rate**

**To balance the 2001-2002 Budget with decreased revenues and increased cost, it will take thirty-four (\$ .34) cents±.**

**ADMINISTRATION - APPROVAL OF MEASURES TO MEET FINANCIAL CRISIS**

A motion was made by Commissioner Memory, seconded by Commissioner Dutton and passed unanimously to approve the following measures to try to meet the financial crisis the County faces to be placed in effect immediately.

1. **Freeze all hiring - except one hundred (100%) percent grant-funded positions.**
2. **Freeze travel - essential day meetings only - no overnight.**
3. **Withhold five (5%) percent of all budgets (in an escrow account) - to include all County Departments, Schools, Community College and Mental Health.**
4. **Request a meeting immediately with our local Legislative Delegation.**
5. **Petition Governor's Office for the second (2nd) installment of the Inventory Tax.**
6. **Request measures from the General Assembly which will allow local governments to create revenue (i.e. = additional one (\$ .01) cent Sales Tax).**

**LIBRARY - COMPUTER BID ACCEPTED**

Jamie S. Hansen, Library Director, advised the Board that three (3) bids were received regarding the Library Computer Automation as follows:

<b>Name/Address</b>	<b>Bid Bond</b>	<b>Total Bid Amount</b>
Epixtech, Incorporated 400 West 5050 North Provo, UT 84604-5650	No	\$88,712.00
Gaylord Brothers PO Box 4901 Syracuse, NY 13221-4901	Yes	\$73,195.00
The Library Corporation Research Park Inwood, WV 25428-9733	Yes	\$82,518.00

A motion was made by Commissioner McKenzie, seconded by Commissioner

Memory and passed unanimously to award the bid to the lowest bidder, Gaylord Brothers, in the amount of seventy-three thousand, one hundred ninety-five and no/100 (\$73,195.00).

**ADJOURNMENT**

A motion was made by Commissioner Dutton, seconded by Commissioner McKenzie and passed unanimously to adjourn the Board Meeting at 8:30 P.M.

  
Ida L. Smith, Clerk to Board

**APPROVED:**  
  
Spfuell R. Britt, Chairman