

**TENTATIVE AGENDA & MEETING NOTICE  
BOARD OF COUNTY COMMISSIONERS**

**TUESDAY, APRIL 17, 2012  
5:30 P.M.**

**WATAUGA COUNTY ADMINISTRATION BUILDING  
COMMISSIONERS' BOARD ROOM**

TIME	#	TOPIC	PRESENTER	PAGE
5:30	1	CALL REGULAR MEETING TO ORDER		
	2	APPROVAL OF MINUTES: April 3, 2012, Regular Meeting April 3, 2012, Closed Session		1
	3	APPROVAL OF THE APRIL 17, 2012, AGENDA		13
5:35	4	PROPOSED AMENDMENTS TO THE AMBULANCE FRANCHISE AGREEMENT (2 <sup>ND</sup> RATIFICATION)	MR. DERON GEOUQUE	15
5:40	5	CONSOLIDATED DISPATCH UPDATE	VICE-CHAIRMAN GABLE	25
5:45	6	NEW RIVER SERVICE AUTHORITY (NRSA) MUTUAL AID AGREEMENT	MR. FOUR EGGERS	27
5:50	7	MISCELLANEOUS ADMINISTRATIVE MATTERS	MR. DERON GEOUQUE	
		A. Proposed ATM to be located in the Courthouse		39
		B. Caldwell Community College & Technical Institute Joint Meeting Request		45
		C. Announcements		47
6:00	8	PUBLIC HEARINGS TO ALLOW CITIZEN COMMENT		
		A. New Private and Public Road Names	MR. JOE FURMAN	53
		B. Proposed Community Development Block Grant (CDBG) Small Cities Catalyst Program Application on Behalf of Hospitality House (2 <sup>nd</sup> Public Hearing as Required)	MR. JOE FURMAN	57
		C. Proposed Re-Financing for New High School	MR. DERON GEOUQUE	89
7:00	9	PUBLIC COMMENT		213
8:00	10	BREAK		213
8:05	11	CLOSED SESSION Attorney/Client Matters – G. S. 143-318.11(a)(3)		213
8:30	12	ADJOURN		

**AGENDA ITEM 2:**

**APPROVAL OF THE MINUTES**

April 3, 2012, Regular Meeting

April 3, 2012, Closed Session

**DRAFT****MINUTES****WATAUGA COUNTY BOARD OF COMMISSIONERS  
TUESDAY, APRIL 3, 2012**

The Watauga County Board of Commissioners held a regular meeting on Tuesday, April 3, 2012, at 8:00 A.M. in the Commissioners' Board Room of the Watauga County Administration Building, Boone, North Carolina.

**PRESENT:** Nathan A. Miller, Chairman  
 Vince Gable, Vice-Chairman  
 David Blust, Commissioner  
 Jim Deal, Commissioner  
 Stacy C. Eggers, IV, County Attorney  
 Deron Geouque, County Manager  
 Anita J. Fogle, Clerk to the Board

*[Commissioner Futrelle was not in attendance due to unforeseen circumstances.]*

Chairman Miller called the meeting to order at 8:02 A.M.

Commissioner Deal opened the meeting with a prayer and Vice-Chairman Gable led the Pledge of Allegiance.

**APPROVAL OF MINUTES**

Chairman Miller called for additions and/or corrections to the March 20, 2012, regular and closed session minutes.

Vice-Chairman Gable, seconded by Commissioner Blust, moved to approve the March 20, 2012, regular meeting minutes as presented.

VOTE: Aye-4(Miller, Gable, Blust, Deal)  
 Nay-0  
 Absent-1(Futrelle)

Vice-Chairman Gable, seconded by Commissioner Deal, moved to approve the March 20, 2012, closed session minutes as presented.

VOTE: Aye-4(Miller, Gable, Blust, Deal)  
 Nay-0  
 Absent-1(Futrelle)

**APPROVAL OF AGENDA**

Chairman Miller called for additions and/or corrections to the April 3, 2012, agenda.

Vice-Chairman Gable requested to add consideration of a resolution in support of the NC Marriage Amendment.

Commissioner Blust, seconded by Vice-Chairman Gable, moved to approve the April 3, 2012, agenda as amended.

VOTE: Aye-4(Miller, Gable, Blust, Deal)  
Nay-0  
Absent-1(Futrelle)

### **PROPOSED AMENDMENTS TO THE AMBULANCE FRANCHISE AGREEMENT**

Per Commissioner direction from the annual retreat, Mr. Craig Sullivan, Owner of Watauga Medics, presented amendments to the Ambulance Franchise Agreement. The proposed agreement provided updates reflecting changes in technology and training along with Watauga Medics new station location.

The proposed agreement had an effective date of January 1, 2013 through December 31, 2019, which extended the current contract by five years and, therefore, would allow Watauga Medics to enhance their operations by making an investment in new communications technology thereby improving services. In extending the agreement, the County was able to negotiate a one (1) year waiver of the CPI escalator for the first year of the new agreement.

County Attorney Eggers stated that the agreement was similar to the current agreement and was legally appropriate.

Commissioner Deal, seconded by Vice-Chairman Gable, moved to approve the Ambulance Franchise Agreement with Watauga Medics as presented.

VOTE: Aye-4(Miller, Gable, Blust, Deal)  
Nay-0  
Absent-1(Futrelle)

*[Clerks Note: North Carolina General Statute 153A-46 requires a grant, renewal, extension, or amendment of any franchise to be passed at two regular meetings of the Board of Commissioners, prior to adoption; therefore, this item will be placed on the April 17, 2012, agenda for consideration as well.]*

### **MAINTENANCE MATTERS**

#### ***A. Presentation of Lighting Upgrade Proposal***

Mr. Robert Marsh, Maintenance Director, stated that he had received a proposal from 2<sup>nd</sup> Power, Inc., to upgrade the security lighting in the parking lot of the Human Services Center. Mr. Marsh stated that the parking lot currently contained standard security lights.

Mr. Patrick Morgan, Director of Sales for 2<sup>nd</sup> Power, Inc., presented the Board with a proposal to convert fifteen lighting fixtures, equating to half of the parking lot, with LED solar powered fixtures at a total cost of \$19,995. Advertised as a “no energy consumption” product, the LED lights operate on 1.5 volts of energy, generated by solar energy, and include battery back-up with the capacity to store enough power for approximately nine days of use. Located in the Appalachian Enterprise Center (a part of the Human Services Center), 2<sup>nd</sup> Power, Inc., would also benefit by having their product displayed in comparison to the current lighting.

County Attorney Eggers stated that the Board may wish to consider requesting an extended warranty. Mr. Jim Stout, Owner of 2<sup>nd</sup> Power, offered to extend the proposed warranty of five years to ten years.

County Manager Geouque stated that local policy required staff to publish an RFP (Request for Proposal) for a minimum of three bids for items over \$15,000 to allow for competitive pricing.

Commissioner Deal, seconded by Vice-Chairman Gable, moved to waive the local policy requiring three bids; approve entering into a contract with 2<sup>nd</sup> Power, Inc., for the installation of fifteen LED solar powered fixtures at a cost of \$19,995, with a ten-year warranty; and allocate funding from the Administrative Contingency budget line.

VOTE: Aye-3(Gable, Blust, Deal)  
Nay-0  
Absent-1(Futrelle)  
Recused-1(Miller)

*[Clerk's Note: Chairman Miller recused himself from voting on this matter due to a professional relationship with Mr. Morgan.]*

### **B. Bid Award Request for Paving Repairs**

Mr. Marsh stated that bids were solicited for scheduled paving repairs. Proposals were to remove, repair, and patch deteriorating sections of pavement on the east side of the West Annex Building which houses Cooperative Extension. A final two (2) inch asphalt layer was proposed to be placed over the existing lot including the repaired areas. The following bids were received: Moretz Paving, located in Zionville, in the amount of \$31,340; Tri-County, located in West Jefferson, in the amount of \$37,730; and Champion, located in Boone, in the amount of \$46,320. Mr. Marsh recommended the lowest bidder, Moretz Paving, in the amount of \$31,340, and stated that adequate funds were budgeted for this planned project.

Vice-Chairman Gable, seconded by Commissioner Blust, moved to award the bid for paving repairs at the West Annex to Moretz Paving in the amount of \$31,340.

VOTE: Aye-4(Miller, Gable, Blust, Deal)  
Nay-0  
Absent-1(Futrelle)

## **PROPOSED CONTRACT BETWEEN DEPARTMENT OF SOCIAL SERVICES AND APPALCART**

Mr. Jim Atkinson, Director of the Department of Social Services, stated that the North Carolina Department of Health and Human Services, Division of Medical Assistance mandated that all Department of Social Services enter into a written contract with vendors providing non-emergency Medicaid covered services. Mr. Atkinson presented a proposed contract with AppalCART for such transportation services. The negotiated rate of \$1.40 per mile is 100% reimbursable through Medicaid. Failure to contract for transportation services would result in the County being out of compliance with Division of Medical Assistance requirements and the loss of funding for transportation services for eligible clients. Mr. Atkinson stated that the contract included requirements as mandated by the Division of Medical Assistance.

County Attorney Eggers stated that the contract was legally appropriate.

Commissioner Deal, seconded by Commissioner Blust, moved to approve the contract for transportation services for the Watauga County Department of Social Services as provided by AppalCART at the rate of \$1.40 per mile.

VOTE: Aye-4(Miller, Gable, Blust, Deal)  
Nay-0  
Absent-1(Futrelle)

## **PLANNING AND INSPECTIONS MATTERS**

### ***A. Road Names Public Hearing Request***

Mr. Joe Furman, Planning and Inspections Director, requested a public hearing be scheduled on April 17, 2012, as required by North Carolina Statute 153A-239.1, to allow citizen comment prior to officially adopting new private and public road names.

Commissioner Deal, seconded by Commissioner Blust, moved to schedule a public hearing on April 17, 2012, at 6:00 P.M. to allow citizen comment on new private and public road names.

VOTE: Aye-4(Miller, Gable, Blust, Deal)  
Nay-0  
Absent-1(Futrelle)

### ***B. Bond Claim - Bid Award for Subdivision Paving***

Mr. Furman stated that County subdivision regulations allowed developers to post performance guarantees to allow final plats to be recorded so that lots/units could be sold prior to the completion of road construction within the development. A bond was accepted for the Lodges at Winkler's Creek which went into foreclosure subsequently requiring the County to claim the bond and solicit bids to complete the road construction.

The initial plan called for a retaining wall to provide the necessary turnaround; however, based on conversations with the current property owners, the turnaround was relocated thus eliminating the need for the retaining wall while still adhering to subdivision requirements.

McManus Farms/Moretz Paving submitted the lowest bid in the amount of \$34,200. Due to the elimination of the retaining wall, the McManus Farm's portion of the bid was removed thus leaving Moretz Paving's bid in the amount of \$21,600 which remained the lowest bid for the road construction portion of the project.

Mr. Furman reported that the bond amount was greater than the bids received for road construction. In addition to the paving, the bonding firm also agreed to pay for the fees associated with re-recording the plat.

Vice-Chairman Gable, seconded by Commissioner Blust, moved to award the bid for road construction to Moretz Paving, in the amount of \$21,600, to complete the road construction at the Lodges at Winkler's Creek.

VOTE: Aye-4(Miller, Gable, Blust, Deal)  
Nay-0  
Absent-1(Futrelle)

## **TAX MATTERS**

### ***A. Monthly Collections Report***

Tax Administrator Kelvin Byrd presented the Tax Collections Report for the month of March 2012. This report was presented for information only and, therefore, no action was required.

### ***B. Refunds and Releases***

Mr. Byrd presented the following Refunds and Releases for March 2012 for Board approval:

TO BE TYPED IN MINUTE BOOK

Commissioner Deal, seconded by Commissioner Blust, moved to approve the Refunds and Releases Report for March 2012, as presented.

VOTE: Aye-4(Miller, Gable, Blust, Deal)  
Nay-0  
Absent-1(Futrelle)

### ***C. Board of Equalization and Review Schedule***

Mr. Byrd discussed the scheduling of the FY 2012 Board of Equalization and Review (E&R).

Commissioner Deal, seconded by Commissioner Blust, moved to:

- appoint the Watauga County Board of Commissioners to serve as the members of the Board of Equalization and Review (E&R) for FY 2012
- appoint the County Manager to serve as an alternate member on the Board of E&R
- convene the Board of E&R on April 23, 2012, at 4:30 P.M.
- hold Board of E&R meetings on April 23, 24, and 26, 2012, from 4:30 P.M. to 7:30 P.M.
- adjourn the Board of E&R on April 26, 2012, at 7:30 P.M.
- set the compensation rate for Board of E&R members at \$75 per meeting.

VOTE: Aye-4(Miller, Gable, Blust, Deal)  
Nay-0  
Absent-1(Futrelle)

## **FINANCE MATTERS**

### ***A. Budget Amendments***

Ms. Margaret Pierce, Finance Director, reviewed the following budget amendments:

Account #	Description	Debit	Credit
103341-349201	Economic Summit Sponsorship		\$750
104920-463000	Economic Development	\$750	

The amendment recognized sponsorships received to offset expenditures for the Economic Summit hosted by the Economic Development Commission.

Account #	Description	Debit	Credit
234310-429000	Other Supplies	\$5,500	
233317-343109	Substance Abuse Tax Revenue		\$5,500

The amendment funded additional needs within the Narcotics budget per request of Sheriff Hagaman. The funds are state funds received and restricted to law enforcement use.

Commissioner Blust, seconded by Commissioner Deal, moved to approve the budget amendments as presented.

VOTE: Aye-4(Miller, Gable, Blust, Deal)  
Nay-0  
Absent-1(Futrelle)

### ***B. JCPC Budget Amendments***

Ms. Pierce presented a revised Juvenile Crime Prevention Council (JCPC) 2011-12 budget. The proposed budget amendments reallocated \$27,871 of unused funding from the temporary shelter/group home program at Barium Springs to other currently funded JCPC programs. The recommendation from JCPC included reallocating the funds as follows: \$11,436 to Project Challenge; \$11,435 to Western Youth Network's Youth Resource Center; and \$5,000 to Blue Ridge Mediation and Restorative Justice Center.



Commissioner Blust, seconded by Commissioner Deal, moved to approve the Juvenile Crime Prevention Council Program budget amendment as presented.

VOTE: Aye-4(Miller, Gable, Blust, Deal)  
Nay-0  
Absent-1(Futrelle)

***C. Proposed Audit Contract for FY 12***

Ms. Pierce presented the proposed contract from Bryce Holder, CPA, PA, for conducting the FY 2012 financial audit which had been reduced by \$8,000 from the originally proposed fee due to the County's commitment to prepare its own financial statements. The contract was not to exceed the amount of \$45,400.

Commissioner Deal, seconded by Vice-Chairman Gable, moved to approve the contract with Bryce Holder, CPA, PA, for conducting the County's FY 2012 financial audit with the amount not to exceed \$45,400.

VOTE: Aye-4(Miller, Gable, Blust, Deal)  
Nay-0  
Absent-1(Futrelle)

**CONSIDERATION OF A RESOLUTION IN SUPPORT OF THE NORTH CAROLINA MARRIAGE AMENDMENT**

Chairman Miller stated that he believed it was important that marriage remain an institution of one woman/one man and requested support of the North Carolina Marriage Amendment that would be on the primary ballots, May 8, 2012.

Commissioner Deal stated that he would like to receive information regarding the issue prior to discussion and a vote.

Vice-Chairman Gable, seconded by Commissioner Blust, moved to approve a resolution in support of the North Carolina Marriage Amendment.

VOTE: Aye-3(Miller, Gable, Blust)  
Nay-1(Deal)  
Absent-1(Futrelle)

**MISCELLANEOUS ADMINISTRATIVE MATTERS**

***A. Blowing Rock VFD Request for Support of Lease Purchase Agreement***

County Manager Geouque stated that Blowing Rock Fire and Rescue had requested a letter of support from the County to assist in obtaining financing to purchase equipment for operations. If not signed prior to the April 3, 2012, meeting, Blowing Rock Fire and Rescue would have experienced a reduction in cost savings and, therefore, staff prepared the necessary letter and

requested the Chairman's signature. The letter confirmed that Blowing Rock Fire and Rescue received both County and fire tax funding. The letter of support; however, does not obligate the County.

Commissioner Deal, seconded by Vice-Chairman Gable, moved to approve the Chairman's signature on the letter as presented.

VOTE: Aye-4(Miller, Gable, Blust, Deal)  
Nay-0  
Absent-1(Futrelle)

***B. Watauga Humane Society Funding Request***

County Manager Geouque provided the Board with the following background information prior to the meeting.

Upon completion of the Humane Society facility and acceptance of animals, the County loaned four hundred thousand dollars (\$400,000.00) to the Humane Society to apply toward the cost of facility construction. In exchange for the services provided by the Humane Society, the County was to pay the Humane Society seventy five thousand (\$75,000.00) each year with a CPI escalator. The initial term of the agreement was twenty-five (25) years with automatic renewal periods of one (1) year thereafter unless either party sends the other written notice of its decision not to renew the Agreement within ninety (90) days prior to its expiration.

A promissory note along with the right of first refusal was secured for the County's \$400,000 investment for the twenty-five (25) year period should the Humane Society decide to sell the property, default on its primary loan for the construction of the building, or terminate the agreement prior to the twenty-five (25) year period. The Humane Society began accepting animals from the County in October of 2011, thus the yearly maintenance fee was prorated to \$56,250. The County incurred expenses from July 1, 2011 through September 2011 for shelter operations until the Humane Society assumed control. The agreement allows the maintenance fee to be disbursed in quarterly installments, however in an effort to assist the Humane Society the maintenance fee was provided in a lump sum payment.

The Manager's understanding was that had the agreement with the County not been executed, the Humane Society may have not been able to obtain the financing for their facility. Prior to the agreement the County was averaging 1,500 animals a year. Budget totals for Animal Care and Control for Fiscal Years 2008-09, 2009-10, and 2010-11 were \$197,730, \$144,585, \$147,915, respectively.

At present time the Humane Society has submitted a budget request for \$225,000 for FY 2013, which is a \$150,000 increase over the current agreement.

Ms. Jenny Miller, Watauga Humane Society Capital Campaign Coordinator, requested additional funding due to the rise in their costs since the opening of the new shelter. The additional funding

was to assist with current cash flow issues due to the large amount of animals turned in by the public. Ms. Miller also indicated that the Humane Society Board representatives who negotiated the contract with the County had not used realistic budgetary figures. Ms. Miller stated that if their operational costs could not be met, the shelter would close.

Lengthy discussion was held regarding the Humane Society's budget and accounts. Commissioner Deal suggested the County allocate the remainder of the \$75,000 originally budgeted to the Humane Society for FY 2012 in the amount of \$18,750, which was the unpaid balance after the annual allocation was pro-rated. County Manager Geouque stated that the County had only spent approximately \$4,000 of the \$18,750 pro-rated for the year and, therefore, the majority of those funds were still available. At one point, Ms. Miller stated that an estate donation in the amount of \$100,000 was anticipated in the near future and, therefore, the Society would no longer need additional funds from the County. However, Ms. Miller quickly followed up by stating that the additional funds would be helpful. When questioned about borrowing from the Society's Capital Campaign account, Ms. Miller admitted that the Society had done that twice in the past; however, they did not consider that a viable option at this time.

Chairman Miller shared concerns that the shelter had only been in operation for four-months and additional funding was already being requested.

Commissioner Deal, seconded by Commissioner Blust, moved to release \$18,750, the remainder of the \$75,000 originally budgeted for FY 2012, to the Watauga Humane Society.

VOTE: Aye-3(Gable, Blust, Deal)  
Nay-1(Miller)  
Absent-1(Futrelle)

Commissioner Blust requested the media representatives who were present assist in public awareness of this situation in hopes that additional donations would be forthcoming to the Watauga Humane Society.

*[Clerk's Note: Watauga Humane Society's request for additional future funding was to be considered during the scheduled upcoming budget work sessions.]*

### **C. Boards and Commissions**

County Manager Geouque stated that the Blowing Rock Town Council had recommended Ms. Brenda Fairbetter to serve as the ETJ member of their Planning Board and Mr. Terry Story to serve as the ETJ member of their Board of Adjustment. Volunteer applications for Ms. Fairbetter and Mr. Story were distributed for review.

Vice-Chairman Gable, seconded by Commissioner Blust, moved to appoint Ms. Brenda Fairbetter to serve as the ETJ member of the Blowing Rock Planning Board and appoint Mr. Terry Story to serve as the ETJ member of the Blowing Rock Board of Adjustment.

VOTE: Aye-4(Miller, Gable, Blust, Deal)  
Nay-0  
Absent-1(Futrelle)

***D. Announcements***

County Manager Geouque made the following announcements:

- US Senator Kay Hagan will be at the Lois E. Harrill Senior Center on Wednesday, April 4, 2012, from 9:00 A.M. to 11:00 A.M. to hear concerns.
- The Board was invited to attend “Aarons After Hours” scheduled for April 19, 2012, from 7:30 P.M. to 8:30 P.M. for an opportunity to become acquainted with Aaron's Sales and Lease and to see first-hand the service they provide to the community.
- The North Carolina Association of County Commissioners’ (NCACC) District Meeting is scheduled for April 12, 2012, at the Holiday Inn Express in Wilkesboro. Tentative meeting times were 5:30 P.M. to 8:00: P.M.
- Three public hearings were scheduled for the April 17, 2012, Board meeting to allow citizen comment on: the Community Development Block Grant Small Cities Catalyst Program application on behalf of the Hospitality House; the proposed refinancing for the new high school; and new private and public road names.
- The Project on Aging invited the Board to attend a Volunteer Recognition Breakfast on Thursday, April 19, 2012, at the Dan’l Boone Inn from 8:30 A.M. to 10:30 A.M.
- A tour of the new Humane Society facility which was recently constructed through a partnership with the County was scheduled for April 27, 2012, from 12:00 noon until 1:30 P.M.
- Appalachian State invited the Board of Commissioners along with School Board and Town Council members, to campus on May 7, 2012, from 9:00 A.M. to 2:00 P.M. The purpose of the meeting was to provide an update on major activities taking place on campus such as construction projects, strategic priorities, state funding and its impact on the campus, and major initiatives involving the local community. The day will consist of a tour, lunch, and meeting with University officials.

**PUBLIC COMMENT**

There was no public comment.

**CLOSED SESSION**

At 9:23 A.M., Vice-Chairman Gable, seconded by Commissioner Blust, moved to enter Closed Session to discuss Attorney/Client Matters, per G. S. 143-318.11(a)(3).

VOTE: Aye-4(Miller, Gable, Blust, Deal)  
 Nay-0  
 Absent-1(Futrelle)

Commissioner Deal, seconded by Vice-Chairman Gable, moved to resume the open meeting at 9:47 A.M.

VOTE: Aye-4(Miller, Gable, Blust, Deal)  
Nay-0  
Absent-1(Futrelle)

**ADJOURN**

Commissioner Deal, seconded by Vice-Chairman Gable adjourned the meeting at 9:47 A.M.

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Nathan A. Miller, Chairman

ATTEST:

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Anita J. Fogle, Clerk to the Board

**AGENDA ITEM 3:**

**APPROVAL OF THE APRIL 17, 2012, AGENDA**

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**AGENDA ITEM 4:**

**PROPOSED AMENDMENTS TO THE AMBULANCE FRANCHISE AGREEMENT (2<sup>ND</sup> RATIFICATION)**

**MANAGER'S COMMENTS:**

North Carolina General Statute 153A-46 requires a grant, renewal, extension, or amendment of any franchise to be passed at two regular meetings of the board of commissioners before it may be adopted.

At the April 3, 2012, regular Board meeting, Mr. Craig Sullivan, Owner of Watauga Medics, presented proposed amendments to the current Ambulance Franchise Agreement. The proposed amendments included much needed updates which reflected on technology and training changes and their new station location. The proposed agreement has an effective date of January 1, 2013, through December 31, 2019, which will allow Watauga Medics to expand their operations and invest in new communication technology which will improve overall services in the County. In extending the contract, the County also benefited by negotiating a one (1) year waiver of the CPI escalator for the first year of the contract.

The proposed contract was approved at the April 3, 2012, regular meeting and, therefore, staff requests the second Board approval as required by Statute.



STATE OF NORTH CAROLINA  
COUNTY OF WATAUGA

AMBULANCE FRANCHISE AGREEMENT

THIS AMBULANCE FRANCHISE AGREEMENT (hereinafter "Agreement). Is made and entered onto this the 1st. day of January 2010 2013 by and between WATAUGA COUNTY, a body politic, organized and existing under and by virtue of the laws of the State of North Carolina (hereinafter the County'), and WATAUGA MEDICS, INC., a North Carolina corporation, (hereinafter "Franchisee").

WHEREAS, effective October 4, 1999, the Watauga County Board of Commissioners, by authority contained in NC.G.S, 153A-250, adopted Ordinance Number XXX, titled 'Watauga County Ambulance Franchise Ordinance' (hereinafter "the Ordinance") and

WHEREAS, County and Franchisee executed an Ambulance Franchise Agreement dated November 16, 2004 pursuant to the Watauga County Ambulance Franchise Ordinance, Ordinance Number XXX, pursuant to the authority granted to the County by NCGS 153-250; and

WHEREAS, pursuant to said Ordinance, the County issued a Request For Proposal (hereinafter "the RFP") soliciting bids and specifying certain minimum conditions of any franchise to be issued pursuant thereto; and

WHEREAS, Craig J. Sullivan on behalf of Watauga Medics, Inc. submitted a written bid entitled 'Bid Proposal' for Watauga County Ambulance Service' (hereinafter the Bid") pursuant to said RFP; and

WHEREAS, the County, at its November 1, 2004 meeting resolved to accept the Bid Option 3-1 contained in said bid, to wit: that the bidder will provide service (as further specified below) with the County to provide an annual subsidy of as set forth below in monthly installment;

~~WHEREAS, an issue has arisen between County and Franchisee as to the interpretation of the subsidy payments to be paid by the County to Franchisee as provided in section 30 of the Agreement; and~~

WHEREAS; at the February 20, 2007 meeting of the Watauga County Board of County Commissioners, the County agreed to amend the agreement to clarify and restated the subsidy payment that were paid or are to be paid pursuant to the Agreement; and

WHEREAS, the parties have discussed an extension of the Agreement between the County and Franchisee in an effort to lock-in costs to the County and allow for the Franchisee to expand his operations to improve services in Watauga County;

NOW, THEREFORE, in consideration of the premises and the mutual benefits and obligations set forth below, the County and the Franchisee agree as follows:

1. The County does hereby grant unto Franchisee a non-exclusive franchise for the operation of an ambulance service for the provision of emergency and non-emergency medical transport services, in accordance with the Ordinance, the RFP, the bid and this Agreement for a period of ~~five~~ **seven** years.
2. This franchise may not be sold, assigned or transferred nor may it in any way vest in any person, firm or corporation, other than the Franchisee and any such sale, transfer or assignment shall cause this franchise to terminate immediately, at the opinion of Watauga County.
3. Any change in legal or equitable ownership of Franchisee its corporate shares, or any of its equipment shall immediately terminate the Franchise, at the option of Watauga County.
4. The initial term of the Franchise shall be from 12:00 AM. on January 1, ~~2010~~ **2013** and through and including the 31st day of December, ~~2014~~ **2019** Either party, for any reason, may with or without cause terminate this agreement and the Franchise upon one hundred eighty (180) calendar days written notice to the other party, unless sooner terminated for reasons set forth in the Ordinance or by agreement of the parties hereto.
5. At the end of the aforesaid term, unless the parties agree otherwise in writing or either party has given notice of termination as aforesaid, the Franchise and all of the terms of this Agreement (subject to any amendments as may be entered into) shall be automatically renewed for continuing one year terms.
6. The Franchise shall provide all personnel, vehicles, supplies and equipment to provide all emergency and non-emergency ambulance service necessary in all parts of Watauga County on a 24 hour per day, 7 day per week basis, at not less than an EMT-Paramedic level of service (except so long as an agreement for such acceptable to the County is in place, the Franchise may provide ambulance service to the Flat Springs area of Avery County in exchange for Avery County's providing pursuant to agreement with Franchise ambulance service to the Town of Beech Mountain in Watauga County). Each ambulance of the Franchisee shall be available to render assistance to all portions of Watauga County.
7. Franchisee shall keep two (2) two-wheel drive ambulances and two (2) four-wheel drive ambulances fully equipped, licensed and available for emergency and non-emergency service at all times, subject to routine maintenance down time. Franchisee shall keep two of the ambulances manned and available on a 24 hour per day, 7 day per week basis and a third ambulance manned and available nine hours per day, Monday through Saturday, six (6) days per week. Not less than two (2) ambulances will be kept within the County at all times for services pursuant to this Agreement, one of which will be manned and the other of which will be manned or will have personnel on call for immediate service. Each ambulance necessary to meet the foregoing requirements shall have less than 50,000 miles on it at the time initially put in service by Franchisee. The Franchisee will immediately notify the county in writing of any additions or deletions to its inventory of operational ambulances. Franchise shall employ a fourth ambulance and

crew to work seven days per week, twelve hours per day. In addition new service for Watauga County, and the Franchisee shall strive not to place or dispatch said fourth crew for service outside the territorial jurisdiction of Watauga County except for emergency transports, when any of Franchisee's other crew is away on a routine transport. As of July 1, 2005 Franchisee will provide an additional on call crew to respond to out of county emergency transports between the hours of 8:00pm and 8:00am seven (7) days per week.

8. The Franchisee shall maintain not less than two (2) bases, the first of which will be provided by the County as set forth below. The Franchisee must bear all responsibility for finding other station(s) and the costs associated with acquiring, equipping, and maintaining such.

9. Franchisee's first base of operations will be located at the facilities owned by the County at 921 West King Street, Boone, North Carolina 28607, or such other location as may be provided by the County. The County will make available, at no charge to Franchisee, said the facilities currently located at 921 West King Street, Boone, North Carolina 28607, specifically consisting of 5,263 square feet, including a garage, offices, sleeping area and a training room. The County shall provide property and casualty hazard insurance for the structure at said location. The Franchisee must bear all utilities, maintenance, medical supplies, equipment and other necessary expenses associated with said facilities provided by the County. Franchisee's obligation to provide maintenance to the structure shall be limited to repairs of ordinary wear and tear to the reasonable satisfaction of the County. Franchisee's two propane heaters and the lift located in the bay area of the building shall remain the property of Franchisee, so long as Franchisee repairs any damage to the building caused by their removal.

10. The Franchisee shall maintain a second base to be ~~initially~~-located at ~~231 Deerfield Road,~~ **133 Longvue Dr.** Boone, North Carolina and the Franchisee shall be solely responsible for providing all things necessary for operation of the service at the second base, including but not limited to the building, utilities, maintenance, medical supplies, equipment and necessary operational expenses associated with the facilities.

11. Each ambulance used by Franchisee must be in compliance with all applicable Federal, State, and local laws relating to personnel, health, safety, equipment, vehicle design, and sanitation. Franchisee shall keep the County provided with a copy of the current State certification for each ambulance owned or operated by Franchisee.

12. The Franchisee shall be responsible for all future capital purchase and all operational, including (but not limited to) salaries, employee benefits and expenses, insurance, mobile operational costs, and all other fees, expenses, and charges necessary to remain in compliance with the County's ordinance and the franchise granted to the Franchisee.

13. The Franchisee shall provide the county with a list of all of its equipment which is in service, on not less than an annual basis, and the Franchisee shall assure that all of its equipment in use will be removed from service once it becomes obsolete or needs to be replaced due to normal wear and tear.

14. Each ambulance of Franchisee shall be equipped with an eight (8) channel VHF radio. Frequencies shall be assigned by the Communications Center designated by the County. Franchisee shall relay all ambulance movements to the Communications Center designated by the County, via two-way radio.

15. The Franchisee shall assure that its EMS personnel have access to operational Franchisee-issued pagers, **or other communication devices along with accurate phone lists are on file to notify said personnel if the** and that adequate numbers of said personnel remain available to respond when the regular squads of the Franchisee are unable to handle the volume of calls that may come in from time from time.

**Comment [C1]:** This is a little outdated and I do still issue radios/pagers to some but cell phones are our main way of calling pple in!

16. The Franchisee shall at all times meet the following performance standards:

- a. The average response time for an ambulance, calculated on a Monthly basis, shall not exceed ten minutes.
- b. The Franchisee shall place no required ambulance in service for initial operation that has more than 50,000 miles.

17. The Franchisee shall not allow any paramedic to practice in Watauga County until he or she has passed an oral examination given by a panel of the Medical Director and unless he or she holds current certifications in advanced training courses specified by the Medical Director. It will be the responsibility of the Franchisee to coordinate with ~~the Watauga Medical Center and~~ Watauga County to ensure a qualified Medical Director remains active in the system.

**Comment [C2]:** State law changed in 2002 and 2009 that removed the "sponser Hospital" term completely see: **10A NCAC 13P.0401 COMPONENTS OF MEDICAL OVERSIGHT FOR EMS SYSTEMS**

18. The Franchisee shall enter into and assure the existence of mutual aid agreements with ambulance services in counties adjoining Watauga County to provide assistance in the event of disaster or other special need, said agreements to be at the sole expense of the Franchisee. Additionally, the Franchisee shall implement and keep in place a Reserve Program, creating a county-wide manpower bank to be available in the event of a disaster or other special need. **All training will be open to** Reserves and any other ~~Said Reserve Program shall be open to all~~ individuals with NC Basic EMT Certification, or higher, who also meet Franchisees other reasonably developed standards. The Franchisee ~~shall provide a training and~~ make all reasonable efforts to provide "ride time" to said reserves, to keep their skills current.

19. Franchisee shall enter into mutual aid agreements to have and make available assistance of and to all volunteer rescue squads in the County when requested by the County, the Franchisee or the volunteer rescue squads.

20. The Franchisee shall make its resources available to Watauga County Emergency Management Office during its emergency activities, and during any declared State of Emergency shall work in conjunction with the Emergency Operations Center.

21. The Franchisee shall oversee a First Responder program, which the Franchisee **will assist the local fire departments with the needs of the program shall assure is kept in place.** The Franchisee **shall assist in the development and implementation of** operating guidelines for the program, and shall restock the supplies (not to include capital equipment or any drugs such as epi pens) used in the services of the First Responder. Further, the Franchisee shall coordinate continuing education requests and other training for all First Responders, as appropriate, ~~but not to necessarily include the education or training necessary for certification or recertification.~~ All of the foregoing shall be provided to the program and First Responders at no cost to the First Responders or their sponsoring agency or agencies, all with no additional cost to the County.

22. The Franchisee shall operate on a fee for services basis, and shall only issue the following charges (when incurred) at the following rates, which are hereby approved by the County:

A.	Rates for BLS calls:	\$300.00
B.	Rates for ALS calls: (non-emergency)	\$350.00
	(Emergency)	\$385.00
	ALS II:	\$550.00
C.	Charge per mile:	<del>\$8.25</del> <b>\$8.50</b>
D.	Waiting time per hour (after first hour)	\$25.00
E.	No transport calls:	

**Comment [C3]:** This is keeping with the current Medicare allowable mileage rates.

A charge of \$50.00 is authorized for no transport calls when Franchisee responds to assist patients who just need assistance or patients who have initiated a 911 call and have changed their mind once Franchisee arrived. No charge under this subsection may be assessed when a 911 call is made by a bystander without the request of the injured party.

No other fees, expenses, or charges may be made without prior Resolution of the County's Board of Commissioners approving such.

23. The Franchisee shall be responsible for billing and collection of its fees, charges and expenses. The Franchisee must submit for payment from, third party payers and accept assignment of Medicare and Medicaid Franchisee shall maintain accurate records of its charges and reimbursements from Medicare and other sources of all charges pursuant to the foregoing authorized increases, and shall compile and maintain such information in a form useful to the County, which information shall be shared from time to time with the County, as the County may desire.

24. Franchisee shall maintain all records required by Sect XII of the Ordinance and shall submit to the County by the 15<sup>th</sup> of the month following each quarter a data sheet containing all of the information specified in subsection f of said Section of the Ordinance The Franchisee shall submit an annual report containing all of the information required by said Section and further specified by subsection g of said Section by the 15<sup>th</sup> day of the month following the last quarter of each year. The Franchisee shall maintain the aforesaid records in an organized fashion, and allow the county full access to said information as the County deems appropriate. By the 15<sup>th</sup> of May of each year, the Franchisee shall submit to the County manager a budget of how it intends to spend the County's funds in the upcoming fiscal year, and within ninety (90) days of the end of the Franchisee's fiscal year, the Franchisee shall furnish the County a full and complete certified audit of Franchisee's operations conducting by a CPA in accordance with generally accepted auditing standards of Franchises's operations, which shall include a fully audited financial statement of the Franchisee. The Franchisees fiscal year shall be from 1 January to 31 December of each year.

25. Each year, Franchisee shall provide the County a detailed explanation of its billing policies, sufficient to allow County to fully understand the billing methods and practices of the Franchisee.

26. Franchisee shall fully allow the County to inspect all records, premises and equipment of the Franchisee at any time in order to confirm and insure compliance with the ordinance and the franchise granted herein.

27. In providing ambulance service as described herein the Franchisee shall comply with all laws of the United States, the State of North Carolina and the County of Watauga, including rules and regulations promulgated by the Medical Care Commission and the NC Medical Board, and resolutions and ordinances of the Watauga County Board of Commissioners. Further, the Franchisee shall abide by all applicable US and North Carolina Labor laws, including, but not limited to, Occupational Safety and Health regulations, Fair Labor Standards Act and the Americans with Disabilities Act and regulations pursuant thereto. The County shall have the right to inspect all records pertaining to these labor laws and ensure compliance by the Franchisee. The Franchisee shall maintain records on all employee training conducted pursuant to Occupational Safety and Health regulations and shall make these available to the County upon request

28. Franchisee shall maintain in place an escrow account, a surety bond, an irrevocable letter of credit, or other guarantee or undertaking satisfactory to the County attorney, in an amount equal to the amount of the contract subsidy applicable to any one hundred eighty (180) day period following the date such obligation may arise to assure payment to the County for any liability of the Franchisee to the County arising out of this Agreement, of the Ordinance, or of Franchisee's operation, and to pay for any substitute performance the County may cause to be provided upon Franchisees default in performance hereunder or under the Ordinance.

29. The Franchisee agrees and acknowledges that the above-referenced facilities of the County located at 921 West King Street, Boone, North Carolina are fully adequate facilities for the housing of their base operation at said location.

30. For the period of this agreement, the County shall prepay to Franchisee an annual subsidy in monthly installments as follows:

**Jan. 1, 2013-Dec. 31, 2013: \$789,118.13**

**Jan. 1, 2014-Dec. 31, 2014 \$789,118.13 + CPI adjustment**

**Jan. 1, 2015-Dec. 31, 2015 Previous Years amount + CPI adjustment**

**Jan. 1, 2016-Dec. 31, 2016 Previous Years amount + CPI adjustment**

**Jan. 1, 2017-Dec. 31, 2017 Previous Years amount + CPI adjustment**

**Jan. 1, 2018-Dec. 31, 2018 Previous Years amount + CPI adjustment**

**Jan. 1, 2019-Dec. 31, 2019 Previous Years amount + CPI adjustment**

(this amount to be adjusted by the CPI as explained below. Each year there after the previous years amount will be adjusted as explained below.

On each January 1, commencing on January 1, ~~2010~~ **2014** the agreed-upon county subsidy shall be adjusted and revised as follows:

- a. 60 percent of the adjustment shall reflect the annual increase or decrease of the Consumer Price Index (CPI), South Urban Size ~~Ð~~ **C**, as published by the US Department of Labor, Bureau of Labor Statistics.
- b. 20 percent of the adjustment shall reflect the annual increase or decrease of the CPI, Medical Care Services as published by the US Department of Labor, Bureau of Labor Statistics.
- c. 20 percent of the adjustment shall reflect the annual increase or decrease of the CPI, Transportation, as published by the US Department of Labor, Bureau of Labor Statistics.

In the event the CPI components produce a negative adjustment once totaled The Subsidy amount will not be adjusted. In the event the CPI components produce a percentage greater than 6% the annual increase will be 6% plus on-half (50%) of the amount over 6% up to 10% (For Example, if the CPI escalator is computed at 7.4% the annual increase would be 6.7% or  $6\% + .50 \times 1.4 = 6.7$ ). Any amount over 10% will not be considered for adjustment ie the maximum adjustment will be 8%. Or  $6\% + .50 \times 4\% = 8\%$ ).

31. The County will calculate the adjustment based upon the most recent November annual report of Franchisee as compared to the report of the previous November. (For example, the January 1, ~~2010~~, **2014** adjustment will reflect the CPI changes between November ~~2008~~ **2012** and November ~~2009~~ **2013**.)

32. Franchisee shall at all times during the existence of the Franchise, keep In full force and effect the insurance coverage as required by Section X of the Ordinance entitled "Insurance" and all insurance required by law, including liability insurance on its vehicles and workers' compensation coverage for its personnel. Franchisee shall provide proof of coverage to the county and to assure that each insurance policy contains provisions that assure that the County receives at least 90 days prior notice from each carrier of any lapses, cancellations, denials, changes or limitations in coverage. The County shall be shown as an additional insured on all of Franchisee's liability insurance.

33. The Franchisee shall indemnify and hold harmless the County and its officers and employees from and against all suits, actions, liability, claims, demands, judgments, recoveries or expenses, including court costs and attorney's fees, against or incurred by the County on account of or in any way connected with or arising from any claim of injury, loss or damage which arises out of or is in any manner connected with Franchisee's operations; including, but not limited to any claim or injury, loss or damage, suit, action, liability, claim, demand, judgment, recovery, or expense caused or alleged to be caused in whole or in part by any negligent act, omission, error, professional error, mistake, accident or other fault of the Franchisee, any subcontractor of the Franchisee, or an officer, employee or agent of the Franchisee.

34. Franchisee is to provide ambulance service as an independent contractor and neither Franchisee nor any of its personnel shall be an employee, agent or representative of the County in any way.

35. The Franchisee and its agents, contractors and subcontractors shall not discriminate on the basis of race, color, creed, national origin, ancestry, age, sex, religion or disability in any policy or practice and Franchisee shall assure that any agreements or practices it enters into or engages in expressly provide for such nondiscrimination.

36. This Agreement is entered into pursuant to the RFP which Franchisee acknowledges; to the Ordinance and all amendments as may be made thereto, which Franchisee is and will remain familiar with and agrees to fully abide by; to the bid by Watauga Medics, Inc., and to the County's resolutions of November 1, 2004 accepting said bid. Except to the extent this Agreement imposes standards above the minimum standards specified in the Ordinance, in the event of any inconsistency among or between the foregoing, the Ordinance shall control and as between this Agreement and the RFP, the Bid, and the Resolution, this Agreement shall control, but all of the terms of the aforesaid documents not inconsistent with the other documents shall remain in and have full force and effect,

37. Should any portion of this Agreement be ruled or determined invalid, such invalidity shall not effect the enforceability of the remaining portions hereof. This

Agreement shall not be amended or modified except in writing, signed by all parties hereto, with the County's consent to such modification to be only by prior resolution of its Board of Commissioner

IN TESTIMONY WHEREOF, the said parties hereto have hereunto caused this instrument to be signed in their names by their duly authorized officers.

WATAUGA COUNTY

by: *Jamison Dealif*  
Chairman – Watauga County  
Board of Commissioners

WATAUGA MEDICS INC.

by: *Craig Sullivan*  
President

Attest: *Ainda J. Fogle*  
Clerk to the Board

*Pamela S. Palmer*  
Corporate Secretary

(SEAL)

(SEAL)

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

*Doris Isaacs*  
Doris Isaacs  
Watauga County Finance Officer

db\watauga county\watauga medics\modified ambulance franchisee agreement(2)



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**AGENDA ITEM 5:**

**CONSOLIDATED DISPATCH UPDATE**

**MANAGER'S COMMENTS:**

Vice-Chairman Gable will give an update on consolidated dispatch.

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**AGENDA ITEM 6:**

**NEW RIVER SERVICE AUTHORITY (NRSA) MUTUAL AID AGREEMENT**

**MANAGER'S COMMENTS:**

Please find enclosed a draft copy of a mutual aid agreement between the five-member Counties (Avery, Ashe, Alleghany, and Wilkes) of the New River Service Authority regarding the cost sharing of fees from Poyner Spruill which will be providing representation for the NRSA lawsuit(s). The County Attorney has requested this item be placed on the agenda for Board discussion and approval.

To: Deron Geouque

From: Stacy C. Eggers, IV

Re: Mutual Aid Agreement

Date April 12, 2012

Dear Deron,

As we discussed, I have prepared a mutual aid agreement for the five counties which established the New River Service Authority to address pending or potential litigation arising out of the closing of the Service Authority. I have discussed this agreement and the desire to retain the services of Robert Orr and Poyner & Spruill to represent the five counties with their respective attorneys, and it is my understanding that they are all agreeable with this approach.

This agreement will allow the counties to share the expense of defending any such claims brought against the counties and defray the costs to our citizens. It is recommended that we retain such counsel even if Sedgwick Claims Service provides a defense to the tort allegations, as our coverage does not include claims based in contract.

As stated in the agreement, each county would bear a pro-rata portion of the expenses incurred.

DRAFT

April 2, 2012

Robert F. Orr  
*Of Counsel*  
D: 919.783.1015  
F: 919.783.1075  
rorr@poynerspruill.com

Stacy C. Eggers IV, Esq.  
Eggers, Eggers, Eggers & Eggers  
737 West King Street  
PO Box 248  
Boone, NC 28607

RE: Engagement for Legal Services for Watauga County

Dear Mr. Eggers:

We are pleased that you have asked the firm to serve as counsel for Watauga County. At the outset of any engagement, we believe it is appropriate to confirm in writing the nature of the engagement and the terms of our representation, and that is the purpose of this letter. If you have any questions about this letter or any of its provisions, do not hesitate to call. Otherwise, this letter and the enclosed Standard Terms of Representation will constitute the terms of our engagement. Again, we are pleased to have the opportunity to serve you.

**Client.** Watauga County will be our only client in this matter, although the possibility of additional counties being a part of this litigation is to be determined.

**Scope of Engagement.** Our representation will be limited to the specific matters described in this paragraph. You are engaging us to represent Watauga County, and we agree to represent Watauga County, for the purpose of defending and advising on matters and litigation arising out of the County's involvement and relationship with New River Service Authority (hereinafter referred to as the "matter" or "engagement").

**Nature of Relationship.** Our objective is to provide high quality legal services to our clients at a fair and reasonable cost. The attorney-client relationship is one of mutual trust and confidence. If you have any questions at all concerning the terms of this engagement, our ongoing handling of this legal matter, or about any issue relating to a monthly statement that is unclear or appears to be unsatisfactory, we invite your inquiries.

**Fees and Expenses.** Our fees will be based primarily on the hourly rate for each attorney and paralegal devoting time to this matter. Our standard hourly rates for attorneys likely to be involved currently range from \$220 to \$440 per hour, and time devoted by paralegals likely to be involved currently ranges from \$190 to \$200 per hour. However, we are willing to substantially discount our fees in this matter. I will be the attorney with primary responsibility for this matter and will charge at the discounted hourly rate of \$300 per hour. Attorney Drew Erteschik will be the senior associate working with me on this matter and will charge at the discounted hourly rate of \$225 per hour. I may also collaborate as appropriate with other attorneys in the firm who will charge no more than the discounted hourly rate of \$300 per hour. Paralegals working on this matter will charge at the discounted hourly rate of \$150 per hour.

**General Waiver of Conflicts.** As we have discussed, you are aware that the firm represents many other companies and individuals. This confirms Watauga County's continued agreement that we may continue to represent or may undertake in the future to represent existing or new clients in any matter that is not



substantially related to our work for Watauga County in this matter or any other matter for which you may subsequently engage our firm, even if the interests of such clients in those other matters may be directly or indirectly adverse to Watauga County. We agree, however, that your prospective consent to conflicting representation contained in the preceding sentence shall not apply in any instance where, as a result of our representation of you, we have obtained proprietary or other confidential information of a non-public nature, that, if known to such other client, could be used in any such other matter by such client to your material disadvantage. You should know that, in similar engagement letters with many of our other clients, we have asked for similar agreements to preserve our ability to represent you.

**Conclusion of Matter.** The matter will conclude when all work has been completed. Following the conclusion of the matter, you may request your files be returned to you, otherwise they will be retained by the firm and disposed of in accordance with our retention policy as noted in the "Conclusion of Representation; Retention and Disposition of Documents" section of the attached Standard Terms of Representation.

If the foregoing and the enclosed Standard Terms of Representation accurately state the terms of our engagement, then this is the confirmation of our agreement with you regarding this matter. If the foregoing and the enclosed Standard Terms of Representation do not accurately state the terms of our engagement, please let us know immediately, and do not proceed to use our firm on this particular matter until we have agreed upon the terms of engagement and another letter is delivered to you confirming those terms. Once again, we are pleased to have this opportunity to work with you. Please call me if you have any questions or comments during the course of our representation.

Very truly yours,

POYNER SPRUILL LLP

By: \_\_\_\_\_  
Robert F. Orr

Enclosure

## STANDARD TERMS OF REPRESENTATION

This document sets forth the standard terms of our engagement as your lawyers. Unless modified in writing by mutual agreement, these terms will be an integral part of our agreement with you. Therefore, we ask that you review this document carefully and contact us promptly if you have any questions. You should retain this document in your file.

### The Scope of Our Work

The legal services that we will provide to you are described in our engagement letter. Our representation is limited to performance of the services described in that letter and does not include representation of you or your interests in any other matter.

Any expressions on our part concerning the outcome of your legal matters are expressions of our best professional judgment, but are not guarantees. Such opinions are necessarily limited by our knowledge of the facts and are based on the state of the law at the time they are expressed.

It is our policy that the person or entity that we represent is the person or entity that is identified in our engagement letter and does not include any affiliates of such person or entity (*i.e.*, if you are a corporation or partnership, any parents, subsidiaries, employees, officers, directors, shareholders or partners of the corporation or partnership, or commonly owned corporations or partnerships; or, if you are a trade association, any members of the trade association). Accordingly, for conflict of interest purposes, we may represent another client with interests adverse to any such affiliate without obtaining your consent.

### Who Will Provide the Legal Services

Customarily, each client of the firm is served by a principal lawyer contact. You are free to request a change of principal lawyer at any time. Subject to the supervisory role of the principal lawyer, your work or parts of it may be performed by other lawyers and legal assistants in the firm. Such delegation may be for the purpose of involving lawyers or legal assistants with special expertise in a given area or for the purpose of providing services on the most efficient and timely basis.

### Communications

If at any time, you have any question about our services, staffing, billing or other aspects of our representation, please do not hesitate to let us know. It is important to us that you are satisfied with our services and responsiveness at all times. The Firm has assumed in accepting this engagement that we are permitted to communicate with you and/or your personnel in person or by telephone, first-class mail, fax, express delivery services and/or e-mail. The firm will employ encryption when required to protect personally identifiable information and/or private health information or as requested by the client. If you require special exceptions to our general communications policy, now or in the future, please notify us promptly.

### How Fees Will Be Set

**(This section does not apply if you and your principal lawyer have agreed in writing to a different fee arrangement such as a flat fee or contingent fee.)**

To help determine the value of our services, each of our lawyers and legal assistants maintain time records for each client and matter. We record our time in units of tenths of an hour. The time records are reviewed monthly by the billing attorney assigned to you before a statement is rendered. All attorneys and legal assistants of the Firm are assigned hourly rates based primarily on experience and expertise. Our hourly rates are adjusted from time to time (generally once a year) and may change during the course of our engagement. We view such rates as only a benchmark, and not as the sole determinant, of the value of our services for billing purposes. Instead, the amount of our billing statement



will be the fair value of the services as determined by the billing attorney taking into account the time records for the matter, the types of services we have been asked to perform, any special level of expertise required, the novelty and complexity of the issues presented, the time constraints imposed on us, the extent to which our investment in office systems have efficiently produced a high-quality product, the size and scope of the matter, results obtained, and other relevant circumstances.

### **Client Responsibilities**

You agree to pay our statements for services and expenses as provided below. In addition, you agree to be candid and cooperative with us and will keep us informed with complete and accurate factual information, documents and other communications relevant to the subject matter of our representation or otherwise reasonably requested by us. Because it is important that we be able to contact you at all times to consult with you regarding your representation, you will inform us, in writing, of any changes in the name, address, telephone number, contact person, e-mail address, state of incorporation or other relevant changes regarding you or your business. Whenever we need your instructions or authorization in order to proceed with legal work on your behalf, or to transfer custodial responsibility of records, we will contact you at the latest business address we have received from you. You agree to notify the Firm of changes of status such as name, address and other contact information.

### **Estimates**

We are often requested to estimate the amount of fees and costs likely to be incurred in connection with a particular matter. Whenever possible, we will furnish such an estimate based upon our professional judgment, but always with a clear understanding that it is not a maximum or fixed-fee quotation unless specifically stated as such. The ultimate cost frequently is more or less than the amount estimated because of conditions over which we have little or no control. Our actual fees will be determined in accordance with the policies described herein.

### **Administrative Expenses and Other Disbursements**

We currently have a flat rate administrative expense charge of \$10.25 per billed hour which is calculated in lieu of telephone charges, photocopying, postage, facsimile, and other typical administrative expenses. We reserve the right to prospectively make minor adjustments in this amount or change to an equivalent percentage charge. Additionally, you will be charged separately for extraordinary disbursements made by us on your behalf, such as special postage, third-party delivery charges, travel, bulk photocopying, secretarial overtime, if necessary, and use of other service providers such as investigators, printers or experts. In litigated matters, we include payments made by us for process servers, court reporters, deposition transcript expenses, witness fees and the like. We also make separate charges for the use of "Lexis" and other computerized legal research systems that often significantly reduce lawyer research time. Invoices from third party providers of ancillary services with significant costs may be sent directly to you for payment.

### **Billing Arrangements and Terms of Payment**

We will bill you on a regular basis, normally each month, for fees, administrative expenses and disbursements. We make every effort to include disbursements in the statement for the period in which the disbursements are incurred. However, some disbursements are not available to us until following months, in which case a supplemental statement will be rendered to you for these additional charges or an estimated amount will be included in the initial billing and an adjustment made when the actual disbursement information is available. You agree to make payments within 30 days of receiving our statement. Unpaid fees, expenses and disbursements accrue interest at the maximum rate permitted by state law, but not exceeding 1½% per month (18% per annum) from the beginning of the month in which they became overdue.

We will give you prompt notice if your account becomes delinquent, and you agree to bring the account or the deposit current. If the delinquency continues and you do not arrange satisfactory payment

terms, we will withdraw from the representation and pursue collection of your account. You agree to pay the costs of collecting the debt, including court costs, filing fees and a reasonable lawyer's fee.

### **Retainer and Trust Deposits**

New clients of the Firm, and existing clients under certain circumstances, are commonly asked to make a deposit with the Firm. If you make a deposit with us, or provide a retainer, you grant us a security interest in those funds. Typically, the deposit is equal to the fees and costs likely to be incurred during a two-month period. Unless otherwise agreed, the deposit will be credited toward your unpaid invoices, if any, at the conclusion of services. At the conclusion of our legal representation or at such time as the deposit is unnecessary or is appropriately reduced, the remaining balance or an appropriate part of it will be returned to you. If the deposit is insufficient to cover current expenses and fees on at least a two-month basis, it may have to be increased.

All trust deposits we receive from you will be placed in a trust account for your benefit. As approved by the North Carolina Supreme Court, your deposit will be placed in a pooled account if it is not expected to earn a net return, taking into consideration the size and anticipated duration of the deposit and the transaction costs. Other trust deposits will also be placed in the pooled account unless you request a segregated account. Interest earned on the pooled account is payable to the North Carolina State Bar to fund programs for the public's benefit. Interest earned on the segregated trust account will be added to the deposit for your benefit and will be includable in your taxable income.

### **Termination of Engagement**

You may at any time terminate our services and representation upon written notice to us. Such termination shall not, however, relieve you of the obligation to pay for all services already rendered, including work in progress and remaining incomplete at the time of termination, and to pay for all expenses incurred on your behalf through the date of termination.

We reserve the right to withdraw from our representation as required or permitted by the applicable rules of professional conduct. We will try to identify in advance and discuss with you any situation that may lead to our withdrawal and if withdrawal ever becomes necessary we will give you written notice of our withdrawal. In the event that we terminate the engagement, we will take such steps as are reasonably practicable to protect your interests in the specified matter, and you agree to take all steps necessary to free us of any obligation to perform further, including the execution of any documents necessary to perfect our withdrawal. We will be entitled to be paid for all services rendered and costs or expenses incurred on your behalf through the date of withdrawal. If permission for withdrawal is required by a court or arbitration panel, we will promptly request such permission, and you agree not to oppose our request.

### **Conclusion of Representation; Retention and Disposition of Documents**

Unless previously terminated, our representation of you in any matter will terminate on the date that we provide our last legal service to you in connection with that matter. At the conclusion of the matter, if you would like for us to return any of your records or property, please contact us promptly. Should you request return of any of your records or property, we reserve the right to assess reasonable fees and costs associated with any time spent or expenses incurred in fulfilling your requests. Our own records pertaining to the matter, and any records or property that you do not request be returned to you, will be retained by the firm for a reasonable time after termination of our engagement on the matter, consistent with our records retention program. At the conclusion of the relevant retention period, we will securely dispose of the applicable records and property in our possession pertaining to the closed matter.

### **Post-Engagement Matters**

You are engaging the firm to provide legal services in connection with a specific matter. After completion of the engagement, there may be changes in applicable laws or regulations, or new legislation

or court decision that could have an impact upon you, your future rights and liabilities, or the matter for which we are engaged hereunder. You understand and agree that you are not engaging us to monitor new legislation or court decision, or changes in laws and regulations that occur after we have completed the engagement described above, and you agree that we are not responsible for advising you of any such new legislation or court decisions, or changes in laws or regulations.

### **Your Right to Arbitrate**

If you disagree with the amount of our fee, please take up the question with your principal lawyer contact or with the Firm's managing partner. Typically, such disagreements are resolved to the satisfaction of both sides with little inconvenience or formality. In the event of a fee dispute which is not readily resolved, you have the right to request mediation and arbitration under supervision of the District Bars for the jurisdictions in which we practice or the State Bar, and we agree to participate fully in that process.

### **Tax Advice**

With regard to rendering tax advice to you, you should be aware that due to new rules issued by the U.S. Treasury Department, attorneys, as well as other tax advisors, cannot provide written tax advice on which a taxpayer can rely to avoid federal tax penalties unless the written tax advice is in the form of a formal opinion on all of the significant tax issues in the transaction and "due diligence" is performed in verifying facts and assumptions. Such an opinion would be quite expensive and therefore, unless requested by you and agreed by our firm, any written tax advice to you will not be in the form of a full written opinion. These rules were issued as part of a document known as Circular 230 and to be excluded from the formal tax opinion requirements we are required to include a "Circular 230 Notice" on each memo, letter or e-mail to you that includes tax advice informing you that the written advice cannot be relied upon to avoid federal tax penalties. The presence of the statement does not prohibit a client from relying on or acting on the advice. It simply means that the client may not avoid federal tax penalties based upon reliance on the advice. Federal tax penalties would not apply if the tax treatment discussed in the advice is sustained.

### **Questions**

If you have questions about any aspect of our arrangements or our statements please feel free to raise those questions. It is very important that we proceed on a clear and satisfactory basis in our work for you. We are open to the discussion of all of these matters and we encourage you to be comfortable in letting us know if you have any questions or concerns regarding these arrangements.

Thank you.

STATE OF NORTH CAROLINA

ALLEGHANY COUNTY  
ASHE COUNTY  
AVERY COUNTY  
WATAUGA COUNTY  
WILKES COUNTY

MUTUAL AID AGREEMENT BETWEEN ALLEGHANY COUNTY, ASHE COUNTY, AVERY COUNTY, WATAUGA COUNTY, AND WILKES COUNTY IN DEFENSE OF LITIGATION ARISING OUT OF CLAIMS AGAINST THE NEW RIVER SERVICE AUTHORITY

This Agreement is entered into by and between Alleghany County, Ashe County, Avery County, Watauga County, and Wilkes County pursuant to N.C. Gen. Stat. §160A-460, et seq., entitled “Interlocal Cooperation.” The parties hereto are bodies politic and political subdivisions of the State of North Carolina.

WHEREAS, Alleghany County, Ashe County, Avery County, Watauga County, and Wilkes County (hereinafter “the Counties” are adjacently located in northwestern North Carolina and were parties to an Interlocal Agreement for the provision of mental health services through a Joint-Agency called the New River Service Authority, d/b/a New River Behavioral Healthcare; and

WHEREAS, New River Service Authority has apparently incurred debts and obligations without the authorization or approval of the Counties, and is in the process of winding-up its affairs; and

WHEREAS, litigation has arisen wherein certain parties allege the Counties to be responsible for the debts and obligations of the New River Service Authority, a contention which the Counties deny; and

WHEREAS, it is necessary for the Counties to respond to and answer these allegations by and through counsel to represent their interests and the interests of their citizens in this matters; and

WHEREAS, the Counties agree that it is more efficient and a better use of the Counties resources to retain one law firm to represent their interests jointly and to defray the costs of litigation and other expenses in addressing these issues.

NOW THEREFORE, for and in consideration of the mutual covenants contained herein and in accordance with North Carolina law, it is agreed between the Counties as follows:

1. The Counties agree to retain Robert Orr, Esquire, and the law firm of Poyner and Spruill, in accordance with the engagement letter of Poyner and Spruill as provided to the Counties and direction from the respective Counties, for the purpose of representing their interests in matters of litigation and other issues which may arise relating to the New River Service Authority. Such fees and costs will be as set forth in the engagement letter prepared by Poyner and Spruill and shall be borne in equal pro-rata shares by the Counties to this agreement.
2. This agreement shall exist as long as the Counties are involved in any dispute or matter involving the New River Service Authority. However, any County may withdraw from this agreement at any time.
3. Each County shall be solely responsible for expenses incurred by use of its own staff, counselors, or independent contractors outside of this agreement.
4. There will be no real property required to carry out the terms of this Agreement and therefore any issues of joint ownership of real property and the statutory requirements to address such joint ownership are inapplicable.
5. This Agreement may only be amended by a separate written agreement approved by the Board of Commissioners and executed by the Chairman of the Board for each County which is a party to this agreement.
6. This Agreement may be terminated by the Counties, or any County may withdraw from this agreement for any reason. Provided, however, that all costs and expenses incurred up to the time of termination shall be equally shared.
7. Each County agrees to use its best efforts in responding to and defending claims brought against it related to the New River Service Authority. Each County shall keep the other Counties fully informed and share all information available or known to it regarding claims against them relating to the New River Service Authority. Each agrees to keep confidences arising from legal representation, their negotiations with each other or any other party, to the extent the same is allowed by law.
8. This Agreement may be executed in Counterparts by each of the appropriate County Board of Commissioners.

Approved in open session by the Alleghany County Board of Commissioners on the \_\_\_\_ day of \_\_\_\_\_, 2012.

By: Alleghany County

\_\_\_\_\_  
Ken Richardson, Chairman

Attest:

\_\_\_\_\_  
Clerk to the Alleghany County  
Board of Commissioners

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

\_\_\_\_\_  
Alleghany County Finance Officer

Approved in open session by the Ashe County Board of  
Commissioners on the \_\_\_\_ day of \_\_\_\_\_, 2012.

By: Ashe County

\_\_\_\_\_  
\_\_\_\_\_, Chairman

Attest:

\_\_\_\_\_  
Clerk to the Ashe County  
Board of Commissioners

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

\_\_\_\_\_  
Ashe County Finance Officer

Approved in open session by the Avery County Board of  
Commissioners on the \_\_\_\_ day of \_\_\_\_\_, 2012.

By: Avery County

\_\_\_\_\_  
\_\_\_\_\_, Chairman

Attest:

\_\_\_\_\_  
Clerk to the Avery County  
Board of Commissioners

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

\_\_\_\_\_  
Avery County Finance Officer

Approved in open session by the Wilkes County Board of Commissioners on the \_\_\_\_ day of \_\_\_\_\_, 2012.

By: Wilkes County

\_\_\_\_\_  
\_\_\_\_\_, Chairman

Attest:

\_\_\_\_\_  
Clerk to the Wilkes County Board of Commissioners

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

\_\_\_\_\_  
Wilkes County Finance Officer

Approved in open session by the Watauga County Board of Commissioners on the \_\_\_\_ day of \_\_\_\_\_, 2012.

By: Watauga County

\_\_\_\_\_  
\_\_\_\_\_, Chairman

Attest:

\_\_\_\_\_  
Clerk to the Watauga County Board of Commissioners

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

\_\_\_\_\_  
Watauga County Finance Officer

**AGENDA ITEM 7:**

**MISCELLANEOUS ADMINISTRATIVE MATTERS**

*A. Proposed ATM to be located in the Courthouse*

**MANAGER'S COMMENTS:**

Enclosed is an agreement with PCI Teleservices, Inc. to provide an ATM in the courthouse facility. Over nine (9) vendors were contacted with PCI providing the most favorable offer to the County. A majority of the vendors required the County to provide telephone service, electricity, and a minimum number of transactions. However, PCI required only electricity and provided a \$0.50 commission to the County as included in each \$3.00 transaction fee with no minimum transactions required.

Staff requests the Board approve the agreement with PCI contingent upon the County Attorney's review.





# WATAUGA COUNTY

## FINANCE OFFICE

---

814 West King St., Suite 216 - Boone, NC 28607 - Phone (828) 265-8007  
Fax (828) 265-8006

### MEMORANDUM

TO: MARGARET PIERCE

FROM: TAMMY ADAMS

SUBJ: ATM FOR COURTHOUSE

DATE: APRIL 9, 2012

I have contacted the following vendors for information regarding placement of an ATM in the Courthouse: Cardtronics, Diebold, PCI, Carolina ATM, SECU, Sunflower Group, High Country Vending, ATM Network and Select-A-Branch. The Watauga County Clerk of Courts office provided potential usage numbers based on current volume of payments and ATM requests. I also contacted various county courthouses for references and experiences with ATM providers.

Two companies declined to place an ATM at our location and most other responding companies required a guaranteed minimum number of transactions per month or fees would be incurred by the County or the machine removed. In addition, Watauga County would be required to provide a dedicated telephone/data line and power outlet for the machine with most companies. PCI did not require any minimum transactions and only required an electrical outlet for the unit. PCI will be responsible for placement, service, maintenance and providing telephone service to the ATM. PCI imposes a \$3.00 surcharge fee per transaction, in which Watauga County will be paid a commission of \$0.50 for each surcharge, with no minimum amount of transactions required. Yadkin County Courthouse has a PCI machine and has given a positive reference for them.

Based on these considerations, I recommend that we contract with PCI out of Pilot Mountain, NC.

## ATM SITE LOCATION AGREEMENT

(PLACEMENT)

This Agreement is made and entered into effective April 17, 2012 between PCI Teleservices, Inc. ("PCI"), and Watauga County ("Location").

1. **Equipment.** PCI owns an automated teller machine ("ATM") and owns or has the right to utilize all software needed for the operation of the ATM. Location agrees that PCI may install, operate and maintain one (1) standard-size ATM at the Watauga County Courthouse, located at 842 West King Street, Boone, NC. Location shall provide space for the ATM to allow customers to have reasonably unobstructed access to the ATM and to enable PCI to have reasonable access to the ATM for maintenance and servicing. Notwithstanding any other provision in the agreement, customers and PCI personnel and agents must comply with any and all security requirements imposed on them to access the ATM, including (by example only) the requirement that they pass through a metal detector in order to enter the Location, if necessary.
  
2. **Availability.** Location agrees that the ATM shall at all times remain available for use by Location's customers during Location's business hours for the term of this Agreement.
  
3. **Transaction Fees.** PCI shall pay Location for each cash withdrawal transaction made on the ATM as set forth below or in a schedule attached to this Agreement by the 25<sup>th</sup> day of the following month:  

\$ .50 per transaction in which there is a fee imposed
  
4. **Maintenance/Repair.** PCI will arrange for necessary servicing and repair of the ATM and will keep the ATM in good working repair and condition. In the event of any ATM failure, damage or other problem requiring repair, replacement, adjustment or maintenance, Location shall notify PCI or a person designated by PCI within twenty-four (24) hours of first becoming aware of such failure or problem. Location will not permit anyone, other than an authorized representative or designee of PCI, to perform any service or repair work on the ATM without PCI's prior written approval. PCI or its representatives may, during hours that the Location is open to the public or at any other time approved by Location, enter the Location for the purpose of inspecting, repairing, maintaining, or upgrading the ATM and observing its use. PCI will provide Location with reasonably advanced notice before entering the Location so that Location personnel or representatives can monitor the activities of PCI and its representatives.
  
5. **Inventory Requirements.** PCI shall keep amounts of cash in the ATM during the hours that the Location is open to the public in accordance with any regulatory requirements and industry standards and to the extent necessary to reasonably ensure that customers can withdraw cash as needed.
  
6. **Phone & Electrical Requirements.** PCI shall provide wireless dial tone, while the location shall provide an electrical outlet for power.
  
7. **Exclusivity.** Location shall not permit the removal of the ATM from the Location, nor allow placement of any other ATMs inside the Location site, nor use any other data processing service to process ATM transactions at the Location during the term of this Agreement, except as may be specifically approved by PCI in writing.
  
8. **Terms.** The initial term of this contract shall be for a period of three (3) years. Upon expiration of the initial term, this Agreement will automatically renew for up to two additional terms of three years each, on the same terms and conditions as provided herein, unless cancelled by either party upon written

notice to the other party at least (60) days before the then-current term's expiration. In no event shall this Agreement last for longer than nine (9) years.

9. **Termination; Notice.** Either party may terminate this Agreement, effective thirty (30) days after giving written notice of intent to terminate, upon the occurrence of a material breach provided that such breach continues for thirty (30) days after notice of such breach. All notices hereunder shall be in writing and shall be deemed given upon personal delivery or upon deposit in the United States mail, first class postage fully prepaid, return receipt requested, addressed to PCI and Location at their respective addresses as listed below. Any party may change its address for notice by notifying the other party of the new address in writing. Upon termination, PCI or its representatives may, during hours that the Location is open to the public or at any other time approved by Location, enter into the Location to remove the ATM and (if applicable) its contents. PCI will provide Location with reasonably advanced notice before entering the Location so that Location personnel or representatives can monitor the activities of PCI and its representatives. PCI will repair any damage caused to the Location or to Location's other property resulting from the removal, if damage was caused by PCI.

10. **Entire Agreement.** This Agreement constitutes the entire agreement of the parties with respect to the subject matter hereof. There are no other promises, representations, terms, conditions or obligations other than those contained herein. This Agreement supersedes all prior communication, representations or agreements, oral or written, between the parties and shall not be modified except in writing signed by both parties.

11. **Authority.** Each party to this Agreement represents and warrants to the other party that the execution and delivery of this Site Location Agreement and any related documents and the performance of the provisions hereof have been duly authorized by all necessary action (including corporate action, if applicable) by such party on its part, and that this Agreement has been duly and validly executed and delivered by it and is valid and legally binding, enforceable against it in accordance with its terms.

12. **Controlling Law.** This Agreement shall be construed, interpreted and enforced in accordance with the laws of the State of North Carolina. The jurisdiction and venue for any legal proceeding to interpret or enforce this Agreement shall be in Watauga County, North Carolina, unless the proceeding is filed in federal court, in which case it shall be filed in the federal district court for the Western District of North Carolina.

13. PCI will compensate Location for any and all damage to the Location or to Location's other property that results from this agreement or from PCI's ATM. PCI and its successors, agents, and assigns agree to defend, indemnify and hold harmless the Location (and its officials, employees, agents, assigns, representatives, insurers, and successors) from any and all liability, claims, demands, actions, or costs (including attorney's fees) for property damage, personal injury (including death), or any other harm that may arise from this Agreement or from PCI's ATM.

14. PCI cannot assign all or any part of this Agreement without written approval from Location.

15. Notwithstanding any other provision of this Agreement, Location shall have the full right, power, and privilege to take whatever actions it deems appropriate to ensure that Location operations and security are not disrupted by this agreement or by PCI's ATM. By example only and not for purposes of limitation, in order to protect Location operations or security, Location shall have the authority to have PCI relocate PCI's ATM to another location within the Location.

16. Watauga County has a no solicitation policy; therefore, prior approval from the Watauga County Board of Commissioners must be obtained before placing any third party advertising on the machine.

**PCI**

PCI Teleservices, Inc.

[Legal Name]

103 Foothill Drive

Pilot Mountain, NC 27041

[Address]

By: \_\_\_\_\_

Name/Title: Danny A. Poindexter, President

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

**LOCATION**

Watauga County Courthouse

[Legal Name]

814 West King Street, Suite 205

Boone, NC 28607

[Address]

By: \_\_\_\_\_

Name/Title: \_\_\_\_\_

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

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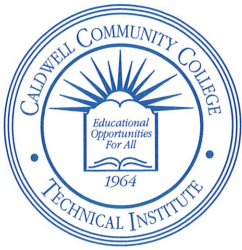
**AGENDA ITEM 7:**

**MISCELLANEOUS ADMINISTRATIVE MATTERS**

***B. Caldwell Community College & Technical Institute Joint Meeting Request***

**MANAGER'S COMMENTS:**

The Caldwell Community College and Technical Institute Board of Trustees has requested a joint meeting be scheduled for May 15, 2012, at 6:00 P.M. at the Watauga Instructional Facility on Hwy 105 Bypass, Room 112.



# Caldwell Community College and Technical Institute

Office of the President



March 6, 2012

Mr. Deron Geouque  
Watauga County Manager  
814 West King Street, Suite 205  
Boone, NC 28607

Dear Mr. Geouque:

The Trustees of Caldwell Community College and Technical Institute would like to schedule a joint meeting of the College Board of Trustees, the Watauga County Commissioners and the Watauga Board of Education on Tuesday, May 15, 2012 at 6:00 p.m. at the Watauga Instructional Facility on Hwy 105 By-pass Room 112. A meal will be provided.

For catering purposes, will you please check the date and time and let my assistant, Donna Church, know either by e-mail: [dchurch@cccti.edu](mailto:dchurch@cccti.edu) or phone: 828-726-2210, if Tuesday, May 15, 2012 at 6:00 p.m. will accommodate the Watauga County Commissioners' schedule and how many plan to be in attendance.

Sincerely,

A handwritten signature in black ink that reads "Kenneth A. Boham".

Kenneth A. Boham  
President

dlc

2855 Hickory Blvd., Hudson, NC 28638 • 828.726.2210  
Email: [kboham@cccti.edu](mailto:kboham@cccti.edu) • Fax: 828.726.2300 • [www.cccti.edu](http://www.cccti.edu)

*An Equal Opportunity Educator & Employer*

## **AGENDA ITEM 7:**

### **MISCELLANEOUS ADMINISTRATIVE MATTERS**

#### *C. Announcements*

#### **MANAGER'S COMMENTS:**

You have been invited to attend "Aarons After Hours" scheduled for April 19, 2012, from 7:30 P.M. to 8:30 P.M. for an opportunity to become acquainted with Aaron's Sales and Lease and to see first-hand the service they provide to the community.

The Project on Aging's Volunteer Recognition Breakfast is scheduled for Thursday, April 19, 2012, at the Dan'l Boone Inn from 8:30 A.M. to 10:30 A.M.

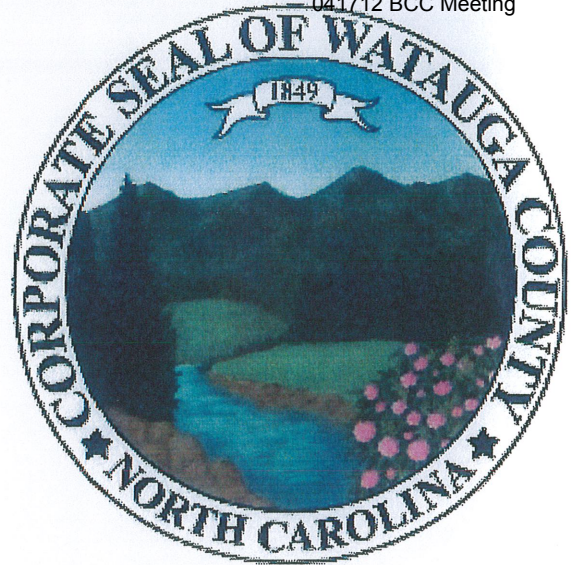
As a part of Earth Day celebrations, the NC Cooperative Extension along with the ASU Sustainability Council will be holding a "How to Grow Your Own Food" Program on April 19, 2012, from 12:00 P.M. to 1:00 P.M. at the Belk Library, Room 421, on the campus of ASU.

The Watauga County Tourism Development Authority invites the Board to join in the dedication of the County's new Civil War Marker at the Old Cove Creek High School on April 21, 2012, at 1:00 P.M. The TDA has also requested Chairman Miller and Commissioner Deal speak at the dedication.

A tour of the new Humane Society facility which was recently constructed through a partnership with the County is scheduled for April 27, 2012, from 12:00 noon until 1:30 P.M.

Appalachian State would like to invite the Commissioners, School Board members, and Town Council members, to campus on May 7, 2012, from 9:00 A.M. to 2:00 P.M. The purpose of the meeting would be to provide an update on major activities taking place on campus such as construction projects, strategic priorities, state funding and its impact on the campus, and major initiatives involving the local community. The day would consist of a tour, lunch, and meeting with University officials. They would like for this to become an annual event.





Watauga County Project on Aging  
132 Poplar Grove Connector, Suite A  
Boone, NC 28607  
828-265-8090

## WATAUGA COUNTY PROJECT ON AGING

# *VOLUNTEERS*



*Our Greatest  
Natural  
Resources*

You are invited to the  
**Project on Aging  
Volunteer Recognition  
Breakfast**

on

**Thursday, April 19, 2012**

at the

**Daniel Boone Inn Restaurant**

At the corner of

King and Hardin Street

floating between the hours of  
8:30 and 10:30 a.m.

Please call 265-8090 by  
April 13, 2012  
to reserve a seat.

---

**From:** Lisa.Doty  
**Sent:** Tuesday, April 10, 2012 9:50 AM  
**To:** all.employees  
**Subject:** "How to Grow Your Own Food, April 19, 12-1pm"  
**Attachments:** GrowFlyerPrint2.pdf

**"How to Grow Your Own Food on Either No Land, Little Land, or on a Budget"  
Thurs. April 19, 12-1pm, Belk Library, 421**

Warmer days and sunny weather bring thoughts of spring planting and Earth Day. In celebration, we invite the entire community to come learn the basics of "How to Grow Your Own Food" with the NC Cooperative Extension and the ASU Sustainability Council at a 'brown bag' program on Thursday, April 19 from 12 p.m. - 1 p.m. at the Belk Library, room 421.

There will be something for beginner gardeners to seasoned growers with an emphasis on preparing the soil, planting correctly, dealing with pest organically and harvesting. No registration is required. Light snacks will be provided and you are encouraged to bring a bag lunch.

For a complete listing of events in celebration of Earth Day, visit the Earth Month calendar at [sustain.appstate.edu/earthmonth2012](http://sustain.appstate.edu/earthmonth2012)

Parking on campus: [www.community.appstate.edu/where-to-park-on-campus](http://www.community.appstate.edu/where-to-park-on-campus)

Lisa Doty  
Watauga County Recycling Manager  
[lisa.doty@watgov.org](mailto:lisa.doty@watgov.org)  
828-265-4852

**LIGHT SNACKS PROVIDED • BROWN BAG LUNCH FRIENDLY**

041712 BCC Meeting



**HOW TO**

# **GROW YOUR OWN FOOD**

**ON EITHER NO LAND, LITTLE LAND, OR ON A BUDGET**

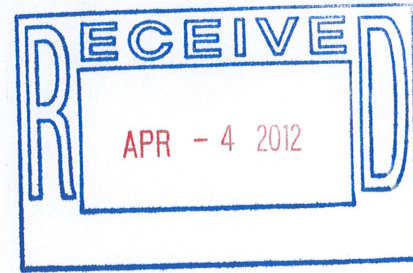


**FROM FIRST TIMER TO THE EXPERIENCED GARDENER YOU WILL LEARN TO:  
PREPARE THE SOIL • PLANT CORRECTLY • CONTROL PESTS ORGANICALLY • HARVEST!**



**THURS. APRIL 19 12-1PM  
BELK LIBRARY, 421**

Sponsored by  
ASU Sustainability  
Council 50



## **MEMO**

**Date:** April 4, 2012  
**To:** Watauga County Board of Commissioners  
**From:** Michelle Ligon, Watauga County TDA  
**Subject:** Dedication of new Civil War Marker, Cove Creek

---

Watauga County TDA would like to invite the Board of Commissioners to join us for the dedication of the county's new Civil War Marker at the Old Cove Creek High School, 1:00 p.m., April 21<sup>st</sup>. The marker was recently installed by the Civil War Trails organization on the lawn of the Old Cove Creek High School, which neighbors the historic location of Camp Mast.

We would like to invite Chairman Nathan Miller and Cove Creek Commissioner Jim Deal to speak on behalf of your Board.

Joining us will be local historian, and 2010 North Carolina Historian of the Year, Michael C. Hardy. Mr. Hardy wrote the official historical entry for the marker and provided the photograph of Capt. Harvey Bingham of Watauga's 11<sup>th</sup> Battalion North Carolina Home Guard. The text and photos tell the story of the Home Guard's struggle in February 1865 against Unionists led by Federal officer Capt. James Champion.

We also anticipate that a representative group of veterans from Cove Creek will conduct a military memorial service during the dedication.

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**AGENDA ITEM 8:**

**PUBLIC HEARINGS TO ALLOW CITIZEN COMMENT**

*A. New Private and Public Road Names*

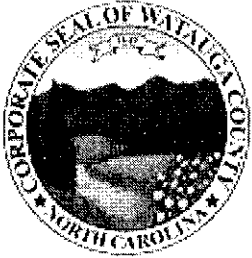
**MANAGER'S COMMENTS:**

A public hearing has been scheduled to allow citizen comment on the new private and public road names as listed in the attached memo. The public hearing is required by N.C.G.S. 153A-239.1. Board action is requested to approve the road names as submitted.

## Public Hearing Notice

The Watauga County Board of Commissioners will hold a public hearing on Tuesday, April 17, 2012, at 6:00 P.M. in the Commissioners' Boardroom located in the Watauga County Administration Building at 814 West King Street, Boone, North Carolina. The purpose of the public hearing is to allow citizen comment on the following new road names: names for new roads – Cambar Lane, North Camp Road, and Wallace Lane; and name changes for existing roads: from Greer Road to Arvil Greer Road, from Linda Lane to Blue Ridge Vista, from Meadow Brook Lane to Brook Lane, from Woods Road to Buckeye Ridge Road, from Cliff Drive to Crystal Cliff Lane, from Deer Run Road to Deerfield Estates Road, from Ridge Crest Drive to Dougherty Farm Lane, from Elk Ridge Road to Dragonfly Lane, from Community Lane to Ernie Jones Lane, from Forest Lane to Foggy Lane, from Penny Lane to George Blagg Lane, from Grandfather View to Grandfather Vista, from Armfield Roost Road to GreenWood Valley Drive, from Hickory Lane to Hickory Knob, from Curley Maple Valley Road to Jim Penley Road, from Ruby Lane to June Lane, from Little Creek Road to Little Creekside, from Westside Drive to North Westside Drive, from Reece Road to Old Reece Road, from Cottage Lane to Oscars Walk, from Skyland Drive to Skyland View Drive, from River Bend Road to Valle River Road, from Dawgwood Lane to Walnut Lane, from Private Drive to Windy Hollow Trail, and from Mistletoe Lane to Wolf Den Lane. Interested parties are encouraged to attend. For information or questions, please call (828) 265-8000.

Nathan A. Miller, Chairman  
Watauga County Board of Commissioners



# WATAUGA COUNTY

331 Queen Street, Suite A • Boone, North Carolina 28607

*Department of  
Planning & Inspections*

*Phone (828) 265-8043  
TTY 1-800-735-2962  
Voice 1-800-735-8262  
or 711  
FAX (828) 265-8080*

# Memorandum

**Date:** March 20, 2012

**To:** Deron Geouque

**From:** Joe Furman 

**RE:** Road Name Hearing

---

As needed the Board of Commissioners holds a public hearing pursuant to NC General Statute 153A-239.1 to officially adopt new private and public road names. I request that the April 3, 2012, Board agenda include scheduling a public hearing on April 17, 2012. A list of new road names is attached.

Attachments



## PUBLIC HEARING NOTICE

### **BEAVER DAM TWP**

Change Woods Road to Buckeye Ridge Road\*\*

### **BLOWING ROCK TWP**

Change Cottage Lane to Oscars Walk\*

Change Penny Lane to George Blagg Lane

Change Skyland Drive to Skyland View Drive

### **BLUE RIDGE TWP**

Change Deer Run Road to Deerfield Estates Road\*

Change Meadow Brook Lane to Brook Lane\*

Change Mistletoe Lane to Wolf Den Lane\*

### **BRUSHY FORK TWP**

Change Grandfather View to Grandfather Vista\*

Change Dawgwood Lane to Walnut Lane

Change Westside Drive to North Westside Drive

Change Greer Road to Arvil Greer Road\*\*

### **COVE CREEK TWP**

Cambar Lane

Change Woods Road to Buckeye Ridge Road\*\*

### **ELK TWP**

Change Hickory Lane to Hickory Knob\*

### **MEAT CAMP TWP**

Change Armfield Roost Road to GreenWood Valley Drive\*

Change Community Lane to Ernie Jones Lane\*

Change Curley Maple Valley Road to Jim Penley Road

Change Private Drive to Windy Hollow Trail

### **NEW RIVER TWP**

North Camp Road\*

Change Ridge Crest Drive to Dougherty Farm Lane\*

Change Ruby Lane to June Lane

Change Elk Ridge Road to Dragonfly Lane\*

Change Forest Lane to Foggy Lane\*

Change Linda Lane to Blue Ridge Vista

### **SHAWNEEHAW TWP**

Wallace Lane

Change Little Creek Road to Little Creekside\*

### **WATAUGA TWP**

Change Cliff Drive to Crystal Cliff Lane\*

Change Greer Road to Arvil Greer Road\*\*

Change Reece Road to Old Reece Road

Change River Bend Road to Valle River Road\*

\*Indicates roads named in a recorded subdivision

\*\*Indicates road is in more than one township

**AGENDA ITEM 8:**

**PUBLIC HEARINGS TO ALLOW CITIZEN COMMENT**

*B. Proposed Community Development Block Grant (CDBG) Small Cities Catalyst Program Application on Behalf of Hospitality House (2<sup>nd</sup> Public Hearing as Required)*

**MANAGER'S COMMENTS:**

Per Board direction, a second public hearing has been set to seek public comment on the County's potential application for \$250,000 through the Community Development Block Grant Small Cities Catalyst Program on behalf of the Hospitality House with Joe Furman providing assistance. There was no public comment at the first public hearing which was held on March 20, 2012.

Board direction is requested to submit the application for Community Development Block Grant (CDBG) Small Cities Catalyst Program on behalf of the Hospitality House as presented.

**PUBLIC HEARING NOTICE**

The Watauga County Board of Commissioners is considering submission of an application for Community Development Block Grant funds to the NC Department of Commerce – Community Investment and Assistance. It is proposed that funds from the “NC Catalyst Program” be sought on behalf of Hospitality House to purchase an existing structure to be used as permanent supportive housing for the homeless, and to make needed drainage improvements to the property. The anticipated total cost is \$240,000; it is proposed that \$220,000 CDBG funds be requested. The hearing is scheduled for 6:00 p.m. Tuesday, April 17, 2012, in the Commissioners Board Room, 814 West King Street, Boone, NC. Citizen comments regarding the proposal are encouraged.

Nathan A. Miller, Chairman  
Watauga County Board of Commissioners

## APPLICATION SUMMARY for NC CATALYST PROGRAM

<b>1. Applicant's name</b>		Watauga County	<b>2. Date</b>	
a. Mailing Address		814 West King Street, Suite 205	<input checked="" type="checkbox"/> Original, dated:  <input type="checkbox"/> Amendment, dated:	
b. City and Zip Code		Boone, NC 28607		
c. County		Watauga		
d. Contact Person		Joe Furman		
e. Telephone Number		(828) 265-8043		
f. Fax Number		(828) 265-8080		
g. e-mail address		joe.furman@watgov.org		
h. DUNS Number		089988216		
<b>3. Preparer's Name</b>			c. Telephone Number	
a. Firm's Name				
b. Mailing Address				
c. City and Zip Code			f. Fax Number	
d. e-mail address				
<b>4. Developer's Name</b>		Hospitality House of Boone	c. Telephone Number	
a. Mailing Address		P.O. Box 309	(828) 264-1237	
b. City and Zip Code		Boone, NC 28607	a. Fax Number	
<b>5. Development Name</b>		Rock Haven 2		
a. Street Address		241 Green Briar Road		
b. City and Zip Code		Boone, NC 28607		
c. Ownership Entity		Hospitality House of Boone (upon purchase)		
<b>6. Program Category</b>	<b>7. Project Number</b>	<b>8. Project Name</b>	<b>9. CDBG Funds Requested</b>	
C	1	Rock Haven 2	\$219,650	
<b>10. Certification by the Chief Elected Official</b>				
a) I certify that to the best of my knowledge and belief: <ol style="list-style-type: none"> <li>(1) Data in this application is true and correct,</li> <li>(2) Opportunities have been provided for citizen participation and access to information concerning the proposed activities,</li> <li>(3) This document has been duly authorized by the governing body of the applicant and the applicant will comply with the attached certifications and state standards if the assistance is approved.</li> </ol> b) I acknowledge that, if funded, this application is part of the Grant Agreement.				
c) Typed Name of Chief Elected Official		➤		
d) Typed Title		➤		
e) Signature		➤		
f) Typed Date		➤		
<b>For CI Use Only</b>		Date Received:	Application Number:	

## NC Catalyst Program Category Selection Form

Housing Development Activity: Single Family \_\_\_\_\_ Multi-Family \_\_\_\_\_

Infrastructure: Activities include: Water, Sewer, Streets, Curb and Gutter, Drainage, Sidewalks (Only as a support of Housing Development Projects)

**Note:** *Matching funds are not required. However, if the project costs exceed the maximum grant amount of \$500,000, the local unit of government will need to include evidence of commitment of other funds. This amount will be considered as part of the leverage component.*

Housing: Activities: Rehabilitation, Acquisition, Relocation, Clearance, Substantial Rehabilitation, Reconstruction, Temporary Relocation, and Emergency Repairs.

Special Projects Public Facilities: Activities include: Shelters for Victims of Domestic Violence or Homeless, Transitional Housing Facilities/Housing for the Homeless, Senior Centers, Community/Neighborhood/Recreation

**Note:** *Public Facilities are required to be owned by the local unit of government. However, Non-profits may also own and operate the building provided that the building is open to the general public. Also, the local government will need to have lien on the property and Legally Binding Commitment which includes the applicable contract provisions.*

<b>PROJECT BUDGET – Catalyst Program</b>		<b>Name of Applicant:</b> Watauga County	
1. CDBG Grant Amount Requested			\$219,650
2. Other Funds			\$20,000
3. Total Project Resources			\$239,650
<b>4. Activity</b>	<b>5. CDBG Costs</b>	<b>6. Other Costs</b>	<b>7. Total Project Costs</b>
a. Acquisition			
b. Disposition			
c. Public facilities and improvements			
(1) Senior and handicapped centers			
(2) Parks, playgrounds and recreation facilities			
(3) Neighborhood facilities			
(4) Solid waste disposal facilities			
(5) Fire protection and equipment			
(6) Parking facilities			
(7) Public utilities other than water and sewer			
(8) [Reserved]			
(9) Street improvements			
(10) Flood and drainage improvements			
(11) Pedestrian improvements			
(12) Other public facilities	216,650	20,000	236,650
(13) Public sewer improvements			
(14) Public water improvements			
d. Clearance activities			
e. Public services			
f. Relocation assistance			
g. Construction, rehabilitation and preservation activities			
(1) Construction or rehabilitation of commercial and industrial buildings			
(2) Rehabilitation of privately owned dwellings			
(3) Rehabilitation of publicly owned dwellings			
(4) Code enforcement			
(5) Historic preservation			
h. Development financing			
(1) Working capital			
(2) Machinery and equipment			
i. Removal of architectural barriers			
j. Other activities			
k. <b>SUBTOTAL</b>	<b>\$216,650</b>	<b>\$20,000</b>	<b>\$236,650</b>
l. Planning (not to exceed \$7,000)			
m. Administration (10% of grant minus planning)	3,000		3,000
n. <b>TOTAL</b>	<b>\$219,650</b>	<b>\$20,000</b>	<b>\$239,650</b>

**G. HD Benefit: Low and Moderate Income**

Name of Applicant: Watauga County

1. Activity	Total No. of Persons Benefiting 2.	No. of Low Income Persons Benefiting 3.	% of Low Income Persons Benefiting 4.	No. of Moderate Income Persons Benefiting 5.	% of Moderate Income Persons Benefiting 6.	CDBG Cost 7.	CDBG Funds to Benefit Low Income Persons 8.	CDBG Funds to Benefit Moderate Income Persons 9.	CDBG Funds to Benefit Low & Moderate Income Persons 10.
a. Acquisition									
b. Disposition									
c. Public facilities and improvements									
(1) Senior and handicapped centers									
(2) Parks, playgrounds and recreation facilities									
(3) Neighborhood facilities									
(4) Solid waste disposal facilities									
(5) Fire protection and equipment									
(6) Parking facilities									
(7) Public utilities other than water and sewer									
(8) [Reserved]									
(9) Street improvements									
(10) Flood and drainage improvements									
(11) Pedestrian improvements									
(12) Other public facilities	6	6	100			216,650	216,650		216,650
(13) Public sewer improvements									
(14) Public water improvements									
d. Clearance activities									

04/17/2 BCC Meeting

**HD Benefit: Low and Moderate Income** Page 2

Name of Applicant: Watauga County

1. Activity	Total No. of Persons Benefiting 2.	No. of Low Income Persons Benefiting 3.	% of Low Income Persons Benefiting 4.	No. of Moderate Income Persons Benefiting 5.	% of Moderate Income Persons Benefiting 6.	CDBG Cost 7.	CDBG Funds to Benefit Low Income Persons 8.	CDBG Funds to Benefit Moderate Income Persons 9.	CDBG Funds to Benefit Low & Moderate Income Persons 10.
e. Public services									
f. Relocation assistance									
g. Construction, rehabilitation and preservation activities									
(1) Construction or rehabilitation of commercial & industrial buildings									
(2) Rehabilitation of privately owned dwellings									
(3) Rehabilitation of publicly owned dwellings									
(4) Code enforcement									
(5) Historic preservation									
h. Development financing									
(1) Working capital									
(2) Machinery and equipment									
i. Removal of architectural barriers									
j. Other activities									
k. TOTAL						\$216,650	\$216,650	\$	\$216,650

PROJECT INDIVIDUAL BENEFIT  
Column 10, Row k (216,650)

$\frac{\text{Column 10, Row k (216,650)}}{\text{Column 7, Row k (216,650)}} \times 100 = 100\%$

Column 7, Row k (216,650)

NOTE: Benefit will be to six (6) persons at a time (1 family)

04/17/12 BCC Meeting



## CDBG NC Catalyst Project

**Project Title:** Rock Haven 2

### **Proposed Scope:**

Hospitality House of the Boone Area, Inc., a non-profit agency serving the homeless for 27 years has an opportunity to purchase a 3 bedroom house that is located next to the Rock Haven Permanent Supportive Housing Program, a HUD program that serves homeless individuals with a disabling condition, which the agency operates. With the recent adoption of the HEARTH Act, HUD permanent supportive housing programs can now serve homeless families. The agency intends to expand the Rock Haven Permanent Supportive Housing Program to include this house, which would be used to house a homeless family at or below 30% AMI under the Permanent Supportive Housing Program. Hospitality House is serving a large number of families including families with 3 or more children and the current shelter options include no permanent housing option for a family with 3 or more children. Due to the proximity to the Rock Haven facility, the agency will be able to maintain good oversight of this property.

The house built in 1941 will be completely renovated with all new appliances, a high efficiency heat pump and all electrical and plumbing updated to code. In addition, site work to address storm water runoff will be completed. This house and Rock Haven share a well and the septic system for the house is on the Rock Haven property. The agency is prepared to acquire this house as soon as funding is available and will immediately house a homeless family.

### **Livability Principles and How Done**

The acquisition of this house will

- **Promote equitable, affordable housing** for a homeless family. This house will provide an energy efficient housing option to a low income, homeless family. In addition, the location of this house is close to town with access to multiple services and within walking distance to public transportation and the greenway system.
- **Enhance economic competitiveness** through the availability of supportive services provided by Hospitality House including case management and access to educational and employment opportunities.
- **Coordinate and leverage investment** through providing a housing option directed to families under the definition of permanent supportive housing in the recently adopted HUD HEARTH Act, utilizing funds through a HUD Permanent Supportive Housing grant for operation expenses, partnering with Northwestern Regional Housing Authority with rental subsidy and partnering with the North Carolina Housing Finance Agency towards the acquisition of this property.
- **Value communities and neighborhoods** through the acquisition of a foreclosed property in need of rehabilitation, an investment in the health and safety of an existing neighborhood community.

### **Partners:**

1. Hospitality House of the Boone Area, Inc. will provide \$20,000 from their capital reserve account towards the purchase of the property. (Letter Attached)
2. Hospitality House of the Boone Area, Inc. will provide matching funds of at least \$800 annually to the HUD SHP grant which will be used to towards supportive services and operation expenses for this project (20% match for supportive services and 25% match for operation expenses).
3. HUD Supportive Housing Program Permanent Supportive Housing Grant: \$31,928 annual renewal grant to support operations and supportive services for the Rock Haven Permanent Supportive Housing Program of which at least \$2,772 will be used for supportive services and operation expenses for this project.

4. Northwestern Regional Housing Authority: rental subsidy of \$950 per month or \$11,400 annually for this 3 bedroom house which will help cover operation expenses. (Letter Attached)
5. Local Government: Hospitality House receives funding annually from both Watauga County and the Town of Boone towards programs and services. Last year Hospitality House received \$17,000 from local government allocations; however this amount varies annually.
6. Kate B. Reynolds Grant: funds a part-time licensed mental health and substance abuse counselor at Hospitality House who will be available to provide needed services.
7. The Community Care Clinic: the community's free health care clinic for the uninsured provides needed health care to qualified Hospitality House residents.
8. Appalcart: a fare free Public Transportation provider within .5 miles of this property.
9. Caldwell Community College satellite campus is within 1 mile of this property and offers adult basic and continuing education classes preparing individuals for re-entry into the work force.

### **Expected Results and Outcomes**

Acquisition of this house will allow the agency to place a homeless family into permanent housing a goal of the HEARTH Act and will further the goal of the Federal Strategic Plan to Prevent and End Homelessness. The agency will place an eligible homeless family, living at or below 30% AMI into this permanent housing unit and then assist them in accessing needed services and resources to gain independence and self-sufficiency. Program participants will develop individual goals towards economic self-sufficiency and housing stability. Case management, mental health/substance abuse counseling and a variety of life skill classes including educational and employment will be available. Once households develop a stable resource base the family will be transitioned into independent stable housing in the community.

Acquisition of this house will address a serious affordable housing shortage for homeless families in Watauga county while assisting these households in becoming self-sufficient and eventually transitioning to independent stable housing in the community.

### **Project Administration**

Watauga County has been the recipient of CDBG funds for various projects beginning in 1983, including Community Revitalization, Urgent Needs, Economic Development, and Scattered Site Housing. Each of those projects was closed out successfully with no audit findings. Joe Furman, Planning & Inspections Director, has over 30 years of experience with CDBG, and has been involved with each of Watauga County's CDBG projects, either as the administrator or as the County's contact with the COG administrator. Most recently closed out was 08-C-1881, Hospitality House; Mr. Furman was the administrator, and worked closely with Ms. Lynne Mason, the Hospitality House Director. That working relationship will continue should this current application be funded. The project partners will be Watauga County and the Hospitality House of Boone.



215 Boone Heights Dr., Ste. 107  
 Boone, NC 28607  
 828.262.9807  
 www.valorengineering.com

April 5, 2012

Mrs. Lynne Mason  
 Hospitality House of the Boone Area, Inc.  
 P.O. Box 309  
 Boone, NC 28607

**Hospitality House of the Boone Area, Inc. - 181 Green Briar Road Stormwater Design and Construction Estimate**

Mrs. Mason:

Please let this letter serve as a brief estimate for the design and construction for the stormwater improvements to the property located at 181 Green Briar Road in Boone, NC. Valor Engineering made a site visit on April 4, 2012 and observed substantial erosion caused by unmanaged stormwater runoff. It appears as though the majority of this runoff is entering the adjacent property from Green Briar Road and draining onto the subject property. The following is an estimate for the corrective action design and construction:

Item	Quantity	*Cost
Design	N/A	\$ 3,500.00
18" HDPE Pipe	200 L.F.	\$ 6,600.00
**Junction Box - NCDOT Std. 840.34	1	\$ 3,500.00
**Grate Inlet - NCDOT Std. 840.18	4	\$18,000.00
Precast Headwall	1	\$ 750.00
Grading & Stone Replacement (Driveway)	N/A	\$ 4,800.00
Erosion Control	N/A	\$ 2,500.00
<b>TOTAL:</b>		<b>\$39,650.00</b>

\*Cost includes materials and installation

\*\* Box Depth for all structures assumed to be 5'

If you have any questions about this estimate or would like any further information, please feel free to contact us at your convenience.

Sincerely,

**Valor Engineering, PLLC**

By:

  
 (Signature)

Name: Jason Gaston, P.E.

Title: Principal

Date: April 5, 2012

## **Community Development Plan**

### Community Development/Housing Needs

According to the most recent American Community Survey about thirteen percent (13%) of the homes in Watauga County were built before 1960 and nearly five percent (5%) of the county's homes were built before 1940. Many of these particular homes are in need of extensive repair so they may be in compliance with minimum housing standards established by the state. Low and moderate-income persons occupy a large number of these homes. In addition, winters in the mountains of Watauga County are usually harsh, and there is a great need for increased funding of weatherization programs and utility bill assistance.

Having an expensive housing market, due to the seasonal housing and college student demands, coupled with a modest median household income – roughly eighty-nine percent (89%) of the state median - makes the lack of affordable housing a substantial concern for Watauga County. The shortage adds to the county's housing problems. As a result of the resort-area surroundings much of new construction has been upscale seasonal homes, which further proliferates the chasm dividing the high-end/seasonal real estate and the very low sub-standard housing. Twenty-eight percent (28%) of the County's housing units are classified for seasonal, recreational, or occasional use. Other telling income figures are as follows. Watauga County's poverty rate in 2010 was 24.8% compared to 17.4% for NC; the 2010 average weekly wage in the county was \$608 compared to \$791 for NC; according to the NC Housing Finance Agency (from American Community Survey) 41.4% of the households in the county had "housing problems" as defined by HUD.

Additionally, Watauga County bears a rental property deficit for the non- college student. Very few apartment complexes exist in the county providing housing for families. Because of the large Appalachian State University student population rent costs in general are inflated. On the other hand, some private landlords renting houses are low-income themselves and unable to keep their rental property in good repair or the nicer rental units/homes are overly priced. The home ownership rate in Watauga County is 56% as compared to 68% for NC.

Watauga County has limited public water so depends largely upon wells for potable water. This can be an expensive proposition for a residential application, as the cost of drilling a well continues to increase, and is influenced by the depth of the well, which is unknown at the outset of drilling. Thirty Seven percent (37%) of the county's residence depend upon well water; that represents virtually all of the rural population. In addition, the County's steep slopes increase the likelihood that run-off from development or agricultural activities could cause water contamination.

Wastewater problems are of great concern for Watauga County, as protection of the County's watersheds become a priority with the continual population growth. Public

Carolina region. The Hospitality House, homeless shelter in Watauga County, serves a seven county region that has a total inventory of 189 beds for the homeless; 62 of those beds are in the Hospitality House. On a given night (“point-in-time count”) over 1000 people are homeless in the region. The new 62 bed Hospitality House homeless shelter was opened in early 2011; construction was funded partially with CDBG funds (08-C-1881). The Hospitality House also operates the 8-unit Rock Haven permanent supportive housing facility.

### Proposed CDBG Project

Hospitality House has an opportunity to purchase a 3 bedroom house that is located adjacent to the Rock Haven Permanent Supportive Housing Program, a HUD program that serves homeless individuals with a disabling condition, which the agency operates. With the recent adoption of the HEARTH Act, HUD permanent supportive housing programs can now serve homeless families. The agency intends to expand the Rock Haven Permanent Supportive Housing Program to include this house, which would be used to house a homeless family at or below 30% AMI under the Permanent Supportive Housing Program. CDBG Catalyst Funds are specifically available for purchase of homeless facilities.

The agency will place an eligible homeless family, at or below 30% AMI into permanent housing and then assist them in accessing needed services and resources to gain independence and self-sufficiency. Program participants will develop individual goals towards economic self-sufficiency and housing stability. Case management, mental health/substance abuse counseling and a variety of life skill classes including educational and employment will be available. Once households develop a stable resource base the family will be transitioned into independent stable housing in the community.

Acquisition of this house will address a serious affordable housing shortage for homeless families while assisting these households in becoming self-sufficient and to transition to stable housing in the community.

### Area Development Plans

There are currently no plans for development within a half mile radius of the project site. Minor road improvements are possible in the future.

#### Sources:

- US Census Bureau, 2010 Census
- American Community Survey 3 and 5 year estimates
- US Census Bureau, Small Area Income and Poverty Estimates, 2010
- NC Housing Finance Agency
- National Low Income Housing Coalition: *Out of Reach* report, 2010
- Quarterly Census of Employment and Wages, 2010
- NC Justice Center
- NC Point-in-Time Count, Unsheltered Homeless Count

## Federal Requirements

<b>A. Certifications</b>
--------------------------

The applicant hereby assures and certifies that:

- a) It will comply with all applicable federal and state laws, regulations, rules and Executive Orders.
- b) It possesses legal authority to apply for the grant, and to execute the proposed program.
- c) Its governing body has duly adopted or passed as an official act a resolution, motion or similar action authorizing the filing of the application, including all understandings and assurances contained therein, and directing and authorizing the identified as the official representative of the applicant to act in connection with the application and to provide such additional information as may be required.
- d) It is following a detailed, written citizen participation plan which will provide opportunities for citizen participation, hearings, and access to information with respect to its community development program that are comparable to those required of grantees under Section 104(a) of the Act and in accordance with Rule .1002 of the North Carolina Community Development Block Grant Administrative Rules.
- e) Its chief elected official or other officer of the applicant if assistance is approved by Commerce:
  - 1) Consents to assume the status of the "responsible Federal Official" as that term is used in Section 102 of the National Environmental Policy Act (NEPA), Section 104(f) of Title 1 of the Housing and Community Development Act of 1974, as amended, and other provisions of Federal law, as specified in 24 CFR 58.5 which further the purposes of NEPA.
  - 2) Is authorized and consents on behalf of the applicant and himself to accept the jurisdiction of the Federal courts for the purpose of enforcement of his responsibilities as such an official.
  - 3) Consents to review and comment on all Environmental Impact Statements prepared for Federal projects which may have an impact on the applicant's/recipient's community development program.

- 4) Consents to perform all coordination functions required under 24 CFR Part 58 and 40 CFR Parts 1500-1508.
- f) The Community Development Program has been developed so as to give maximum feasible priority to activities which will benefit low and moderate income families or aid in the prevention or elimination of slums and blight. The requirement for this certification will not preclude Commerce from approving an application where the applicant certifies, and Commerce determines, that all or part of the Community Development Program activities are designed to meet other community development needs having particular urgency as specifically explained in the application in accordance with Section .0800 of 4 NCAC 19L of the North Carolina Administrative Code.
- g) Its program will be conducted and administered in conformity with Public Law 88-352 and Public Law 90-284, and that it will affirmatively further fair housing.
- h) It will comply with all provisions of 4 NCAC 19L of the North Carolina Administrative Code, entitled North Carolina Community Development Block Grant Program.
- i) It will give Commerce, HUD and the Comptroller General through any authorized representative access to and the right to examine all records, books, papers or documents related to the grant.
- j) It will establish safeguards to prohibit employees from using positions for a purpose that is or gives the appearance of being motivated by a desire for private gain for themselves or others, particularly those with whom they have family, business, or other ties.
- k) It will follow a residential antidisplacement and relocation assistance plan that is in accordance with the provisions of Section 104(d) and all other provisions of the Act.
- l) It will not attempt to recover any capital costs of public improvements assisted in whole or part under Section 106 of the Act or with amounts resulting from a guarantee under Section 108 of the Act by assessing any amount against properties owned and occupied by persons of low and moderate income, including any fee charged to assessment made as a condition of obtaining access to such public improvements, unless (i) funds received under Section 106 are used to pay the proportion of such fee or assessment that relates to the capital costs of such public improvements that are financed from revenue sources other than under this title; or (ii) for purposes of assessing any amount against properties owned and occupied by persons of low and moderate income who are not persons of very low income, the grantee certifies to the Secretary or such State, as the case may be, that it lacks sufficient funds received under Section 106 to comply with requirements of clause (i).

- m) It has or will develop a plan that identifies community development and housing needs, including the needs of low and moderate-income persons, and the activities to be undertaken to meet such needs.
- n) Its notification, inspection, testing and abatement procedures concerning lead-based paint will comply with 24 CFR Part 35.
- o) When issuing statements, press releases, request for proposals, bid solicitation and other documents describing the above-mentioned program such as the environmental review, public hearings, fair housing notices, etc., it shall clearly state:
  - 1) the percentage of the total cost of the project which will be financed with CDBG money, and
  - 2) the dollar amount of CDBG funds for the project.
- p) 1) No Federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement.
- 2) If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan, or cooperative agreement, the undersigned shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.
- 3) The undersigned shall require that the language of this certification be included in the award documents for all subawards at all tiers (including subcontracts, subgrants, and contracts under grant, loans, and cooperative agreements) and that all subrecipients shall certify and disclose accordingly.
- q) It has adopted and will enforce a policy prohibiting the use of excessive force by law enforcement agencies within its jurisdiction against any individuals engaged in nonviolent civil rights demonstrations and has adopted and is enforcing a policy of enforcing applicable state and local laws against physically barring entrance to or exit from a facility or location



which is the subject of such nonviolent civil rights demonstration within its jurisdiction in accordance with Section 519 of Public Law 101-144, (the 1990 HUD Appropriations Act).

- r) All project areas are either not in a floodplain, or if the project area is in a floodplain, the applicant participates in the flood insurance program. All properties assisted in the project will be covered for flood insurance prior to beginning construction, and all public facilities will be constructed to comply with applicable floodplain regulations.

\_\_\_\_\_  
Date

\_\_\_\_\_  
Signature of Authorized Official

### Disclosure Report

1. Applicant/Recipient Name, Address, and Phone:  
 Watauga County  
 814 West King Street, Suite 205  
 Boone, NC 28607  
 (828) 265-8000
2. Check one:  Initial Report  
 Update Report
3. Social Security Number or Employer ID Number:  
 56-6001816
4. Project Name and Location:  
 Rock Haven 2  
 241 Green Briar Road  
 Boone, NC 28607
5. Total Amount requested/received (including anticipated program income): \$219,650
6. Other government assistance. Check one:  
 No other government assistance is, or is expected to be, provided for this project;  
 All other government assistance provided for this project is listed on the attached page(s).
7. Interested Parties. Check one:  
 No parties have a reportable financial interest in this project. Interested parties include developers, contractors, consultants, individuals, entities including units of government with a financial interest greater than \$50,000 or 10 percent of the assistance (whichever is lower; being a party to a contract procured under Federal procurement regulations at 24 CFR Part 85 does not, by itself, constitute a reportable financial interest).  
 All parties with a reportable financial interest are listed on the attached page(s).
8. All expected sources of funds available or expected to be available for the project or activity and all reportable uses of funds are included in the application for funds and on the following forms (check all that apply):  
 CDBG PROJECT BUDGET, PART A  
 CDBG LOCAL COMMITMENT FORM  
 Other attachment(s). Describe: \_\_\_\_\_

## Disclosure Report

### Attachments

9. Other Government Assistance (Attachment)

(Note: Disclosures must be complete and accurate, but need to be made only once for this report. If assistance is reported in the Sources and Uses disclosure section, then it need not also be reported here. If there is assistance reportable here, but reported only in the Sources and Uses disclosure, check here):

\_\_\_\_\_ Assistance is disclosed in Sources and Uses  
Attachments

<u>Agency Name and Address</u>	<u>Program and Type of Assistance</u>	<u>Amount Requested/Received</u>
--------------------------------	-------------------------------------------	--------------------------------------

10. Interested Parties (attachment)

<u>Name and Address</u>	<u>Type of Participation</u>	<u>Interest (\$ and %)</u>
-------------------------	------------------------------	----------------------------

## State CDBG Program

### A. Regulations

**1. Citizen Participation**

If funded, grantee will have documentation on file of compliance with citizen participation requirements in the application process 4 NCAC 19L.1002(b): publisher's affidavits of notices for and minutes signed by the town or county clerk of the two required public hearings.

**2. Administration of Project**

If funded, grantee will meet minimal levels of supervision in implementing the project as follows:

- a. Administrators of the project will give at least quarterly written status reports to the elected board.
- b. At least two persons from the local government will review invoices and requests for payment.
- c. The local government manager reviews and signs off on all project reports.
- d. All project files will be maintained at the local government offices and made available to citizens during regular business hours.

**3. Audits/Compliance**

CDBG grantees expending \$25,000 or more in a fiscal year are **required** to have funds audited for the CDBG program. CDBG funds can be used to pay for the CDBG portion of the audit provided the grantee has expended \$500,000 or more in the fiscal year in total federal awards (CDBG and other federal funds). If the grantee has expended less than \$500,000 in total federal awards, the grantee may budget local funds in the administrative line item in the CDBG application to pay for the CDBG portion of the audit and claim the local administrative funds as local commitment.

**4. Housing(When using CDBG funds for housing activities.)**

If funded, grantee will adhere to the following:

Comply with the new Lead-Based Paint regulations 24 CFR Part 35, the Lead-Based Paint Poisoning Prevention Act and the "Lead-Based Paint Hazard Reduction Guidelines for North Carolina Small Cities Community Development Block Grant Recipients" published by Division of Community Assistance.

**5. Program Income**

If the local government makes a loan to the developer, a plan for reuse of funds will be developed subject to DCA approval. Also, please note number 3 of these regulations.

**6. Legally Binding Commitment (LBC)**

The local government will develop and execute a LBC with the non-profit or for profit developer subject to Division of Community Assistance requirements.

**The applicant hereby assures and certifies that by his/her signature, its duly authorized official has read and understands the State CDBG Program Standards and, if funded, will adhere to all standards applicable to the funded project.**

\_\_\_\_\_  
(Date)

\_\_\_\_\_  
Signature of Authorized Official

\_\_\_\_\_  
(Title)

**B. Disclosure of Civil Rights Complaints/Lawsuits**

The City/County of \_\_\_\_\_ hereby assures and certifies that there are no open, unresolved or pending Civil Rights Lawsuits against the (City/County) government applying for Housing Development funds.

\_\_\_\_\_  
Signature of CEO

\_\_\_\_\_  
Title

\_\_\_\_\_  
Date

<b>C. CERTIFICATIONS REGARDING DEBARMENT, SUSPENSION AND OTHER RESPONSIBILITY MATTERS</b>
-------------------------------------------------------------------------------------------

Applicants should refer to the regulations cited below. Applicants should also review the instructions for certification included in the regulations before completing this form, signature on this form provides for compliance with certification requirements implementing Federal Executive Order 12549 and guidance issued in the *Federal Register*, Volume 70, No. 168, pages 51863 through 51880 for "Government wide Debarment and Suspension (Nonprocurement)." The certification shall be treated as a material representation of fact upon which reliance will be placed when the Department of Commerce determines to award the covered transaction, grant or cooperative agreement.

**1. DEBARMENT, SUSPENSION AND OTHER RESPONSIBILITY MATTERS**

As required by Executive Order 12549, Debarment and Suspension, for prospective participants in primary covered transactions:

- (1) The prospective primary participant certifies to the best of its knowledge and belief, that it and its principals:
  - (a) Are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from covered transactions by a Federal department or agency;
  - (b) Have not within a three-year period preceding this proposal been convicted of or had a civil judgment rendered against them for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (Federal, State or local) transaction or contract under a public transaction; violation of Federal or State antitrust statutes or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen property;
  - (c) Are not presently indicted for or otherwise criminally or civilly charged by a governmental entity (Federal, State or local) with commission of any of the offenses enumerated in paragraph (1)(b) of this certification; and
  - (d) Have not within a three-year period preceding this application/proposal had one or more public transactions (Federal, State, or local) terminated for cause or default.
- (1) Where the prospective primary participant is unable to certify to any of the statements in this certification, such prospective participant shall attach an explanation to this proposal.

As the duly authorized representative of the applicant, I hereby certify that the applicant will comply with the above applicable certification(s).

<b>NAME OF APPLICANT/GRANTEE</b>  Watauga County	<b>GRANT NUMBER AND PROJECT NAME</b>  C-1 Rock Haven 2
<b>PRINTED NAME AND TITLE OF AUTHORIZED REPRESENTATIVE</b>  Nathan A. Miller, Chairman	
<b>SIGNATURE</b>	<b>DATE</b>

**AFFIDAVIT OF PUBLICATION**

**NORTH CAROLINA-WATAUGA COUNTY**

Acct. Name:

WATAUGA CO PLANNING

Acct. # 105398

COST OF PUBLICATION

Total \$119.04

Before the undersigned, a Notary Public of said County and State, duly commissioned, qualified and authorized by the law to administer oaths, personally appeared:

*Aimee Hicks*

Who being first duly sworn, deposes and says: that he (she) is  
REPRESENTATIVE

of a newspaper known as THE WATAUGA DEMOCRAT, published and entered as second class mail in City of Boone, in said County and State; that he (she) is authorized to make this affidavit and sworn statement; that the notice of other legal advertisement, a true copy of which is attached hereto, was published in THE WATAUGA DEMOCRAT the following dates :

8" LEGAL AD

03/11/2012

**PUBLIC HEARING NOTICE**

The Watauga County Board of Commissioners is considering submission of an application for Community Development Block Grant funds to the NC Department of Commerce & #8211; Community Investment and Assistance. It is proposed that funds from the & #8220; NC Catalyst Program & #8221; be sought on behalf of Hospitality House to purchase an existing structure to be used as transitional housing for the homeless. The hearing is scheduled for 6:00 p.m. Tuesday, March 20, 2012 in the Commissioners Board Room, 814 West King Street, Boone, NC. Citizen comments regarding the proposal as well as feedback on overall housing, community and economic development needs are encouraged.

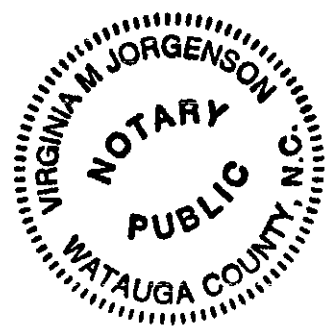
and that the said newspaper in which such notice, paper, document or legal advertisement was published was, at the time of each and every such publication, a newspaper meeting all of the requirements and qualifications of Section 1-597 of the General Statutes of North Carolina and was a qualified newspaper within the meaning of Section 1-597 of the General Statutes of North Carolina.

This 12th day of March, 2012

*Aimee F. Hicks*

Sworn to and subscribed before me, this 12th day of March, 2012

*Virginia M. Jorgenson*  
Notary Public *Virginia M. Jorgenson*



My Commission Expires: *July 25, 2016* 78

### AFFIDAVIT OF PUBLICATION

### NORTH CAROLINA-WATAUGA COUNTY

Acct. Name:

WATAUGA CO PLANNING

Acct. # 105398

COST OF PUBLICATION

Total \$119.04

Before the undersigned, a Notary Public of said County and State, duly commissioned, qualified and authorized by the law to administer oaths, personally appeared:

*Amuthers*

Who being first duly sworn, deposes and says: that he (she) is

REPRESENTATIVE

of a newspaper known as THE WATAUGA DEMOCRAT, published and entered as second class mail in City of Boone, in said County and State; that he (she) is authorized to make this affidavit and sworn statement; that the notice of other legal advertisement, a true copy of which is attached hereto, was published in THE WATAUGA DEMOCRAT the following dates :

LEGALS - 8"

04/08/2012

#### PUBLIC HEARING NOTICE

The Watauga County Board of Commissioners is considering submission of an application for Community Development Block Grant funds to the NC Department of Commerce, Community Investment and Assistance. It is proposed that funds from the NC Catalyst Program, be sought on behalf of Hospitality House to purchase an existing structure to be used as permanent supportive housing for the homeless, and to make needed drainage improvements to the property. The anticipated total cost is \$240,000; it is proposed that \$220,000 CDBG funds be requested. The hearing is scheduled for 6:00 p.m. Tuesday, April 17, 2012 in the Commissioners Board Room, 814 West King Street, Boone, NC. Citizen comments regarding the proposal are encouraged.

and that the said newspaper in which such notice, paper, document or legal advertisement was published was, at the time of each and every such publication, a newspaper meeting all of the requirements and qualifications of Section 1-597 of the General Statutes of North Carolina and was a qualified newspaper within the meaning of Section 1-597 of the General Statutes of North Carolina.

This 9th day of April, 2012

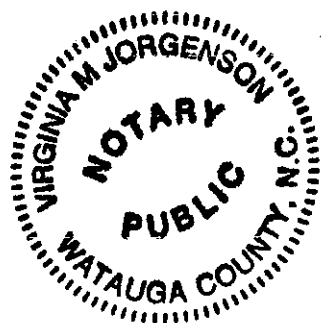
*Aimee J. Nicks*

Sworn to and subscribed before me, this 9th day of April, 2012

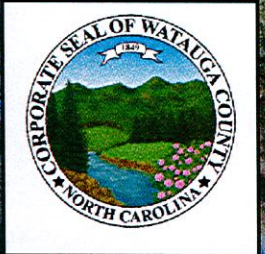
*Virginia M. Jorgenson*  
Notary Public *Virginia M. Jorgenson*

My Commission Expires:

*July 25, 2016*







Proposed Rock Haven 2

Rock Haven

CHIPMUNK

GREEN BRIAR

MARGOT

SUNNY KNOLL

NATHANS

BAMBOO

MARGO

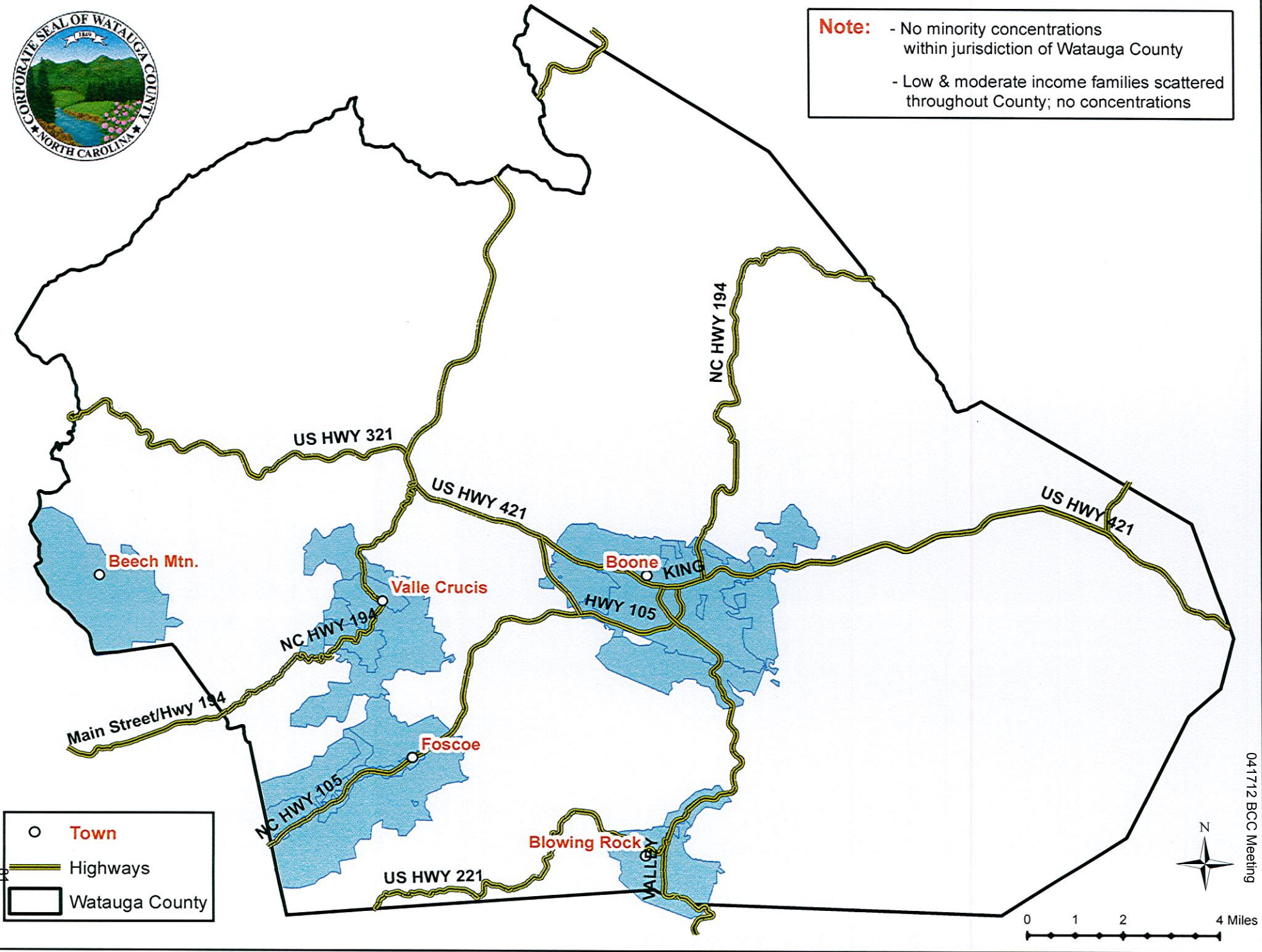
 Project Area  
 Roads



1/17/12 P.C.O. Meeting



**Note:** - No minority concentrations within jurisdiction of Watauga County  
- Low & moderate income families scattered throughout County; no concentrations





# WATAUGA COUNTY

331 Queen Street Suite A • Boone, North Carolina 28607

Department of  
Planning & Inspections

Phone (828) 265-8043  
TTY 1-800-735-2962  
Voice 1-800-735-8262  
or 711  
FAX (828) 265-8080

Date: 4/11/12

RE: Flood Insurance Rate Map Information

TO WHOM IT MAY CONCERN:

The property located at 241 Green Briar Road, also known as (legal description if needed) Tax PIN 2920-37-8040-000 has been located on the County's Flood Insurance Rate Map (FIRM). The following information is provided:

Watauga community number: 370251

The property is located on panel number: 2920, Suffix: J

The date of the FIRM index: December 3, 2009

The property is located in FIRM zone: X

The main building on the property:

\_\_\_\_\_ is located in a Special Flood Hazard Area. The base flood elevation at the property is \_\_\_\_\_, NGVD. Federal law requires that a flood insurance policy be obtained as a condition of a federally-backed mortgage or loan that is secured by the building. It is up to the lender to determine whether flood insurance is required for a property. Flood insurance is available in Watauga County. More information on flood insurance is attached.

X is not located in a Special Flood Hazard Area. However, the property may still be subject to local drainage problems or other unmapped flood hazard. Flood insurance is available and may be obtained at non-floodplain rates. A flood insurance policy may be required by a lender.

\_\_\_\_\_ A determination of the building's exact location cannot be made on the FIRM. A copy of the FIRM is attached for your information.

NOTE: This information is based on the Flood Insurance Rate Map for the County. This letter does not imply that the referenced property will or will not be free from flooding or damage. A property not in a Special Flood Hazard Area may be damaged by a flood greater than that predicted on the FIRM or from a local drainage problem not shown on the map. This letter does not create liability on the part of the County or any officer or employee thereof, for any damage that results from reliance on this information.

  
Joseph A. Furman, Director of Planning & Inspections



Legend

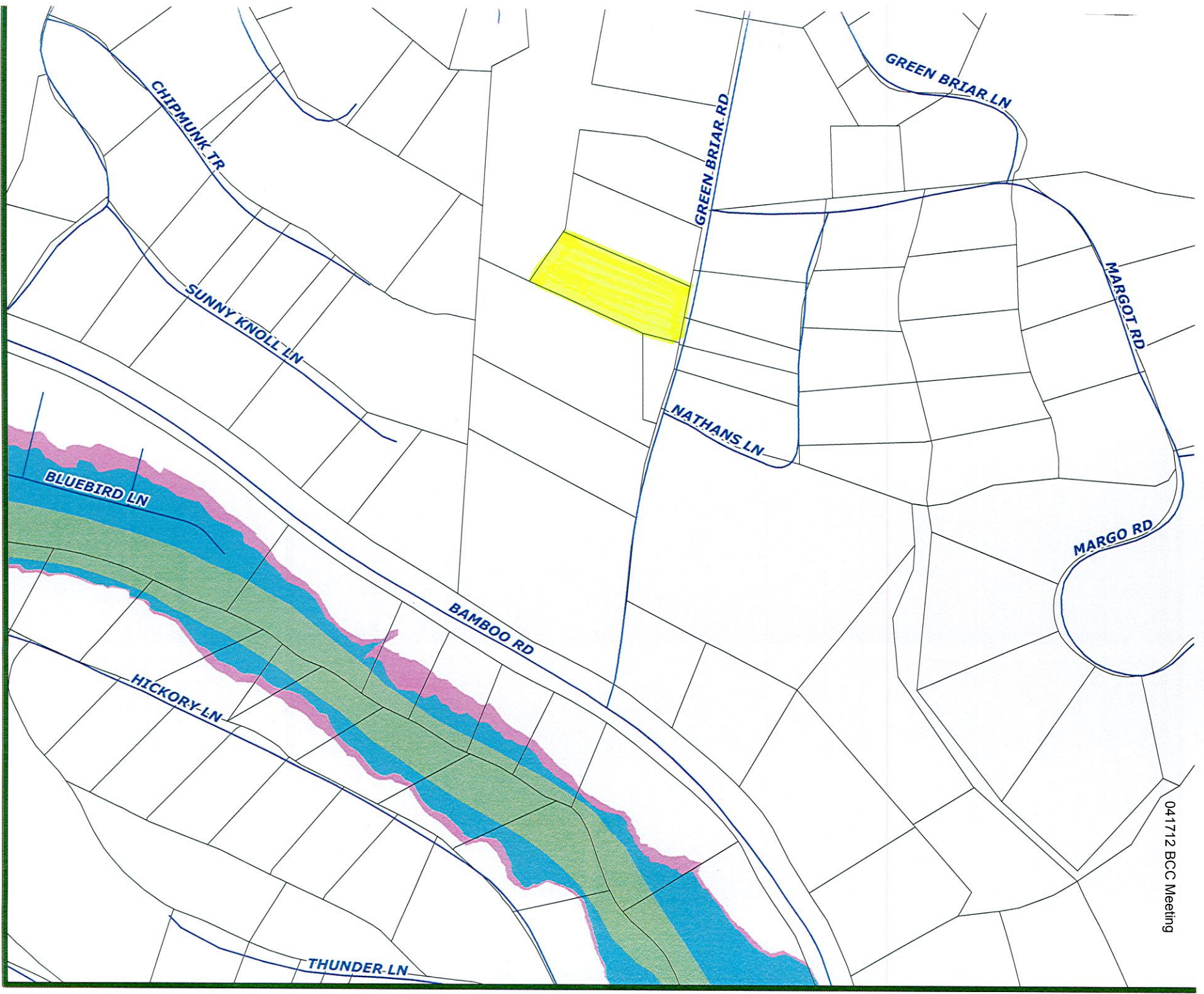
- Schools
- Communities
- Roads
- NC Highways
- BlueRidge Parkway NPS
- Base Flood Elevation
- 0.2 PCT Annual Chance
- 100 Year Flood Zone AE
- Floodway Zone AE
- Parcel Lines
- County Grid
- County Border
- 2000 Census
- Tax Parcels on Jan 1



Watauga County  
 842 West King Street  
 Boone, NC 28607  
[www.wataugacounty.org](http://www.wataugacounty.org)

Disclaimer:  
 This map is prepared for the inventory of real property found within this jurisdiction, and is compiled from recorded deeds, plats, and other public records and data. Users of this map are hereby notified that the aforementioned public primary information sources should be consulted for verification of the information contained on this map. The County assumes no legal responsibility for the information contained on this map.

1 inch = 204 feet



041712 BCC Meeting



338 Brook Hollow Rd.  
P.O. Box 309 • Boone, NC 28607  
(828) 264-1237 • [www.hospitalityhouseofboone.org](http://www.hospitalityhouseofboone.org)

April 17, 2012

To Whom it May Concern,

The Hospitality House Board of Directors commits \$20,000.00 from agency capital reserve funds towards the purchase of the property at 241 Greenbriar Road, Boone, NC 28607.

Sincerely,

A handwritten signature in black ink, appearing to read "Robert B. Angle, Jr.", written over the word "Sincerely,".

Robert B. Angle, Jr.  
Board Chair

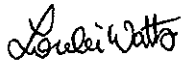
Northwest North Carolina  
Continuum of Care

March 29, 2012

To Whom It May Concern:

The Northwest North Carolina Continuum of Care is in full support of Hospitality House acquiring the house next to the Rock Haven Permanent Supportive Housing Program, an existing program of Hospitality House. Hospitality House remains the only homeless shelter program for 7 mountain counties aside from the domestic violence programs. The addition of this house will allow Hospitality House to expand the Rock Haven Permanent Supportive Housing Program to serve a homeless household with children that has income at or below 30% AMI. This new facility is consistent with the needs and priorities for this continuum as well as the goals of the HEARTH Act. We would appreciate your consideration of this funding request.

Sincerely,



Lorelei Watts  
Housing Coordinator  
Smoky Mountain Center  
Northern Region: Alleghany, Ashe, Avery, Watauga, & Wilkes Counties  
Northwest North Carolina Continuum of Care  
Vice Chair

Phone: 828-265-5315 x 4409  
Fax: 828-262-1859  
Email: [Lorelei.watts@smokymountaincenter.com](mailto:Lorelei.watts@smokymountaincenter.com)

379 New Market Boulevard, Suite 4  
Boone, NC 28607



**NORTHWESTERN REGIONAL HOUSING AUTHORITY**  
PO Box 2510, 869 Hwy. 105 Extension, Suite 10, Boone, NC 28607  
Phone (828) 264-6683 • Fax (828) 264-0272

April 2, 2012

Ms. Lynne Mason - Executive Director  
Hospitality House of the Boone Area, Inc.  
P.O. Box 309  
Boone, NC 28607

Re: **ROCK HAVEN 2 - 241 Greenbriar Road, Boone, NC**  
a proposed homeless assistance permanent supportive housing facility

Dear Lynne:

Northwestern Regional Housing Authority (NRHA) is a thirty-two year old public non-profit corporation providing affordable housing development and services in seven counties of northwestern North Carolina. We appreciate the efforts of Hospitality House over the years in serving the needs of our mutual clients. We are particularly pleased to learn of your plans for development of the new facility in east Boone to improve upon your operations.

In support of your intentions, NRHA will use its best faith efforts within applicable law, regulation and availability of funding to provide Hospitality House with HUD Section 8 Housing Choice Voucher (HCV) monthly rental housing subsidies for qualified residents living in the completed house planned as a part of your new facility as follows:

1 x 3BR x \$950/mo x 12 months = \$11,400  
Annual Gross Potential Rent Including Utilities = \$11,400

These estimates represent contract rent to Hospitality House as owner based on NRHA's current Payment Standard for the HCV Program with all utilities included.

Please let me know if additional information would be helpful.

Sincerely,

E. G. "Ned" Fowler  
Executive Director

EGF/oh

Eddie Holland  
Chairman &  
Trustee from  
Wilkes County

Lee Roy Ledford  
Vice Chairman &  
Trustee from  
Mitchell County

Wood Hall Young  
Trustee from  
Avery County

Leo J. Tompkins  
Trustee from  
Alleghany County

Fred Lemly  
Trustee from  
Ashe County

Billy Martin  
Trustee from  
Watauga County

David Blankenship  
Trustee from  
Yancey County

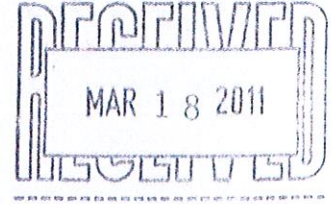
E.G. "Ned" Fowler  
Secretary/  
Executive Director



## U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Greensboro Field Office  
 Office of Community Planning & Development  
 1500 Pinecroft Road, Suite 401, Asheville Building  
 Greensboro, NC 27407-3838  
 (336) 547-4000, ext. 2802  
 www.hud.gov \* cspmol.hud.gov

March 16, 2011



Ms. Lynne Mason  
 Hospitality House of Boone, Inc.  
 P O Box 309  
 Boone, NC 28607

Dear Ms. Mason:

Congratulations on the final selection of Hospitality House of Boone, Inc., under the Supportive Housing Program grants NC0114B4F161003 and NC0115B4F161003. The agency met all conditions attached to the award for these grants. The U.S. Department of Housing and Urban Development's (HUD) total fund obligations for these grants are allocated as follows:

ACTIVITY		<i>RH</i> NC0114B4F161003	<i>TMP</i> NC0115B4F161003
Grant amount for leasing	\$	0	0
Grant amount for supportive services	\$	15,964	22,986
Grant amount for operating costs	\$	15,964	6,812
Grant amount for HMIS	\$	0	0
Grant amount for administration	\$	0	1,383
<b>TOTALS</b>	<b>\$</b>	<b>31,928</b>	<b>31,181</b>

Enclosed are three copies each of the Grant Agreement, which constitutes the agreement between Hospitality House of Boone and HUD. Please sign all six copies (must have original signatures), retain one copy of each Agreement for the agency's program file and return the remaining four copies to this office within 10 days from receipt of this letter for processing.

We thank Hospitality House of Boone for its commitment to assisting homeless persons and look forward to working with the agency to eliminate homelessness. If there are any questions, please contact Diane Dillahunt at (336) 851-8049.

Sincerely,

Gary A. Dimmick  
 Director  
 Office of Community Planning & Development

Enclosures



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## **AGENDA ITEM 8:**

### **PUBLIC HEARINGS TO ALLOW CITIZEN COMMENT**

#### ***C. Proposed Re-Financing for the New High School***

#### **MANAGER'S COMMENTS:**

A public hearing has been set to seek public comment regarding the Board of Commissioners entering into a contract to refinance the County's installment payment obligations for the new Watauga High School. The obligation will be secured through a deed of trust that grants a lien on the new high school only and includes all improvements. The old high school, (400 High School Drive) per the existing financing, will in no way be encumbered or used as collateral for securing the County's obligation for this refinancing.

The Board will be requested to adopt the enclosed resolution approving an installment financing contract, deed of trust, the indenture, the purchase agreement, and the preliminary official statement. The documents contain information that will not be known until the bonds are actually priced. Once the bonds are priced, the final pricing information will be inserted into the Contract and Indenture. The reason for Board approval prior to final completion of the documents is that the underwriters cannot market the bonds to investors unless the County has approved the basic structure of the documents and the information contained in the preliminary official statement. Also, Local Government Commission (LGC) approval is required before the preliminary official statement to market the bonds can be distributed and the LGC will only consider such approval after the Board has approved the overall financing and related documents. In an effort to obtain LGC approval in May, the Board's approval is needed at the April 17<sup>th</sup> meeting.

In addition to incorporating the basic pricing information, details may emerge, as we approach closing, that require disclosure or a modification to the bond documents. As an example, the County will select a bond trustee that will result in changes to the documents, if only to insert the trustee's name. The changes would not alter the basic structure of the financing or the County's fundamental obligations under the bond documents, but they would still prevent the documents from being called "final."

Thus, to accommodate all of the possibilities, the Board is being asked to approve what are considered as substantially final documents, with the resolution granting County staff the authority to approve any necessary or desirable changes to the approved forms.

Board action is requested.

Note: A summary of the documentation is included for your information. The Contract, Indenture, and Deed of Trust are included in your packet. The Bond Purchase Agreement and Preliminary Official Statement will not be available to the County until Friday and, therefore, will be sent via email for your review prior to the meeting.

### **Brief Summary of the Documents**

**Contract** – This is the basic loan agreement for the refinancing. Under the Contract, the Watauga Public Facilities Corporation will loan the County funds to prepay the existing installment purchase contract for the high school, and the County will agree to repay the loan in installments. The Contract will have the same maturity date of the existing debt on the high school, and the County's obligations under the Contract will be very similar to its obligations under that existing contract.

**Indenture** – The Indenture is an agreement between the Corporation and the bond trustee which establishes all of the details of the bonds that will be sold to the investing public. Under the Indenture, the Corporation assigns all of its rights under the Contract and Deed of Trust to the bond trustee as security for the investors who purchase the bonds. The bonds evidence the owner's rights to receive a share of the future payments the County will make under the Contract. By purchasing the bonds, the investors fund the initial advance that the Corporation makes to the County under the Contract.

**Deed of Trust** – Under the Deed of Trust, the County grants a security interest in the high school and the real property on which it is located to the Corporation to secure its repayment obligations under the Contract. Under the Indenture, the Corporation then assigns its rights in the Deed of Trust collateral to the bond trustee for the benefit of the owners of the bonds.

**Bond Purchase Agreement** – This is the agreement among the County, the Corporation and the Underwriters (the initial purchasers of the bonds who will then sell the bonds to the investors). The Purchase Agreement establishes the terms and conditions for selling the bonds to the Underwriters and assures the County the Underwriters will buy the bonds on the closing date on the agreed-upon terms barring certain unlikely events (war, major market disruptions, etc.).

**Preliminary Official Statement** – This is the offering document provided to potential investors to market the bonds. It provides material information on the County and its financial health, as well as detailed summaries of the Indenture, Contract and Deed of Trust. After pricing, the Preliminary Official Statement is updated with the final pricing information and reissued to investors as the final Official Statement.

## NOTICE OF PUBLIC HEARING

The Board of Commissioners for the County of Watauga, North Carolina (the “*County*”) is considering whether to enter into one or more installment financing contracts (collectively, whether one or more, the “*Contract*”) pursuant to Section 160A-20 of the General Statutes of North Carolina for the purpose of providing funds, together with any other available funds, to refinance the County’s installment payment obligations under an installment financing contract pursuant to which the County financed the acquisition, construction, equipping and furnishing of a new high school known as Watauga High School (the “*High School*”).

The County would be obligated to make installment payments under the Contract in a principal amount not to exceed \$63,250,000. The County will secure its obligations under the Contract by a deed of trust that grants a lien on the site on which the High School is located and the improvements thereon. The High School is located at 300 Go Pioneers Drive, Boone, North Carolina. On payment by the County of all installment payments due under the Contract any lien on such property securing the County’s obligations under the Contract will terminate.

NOTICE IS HEREBY GIVEN, pursuant to Section 160A-20 of the General Statutes of North Carolina, that on April 17, 2012 at 6:00 P.M., or as soon thereafter as practicable, in the Commissioners’ Board Room of the Watauga County Administration Building, 814 West King Street, Boone, North Carolina, a public hearing will be conducted regarding the proposed Contract. All interested parties are invited to present comments at the public hearing regarding the proposed Contract.

Nathan A. Miller, Chairman  
Watauga County Board of Commissioners

STATE OF NORTH CAROLINA

COUNTY OF WATAUGA

**RESOLUTION OF THE BOARD OF COMMISSIONERS OF THE COUNTY OF WATAUGA, NORTH CAROLINA, APPROVING AN INSTALLMENT FINANCING CONTRACT AND A DEED OF TRUST AND DELIVERY THEREOF AND PROVIDING FOR CERTAIN OTHER RELATED MATTERS**

**WHEREAS**, the County of Watauga, North Carolina (the “*County*”) is a political subdivision validly existing under the Constitution, statutes and laws of the State (the “*State*”);

**WHEREAS**, the County has the power, pursuant to the General Statutes of North Carolina, to (1) purchase real and personal property, (2) enter into installment financing contracts to finance and refinance the purchase or improvement of real and personal property used, or to be used, for public purposes, and (3) grant a security interest in some or all of the property purchased or improved to secure repayment of the purchase price;

**WHEREAS**, the County has previously executed and delivered an Installment Financing Contract dated as of April 1, 2008 (the “*2008 Contract*”) between Branch Banking and Trust Company and the County, the proceeds of which were used to finance the acquisition, construction, equipping and furnishing of Watauga High School (the “*Project*”);

**WHEREAS**, to secure its obligations under the 2008 Contract, the County executed and delivered a deed of trust granting a security interest in the site on which Watauga High School is located and the improvements thereon;

**WHEREAS**, the County staff has reported to the Board of County Commissioners (the “*Board*”) that the County can achieve debt service savings by refinancing the County’s installment payment obligations under the 2008 Contract;

**WHEREAS**, the Board hereby determines that it would be in the best interest of the County to enter into an Installment Financing Contract dated as of June 1, 2012 (the “*Contract*”) between the County and Watauga Public Facilities Corporation (the “*Corporation*”) in order to refinance its installment payment obligations under the 2008 Contract;

**WHEREAS**, in order to secure the County’s obligations under the Contract, the County will enter into a Deed of Trust, Security Agreement and Fixture Filing dated as of June 1, 2012 (the “*Deed of Trust*”) granting a security interest in the site on which Watauga High School is located and the improvements thereon;

**WHEREAS**, the Corporation will issue one or more series of its Limited Obligation Bonds (County of Watauga, North Carolina) (with appropriate series designations) (the “*Bonds*”) in an aggregate principal amount not to exceed \$63,250,000, evidencing proportionate undivided interests in rights to receive certain Revenues (as defined in the Contract) pursuant to the Contract, under the terms of an Indenture of Trust dated as of June 1, 2012 (the “*Indenture*”) between the Corporation and a corporate trustee to be determined by the Finance Director of the County, as trustee for the Bonds (the “*Trustee*”);

**WHEREAS**, the Board has previously approved the use of Parker Poe Adams & Bernstein LLP as the County’s bond counsel and BB&T Capital Markets, a division of Scott & Stringfellow, LLC, as the managing underwriter (the “*Managing Underwriter*”) and collectively with any co-managing underwriter, the “*Underwriters*”) for the Bonds;

**WHEREAS**, in connection with the sale of the Bonds by the Corporation to the Underwriters, the Corporation and the County will enter into a Bond Purchase Agreement (the “*Purchase Agreement*”) among the County, the Corporation and the Underwriters;

**WHEREAS**, there have been described to the Board the forms of the following documents (collectively, the “*Instruments*”), copies of which have been made available to the Board, which the Board proposes to approve, enter into and deliver, as applicable, to effectuate the proposed installment financing:

- (1) the Contract;
- (2) the Deed of Trust;
- (3) the Indenture; and
- (4) the Purchase Agreement;

**WHEREAS**, to make an offering and sale of the Bonds, there will be prepared a Preliminary Official Statement with respect to the Bonds (the “*Preliminary Official Statement*”), a draft thereof having been presented to the Board, and a final Official Statement relating to the Preliminary Official Statement (together with the Preliminary Official Statement, the “*Official Statement*”), which Official Statement will contain certain information regarding the County;

**WHEREAS**, it appears that each of the Instruments and the Preliminary Official Statement is in an appropriate form and is an appropriate instrument for the purposes intended;

**WHEREAS**, the County has previously determined and hereby determines that the acquisition of the Project was essential to the County’s proper, efficient and economic operation and to the general health and welfare of its inhabitants; that the Project provides an essential use and permits the County to carry out public functions that it is authorized by law to perform; and that entering into the Contract and Deed of Trust is necessary and expedient for the County by virtue of the findings presented herein;

**WHEREAS**, the County hereby determines that the Contract allows the County to refinance the Project at a favorable interest rate currently available in the financial marketplace and on terms advantageous to the County;

**WHEREAS**, the County hereby determines that the estimated cost of refinancing the Project is an amount not to exceed \$63,250,000 and that such cost of the refinancing of the Project exceeds the amount that can be prudently raised from currently available appropriations, unappropriated fund balances and non-voted bonds that could be issued by the County in the current fiscal year pursuant to Article V, Section 4 of the Constitution of the State;

**WHEREAS**, although the cost of refinancing of the Project pursuant to the Contract is expected to exceed the cost of refinancing the Project pursuant to a general obligation bond financing for the same undertaking, the County hereby determines that the cost of refinancing the Project pursuant to the Contract and the obligations of the County thereunder are preferable to a general obligation bond financing or revenue bond financing for several reasons, including but not limited to the following: (1) the cost of a special election necessary to approve a general obligation bond financing, as required by the laws of the State, would result in the expenditure of significant funds; (2) the time required for a general obligation bond election would cause an unnecessary delay which would thereby decrease the financial benefits of refinancing the Project; and (3) no revenues are produced by the Project so as to permit a revenue bond financing;

**WHEREAS**, the County hereby determines that the estimated cost of refinancing the Project pursuant to the Contract reasonably compares with an estimate of similar costs under a bond financing for the same undertaking as a result of the findings delineated in the above preambles;

**WHEREAS**, the County does not anticipate a future property tax increase to pay installment payments falling due under the Contract;

**WHEREAS**, no deficiency judgment may be rendered against the County in any action for its breach of the Contract, and the taxing power of the County is not and may not be pledged in any way directly or indirectly or contingently to secure any moneys due under the Contract;

**WHEREAS**, the County is not in default under any of its debt service obligations;

**WHEREAS**, the County's budget process and Annual Budget Ordinance are in compliance with the Local Government Budget and Fiscal Control Act, and external auditors have determined that the County has conformed with generally accepted accounting principles as applied to governmental units in preparing its Annual Budget ordinance;

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

**WHEREAS**, the Board conducted a public hearing on April 17, 2012 to receive public comment on the proposed Contract; and

**WHEREAS**, the County has filed an application to the LGC for approval of the Contract.

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

*Section 1. Ratification of Instruments.* All actions of the County, the Chairman of the Board (the "Chairman"), the Clerk to the Board (the "Clerk"), the County Manager, the Finance Director of the County, the County Attorney and their respective designees, whether previously or hereinafter taken, in effectuating the proposed refinancing, including the making of application to the LGC, are hereby approved, ratified and authorized pursuant to and in accordance with the transactions contemplated by the Instruments.

*Section 2. Authorization of the Official Statement.* The form, terms and content of the Preliminary Official Statement are in all respects authorized, approved and confirmed, and the use of the Preliminary Official Statement and of the final Official Statement by the Underwriters in connection with the sale of the Bonds is hereby in all respects authorized, approved and confirmed. The Chairman, the County Manager or the Finance Director is hereby authorized and directed, individually and collectively, to execute and deliver, on behalf of the County, the Official Statement in substantially such form, with such changes, insertions and omissions as he may approve, his execution thereof to constitute conclusive evidence of such approval.

*Section 3. Authorization to Execute the Contract.* The County hereby approves the refinancing of the County's installment payment obligations under the 2008 Contract in accordance with the terms of the Contract, which will be a valid, legal and binding obligation of the County in accordance with its terms. The form and content of the Contract are hereby in all respects authorized, approved and confirmed, and the Chairman, the Clerk and the County Manager and their respective designees are hereby authorized, empowered and directed, individually and collectively, to execute and deliver the Contract, including necessary counterparts, in substantially the form and content presented to the Board, but with such changes, modifications, additions or deletions therein as they may deem necessary, desirable or appropriate, their execution thereof to constitute conclusive evidence of the County's approval of any and all changes, modifications, additions or deletions therein from the form and content of the Contract presented to the Board. From and after the execution and delivery of the Contract, the Chairman, the Clerk, the County Manager and the Finance Director of the County are hereby authorized, empowered and directed, individually and collectively, to do all such acts and things and to execute all such documents as may be necessary to carry out and comply with the provisions of the Contract as executed.

*Section 4. Authorization to Execute the Deed of Trust.* The County approves the form and content of the Deed of Trust, and the Deed of Trust is in all respects authorized, approved and confirmed. The Chairman, the Clerk and the County Manager and their respective designees are hereby authorized, empowered and directed, individually and collectively, to execute and deliver the Deed of Trust, including necessary counterparts, in substantially the form and content presented to the Board, but with such changes, modifications, additions or deletions therein as they may deem necessary, desirable or appropriate. Execution by the Chairman, the Clerk and the County Manager or their respective designees shall constitute conclusive evidence of the County's approval of any and all such changes, modifications, additions or deletions therein from the form and content of the Deed of Trust presented to the Board, and from and after the execution and delivery of the Deed of Trust, the Chairman, the Clerk, the County Manager and the Finance Director of the County are hereby authorized, empowered and directed, individually and collectively, to do all such acts and things and to execute all such documents as may be necessary to carry out and comply with the provisions of the Deed of Trust as executed.

*Section 6. Authorization to Execute the Purchase Agreement.* The form and content of the Purchase Agreement are hereby in all respects authorized, approved and confirmed, and the Chairman, the County Manager, and the Finance Director of the County and their respective designees are hereby authorized, empowered and directed, individually and collectively, to execute and deliver the Purchase Agreement, including necessary counterparts, in substantially the form and content presented to the Board, but with such changes, modifications, additions or deletions therein as they may deem necessary, desirable or appropriate, their execution thereof to constitute conclusive evidence of the County's approval of any and all changes, modifications, additions or deletions therein from the form and content of the Purchase Agreement presented to the Board. From and after the execution and delivery of the Purchase Agreement, the Chairman, the County Manager and the Finance Director of the County are hereby authorized, empowered and directed, individually and collectively, to do all such acts and things and to execute all such documents as may be necessary to carry out and comply with the provisions of the Purchase Agreement as executed. The County Manager and the Finance Director are each hereby authorized to designate co-managing underwriters for the Bonds as in their discretion is in the best interests of the County.

*Section 7. County Representative.* The Chairman, the County Manager and the Finance Director of the County are hereby designated as the County's representative to act on behalf of the County in connection with the transactions contemplated by the Instruments and the Preliminary Official Statement, and the Chairman, the County Manager and the Finance Director are authorized to proceed with the refinancing of the County's installment payment obligations under the 2008 Contract in accordance with the Instruments and to seek opinions as a matter of law from the County Attorney, which the County Attorney is authorized to furnish on behalf of the County, and opinions of law from such other attorneys for all documents contemplated hereby as required by law. The County's representative and/or designee or designees are in all respects authorized on behalf of the County to supply all information pertaining to the County for use in the Official Statement and the transactions contemplated by the Instruments or the Preliminary Official Statement and to retain such professionals as may be necessary to complete the transactions contemplated hereby. The County's representatives or their respective designees are hereby authorized, empowered and directed, individually and collectively, to do any and all other acts and to execute any and all other documents, which they, in their discretion, deem necessary and appropriate to consummate the transactions contemplated by the Instruments or the Preliminary Official Statement or as they deem necessary or appropriate to implement and carry out the intent and purposes of this Resolution and to administer the transactions contemplated hereby after the issuance of the Bonds.

*Section 8. Selection of Trustee.* The County Manager and the Finance Director are each hereby authorized to select the Trustee for the Bonds as in their discretion is in the best interests of the County.

*Section 9. Severability.* If any section, phrase or provision of this Resolution is for any reason declared to be invalid, such declaration shall not affect the validity of the remainder of the sections, phrases or provisions of this Resolution.



*Section 10. Repealer.* All motions, orders, resolutions and parts thereof, in conflict herewith are hereby repealed.

*Section 11. Effective Date.* This Resolution is effective on the date of its adoption.

This Resolution is effective on its adoption this 17<sup>th</sup> day of April, 2012.

The motion to adopt this resolution was made by Commissioner \_\_\_\_\_, seconded by Commissioner \_\_\_\_\_ and passed by a vote of \_\_\_\_ to \_\_\_\_.

\_\_\_\_\_  
Nathan Miller, Chairman

ATTEST:

\_\_\_\_\_  
Anita J. Fogle, Clerk to the Board

This is to certify that this is a true and accurate copy of the **“RESOLUTION OF THE BOARD OF COMMISSIONERS OF THE COUNTY OF WATAUGA, NORTH CAROLINA, APPROVING AN INSTALLMENT FINANCING CONTRACT AND A DEED OF TRUST AND DELIVERY THEREOF AND PROVIDING FOR CERTAIN OTHER RELATED MATTERS”** adopted by the Watauga Board of County Commissioners on the 17<sup>th</sup> day of April, 2012.

\_\_\_\_\_  
Anita J. Fogle, Clerk to the Board

\_\_\_\_\_  
Date

**INSTALLMENT FINANCING CONTRACT**

between

**WATAUGA PUBLIC FACILITIES CORPORATION**

and

**COUNTY OF WATAUGA, NORTH CAROLINA**

Dated as of  
June 1, 2012

## INSTALLMENT FINANCING CONTRACT

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THIS INSTRUMENT HAS BEEN PRE-AUDITED  
IN THE MANNER REQUIRED BY  
THE LOCAL GOVERNMENT BUDGET AND  
FISCAL CONTROL ACT.

---

Margaret Pierce  
Finance Director  
County of Watauga, North Carolina

### INSTALLMENT FINANCING CONTRACT

**THIS INSTALLMENT FINANCING CONTRACT**, dated as of June 1, 2012 (this “*Contract*”), is between **WATAUGA PUBLIC FACILITIES CORPORATION** (the “*Corporation*”), a nonprofit corporation duly created, existing and in good standing under the laws of the State of North Carolina (the “*State*”), and the **COUNTY OF WATAUGA, NORTH CAROLINA** (the “*County*”), a political subdivision validly existing under the Constitution, statutes and laws of the State.

#### WITNESSETH:

*WHEREAS*, the County is a duly created and validly existing political subdivision, organized under and by virtue of the Constitution and laws of the State;

*WHEREAS*, the County 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 real or personal property;

*WHEREAS*, the Board of Commissioners of the County (the “*Board*”) has previously determined, and hereby further determines that it is in the best interest of the County to finance and refinance the Projects (as defined below);

*WHEREAS*, to obtain funds to finance and refinance the Projects, the County has entered into this Contract with the Corporation under which it will make Installment Payments and Additional Payments (as such terms are defined below) in consideration thereof;

*WHEREAS*, there will be executed and delivered pursuant to an Indenture of Trust dated as of June 1, 2012 (the “*Indenture*”) between the Corporation and [Trustee], as trustee (the “*Trustee*”), (1) Refunding Limited Obligation Bonds (County of Watauga, North Carolina), Series 2012A (the “*2012A Bonds*”) and (2) a Refunding Limited Obligation Bond (County of Watauga, North Carolina), Series 2012B (the “*2012B Bond*,” and together with the 2012A Bonds, the “*2012 Bonds*”), each evidencing proportionate undivided interests in rights to receive certain Revenues (as defined below) under this Contract;

*WHEREAS*, pursuant to the Indenture, the Corporation has assigned the Trust Estate (as defined in the Indenture) to the Trustee;

*WHEREAS*, the 2012 Bonds evidence proportionate undivided interests in the rights to receive certain Revenues and shall be payable solely from the sources provided in the Indenture;

*WHEREAS*, the execution, performance and delivery of this Contract have been authorized, approved and directed by the Board by a resolution passed and adopted by the Board on April 17, 2012;

*WHEREAS*, the execution, delivery and performance of this Contract by the Corporation, and the assignment by the Corporation to the Trustee, pursuant to the Indenture, of the Trust Estate, have been authorized, approved and directed by all necessary and appropriate action of the Corporation;

*WHEREAS*, the obligation of the County to make Installment Payments and Additional Payments shall not constitute a general obligation or other indebtedness of the County within the meaning of the Constitution of the State; and shall not constitute a direct or indirect pledge of the faith and credit or taxing power of the County within the meaning of the Constitution of the State;

*WHEREAS*, to secure further the obligation of the County hereunder, the County has entered into a Deed of Trust, Security Agreement and Fixture Filing dated as of June 1, 2012 (the "*Deed of Trust*") with the deed of trust trustee named therein for the benefit of the Corporation and its assignee; and

*WHEREAS*, no deficiency judgment may be rendered against the County in any action for breach of a contractual obligation under this Contract, and the taxing power of the County is not and may not be pledged in any way directly or indirectly or contingently to secure any funds due under this Contract;

*NOW, THEREFORE*, for and in consideration of the premises and the mutual covenants herein contained, the parties hereto agree as follows:

## **ARTICLE I DEFINITIONS**

All words and phrases defined in Article I of the Indenture have the same meaning in this Contract. In addition, the following terms have the meanings specified below unless the context clearly requires otherwise:

*"Additional Payments"* means the reasonable and customary expenses and fees of the Trustee and the Corporation, any expenses of the Corporation in defending an action or proceeding in connection with this Contract or the Indenture and any taxes or any other expenses, including, but not limited to, licenses, permits, state and local income, sales and use or ownership taxes or property taxes which the County or the Corporation is expressly required to pay as a result of this Contract (together with interest that may accrue thereon in the event that the County fails to pay the same).

*"Code"* means the Internal Revenue Code of 1986, as amended, including regulations promulgated thereunder.

*"Corporation"* means Watauga Public Facilities Corporation or any successor thereto.

*"County"* means the County of Watauga, North Carolina or any successor to its functions.

*"County Representative"* means (1) the County Manager, the Finance Director or the person or persons at the time designated to act on behalf of the County for the purpose of performing any act under this Contract by a written certificate furnished to the Trustee and the Corporation containing the specimen

signatures of such person or persons and signed on behalf of the County by the County Manager or the Finance Director of the County, or (2) if any or all of the County's rights and obligations are assigned hereunder, the person or persons at the time designated to act on behalf of the County and the assignee by a written certificate similarly furnished and of the same tenor.

*"Deed of Trust"* means the Deed of Trust, Security Agreement and Fixture Filing dated as of June 1, 2012 from the County to the deed of trust trustee named therein for the benefit of the Corporation or its assignees, as amended or supplemented from time to time, all of the terms, definitions, conditions and covenants of which are incorporated herein by reference and are made a part of this Contract as if fully set forth herein.

*"Fiscal Year"* means a twelve-month period commencing on the first day of July of any year and ending on the 30<sup>th</sup> day of June of the succeeding year, or such other twelve-month period which may subsequently be adopted as the Fiscal Year of the County.

*"Indenture"* means the Indenture of Trust dated as of June 1, 2012 between the Corporation and the Trustee, as amended or supplemented from time to time, pursuant to which the Bonds are executed and delivered.

*"Installment Payments"* means those payments made by the County to the Corporation as described in Article III and in the Payment Schedule attached hereto.

*"Lease"* means the Lease dated as of April 1, 2008 between the County and Watauga County Board of Education, as amended or supplemented from time to time.

*"Net Proceeds,"* when used with respect to any (1) proceeds from policies of insurance related to the Premises which are payable to the Corporation or the Trustee, (2) proceeds of any condemnation award arising out of the condemnation of all or any portion of the Premises or the (3) proceeds from any sale or lease of the Premises pursuant to the Deed of Trust or otherwise subsequent to an Event of Default, 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.

*"Payment Schedule"* means, collectively, the documents attached hereto and incorporated herein by reference, which set forth the County's Installment Payments.

*"Premises"* means the property subject to the lien and security interest created by the Deed of Trust, as more particularly described therein, including the real property on which the School is located and the improvements thereon.

*"Prior Contract"* means an Installment Financing Contract dated as of April 1, 2008 between the County and Branch Banking and Trust Company, the proceeds of which were used to finance and refinance the Prior Project.

*"Prior Project"* means acquisition, construction, equipping and furnishing of the School and the acquisition of land therefor.

*"Projects"* means, collectively, the Prior Project and any additional projects to be financed or refinanced with the proceeds of Additional Bonds.

“*Purchase Price*” means the amount of \$[Amount] advanced by the Corporation under the Contract, as such price may be adjusted in connection with the issuance of Additional Bonds under Section 2.11 of the Indenture.

“*Revenues*” means (a) all Net Proceeds not applied to the replacement of the Premises; (b) all Installment Payments; and (c) all investment income on all funds and accounts created under the Indenture (other than the Rebate Fund).

“*School*” means the new high school located within the County financed and refinanced with proceeds of the Prior Contract.

“*State*” means the State of North Carolina.

[End of Article I]



**ARTICLE II**  
**ADVANCE OF PURCHASE PRICE**

The Corporation hereby makes an advance to the County of the Purchase Price, and the County hereby accepts from the Corporation the Purchase Price to be applied in accordance with the terms and conditions of this Contract. The County will use the proceeds of the Purchase Price to finance and refinance the Projects and to pay certain costs incurred in connection with the execution and delivery of the 2012 Bonds.

[End of Article II]

### **ARTICLE III INSTALLMENT PAYMENTS; ADDITIONAL PAYMENTS**

**Section 3.1. *Amounts and Times of Installment Payments and Additional Payments.*** As consideration for the financing and refinancing of the Projects by the Corporation, the County shall repay to the Trustee, as assignee of the Corporation, the Purchase Price in installments with interest as provided in this Contract and the Payment Schedule attached hereto (each an “*Installment Payment*”). Each installment shall be deemed to be an Installment Payment and shall be paid in the amounts and at the times set forth on the Payment Schedule except as provided herein. There shall be credited against the amount of Installment Payments otherwise payable hereunder amounts equal to (1) earnings derived from the investment of the Bond Fund and the Prepayment Fund and (2) any other money not constituting Installment Payments required to be deposited in the Bond Fund. Installment Payments shall be sufficient in the aggregate to repay the Purchase Price together with interest thereon. As further consideration for the financing and refinancing of the Projects by the Corporation, the County shall also pay the Additional Payments, as required herein, on a timely basis directly to the person or entity to which such Additional Payments are owed.

**Section 3.2. *Place of Payments.*** The County shall make all payments required to be made to the Corporation hereunder to the Trustee at its designated office in immediately available funds or as may be otherwise directed in writing by the Trustee.

**Section 3.3. *Late Charges.*** To the extent permitted by law, if the County fails to pay any Installment Payment or any other sum required to be paid to the Trustee following the due date thereof, the County shall pay a late payment charge equal to the amount of the delinquency times a per diem rate calculated at the rate(s) borne by each respective Bond.

**Section 3.4. *No Abatement.*** Subject to Article XIV, there will be no abatement or reduction of the Installment Payments or Additional Payments by the County for any reason, including but not limited to, any failure by the County to appropriate funds to the payment of said Installment Payments or Additional Payments, any defense, recoupment, setoff, counterclaims or any claim (real or imaginary) arising out of or related to the Projects. The County assumes and shall bear the entire risk of loss and damage to the Projects from any cause whatsoever, it being the intention of the parties that the Installment Payments shall be made in all events unless the obligation to make such Installment Payments is terminated as otherwise provided herein.

**Section 3.5. *Prepayment of Purchase Price.***

(a) If the County has performed all of its obligations under this Contract, then it shall have the option to prepay or provide for the prepayment of the Purchase Price applicable to the 2012A Bonds on any date on or after June 1, 20\_\_, in full or in part in the amount of \$5,000 or any integral multiple thereof on 45 days’ notice to the Trustee, at a prepayment price equal to the then applicable prepayment price of the 2012A Bonds, including any required prepayment premium under Section 4.01(a)(1) of the Indenture, plus accrued interest to the prepayment date.

(b) If the County has performed all of its obligations under this Contract, then it shall have the option to prepay or provide for the prepayment of the Purchase Price applicable to the 2012B Bonds on any date on 45 days’ notice to the Trustee, at a prepayment price equal to the then applicable prepayment price of the 2012B Bonds, including any required prepayment premium under Section 4.01(a)(2) of the Indenture, plus accrued interest to the prepayment date.

(c) If (i) all or any portion of the Premises is damaged, destroyed or taken in eminent domain as evidenced by a certificate of a County Representative delivered to the Trustee and the Net Proceeds are greater than or equal to \$500,000, (ii) the County determines not to apply any Net Proceeds and any other available money to the repair or replacement of the Premises, as permitted by Section 7.3(b), and (iii) the County has otherwise performed all of its obligations under this Contract, then the County shall prepay the Purchase Price on any date selected by the County, in full or in part in the amount of \$5,000 or any integral multiple thereof on 45 days' notice to the Trustee, at a prepayment price equal to 100% of the par amount of the 2012 Bonds to be prepaid plus accrued interest to the prepayment date, but without premium, under Section 4.01(b) of the Indenture by causing the Trustee to deposit such Net Proceeds and any other available money into the Prepayment Fund; *provided, however*, that if the County uses other available money to prepay the Purchase Price in whole or in part, then the amount of such available money may not exceed one-third of the amount of Net Proceeds so applied.

(d) If the Purchase Price is partially prepaid, then the Trustee shall recalculate the Payment Schedule as necessary in the manner required by Section 3.07 of the Indenture.

[End of Article III]

## ARTICLE IV ACQUISITION AND CONSTRUCTION

**Section 4.1. *Acquisition and Construction Fund.*** The Corporation shall cause the proceeds of the 2012 Bonds to be applied as provided in Section 3.01 of the Indenture. On the date of the initial execution and delivery of the 2012 Bonds, the County shall transfer to Branch Banking and Trust Company from its own funds \$[Amount], representing accrued interest with respect to the County's obligations under the Prior Contract.

**Section 4.2. *Disbursements.*** The Trustee shall disburse funds held to the credit of the Acquisition and Construction Fund in payment of Costs of Acquisition and Construction on receipt of written requisition from the County Representative substantially in the form set forth in Exhibit A, attached hereto, together with any documents or other items as the Trustee may reasonably determine to be necessary.

**Section 4.3. *Termination.*** The Trustee shall terminate the Acquisition and Construction Fund at the earlier of (a) the final distribution of funds held in the Acquisition and Construction Fund or (b) the termination of this Contract.

**Section 4.4. *Reliance of Trustee on Documents.*** The Trustee may act in reliance on any writing or instrument or signature which it, in good faith, believes to be genuine and may assume the validity and accuracy of any statement or assertion contained in such a writing or instrument. The Trustee is not liable in any manner for the sufficiency or correctness as to form, manner and execution, or validity of any instrument nor as to the identity, authority, or right of any person executing the same; and its duties hereunder are limited to the receipt of such money, instruments or other documents received by it as the Trustee, and for the disposition of the same in accordance herewith.

**Section 4.5. *Discretion of the Trustee To File Civil Action in the Event of Dispute.*** If the County and the Trustee disagree about the interpretation of this Contract, or about the rights and obligations, or the propriety of any action contemplated by the Trustee hereunder, the Trustee may, but is not required to, file an appropriate civil action in the State to resolve the disagreement. The Trustee will be indemnified, to the extent permitted by applicable law and subject to Article XIV, for all costs, including reasonable attorneys' fees, in connection with such civil action and shall be fully protected in suspending all or part of its activities under this Contract until a final judgment in such action is received.

**Section 4.6. *Consultation with Counsel.*** The Trustee may consult with qualified counsel of its own choice and has full and complete authorization and protection to rely on the opinion of such counsel. The Trustee is otherwise not liable for any mistakes of fact or errors of judgment, or for any acts or omissions of any kind unless caused by its negligence or misconduct.

**Section 4.7. *Compensation of Trustee.*** The County shall pay to the Trustee reasonable compensation for all services performed by the Trustee hereunder and under the Indenture and also for all reasonable expenses, charges and other disbursements and those of the Trustee's attorneys, agents and employees incurred in and about the administration and execution of the Indenture and the performance of the Trustee's powers and duties hereunder and under the Indenture, as an Additional Payment.

[End of Article IV]

## ARTICLE V RESPONSIBILITIES OF THE COUNTY

**Section 5.1. *Care and Use.*** Subject to the provisions of applicable law and Article XIV, the County shall use the Premises in a careful and proper manner, in compliance with all applicable laws and regulations, and, at its sole cost and expense, shall service, repair and maintain the Premises so as to keep the Premises in good condition, repair, appearance and working order for the purposes intended, ordinary wear and tear excepted. The County shall replace any part of the Premises as may from time to time become worn out, unfit for use, lost, stolen, destroyed or damaged. Any and all additions to or replacements of the Premises and all parts thereof shall constitute accessions to the Premises and shall be subject to all the terms and conditions of this Contract and included in the term “*Premises*” and as used in this Contract.

**Section 5.2. *Inspection.*** The Trustee has the right on reasonable prior notice to the County, and subject to the reasonable direction and supervision of the County, to enter into and inspect the Premises and observe their use during normal business hours.

**Section 5.3. *Utilities.*** The County shall pay all charges for gas, water, steam, electricity, light, heat or power, telephone or other utility services furnished to or used on or in connection with the Premises. There shall be no abatement of the Installment Payments on account of interruption of any such services.

**Section 5.4. *Taxes.*** The County shall pay when due any and all taxes relating to the Premises and the County’s obligations hereunder including, but not limited to, all license or registration fees, gross receipts tax, sales and use tax, if applicable, license fees, documentary stamp taxes, rental taxes, assessments, charges, *ad valorem* taxes, excise taxes, and all other taxes, licenses and charges imposed on the ownership, possession or use of the Premises by any governmental body or agency, together with any interest and penalties, other than taxes on or measured by the net income of the Corporation.

**Section 5.5. *Title Insurance.*** The County agrees to obtain, at its own cost and expense, a policy of title insurance, in form satisfactory to the Corporation, at the time of and dated as of the date of execution and delivery of this Contract, payable to the Trustee, as its interest may appear, insuring fee title of the County to the Premises.

**Section 5.6. *Reserved.***

**Section 5.7. *Risk of Loss.*** The County shall bear all risk (1) of loss or damage to the Projects and (2) of the condemnation of any of the Projects or any portion thereof.

**Section 5.8. *Performance by the Trustee of the County’s Responsibilities.*** Any performance required of the County or any payments required to be made by the County may, but are not required to, if not timely performed or paid, be performed or paid by the Trustee, and, in that event, the Trustee shall be immediately reimbursed by the County for these payments or other performance by the Trustee, with interest thereon at a rate equal to the prime rate of the Trustee at the time the payment is made and as adjusted from time to time thereafter until so reimbursed.

**Section 5.9. *Financial Statements.*** At such reasonable times as the Trustee may request, the County will furnish to the Trustee current financial statements (including, without limitation, the County’s annual budget as submitted or approved), and permit the Trustee or its respective agent and representative to inspect the County’s books and records and make extracts therefrom. The County represents and warrants to the Trustee that (1) all financial statements which have been or may be

delivered to the Trustee do and will fairly and accurately reflect the County's financial condition and (2) there has been no material adverse change, as of the date of execution of this Agreement, in the County's financial condition from the condition as reflected in the financial statements for the Fiscal Year ended June 30, 2011. The County further agrees that it will furnish a copy of its most recent audited financial statements to any Owner of the Bonds on written request therefor.

**Section 5.10. *Property Insurance.*** The County shall continually maintain or cause to be maintained insurance to the full insurable value of the Premises against loss by fire, wind damage, hazards customarily included in the term "extended coverage" with responsible and reputable insurance companies and shall promptly pay all premiums therefor when due. All insurance policies and renewals thereof shall name the Corporation and the Trustee as parties insured thereunder, as the respective interests of each of such parties may appear, and have attached thereto a mortgagee long form loss payable clause in favor of the Trustee, and provide that no such policy can lapse or be canceled, substantially modified or terminated without at least 60 days prior notice to the Trustee and that any loss payable thereunder shall be made payable and shall be applied as provided in Article VII. In the event of loss, the County shall give immediate notice by mail to the Trustee, who may, but shall not be obligated to, make proof of loss. In the event of foreclosure of the Deed of Trust or other transfer of title to the Premises, all right, title and interest of the County in any insurance policies then in force shall pass to the Trustee. Additionally, during the term of this Contract, the County shall continually maintain standard liability insurance as is customarily maintained by like entities with respect to facilities similar to the Premises.

The County may provide for and maintain the insurance required under this Contract partially or wholly by means of an adequate risk retention fund. Reserves for a risk retention fund shall be determined by using actuarial principles. Any risk retention fund shall be reviewed annually by the County's risk manager or an independent insurance consultant or actuarial consultant. The Trustee may rely on a letter of the County's risk manager or an independent insurance consultant or actuarial consultant as to the adequacy of any risk retention fund.

[End of Article V]

**ARTICLE VI  
TITLE; LIENS**

**Section 6.1. Title.** Title to the Projects and any and all additions, repairs, replacements or modifications thereto shall be in the County from and after the date of execution and delivery of this Contract. The County shall own the Projects free and clear of any lien or security interest created by the Deed of Trust on the repayment in full of the Purchase Price and the payment of all other amounts due hereunder. The County shall deliver to the Trustee the Deed of Trust simultaneously with the execution and delivery of this Contract and shall cause the Deed of Trust to be recorded in the Watauga County Registry. On payment in full of all of the County's obligations hereunder, including the Purchase Price and all other payments due hereunder, the Corporation or its assignee, at the County's expense and request, shall discharge the Indenture and release the lien on the Deed of Trust, at which time this Contract will terminate.

**Section 6.2. Liens.** The County shall not directly or indirectly create, incur, assume or suffer to exist any mortgage, pledge, lien, charge, security interest, encumbrance or claim on or with respect to Premises or any interest therein, except for (1) the lien and security interest of the Corporation and the Trustee therein; (2) utility, access and other easements and rights of way, restrictions and exceptions which do not interfere with or impair the intended use of the Premises; (3) the Lease and any other lease permitted by Section 13.1 of this Contract; and (4) such minor defects, irregularities, encumbrances and clouds on title as normally exist with respect to property of the general character of the Premises and as do not materially impair title to the Premises. The County shall promptly, at its own expense, take such action as may be necessary duly to discharge any such mortgage, pledge, lien, security interest, charge, encumbrance or claim if the same shall arise at any time. The County shall reimburse the Corporation for any expense incurred by it to discharge or remove any such mortgage, pledge, lien, security interest, charge, encumbrance or claim.

[End of Article VI]

**ARTICLE VII  
DAMAGE, DESTRUCTION AND CONDEMNATION;  
USE OF NET PROCEEDS**

**Section 7.1. *Damage, Destruction or Condemnation.*** If, during the term hereof, (1) any portion of the Projects is destroyed or damaged by fire or other casualty; (2) title to or the temporary or permanent use of any portion of the Projects or the estate of the County or the Corporation or its assignee in any portion of the Projects is taken under the power of eminent domain by any governmental authority; (3) a material defect in construction of any portion of the Projects becomes apparent; or (4) title to or the use of any portion of the Projects is lost by reason of a defect in title thereto, then the County continues to be obligated, subject to the provisions of Section 7.2, to pay the amounts specified in Section 3.1 at the respective times required.

**Section 7.2. *Obligation of the County To Repair and Replace the Premises.*** Subject to the provisions of Section 7.3, the Trustee shall cause the Net Proceeds of any insurance policies, performance or payment bonds, if any, condemnation awards or Net Proceeds made available by reason of any occurrence described in Section 7.1, to be deposited in a separate fund held by the Trustee. Except as set forth in Section 7.3, all Net Proceeds so deposited shall be applied to the prompt repair, restoration, modification, improvement or replacement of the Premises on receipt of requisitions acceptable to the Trustee approved by a County Representative stating with respect to each payment to be made: (a) the requisition number; (b) the name and address of the person, firm or corporation to whom payment is due; (c) the amount to be paid; and (d) that each obligation mentioned therein has been properly incurred, is a proper charge against the Acquisition and Construction Fund or such separate fund, and has not been the basis of any previous withdrawal and specifying in reasonable detail the nature of the obligation, accompanied by a bill or a statement of account for such obligation. The Trustee shall cooperate with the County in the administration of such separate fund and shall not unreasonably withhold its approval of requisitions under this Section 7.2. If the Net Proceeds (plus any amount withheld therefrom by reason of any deductible clause) are insufficient to pay in full the cost of any repair, restoration, modification, improvement or replacement of the Premises, the County may complete the work and pay any cost in excess of the amount of the Net Proceeds, and the County agrees that, if by reason of any such insufficiency of the Net Proceeds, the County shall make any payments pursuant to the provisions of this Section 7.2, the County is not entitled to any reimbursement therefor from the Corporation, the Trustee or the Owners nor is the County entitled to any diminution of the amounts payable under Section 3.1. Any repair, restoration, modification, improvement or replacement paid for in whole or in part out of such Net Proceeds shall be the property of the County, subject to the Deed of Trust to the extent it relates to the Premises, and shall be included as part of the Premises under this Contract.

**Section 7.3. *Discharge of the Obligation of the County To Repair the Premises.*** On the occurrence of an event described in Section 7.1 with respect to the Premises and if the County does not elect to repair, restore, improve or replace the affected portion of the Premises, the County may elect to proceed under either of the following options to the extent applicable:

(a) If the Net Proceeds are greater than or equal to \$500,000, then the obligation of the County to repair or replace the Premises under Section 7.2 may, at the option of the County, be discharged by causing the Net Proceeds of such insurance policies or condemnation awards to be transferred to the Prepayment Fund and applied to the prepayment of all or any part of the Purchase Price in accordance with Section 3.5(c). If such Net Proceeds exceed the Purchase Price in accordance with Section 3.5(c), then such excess shall be paid to or retained by the County after payment of all other amounts owing under the Indenture; or



(b) If the Net Proceeds are less than \$500,000 and a County Representative certifies to the Corporation that such Net Proceeds are not necessary to restore the affected portion of the Premises to its intended use, then the County may direct the Trustee to deposit such Net Proceeds in the Bond Fund to be applied toward the next payment of principal and interest with respect to the Bonds.

Within 90 days of the occurrence of an event specified in Section 7.1 with respect to the Premises, the County shall commence the repair, restoration, modification, improvement or replacement of the Premises, or shall elect, by written notice to the Trustee, to proceed under the provisions of subparagraph (a) or (b) above. For purposes of this Section, “*commence*” shall include the retention of an architect or engineer in anticipation of repair, restoration, modification, improvement or replacement of the Premises.

**Section 7.4. *Cooperation of the Corporation.*** The Corporation shall cooperate fully with the County and the Trustee in filing any proof of loss with respect to any insurance policy covering the events described in Section 7.1, and hereby assigns to the Trustee any interest it may have in such policies or rights of action for such purposes. In no event shall the Corporation or the County voluntarily settle, or consent to the settlement of, any proceeding arising out of any such insurance claim with respect to the Premises without the written consent of the other.

[End of Article VII]

**ARTICLE VIII  
REPRESENTATIONS, WARRANTIES AND COVENANTS  
OF THE COUNTY AND THE CORPORATION**

**Section 8.1. *Representations, Warranties and Covenants of the County.*** The County warrants and represents to the Corporation and to the Trustee for the benefit of the Owners (all such representations and warranties being continuing) that:

(a) The County is a duly created and validly existing political subdivision of the State and has all powers necessary to enter into the transactions contemplated by this Contract and the Deed of Trust and to carry out its obligations hereunder;

(b) The County agrees that during the term of this Contract it will take no action that would adversely affect its existence as a political subdivision in good standing in the State, cause the County to be consolidated with or merge into another political subdivision of the State or permit one or more other political subdivisions of the State to consolidate with or merge into it, unless the political subdivision of the State created thereby expressly assumes in writing the County's obligations hereunder;

(c) This Contract, the Deed of Trust and all other documents relating hereto and the performance of the County's obligations hereunder and thereunder have been or will be duly and validly authorized, executed and delivered by the County and approved under all laws, regulations and procedures applicable to the County and, assuming due authorization, execution and delivery thereof by the other parties thereto, constitute valid, legal and binding obligations of the County, enforceable in accordance with their respective terms, subject to bankruptcy, insolvency and other laws affecting the enforcement of creditors' rights generally and such principles of equity as a court having jurisdiction may impose;

(d) No approval or consent is required from any governmental authority with respect to the entering into or performance by the County of this Contract, the Deed of Trust and all other documents related thereto and the transactions contemplated hereby and thereby or if such approvals are required, they will be duly obtained;

(e) Except as disclosed by the County in writing to the Corporation, 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 County's knowledge, threatened, against or affecting the County challenging the validity or enforceability of this Contract, the Deed of Trust or any other documents relating hereto and the performance of the County's obligations hereunder and thereunder, and compliance with the provisions hereof or thereof, under the circumstances contemplated hereby or thereby, does not and will not in any material respect conflict with, constitute on the part of the County a breach of or default under, or result in the creation of a lien or other encumbrance on any property of the County (except as contemplated herein or therein) pursuant to any agreement or other instrument to which the County is a party, or any existing law, regulation, court order or consent decree to which the County is subject;

(f) Neither the execution and delivery of this Contract or the Deed of Trust or the consummation of the transactions contemplated hereby or thereby, nor the fulfillment of or compliance with the terms and conditions hereof or thereof conflicts with or results in a breach of the terms, conditions, or provisions of any restriction or any

agreement or instrument to which the County is now a party or by which the County is bound or constitutes a default under any of the foregoing, nor conflicts with or results in a violation of any provision of applicable law or regulation governing the County and no representation, covenant and warranty herein is false, misleading or erroneous in any material respect;

(g) The County is vested with fee simple title to the Premises, and there are no liens or encumbrances on the Premises other than the lien created by the Deed of Trust and the other liens permitted hereby and thereby;

(h) The resolutions relating to the performance by the County of this Contract, the Deed of Trust and the transactions contemplated hereby and thereby, have been duly adopted, are in full force and effect, and have not been in any respect modified, revoked or rescinded;

(i) The financing and refinancing of the Projects are essential to the proper, efficient and economical operation of the County and the delivery of its services, and each of the Projects will permit the County to carry out public functions that it is authorized by law to perform;

(j) The County reasonably believes funds will be available to satisfy all of its obligations hereunder;

(k) The County shall (1) cause its Budget Officer, as statutorily defined, to include the Installment Payments and the reasonably estimated Additional Payments coming due in each Fiscal Year in the corresponding annual budget request, (2) require that the deletion of such funds from the County's final budget or any amended budget be made only pursuant to an express resolution of the Board which explains the reason for such action and (3) deliver notice to the Trustee, S&P, Moody's and the LGC within five days after the adoption by the Board of the resolution described in clause (2) above. Nothing contained in this paragraph (k) obligates the County to appropriate funds contained in the proposed budget for the payment of Installment Payments and reasonably estimated Additional Payments coming due under this Contract;

(l) Funds appropriated by the County to make Installment Payments in any Fiscal Year shall be used for no other purpose;

(m) The County agrees, in accordance with Rule 15c2-12 (the "Rule") promulgated by the Securities and Exchange Commission (the "SEC"), to provide to the Municipal Securities Rulemaking Board (the "MSRB"):

(1) by not later than seven months after the end of each Fiscal Year, beginning with the Fiscal Year ending June 30, 2012, to the MSRB, the audited financial statements of the County for the preceding Fiscal Year, if available, prepared in accordance with Section 159-34 of the General Statutes of North Carolina, as it may be amended from time to time, or any successor statute, or if such audited financial statements are not then available, unaudited financial statements of the County for such Fiscal Year to be replaced subsequently by audited financial statements of the County to be delivered within 15 days after such audited financial statements become available for distribution;

(2) by not later than seven months after the end of each Fiscal Year, beginning with the Fiscal Year ending June 30, 2012, to the MSRB, the financial and statistical data as of a date not earlier than the end of the preceding Fiscal Year for the type of information included under the captions “**THE COUNTY – DEBT INFORMATION**” and “**– TAX INFORMATION**” (including subheadings thereunder) in Appendix A to the Official Statement dated [Date] with respect to the 2012 Bonds (excluding, in each case, any information on overlapping or underlying units);

(3) in a timely manner not in excess of 10 Business Days after the occurrence of the event, to the MSRB notice of any of the following events with respect to the 2012 Bonds:

- (A) principal and interest payment delinquencies;
- (B) non-payment related defaults, if material;
- (C) unscheduled draws on the debt service reserves reflecting financial difficulties;
- (D) unscheduled draws on any credit enhancements reflecting financial difficulties;
- (E) substitution of any credit or liquidity providers, or their failure to perform;
- (F) adverse tax opinions, the issuance by the Internal Revenue Service of proposed or final determinations of taxability, Notices of Proposed Issue (IRS Form 5701-TEB), or other material notices or determinations with respect to the tax status of the 2012 Bonds, or other material events affecting the tax status of the 2012 Bonds;
- (G) modification of the rights of the Beneficial Owners of the 2012 Bonds, if material;
- (H) call of any of the 2012 Bonds, if material, and tender offers;
- (I) defeasance of any of the 2012 Bonds;
- (J) release, substitution or sale of any property securing repayment of the 2012 Bonds, if material;
- (K) rating changes;
- (L) bankruptcy, insolvency, receivership or similar event of the County;
- (M) the consummation of a merger, consolidation, or acquisition involving the County or the sale of all or substantially all of

the assets of the obligated person, other than in the ordinary course of business, the entry into a definitive agreement to undertake such an action or the termination of a definitive agreement relating to such actions, other than pursuant to its terms, if material;

(N) appointment of a successor or additional trustee or the change of name of a trustee, if material; and

(4) in a timely manner, to the MSRB, notice of a failure of the County to provide required annual financial information described in (1) or (2) above on or before the date specified.

The County agrees that its undertaking under this paragraph is intended to be for the benefit of the Owners and the beneficial owners of the 2012 Bonds and is enforceable by the Trustee or by any of them, including an action for specific performance of the County's obligations under this paragraph, but a failure to comply will not be an Event of Default under Section 12.1 of this Contract and will not result in acceleration of the principal component of Installment Payments. An action must be instituted, had and maintained in the manner provided in this paragraph for the benefit of all of the Owners and beneficial owners of the 2012 Bonds.

The County may modify from time to time, consistent with the Rule, the information provided or the format of the presentation of such information, to the extent necessary or appropriate in the judgment of the County, but:

(1) any such modification may only be made in connection with a change in circumstances that arises from a change in legal requirements, change in law or change in the identity, nature or status of the County;

(2) the information to be provided, as modified, would have complied with the requirements of the Rule as of the date of the Official Statement, after taking into account any amendments or interpretations of the Rule as well as any changes in circumstances;

(3) any such modification does not materially impair the interest of the Owners or the beneficial owners, as determined by nationally recognized bond counsel or by the approving vote of the Owners of a majority in principal amount of the 2012 Bonds pursuant to Section 9.05 of the Indenture as may be amended from time to time.

Any annual financial information containing modified operating data or financial information will explain, in narrative form, the reasons for the modification and the impact of the change in the type of operating data or financial information being provided.

All documents provided to the MSRB as described above are to be provided in an electronic format as prescribed by the MSRB and accompanied by identifying information as prescribed by the MSRB. The County may discharge its undertaking described above by transmitting those documents or notices in a manner subsequently required by the U.S. Securities and Exchange Commission in lieu of the manner described above.

The provisions of this paragraph terminate on payment, or provision having been made for payment in a manner consistent with the Rule, in full of the principal of and interest with respect to the 2012 Bonds.

**Section 8.2. *Warranties and Representations of the Corporation.*** The Corporation warrants and represents to the County (all such warranties and representations continuing) that:

(a) The Corporation is a nonprofit corporation duly organized, existing and in good standing under and by virtue of the laws of the State, has the power to enter into this Contract and the Indenture, and has duly authorized the execution and delivery of this Contract and the Indenture;

(b) The Corporation has duly authorized this Contract and the Indenture and has caused each to be executed on its behalf in accordance with the laws of the State;

(c) Neither the execution and delivery of this Contract or the Indenture, nor the fulfillment of or compliance with the terms and conditions hereof or thereof, nor the consummation of the transactions contemplated hereby or thereby, conflicts with or results in a breach of the terms, conditions or provisions of the charter or bylaws of the Corporation or any agreement or instrument to which the Corporation is now a party or by which the Corporation is bound, or constitutes a default under any of the foregoing; and

(d) To the best of the Corporation's knowledge after due and reasonable investigation, there is no action, suit, proceeding or investigation at law or in equity before or by any court, public board or body pending or threatened against or affecting the Corporation challenging the validity or enforceability of this Contract, the Indenture or any other documents relating hereto and the performance of the Corporation's obligations hereunder and thereunder.

[End of Article VIII]

**ARTICLE IX**  
**TAX COVENANTS AND REPRESENTATIONS**

The County covenants that it will not take any action, or fail to take any action, if any such action or failure to take action would adversely affect the exclusion from gross income of the interest portion of the Installment Payments created by this Contract under Section 103 of the Code.

The County will not directly or indirectly use or permit the use of any proceeds of any fund created under the Indenture, or take or omit to take any action that would cause the obligation created by this Contract to be an “arbitrage bond” within the meaning of Section 148(a) of the Code. To that end, the County and the Corporation have executed the Tax Agreement and will comply with all requirements of Section 148 of the Code to the extent applicable. The County further represents and covenants that the Installment Payments created by this Contract are not and will not constitute a “private activity bond” as defined in Section 141 of the Code.

Without limiting the generality of the foregoing, the County agrees that there shall be paid from time to time all amounts required to be rebated to the United States of America pursuant to Section 148(f) of the Code and any temporary, proposed or final Treasury Regulations as may be applicable to the obligation created by this Contract from time to time. This covenant shall survive the payment in full of all Installment Payments under this Contract.

Notwithstanding any provision of this Article, (1) this Article shall not apply to the extent that the interest portion of the Installment Payments created under this Contract is not intended to be excludable from gross income for federal income tax purposes under Section 103 of the Code and (2) if the County shall provide to the Trustee an opinion of nationally recognized bond counsel to the effect that any action required under this Section or the Tax Agreement is no longer required, or to the effect that some further action is required, to maintain the exclusion from gross income of the interest on any obligations created by this Contract pursuant to Section 103 of the Code, the County, the Corporation and the Trustee may rely conclusively on such opinion in complying with the provisions hereof.

[End of Article IX]

**ARTICLE X**  
**INDEMNIFICATION**

To the extent permitted by applicable law and Article XIV, the County hereby agrees to indemnify, protect and save the Corporation, the LGC, the Trustee and any member, director, officer, agent or employee 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 Projects, or from the Indenture, the Deed of Trust and this Contract or from the County's performance under each of said documents, including, without limitation, the possession, condition, construction or use of the Projects, as applicable. The indemnification arising under this Article shall continue in full force and effect notwithstanding the payment in full of all obligations under this Contract.

[End of Article X]



**ARTICLE XI  
DISCLAIMER OF WARRANTIES**

THE CORPORATION AND THE TRUSTEE MAKE NO WARRANTIES OR REPRESENTATIONS, EXPRESS OR IMPLIED, AS TO THE CONDITION, MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE OF THE PROJECTS OR ANY OTHER REPRESENTATION OR WARRANTY WITH RESPECT TO THE PROJECTS.

[End of Article XI]

**ARTICLE XII**  
**DEFAULT AND REMEDIES**

**Section 12.1. *Definition of Event of Default.*** The County shall be deemed to be in default under this Contract on the happening of any of the following events of default (each, an “*Event of Default*”):

(a) The County fails to make any Installment Payment on the date such Installment Payment is due hereunder;

(a) The County fails to budget and appropriate funds sufficient to pay all Installment Payments and the reasonably estimated Additional Payments coming due in any Fiscal Year;

(b) The County fails to perform or observe any term, condition or covenant of this Contract on its part to be observed or performed, other than as referred to in (a) or (b) above, or of the Deed of Trust on its part to be observed or performed, or breaches any warranty by the County herein or therein contained, for a period of 30 days after written notice specifying such failure and requesting that it be remedied has been given to the County by the Trustee unless the Trustee shall agree in writing to an extension of such time prior to its expiration;

(c) Any bankruptcy, insolvency or reorganization proceedings or similar litigation, is instituted by the County, or a receiver, custodian or similar officer is appointed for the County or any of its property, and such proceedings or appointments are not vacated or fully stayed within 90 days after the institution or occurrence thereof; or

(d) Any representation or statement made by the County herein, in the Deed of Trust 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.

**Section 12.2. *Remedies on Default.*** On the occurrence of any Event of Default, the Trustee may, and if required by a majority in aggregate principal amount of the Owners of the Bonds, the Trustee shall, to the extent permitted by applicable law and Article XIV, exercise any one or more of the following remedies as the Trustee may elect or as shall be directed by a majority in aggregate principal amount of the Owners of the Bonds:

(a) Declare the unpaid portion of the principal and interest components of Installment Payments immediately due and payable without notice or demand to the County;

(b) Proceed by appropriate court action to enforce performance by the County of the applicable covenants of this Contract or to recover for the breach thereof; or

(c) Exercise or direct the Deed of Trust trustee to exercise all the rights and remedies of a secured party or creditor under the Uniform Commercial Code of the State and the general laws of the State with respect to the enforcement of the security interest granted or reserved under this Contract and the Deed of Trust including, without limitation, to the extent permitted by law, re-enter and take possession of the Premises

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 County, 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, sublease or other disposition, toward the balance due under this Contract and, thereafter, shall pay any remaining proceeds to the County.

Notwithstanding any other provisions herein, it is the intent of the parties hereto to comply with General Statutes of North Carolina Section 160A-20. No deficiency judgment may be rendered against the County in violation of Section 160A-20 including, without limitation, any deficiency judgment for amounts that may be owed hereunder when the sale of all or any portion of the Premises is insufficient to produce enough money to pay in full all remaining obligations under this Contract. To the extent of any conflict between this paragraph and any other provision of this Article XII, this paragraph shall take priority. This Section 12.2 in no way limits the provisions of Article XIV.

**Section 12.3. *Further Remedies.*** Notwithstanding the occurrence of an Event of Default hereunder and the exercise of any or all of the remedies listed in Section 12.2, this Contract shall remain in full force and effect and the County, to the extent permitted by applicable law and subject to Article XIV, shall remain liable for the full performance of all its obligations hereunder. All remedies of the Trustee are cumulative and may be exercised concurrently or separately. The exercise of any one remedy shall not be deemed an election of such remedy or preclude the exercise of any other remedy.

[End of Article XII]

### ARTICLE XIII ASSIGNMENT

**Section 13.1. *Assignment by the County.*** The County will not sell, assign, lease, sublease, pledge or otherwise encumber or suffer a lien or encumbrance on or against any interest in this Contract or the Premises (except for the lien and security interest of the Corporation therein or except for any permitted encumbrances under Section 6.2) without the Trustee's prior written consent. Notwithstanding the foregoing, the County may lease all or a portion of the Premises subject to the following conditions:

- (a) the obligation of the County to make Installment Payments and Additional Payments under this Contract will remain obligations of the County;
- (b) the County will, at least 30 days before the execution and delivery of any such lease, furnish or cause to be furnished to the Trustee a true and complete copy of such lease;
- (c) no lease will cause the interest component of Installment Payments relating to any Bonds intended to be excludable from gross income of the recipient thereof for federal income tax purposes to become includable in gross income for federal income tax purposes; and
- (d) the Trustee will have received an opinion of Counsel to the County to the effect that such lease is subordinate in all respects to the lien of the Deed of Trust and that such lease is subject to immediate termination at the Trustee's direction following an Event of Default by the County under this Contract.

**Section 13.2. *Assignment by the Corporation.*** The Corporation has assigned all of its interest in the Premises and this Contract (other than its rights under Article X, certain notice rights and those Additional Payments payable to the Corporation under this Contract), including without limitation, the Corporation's rights to receive the Installment Payments, to the Trustee.

[End of Article XIII]

**ARTICLE XIV**  
**LIMITED OBLIGATION OF THE COUNTY**

Notwithstanding any provision of this Contract, the Indenture or the Deed of Trust which may be to the contrary, no provision of this Contract, the Indenture or the Deed of Trust shall be construed or interpreted as creating a pledge of the faith and credit of the County within the meaning of the constitution of the State. No provision of this Contract, the Indenture or the Deed of Trust shall be construed or interpreted as creating a delegation of governmental powers nor as a donation by or a lending of the credit of the County within the meaning of the constitution of the State. This Contract, the Indenture and the Deed of Trust shall not directly or indirectly or contingently obligate the County to make any payments beyond those appropriated in the sole discretion of the County for any Fiscal Year in which this Contract is in effect; provided, however, any failure or refusal by the County to appropriate funds which results in the failure by the County to make any payment coming due hereunder will in no way obviate the occurrence of the event of default resulting from such nonpayment. No deficiency judgment may be rendered against the County in any action for breach of a contractual obligation under this Contract, and the taxing power of the County is not and may not be pledged directly or indirectly or contingently to secure any money due under this Contract. No provision of this Contract, the Indenture or the Deed of Trust shall be construed to pledge or to create a lien on any class or source of the County's funds, nor shall any provision of this Contract, the Indenture or the Deed of Trust restrict the future issuance of any of the County's bonds or obligations payable from any class or source of the County's funds. To the extent of any conflict between this Article XIV and any other provision of this Contract, the Indenture or the Deed of Trust, this Article shall take priority.

[End of Article XIV]

**ARTICLE XV**  
**JOINDER BY THE TRUSTEE**

The Trustee hereby executes this Contract to signify its agreement to be bound to the terms of this Contract applicable to it. The County and the Corporation acknowledge and agree that the Trustee shall be entitled to enforce and to benefit from the terms and conditions of this Contract applicable to it.

[End of Article XV]

**ARTICLE XVI  
MISCELLANEOUS**

**Section 16.1. Waiver.** No covenant or condition of this Contract can be waived except by the written consent of the Corporation and the Trustee. Any failure of the Corporation or the Trustee to require strict performance by the County or any waiver by the Corporation or the Trustee of any terms, covenants or contracts herein shall not be construed as a waiver of any other breach of the same or any other term, covenant or contract herein.

**Section 16.2. County's Acceptance of Rights and Responsibilities Under the Indenture.** The County accepts all responsibilities assigned to it under and pursuant to the Indenture.

**Section 16.3. Severability.** If any portion of this Contract other than Article XIV is 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.

**Section 16.4. Governing Law.** This Contract is to be construed, interpreted and enforced in accordance with the laws of the State.

**Section 16.5. Notices.** Any and all notices, requests, demands, and other communications given under or in connection with this Contract are effective only if in writing and either personally delivered or mailed by registered or certified mail, postage prepaid, return receipt requested, addressed as follows:

If to the County: County of Watauga, North Carolina  
814 West King Street, Room 216  
Boone, North Carolina 28607  
Attention: Finance Director

If to the Corporation: Watauga Public Facilities Corporation  
c/o County of Watauga, North Carolina  
814 West King Street, Room 216  
Boone, North Carolina 28607  
Attention: Secretary

If to the Trustee: [Trustee]  
[Address]

The Corporation, the County and the Trustee may, by written notice to the others, designate any further or different addresses to which subsequent notices, certificates or other communications are to be sent.

**Section 16.6. 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.

**Section 16.7. Entire Contract.** This Contract, together with the schedules and Exhibits hereto, constitutes the entire contract between the parties and this Contract may not be modified, amended, altered or changed except by written contract signed by the parties.

**Section 16.8. *Binding Effect.*** Subject to the specific provisions of this Contract, this Contract is binding on and inures to the benefit of the parties and their respective successors and assigns (including expressly any successor of the Trustee).

**Section 16.9. *Time.*** Time is of the essence of this Contract and each and all of its provisions.

**Section 16.10. *Payments.*** If the date for making payment, or the last date for performance of any act or the exercising of any right, as provided in this Contract, is not a Business Day, such payment may be made or act performed or right exercised on the next succeeding Business Day, with the same force and effect as if done on the nominal date provided in this Contract, and no interest shall accrue for the period after such nominal date.

**Section 16.11. *Covenants of County, Corporation or LGC not Covenants of Officials Individually.*** No covenant, stipulation, obligation or agreement contained herein shall be deemed to be a covenant, stipulation, obligation or agreement of any present or future member, director, agent, officer or employee of the County, the Corporation or the LGC in his individual capacity, and neither the members of the Board, the Board of Directors of the Corporation, the members of the LGC nor any other member, director, agent, officer or employee of the Board, the County, the Corporation or the LGC shall be subject to any personal liability or accountability by reason of the execution and delivery of the Bonds. No member of the Board, the Board of Directors of the Corporation, the LGC nor any agent, officer or employee of the County, the Corporation or the LGC shall incur any personal liability under this Contract.

**Section 16.12. *Amounts Remaining in Funds.*** It is agreed by the parties hereto that any amounts remaining in the Bond Fund, the Acquisition and Construction Fund, the Prepayment Fund or any other fund or account created under the Indenture other than the Rebate Fund, on termination of this Contract and the Indenture, and after payment in full of the Bonds (or provision for payment thereof having been duly made in accordance with the provisions of this Contract or the Indenture) and fees and expenses of the Trustee in accordance with this Contract and the Indenture, shall be paid to the County by the Trustee as an overpayment of Installment Payments in accordance with the terms of the Indenture.

**Section 16.13. *Amendments to this Contract.*** This Contract may not be amended by the parties hereto except in accordance with Article IX of the Indenture. In addition, no amendment to this Contract which would increase the amount or maturity of, or the interest rate with respect to, the Bonds Outstanding, or which would otherwise cause the Bonds Outstanding to violate or exceed any parameter or limitation with respect to the Bonds established by the LGC, will be effective until it is approved by the LGC.

**Section 16.14. *Execution in Counterparts.*** This Contract may be executed in any number of counterparts, each of which is an original and all of which constitute but one and the same instrument.

[SIGNATURES ON FOLLOWING PAGES]



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

**WATAUGA PUBLIC FACILITIES CORPORATION**

[SEAL]

By: \_\_\_\_\_  
President

Attest:

\_\_\_\_\_  
Secretary

[Signatures Continued on Following Pages]

[Counterpart Signature Page to the Installment Financing Contract  
Dated as of June 1, 2012, between Watauga Public Facilities Corporation  
and the County of Watauga, North Carolina]

**COUNTY OF WATAUGA, NORTH CAROLINA**

[SEAL]

By: \_\_\_\_\_  
County Manager

Attest:

\_\_\_\_\_  
Clerk to the Board of Commissioners

[Signatures Continued on Following Pages]

[Counterpart Signature Page to the Installment Financing Contract  
Dated as of June 1, 2012, between Watauga Public Facilities Corporation  
and the County of Watauga, North Carolina]

Consented to and Accepted:

**[TRUSTEE],**  
as Trustee

By: \_\_\_\_\_  
Vice President

[Signatures Continued on the Following Page]

[Counterpart Signature Page to the Installment Financing Contract  
Dated as of June 1, 2012, between Watauga Public Facilities Corporation  
and the County of Watauga, North Carolina]

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

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Secretary of the Local Government Commission

**INSTALLMENT PAYMENT SCHEDULE – 2012A BONDS**

DATE	PRINCIPAL COMPONENT	INTEREST COMPONENT	TOTAL PAYMENT
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**INSTALLMENT PAYMENT SCHEDULE – 2012B BONDS**

DATE	PRINCIPAL COMPONENT	INTEREST COMPONENT	TOTAL PAYMENT
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**EXHIBIT A**

**FORM OF REQUISITION  
ACQUISITION AND CONSTRUCTION FUND**

[Trustee]  
223 West Nash Street  
Wilson, North Carolina 27893  
Attention: Corporate Trust Department

Re: Direction to Make Disbursements from the Acquisition and Construction Fund

Ladies and Gentlemen:

Pursuant to Section 3.11 of the Indenture of Trust dated as of June 1, 2012 (the “*Indenture*”) between Watauga Public Facilities Corporation (the “*Corporation*”) and [Trustee], as trustee (the “*Trustee*”), and Section 4.2 of the Installment Financing Contract dated as of June 1, 2012 (the “*Contract*”) between the Corporation and the County of Watauga, North Carolina (the “*County*”), you are hereby directed to disburse from the 2012 Account of the Acquisition and Construction Fund referred to in the Indenture (the “*Acquisition and Construction Fund*”) the amount indicated below.

The undersigned hereby certifies:

1. This is requisition number \_\_\_\_\_ from the Acquisition and Construction Fund.
2. The name and address of the person, firm or corporation to whom the disbursement is due is as follows:
  
3. The amount to be disbursed is \$\_\_\_\_\_.
4. The purpose of the disbursement is to \_\_\_\_\_.
5. The disbursement herein requested is for an obligation properly incurred, is a proper charge against the Acquisition and Construction Fund as a Cost of Acquisition and Construction and has not been the basis of any previous disbursement.

Dated this \_\_ day of \_\_\_\_\_, 20\_\_.

**COUNTY OF WATAUGA, NORTH CAROLINA**

By: \_\_\_\_\_  
County Representative

Drafted by and

Return to: Scott E. Leo, Esq.  
Parker Poe Adams & Bernstein LLP  
Three Wachovia Center  
401 South Tryon Street, Ste. 3000  
Charlotte, North Carolina 28202

**NORTH CAROLINA**

**WATAUGA COUNTY**

**COLLATERAL IS OR INCLUDES FIXTURES**

**DEED OF TRUST,  
SECURITY AGREEMENT  
AND FIXTURE FILING**

**THIS DEED OF TRUST, SECURITY AGREEMENT AND FIXTURE FILING** is made and entered into as of the 1<sup>st</sup> day of June, 2012 (the "*Deed of Trust*"), from the **COUNTY OF WATAUGA, NORTH CAROLINA**, a political subdivision regularly created and validly existing under the laws of the State of North Carolina, whose address is 814 West King Street, Room 216, Boone, North Carolina 28607, as grantor (the "*Grantor*"), to **BRANDON K. LEWISOHN**, as trustee (the "*Trustee*"), for the benefit of **WATAUGA PUBLIC FACILITIES CORPORATION**, a nonprofit corporation duly created, existing and in good standing under the laws of the State of North Carolina, whose address is c/o County of Watauga, North Carolina, 814 West King Street, Room 216, Boone, North Carolina 28607, as grantee (the "*Corporation*"). The Corporation and its successors and assigns are hereinafter referred to as the "*Beneficiary*."

**RECITALS:**

The Grantor and the Corporation have entered into an Installment Financing Contract dated as of June 1, 2012 (the "*Contract*"), pursuant to which (1) the Corporation has agreed to advance certain funds to enable the Grantor to finance and refinance the Projects (as defined in the Contract) and (2) the Grantor has agreed to make the Installment Payments (as defined in the Contract) to the Corporation. The Contract is incorporated herein by this reference.

The Corporation has assigned substantially all of its rights under the Contract and this Deed of Trust to [Bond Trustee] pursuant to an Indenture of Trust dated as of June 1, 2012 (the "*Indenture*")



between the Corporation and [Bond Trustee], as bond trustee, under which (1) Refunding Limited Obligation Bonds (County of Watauga, North Carolina), Series 2012A (the “2012A Bonds”) and (2) a Refunding Limited Obligation Bond (County of Watauga, North Carolina), Series 2012B (the “2012B Bond,” together with the 2012A Bonds, the “2012 Bonds”) , each evidencing proportionate undivided interests in rights to receive certain Revenues (as defined in the Contract) under the Contract will be executed, delivered and sold. [Bond Trustee] is unwilling to enter into the Indenture and the Corporation is unwilling to enter into the Contract unless the Grantor secures the obligations under the Contract and this Deed of Trust by the conveyance of the Premises (as defined below), and the improvements and fixtures thereon, and as more fully described in this Deed of Trust.

This Deed of Trust has been executed and delivered to secure (1) the obligations of the Grantor to make the Installment Payments and (2) the payment and performance of all of the other liabilities and obligations, whether now existing or hereafter arising, of the Grantor to the Corporation under the Contract and this Deed of Trust, all such obligations and liabilities described in (1) or (2) above hereinafter collectively called the “*Indebtedness*.”

It is intended that this Deed of Trust comply with the provisions of Sections 45-67 *et seq.* of the North Carolina General Statutes. For purposes of complying with such provisions, the Grantor hereby represents as follows:

(a) That this Deed of Trust has been executed and delivered by the Grantor to secure future Indebtedness which may be incurred from time to time under the Contract;

(b) That the maximum principal amount, including present and future Indebtedness, which may be secured by this Deed of Trust at any one time is \$100,000,000 (exclusive of advances that may be made under the terms of the Contract or this Deed of Trust for fire and extended coverage insurance, taxes, assessment or other necessary expenditures for the preservation of the real property), subject to the limitation that at no time shall the total principal amount of Indebtedness secured hereby exceed said maximum principal sum of \$100,000,000 together with accrued interest and the payment for fire and extended coverage insurance, taxes, assessments or other necessary expenditures for the preservation of the real property; *provided that* the foregoing limitation shall apply only to the lien upon real property located in the State of North Carolina created by this Deed of Trust and shall not in any manner limit, affect or impair any grant of a security interest in or lien on any other real property or any personal property in favor of the Beneficiary;

(c) That the period within which such future Indebtedness may be incurred is the period between the date hereof and the date 30 years from the date hereof; and

(d) It shall not be a requirement for any such future Indebtedness to be secured hereby that the Grantor sign an instrument or other notation stipulating that such Indebtedness is secured by this Deed of Trust, as no such future Indebtedness is required, under the Contract or otherwise, to be evidenced by a written instrument or notation.

The Grantor desires to secure (a) the payment of the Indebtedness and any renewals, modifications or extensions thereof, in whole or in part, and (b) the additional payments hereinafter

agreed to be made by or on behalf of the Grantor, by a conveyance of the lands and security interests hereinafter described.

*NOW, THEREFORE*, in consideration of the premises and for the purposes aforesaid, and in further consideration of the sum of Ten Dollars (\$10.00) paid to the Grantor by the Trustee and other valuable considerations, receipt of which is hereby acknowledged, the Grantor has given, granted, bargained and sold, and by these presents does give, grant, bargain, sell and convey unto the Trustee, its heirs, successors and assigns, with power of sale, the following property (hereinafter collectively referred to as the "*Premises*"):

(a) The real property lying and being in Watauga County, North Carolina and described below in the legal description attached as an exhibit hereto (hereinafter referred to as the "*Land*"):

SEE EXHIBIT A ATTACHED HERETO FOR LAND DESCRIPTION, WHICH EXHIBIT A IS INCORPORATED HEREIN BY REFERENCE.

(b) All buildings, structures, additions and improvements of every nature whatsoever now or hereafter situated on or about the Land (the "*Improvements*").

(c) All gas and electric fixtures, radiators, heaters, engines and machinery, boilers, ranges, elevators and motors, plumbing and heating fixtures, carpeting and other floor coverings, fire extinguishers and any other safety equipment required by governmental regulation or law, washers, dryers, water heaters, mirrors, mantels, air conditioning apparatus, refrigerating plants, refrigerators, cooking apparatus and appurtenances, window screens, awnings and storm sashes and other machinery, equipment or other tangible personal property, which are or shall be so attached to the Improvements, including all extensions, additions, improvements, betterments, renewals, replacements and substitutions, or proceeds from a permitted sale of any of the foregoing, as to be deemed to be fixtures under North Carolina law (collectively, the "*Fixtures*") and accessions to the Land and a part of the Premises as between the parties hereto and all persons claiming by, through or under them, and which shall be deemed to be a portion of the security for the Indebtedness. The location of the collateral described in this paragraph is also the location of the Land, and the record owner of the Land is the Grantor.

(d) All easements, rights-of-way, strips and gores of land, vaults, streets, ways, alleys, passages, sewer rights, waters, water courses, water rights and powers, minerals, flowers, shrubs, crops, trees, timber and other emblements now or hereafter located on the Land or under or above the same or any part or parcel thereof, and all estates, rights, titles, interests, privileges, liberties, tenements, hereditaments and appurtenances, reversion and reversions, remainder and remainders, whatsoever, in any way belonging, relating or appertaining to the Premises or any part thereof, or which hereafter shall in any way belong, relate or be appurtenant thereto, whether now owned or hereafter acquired by Grantor.

(e) All leases affecting the Premises or any part thereof and all income, rents and issues of the Premises and the Improvements now or hereafter located thereon from time to time accruing (including without limitation all payments under leases or

tenancies, proceeds of insurance, condemnation payments, tenant security deposits whether held by the Grantor or in a trust account, and escrow funds), and all the estate, right, title, interest, property, possession, claim and demand whatsoever at law, as well as in equity, of the Grantor of, in and to the same; reserving only the right to the Grantor to collect and apply the same (other than insurance proceeds and condemnation payments) so long as the Grantor is not in Default hereunder.

*TO HAVE AND TO HOLD*, the Premises unto the Trustee, its heirs, successors and assigns, in fee simple forever, upon the trusts, terms and conditions and for the uses and purposes hereinafter set out;

And the Grantor covenants with the Trustee that (1) the Grantor is lawfully seized of the Premises in fee simple and has the right to convey the same in fee simple; (2) except for Permitted Encumbrances (as defined in Exhibit B attached hereto and incorporated herein by reference), the same are free and clear of all encumbrances, and (3) the Grantor will warrant and defend the title to the same against the claims of all persons whomsoever arising by, under or through the Grantor.

*THIS CONVEYANCE IS MADE UPON THIS SPECIAL TRUST*, that if the Grantor shall pay the Indebtedness in accordance with the terms of the Contract, together with interest thereon, and any renewals or extensions thereof in whole or in part, and shall comply with all the covenants, terms and conditions of this Deed of Trust, then this conveyance shall be null and void and may be canceled of record at the request and at the cost of the Grantor.

*TO PROTECT THE SECURITY OF THIS DEED OF TRUST*, the Grantor hereby further covenants and agrees as follows:

## ARTICLE I

1.01. ***Payment of Indebtedness.*** The Grantor will pay the Indebtedness and all other sums now or hereafter secured hereby promptly as the same shall become due.

1.02. ***Taxes, Liens and Other Charges.*** The Grantor will comply with the terms of the Contract in all matters relating to taxes, liens and other charges.

1.03. ***Insurance.*** The Grantor shall comply with the terms of the Contract in all matters relating to insurance.

1.04. ***Condemnation.*** The Grantor shall comply with the terms of the Contract in all matters relating to condemnation.

1.05. ***Care of Premises.*** The Grantor shall comply with the Contract in all matters relating to the care of the Premises.

1.06. ***Leases and Other Agreements Affecting Premises.*** The Grantor will duly and punctually perform all terms, covenants, conditions and agreements binding upon it under any lease or any other agreement of any nature whatsoever which involves or affects the Premises or any part thereof. The Grantor will, at the request of Beneficiary, furnish Beneficiary with executed copies of all leases now or hereafter created upon the Premises or any part thereof, and all leases now or hereafter entered into will be in form and substance subject to the prior written approval of Beneficiary (which approval will not be

unreasonably withheld or delayed). The Grantor will not, without the express written approval of Beneficiary (which approval will not be unreasonably withheld or delayed), modify, surrender or terminate, either orally or in writing, any lease now existing or hereafter created upon the Premises or any part thereof, nor will the Grantor permit an assignment or a subletting by any tenant without the prior express written approval of Beneficiary (which approval will not be unreasonably withheld or delayed). The Grantor will not accept payment of rent more than one (1) month in advance without the prior express written approval of Beneficiary.

1.07. ***Security Agreement and Fixture Filing.*** With respect to the Fixtures, this Deed of Trust is hereby made and declared to be a security agreement in favor of Beneficiary encumbering each and every item of such property included herein as a part of the Premises, in compliance with the provisions of the Uniform Commercial Code as enacted in the State of North Carolina, and the Grantor hereby grants a security interest to Beneficiary in and to all of such Fixtures. This Deed of Trust shall constitute a financing statement filed as a fixture filing in accordance with N.C. Gen. Stat. §25-9-502 (or any amendment thereto). For purposes of complying with the requirements of N.C. Gen. Stat. §25-9-502, the name of Grantor, as Debtor, and Beneficiary, as Secured Party, and the respective addresses of Grantor, as Debtor, and Beneficiary, as Secured Party, are set forth on the first page of this Deed of Trust. Grantor authorizes Beneficiary to effect any filing or recording of any additional financing statements relating to the Fixtures or amendments thereto where appropriate to perfect and continue the security interest in, and to protect and preserve, the Fixtures. Subject to Article XIV of the Contract and the limitations on the remedies in Article XII of the Contract, the remedies for any violation of the covenants, terms and conditions of the security agreement contained in this Deed of Trust shall be as prescribed herein, by general law or by the specific statutory consequences now or hereafter enacted and specified in said Uniform Commercial Code, all at Beneficiary's sole election. The mention in any such financing statement or statements of the rights in and to (1) the proceeds of any fire and/or hazard insurance policy, (2) any award in eminent domain proceedings for a taking or for loss of value or (3) the Grantor's interest as lessor in any present or future lease or rights to rents, issues or awards growing out of the use and/or occupancy of the Premises, whether pursuant to lease or otherwise, shall not in any way alter any of the rights of Beneficiary as determined by this Deed of Trust or affect the priority of Beneficiary's security interest granted hereby or by any other recorded document, it being understood and agreed that such mention in such financing statement or statements is solely for the protection of Beneficiary in the event any court shall at any time hold with respect to the foregoing clauses (1), (2) or (3) of this sentence, that notice of Beneficiary's priority of interest, to be effective against a particular class of persons, must be filed in the Uniform Commercial Code records.

1.08. ***Further Assurances; After Acquired Property.*** At any time, and from time to time, upon request by Beneficiary, the Grantor will make, execute and deliver or cause to be made, executed and delivered, to Beneficiary and/or Trustee and, where appropriate and on request of the Trustee or the Beneficiary, cause to be recorded and/or filed and from time to time thereafter to be re-recorded and/or refiled at such time and in such offices and places as shall be deemed desirable by Beneficiary, any and all such other and further deeds of trust, security agreements, financing statements, continuation statements, instruments of further assurance, certificates and other documents as may, in the opinion of Beneficiary, be necessary or desirable to effectuate, complete, or perfect, or to continue and preserve (a) the obligations of the Grantor under the Contract or this Deed of Trust and (b) the lien of this Deed of Trust as a first and prior lien, subject to Permitted Encumbrances, upon and security title in and to all of the Premises, whether now owned or hereafter acquired by Grantor. Upon any failure by the Grantor so to do, Beneficiary may make, execute, record, file, re-record and/or refile any and all such deeds of trust, security agreements, financing statements, continuation statements, instruments, certificates, and

documents for and in the name of the Grantor and the Grantor hereby irrevocably appoints Beneficiary as its agent and attorney-in-fact to do so.

1.09. **Expenses.** To the extent permitted by applicable law and Article XIV of the Contract, the Grantor will pay or reimburse Beneficiary and Trustee, upon demand therefor, for all reasonable attorneys' fees, costs and expenses actually incurred by Beneficiary and the Trustee in any suit, action, legal proceeding or dispute of any kind in which Beneficiary and/or Trustee is made a party or appears as party plaintiff or defendant, affecting the Indebtedness secured hereby, this Deed of Trust or the interest created herein, or the Premises, including, but not limited to, the exercise of the power of sale contained in this Deed of Trust, any condemnation action involving the Premises or any action to protect the security hereof, but excepting therefrom any negligence or misconduct by Beneficiary or any breach of this Deed of Trust by Beneficiary; and all such amounts paid by Beneficiary shall be added to the Indebtedness.

1.10. **Limit of Validity.** If from any circumstances whatsoever fulfillment of any provision of this Deed of Trust or the Contract at the time performance of such provision shall be due, shall involve transcending the limit of validity presently prescribed by any applicable usury statute or any other applicable law, with regard to obligations of like character and amount, then *ipso facto* the obligation to be fulfilled shall be reduced to the limit of such validity, so that in no event shall any exaction be possible under this Deed of Trust or the Contract that is in excess of the current limit of such validity, but such obligation shall be fulfilled to the limit of such validity.

1.11. **Use and Management of the Premises.** Unless required by applicable law, the Grantor shall not materially alter or change the use of the Premises or abandon the Premises without the prior written consent of Beneficiary which shall not be unreasonably withheld; provided, however, that nothing contained in this Section 1.11 or elsewhere in the Deed of Trust shall be deemed or construed so as to in any way estop, limit or impair the Grantor from exercising or performing any regulatory, policing, legislative, governmental or other powers or functions of a political subdivision pursuant to applicable law.

1.12. **Acquisition of Collateral.** The Grantor shall not acquire any portion of the personal property, if any, covered by this Deed of Trust subject to any security interest, conditional sales contract, title retention arrangement or other charge or lien taking precedence over the security title and lien of this Deed of Trust except as otherwise permitted by the Contract.

1.13. **Hazardous Material.**

(a) The Grantor represents, warrants and agrees that, except as previously disclosed to the Corporation in writing, (1) the Grantor has not used or installed any Hazardous Material (as hereinafter defined) in violation of applicable Environmental Laws on, from or in the Premises and to the Grantor's actual knowledge no other person has used or installed any Hazardous Material on, from or in the Premises; (2) to the Grantor's knowledge, no other person has violated any applicable Environmental Laws (as hereinafter defined) relating to or affecting the Premises or any other property owned by the Grantor except as previously disclosed to the Corporation; (3) to the best of the Grantor's knowledge the Premises are presently in compliance with all applicable Environmental Laws, and there are no facts or circumstances presently existing upon or under the Premises, or relating to the Premises, which may violate any applicable Environmental Laws, and there is not now pending or, to the best knowledge of the Grantor, threatened any action, suit, investigation or proceeding against the Grantor or the Premises (or against any other party relating to the Premises) seeking to enforce any right or remedy against the

Grantor or the Premises under any of the Environmental Laws; (4) the Premises shall be kept free of Hazardous Materials to the extent required by applicable Environmental Laws, and shall not be used to generate, manufacture, refine, transport, treat, store, handle, dispose, transfer, produce, or process Hazardous Materials other than the processing of materials in the ordinary course of the Grantor's business as of the date hereof; (5) the Grantor shall not cause or permit the installation of Hazardous Materials in, on, over or under the Premises or a Release (as hereinafter defined) of Hazardous Materials unto or from the Premises or suffer the presence of Hazardous Materials in, on, over or under the Premises in violation of applicable Environmental Laws; (6) the Grantor shall comply with Environmental Laws applicable to the Premises, all at no cost or expense to Beneficiary or Trustee; (7) the Grantor has obtained and will at all times continue to obtain and/or maintain all licenses, permits and/or other governmental or regulatory actions necessary for the Premises to comply with applicable Environmental Laws (the "Permits") and the Grantor will be and at all times remain in full compliance with the terms and provisions of the Permits; (8) to the best of the Grantor's knowledge there has been no Release of any Hazardous Materials on or from the Premises in violation of applicable Environmental Laws, whether or not such Release emanated from the Premises or any contiguous real estate which has not been abated and any resulting violation of applicable Environmental Laws abates; and (9) the Grantor shall immediately give the Beneficiary oral and written notice in the event that the Grantor receives any notice from any governmental agency, entity, or any other party with regard to Hazardous Materials on, from or affecting the Premises and the Grantor shall conduct and complete all investigations, studies, sampling and testing, and all remedial, removal and other actions necessary to clean up and remove all Hazardous Materials on, from or affecting the Premises in accordance with all applicable Environmental Laws.

(b) To the extent permitted by applicable law and Article XIV of the Contract, the Grantor hereby agrees to indemnify Beneficiary and Trustee and hold Beneficiary and Trustee harmless from and against any and all liens, demands, defenses, suits, proceedings, disbursements, liabilities, losses, litigation, damages, judgments, obligations, penalties, injuries, costs, expenses (including, without limitation, attorneys' and experts' fees) and claims of any and every kind whatsoever paid, incurred, suffered by or asserted against Beneficiary, Trustee and/or the Premises for, with respect to, or as a direct or indirect result of: (1) the presence of Hazardous Materials in, on or under the Premises, or the escape, seepage, leakage, spillage, discharge, emission or Release on or from the Premises of any Hazardous Materials; (2) the violation of any Environmental Laws applicable to the Premises or the Grantor; (3) the failure by the Grantor to comply fully with the terms and provisions of this Section 1.13; (4) the violation of any of the Environmental Laws in connection with any other property owned by the Grantor, which violation gives or may give rise to any rights whatsoever in any party with respect to the Premises by virtue of any of the Environmental Laws; or (5) any warranty or representation made by the Grantor in paragraph (a) of Section 1.13 being false or untrue in any material respect.

(c) In the event Beneficiary has a reasonable basis to suspect that the Grantor has violated any of the covenants, warranties or representations contained in this Section 1.13, or that the Premises are not in compliance with the applicable Environmental Laws for any reason, the Grantor shall take such steps as Beneficiary reasonably requires by written notice to the Grantor to confirm or deny such occurrences, including, without limitation, the preparation of environmental studies, surveys or reports. In the event that the Grantor fails to take such action, Beneficiary may take such action as Beneficiary reasonably believes necessary to protect its interest, and the cost and expenses of all such actions taken by Beneficiary, including, without limitation, Beneficiary's reasonable attorneys' fees, shall be added to the Indebtedness.

(d) For purposes of this Deed of Trust: (1) “*Hazardous Material*” or “*Hazardous Materials*” means and includes, without limitation, (a) hazardous waste, as defined in the Resource Conservation and Recovery Act of 1980, or in any applicable state or local law or regulation, (b) hazardous substances, as defined in CERCLA (as defined below), or in any applicable state or local law or regulation, (c) toxic substances, as defined in the Toxic Substances Control Act of 1976, or in any applicable state or local law or regulation or (d) insecticides, fungicides or rodenticides, as defined in the Federal Insecticide, Fungicide, and Rodenticide Act of 1975, or in any applicable state or local law or regulation, as each such Act, statute or regulation may be amended from time to time; (2) “*Release*” has the meaning given such term, in the Environmental Laws, including, without limitation, Section 101(22) of CERCLA; and (3) “*Environmental Law*” or “*Environmental Laws*” means any “*Super Fund*” or “*Super Lien*” law, or any other federal, state or local statute, law, ordinance or code, regulating, relating to or imposing liability or standards of conduct concerning any Hazardous Materials as may now or at any time hereafter be legally in effect, including, without limitation, the following, as same may be amended or replaced from time to time, and all regulations promulgated and officially adopted thereunder or in connection therewith: the Super Fund Amendments and Reauthorization Act of 1986 (“*SARA*”); the Comprehensive Environmental Response, Compensation and Liability Act of 1980 (“*CERCLA*”); the Clean Air Act (“*CAA*”); the Clean Water Act (“*CWA*”); the Toxic Substance Control Act (“*TSCA*”); the Solid Waste Disposal Act (“*SWDA*”), as amended by the Resource Conservation and Recovery Act (“*RCRA*”); the Hazardous Waste Management System; and the Occupational Safety and Health Act of 1970 (“*OSHA*”). To the extent permitted by applicable law and subject to Article XIV of the Contract, the obligations and liabilities of the Grantor under this Section 1.13 which arise out of events or actions occurring prior to the satisfaction of this Deed of Trust shall survive the exercise of the power of sale under or foreclosure of this Deed of Trust, the delivery of a deed in lieu of foreclosure of this Deed of Trust, the cancellation or release of record of this Deed of Trust and/or the payment in full of the Indebtedness.

(e) The parties expressly agree that an event under the provisions of this Section 1.13 which may be deemed to be a default under this Deed of Trust shall not be a default until the Grantor has received notice of such event and such grace period as specified in the Contract for the cure of such default. Further, in terms of compliance with future governmental laws, regulations or rulings applicable to environmental conditions, the Grantor shall be permitted to afford itself of any defense or other protection against the application or enforcement of any such law, regulation or ruling.

1.14. ***Release of Premises.*** Notwithstanding any other provisions of this Deed of Trust, at any time so long as there is no Event of Default, the Trustee must release the Premises or any part thereof from the lien and security interest of this Deed of Trust when and if the following requirements have been fulfilled:

(a) In connection with any release of the Premises, or any part thereof, there shall be filed with the Beneficiary a certified copy of the resolution of the Board of Commissioners for the Grantor stating the purpose for which the Grantor desires such release of the Premises, giving an adequate legal description of the part of the Premises to be released, requesting such release and providing for the payment by the Grantor of all expenses in connection with such release.

(b) In connection with the release of any part of the Premises constituting less than the entire Premises, either (1) the value of the Premises remaining after the proposed release (as such value is evidenced by or derived from (A) an appraisal of the remaining Premises prepared by a certified MAI-approved appraiser, (B) the insured replacement value of the remaining Premises or (C) the assessed tax valuation of the

remaining Premises) is not less than 50% of the aggregate principal component of the Installment Payments then Outstanding under the Indenture or (2) the Grantor (i) provides for the substitution of other real property therefor and the value of the Premises (as such value is evidenced by or derived from (A) an appraisal of the remaining Premises prepared by a certified MAI-approved appraiser, (B) the insured replacement value of the remaining Premises or (C) the assessed tax valuation of the remaining Premises) remaining after the proposed substitution is not less than the value of the Premises (as determined above) immediately before the proposed substitution, (ii) delivers to the Trustee and the Corporation an opinion of Special Counsel to the effect that the substitution (A) is permitted by law and under this Deed of Trust and (B) will not adversely affect the tax treatment of the Bonds, and (iii) records a modification to this Deed of Trust reflecting such substitution of the Premises. Any appraisal ordered pursuant to this paragraph may be prepared by an employee of the Grantor, so long as such employee is a certified MAI-approved appraiser.

(c) In connection with the release of any part of the Premises constituting less than the entire Premises, such release shall not prohibit Grantor's ingress, egress and regress to and from the remainder of the Premises not being released, or materially interfere with the use of the remainder of the Premises not being released.

(d) In connection with the release of all property constituting the entire Premises, there is paid to the Beneficiary an amount sufficient to provide for the payment in full of all Outstanding Bonds in accordance with Article VI of the Indenture.

## ARTICLE II

2.01. ***Events of Default.*** The terms "*Default*", "*Event of Default*" or "*Events of Default*", wherever used in this Deed of Trust, shall mean any one or more of the following events:

(a) The occurrence of any "*Event of Default*" under the Contract; or

(b) Failure by the Grantor to perform or observe any term, condition or covenant of this Deed of Trust on its part to be observed or performed, other than as referred to in (a) above, or breach of any warranty by the Grantor herein contained, for a period of 30 days after written notice specifying such failure and requesting that it be remedied has been given to the Grantor by the Trustee or the Beneficiary unless the Trustee or the Beneficiary agrees in writing to an extension of such time before its expiration.

2.02. ***Acceleration upon Default; Additional Remedies.*** If an Event of Default has occurred and is continuing, Beneficiary may or shall, at the direction of a majority in aggregate principal amount of the Owners of the Outstanding Bonds, declare all Indebtedness to be due and payable and the same shall thereupon become due and payable in accordance with the Contract and this Deed of Trust without any presentment, demand, protest or notice of any kind. Thereafter, Beneficiary may, to the extent permitted by applicable law and subject to Article XIV of the Contract:

(a) Either in person or by agent, with or without bringing any action or proceeding, or by a receiver appointed by a court and without regard to the adequacy of



its security, enter upon and take possession of the Premises, or any part thereof, in its own name or in the name of Trustee, and do any acts which it deems necessary or desirable to preserve the value, marketability or rentability of the Premises, or part thereof or interest therein, increase the income therefrom or protect the security hereof, and, with or without taking possession of the Premises, sue for or otherwise collect the rents and issues thereof, including those rents and issues past due and unpaid, and apply the same, less costs and expenses of operation and collection including attorney's fees, upon any Indebtedness, all in such order as Beneficiary may determine. The entering upon and taking possession of the Premises, the collection of such rents and issues and the application thereof as aforesaid shall not cure or waive any Event of Default or notice of Event of Default hereunder or invalidate any act done in response to such Default or pursuant to such notice of Default, and, notwithstanding the continuance in possession of the Premises or the collection, receipt and application of rents and issues, the Trustee or Beneficiary, to the extent permitted by applicable law and subject to Article XIV of the Contract, shall be entitled to exercise every right provided for in any instrument securing or relating to the Indebtedness or by law upon occurrence of any Event of Default, including the right to exercise the power of sale;

(b) Commence an action to foreclose this Deed of Trust as a mortgage, specially enforce any of the covenants hereof, or cause the Trustee to foreclose this Deed of Trust by power of sale; and

(c) To the extent permitted by applicable law and subject to Article XIV of the Contract, exercise any or all of the remedies available to a secured party under the Uniform Commercial Code of North Carolina or under any other applicable laws.

NOTWITHSTANDING ANY PROVISIONS HEREIN, IT IS THE INTENT OF THE PARTIES TO COMPLY WITH THE PROVISIONS OF NORTH CAROLINA GENERAL STATUTES SECTION 160A-20. NO DEFICIENCY JUDGMENT MAY BE RENDERED AGAINST THE GRANTOR IN FAVOR OF THE BENEFICIARY IN VIOLATION OF SECTION 160A-20, INCLUDING, WITHOUT LIMITATION, ANY DEFICIENCY JUDGMENT FOR AMOUNTS THAT MAY BE OWED UNDER THE CONTRACT OR THIS DEED OF TRUST WHEN THE SALE OF ALL OR ANY PORTION OF THE PREMISES IS INSUFFICIENT TO PRODUCE ENOUGH MONEY TO PAY IN FULL ALL REMAINING OBLIGATIONS UNDER THE CONTRACT OR THIS DEED OF TRUST. TO THE EXTENT OF ANY CONFLICT BETWEEN THIS PARAGRAPH AND ANY OTHER PROVISION OF THIS DEED OF TRUST, THIS PARAGRAPH SHALL TAKE PRIORITY AND SHALL INCORPORATE HEREIN BY REFERENCE ARTICLE XIV OF THE CONTRACT. NOTWITHSTANDING ANY PROVISION TO THE CONTRARY IN THIS DEED OF TRUST, NO DEFICIENCY JUDGMENT MAY BE RENDERED AGAINST THE GRANTOR IN ANY ACTION TO COLLECT ANY OF THE INDEBTEDNESS SECURED BY THIS DEED OF TRUST AND THE TAXING POWER OF THE GRANTOR IS NOT AND MAY NOT BE PLEDGED DIRECTLY OR INDIRECTLY OR CONTINGENTLY TO SECURE ANY MONIES DUE OR SECURED UNDER THIS DEED OF TRUST.

2.03. **Foreclosure by Power of Sale.** Should Beneficiary elect to foreclose by exercise of the power of sale herein contained, Beneficiary shall notify Trustee and shall deposit with Trustee this Deed of Trust and such receipts and evidence of expenditures made and secured hereby as Trustee may require.

Upon application of Beneficiary, it shall be lawful for and the duty of Trustee, and Trustee is hereby authorized and empowered, to expose to sale and to sell the Premises at public auction for cash, after having first complied with all applicable requirements of North Carolina law with respect to the exercise of powers of sale contained in deeds of trust, and, upon such sale, Trustee shall convey title to

the purchaser in fee simple. After retaining from the proceeds of such sale just compensation for Trustee's services and all expenses incurred by Trustee, including a reasonable trustee's commission not exceeding one-half of one percent (.5%) of the bid and reasonable attorneys' fees for legal services actually performed, Trustee shall apply the residue of the proceeds to the Beneficiary to be applied in accordance with Section 7.10 of the Indenture. The Grantor agrees that in the event of sale hereunder, Beneficiary shall have the right to bid thereat. The Trustee may require the successful bidder at any sale to deposit immediately with Trustee cash or certified check in an amount not to exceed twenty-five percent (25%) of the bid, provided notice of such requirement is contained in the advertisement of the sale. The bid may be rejected if the deposit is not immediately made and thereupon the Trustee shall at the same time and place again offer the Premises for sale. Such deposit shall be refunded in case a resale is had; otherwise, it shall be applied to the purchase price.

2.04. ***Performance by Beneficiary on Defaults by the Grantor.*** If the Grantor shall Default in the payment, performance or observance of any term, covenant or condition of this Deed of Trust, Beneficiary may, at its option, pay, perform or observe the same, and all payments made or costs or expenses incurred by Beneficiary in connection therewith shall be secured hereby and shall be, without demand, immediately repaid by the Grantor to Beneficiary with interest thereon at the rate provided in the Contract. Beneficiary shall be the sole judge of the necessity for any such actions and of the amounts to be paid. Beneficiary is hereby empowered to enter and to authorize others to enter upon the Premises or any part thereof for the purpose of performing or observing any such defaulted term, covenant or condition without thereby becoming liable to the Grantor or any person in possession holding under the Grantor.

2.05. ***Waiver of Appraisal, Valuation, Stay, Extension and Redemption Laws.*** The Grantor agrees to the full extent permitted by law, that in case of a Default hereunder, neither the Grantor nor anyone claiming through or under it shall or will set up, claim or seek to take advantage of any appraisal, valuation, stay, extension, exemption or redemption laws now or hereafter in force, to prevent or hinder the enforcement or foreclosure of this Deed of Trust, or the absolute sale of the Premises, or the final and absolute putting into possession thereof, immediately after such sale, of the purchasers thereat, and the Grantor, for itself and all who may at any time claim through or under it, hereby waives, to the full extent that it may lawfully so do, the benefit of all such laws and any and all right to have the assets comprised in the security intended to be created hereby marshaled upon any foreclosure of the lien hereof.

2.06. ***Leases.*** Beneficiary and Trustee, or either of them, at their option and to the extent permitted by law, are authorized to foreclose this Deed of Trust subject to the rights of any tenants of the Premises, and the failure to make any such tenants parties to any such foreclosure proceedings and to foreclose their rights will not be, nor be asserted to be by Grantor, a defense to any proceedings instituted by Beneficiary and Trustee to collect the sums secured hereby.

2.07. ***Discontinuance of Proceedings and Restoration of the Parties.*** In case Beneficiary and Trustee, or either of them, shall have proceeded to enforce any right, power or remedy under this Deed of Trust by foreclosure, entry or otherwise, and such proceedings shall have been discontinued or abandoned for any reason, or shall have been determined adversely to Beneficiary and Trustee, or either of them, then and in every such case the Grantor and Beneficiary and Trustee, and each of them, shall be restored to their former positions and rights hereunder, and all rights, powers and remedies of Beneficiary and Trustee, and each of them, shall continue as if no such proceeding had been taken.

2.08. **Remedies Not Exclusive.** To the extent permitted by applicable law and subject to Article XIV of the Contract, Trustee and Beneficiary, and each of them, shall be entitled to enforce payment and performance of any Indebtedness or obligations secured hereby and to exercise all rights and powers under this Deed of Trust or any other agreement securing or relating to the Indebtedness secured hereby or any laws now or hereafter in force, notwithstanding some of the Indebtedness and obligations secured hereby may now or hereafter be otherwise secured, whether by mortgage, deed of trust, pledge, lien, assignment or otherwise. Neither the acceptance of this Deed of Trust nor its enforcement, whether by court action or pursuant to the power of sale or other powers herein contained, shall prejudice or in any manner affect Trustee's or Beneficiary's right to realize upon or enforce any other security now or hereafter held by Trustee or Beneficiary, it being agreed that Trustee and Beneficiary, and each of them, shall be entitled to enforce this Deed of Trust and any other security now or hereafter held by Beneficiary or Trustee in such order and manner as they or either of them may in their absolute discretion determine. No remedy herein conferred upon or reserved to Trustee or Beneficiary is intended to be exclusive of any other remedy herein or by law provided or preclusive of any other remedy herein or by law provided or permitted, but each shall be cumulative and shall be in addition to every other remedy given hereunder or now or hereafter existing at law or in equity or by statute. Every power or remedy given by any instrument securing or relating to the Indebtedness secured hereby to Trustee or Beneficiary, or to which either of them may be otherwise entitled, may be exercised, concurrently or independently, from time to time and as often as may be deemed expedient by Trustee or Beneficiary and either of them may pursue inconsistent remedies.

2.09. **Waiver.** No delay or omission of Beneficiary or the Trustee to exercise any right, power or remedy accruing upon any Default shall exhaust or impair any such right, power or remedy or shall be construed to be a waiver of any such Default, or acquiescence therein; and every right, power and remedy given by this Deed of Trust to Beneficiary and Trustee, and each of them, may be exercised from time to time and as often as may be deemed expedient by Beneficiary and Trustee, and each of them. No consent or waiver, expressed or implied, by Beneficiary to or of any breach or Default by the Grantor in the performance of the obligations thereof hereunder shall be deemed or construed to be a consent or waiver to or of any other breach or Default in the performance of the same or any other obligations of the Grantor hereunder. Failure on the part of Beneficiary to complain of any act or failure to act or to declare an Event of Default, irrespective of how long such failure continues, shall not constitute a waiver by Beneficiary of its rights hereunder or impair any rights, powers or remedies consequent on any breach or Default by the Grantor.

2.10. **Suits to Protect the Premises.** Beneficiary and Trustee, and each of them, shall have power (a) to institute and maintain such suits and proceedings as they may deem expedient to prevent any impairment of the Premises by any acts which may be unlawful or in violation of this Deed of Trust, with notice of commencement of such suits and proceedings to be given to the Grantor, (b) to preserve or protect their interest in the Premises and in the rents and issues arising therefrom and (c) to restrain the enforcement of or compliance with any legislation or other governmental enactment, rule or order that may be unconstitutional or otherwise invalid, if the enforcement of or compliance with such enactment, rule or order would impair the security hereunder or be prejudicial to the interest of Beneficiary.

2.11. **Beneficiary May File Proofs of Claim.** In the case of any receivership, insolvency, bankruptcy, reorganization, arrangement, adjustment, composition or other proceedings affecting the Grantor, its creditors or its property, Beneficiary, to the extent permitted by law, shall be entitled to file such proofs of claim and other documents as may be necessary or advisable to have the claims of Beneficiary allowed in such proceedings for the entire amount due and payable by the Grantor under this

Deed of Trust at the date of the institution of such proceedings and for any additional amount which may become due and payable by the Grantor hereunder after such date.

### ARTICLE III

3.01. ***Successors and Assigns.*** This Deed of Trust shall inure to the benefit of and be binding upon the parties hereto and their respective heirs, executors, legal representatives, successors and assigns. Whenever a reference is made in this Deed of Trust to Grantor, Trustee or Beneficiary such reference shall be deemed to include a reference to the heirs, executors, legal representatives, successors and assigns of Grantor, Trustee or Beneficiary, respectively.

3.02. ***Terminology.*** All personal pronouns used in this Deed of Trust whether used in the masculine, feminine or neuter gender, shall include all other genders; the singular shall include the plural, and vice versa. Titles and Articles are for convenience only and neither limit nor amplify the provisions of this Deed of Trust itself, and all references herein to Articles, Sections or subsections thereof, shall refer to the corresponding Articles, Sections or subsections thereof, of this Deed of Trust unless specific reference is made to such Articles, Sections or subsections thereof of another document or instrument.

3.03. ***Severability.*** If any provision of this Deed of Trust or the application thereof to any person or circumstance shall be invalid or unenforceable to any extent, then, subject to applicable law and Article XIV of the Contract, the remainder of this Deed of Trust and the application of such provisions to other persons or circumstances shall not be affected thereby and shall be enforced to the greatest extent permitted by law.

3.04. ***Applicable Law and Jurisdiction.*** This Deed of Trust shall be interpreted, construed and enforced according to the laws of the State of North Carolina. The exclusive forum and venue for all actions arising out of this Deed of Trust are with the North Carolina General Court of Justice in Watauga County, North Carolina or the U.S. District Court for the Western District of North Carolina. Any attempt to contravene this Section shall be an express violation of this Deed of Trust.

3.05. ***Notices, Demands and Request.*** All notices, demands or requests provided for or permitted to be given pursuant to this Deed of Trust must be in writing and shall be deemed to have been properly given or served by personal delivery or by depositing in the United States Mail, prepaid and registered or certified, return receipt requested, and addressed to the addresses set forth in the Contract. All notices, demands and requests shall be effective upon personal delivery or upon being deposited in the United States Mail. However, the time period in which a response to any notice, demand or request must be given, if any, shall commence to run from the date of receipt of the notice, demand or request by the addressee thereof. Rejection or other refusal to accept or the inability to deliver because of changed address of which no notice was given shall be deemed to be receipt of the notice, demand or request sent. By giving at least thirty (30) days written notice thereof, the Grantor, the Trustee or Beneficiary shall have the right from time to time and at any time during the term of this Deed of Trust to change their respective addresses and each shall have the right to specify as its address any other address within the United States of America.

3.06. ***Appointment of Successor Trustee.*** Beneficiary shall at any time have the irrevocable right to remove Trustee herein named without notice to such Trustee for cause and to appoint a successor thereto by an instrument in writing, duly acknowledged, in such form as to entitle such written instrument to be recorded in this state, and in the event of the death or resignation of Trustee named herein,

Beneficiary shall have the right to appoint a successor thereto by such written instrument, and any Trustee so appointed shall be vested with the title to the Premises and shall possess all the powers, duties and obligations herein conferred on Trustee in the same manner and to the same extent as though such were named herein as Trustee. In the event of such substitution of Trustee, Beneficiary shall furnish notice thereof to the Grantor.

3.07. **Trustee's Powers.** At any time, or from time to time, without liability therefor and without notice, upon written request of Beneficiary and Grantor and presentation of this Deed of Trust, and without affecting the liability for payment of the Indebtedness secured hereby or the effect of this Deed of Trust upon the remainder of said Premises, Trustee may (1) reconvey any part of said Premises, (2) consent in writing to the making of any map or plat thereof, (3) join in granting any easement therein or (4) join in any extension agreement or any agreement subordinating the lien or charge hereof. This provision shall not limit the powers of Trustee under applicable law or Section 2.03 hereof.

3.08. **Beneficiary's Powers.** Without affecting the liability for the payment of any obligation herein mentioned, and without affecting the lien or charge of this Deed of Trust upon any portion of the Premises not then or theretofore released as security for the full amount of all unpaid obligations, Beneficiary may, from time to time and without notice, (1) release any person so liable, (2) extend the maturity or alter any of the terms of any such obligation, (3) grant other indulgences, (4) cause to be released or reconveyed at any time at Beneficiary's option, any parcel, portion or all of the Premises, (5) take or release any other or additional security for any obligation herein mentioned or (6) make compositions or other arrangements in relation thereto. The provisions of N.C. Gen. Stat. Section 45-45.1 or any similar statute hereafter enacted in replacement or in substitution thereof shall be inapplicable to this Deed of Trust.

3.09. **Acceptance by Trustee.** Trustee accepts this Trust when this Deed of Trust, duly executed and acknowledged, is made of public record as provided by law.

3.10. **Miscellaneous.** The covenants, terms and conditions herein contained shall bind, and the benefits and powers shall inure to, the respective heirs, executors, administrators, successors and assigns of the parties hereto. Whenever used herein, the singular number shall include the plural, the plural the singular, and the term "Beneficiary" shall include any payee of the indebtedness hereby secured and any transferee or assignee thereof, whether by operation of law or otherwise.

[SIGNATURES BEGIN ON FOLLOWING PAGE]

*IN WITNESS WHEREOF*, the Grantor has caused this Deed of Trust to be executed under seal the day and year first above written.

[SEAL]

**COUNTY OF WATAUGA, NORTH CAROLINA**

By: \_\_\_\_\_  
County Manager

Attest:

\_\_\_\_\_  
Clerk to the Board of Commissioners

STATE OF NORTH CAROLINA )  
 )  
COUNTY OF WATAUGA )

I, a Notary Public of the County and State aforesaid, certify that Anita J. Fogle (the “Signatory”) personally came before me this day and acknowledged that she is the Clerk to the Board of Commissioners for the County of Watauga, North Carolina and that by authority duly given and as the act of said County, the foregoing instrument was signed in its name by the County Manager of the County of Watauga, North Carolina and attested by her as Clerk to the Board of Commissioners of said County.

I certify that the Signatory personally appeared before me this day, and

*(check one of the following)*

\_\_\_\_\_(I have personal knowledge of the identity of the Signatory); **or**

\_\_\_\_\_(I have seen satisfactory evidence of the Signatory’s identity, by a current state or federal identification with the Signatory’s photograph in the form of:

*(check one of the following)*

\_\_\_ a driver’s license *or*

\_\_\_ in the form of \_\_\_\_\_); **or**

\_\_\_\_\_(a credible witness has sworn to the identity of the Signatory).

The Signatory acknowledged to me that she voluntarily signed the foregoing document for the purpose stated therein and in the capacity indicated.

Witness my hand and official stamp or seal, this the \_\_\_\_\_ day of \_\_\_\_\_, 2012.

\_\_\_\_\_  
Notary Public

Print: Name: \_\_\_\_\_

*[Note: Notary Public must sign exactly as on notary seal]*

My Commission Expires: \_\_\_\_\_

☞ [NOTARY SEAL] (MUST BE FULLY LEGIBLE)

**EXHIBIT A**  
**LAND DESCRIPTION**

[To be inserted]



**EXHIBIT B****PERMITTED ENCUMBRANCES**

*“Permitted Encumbrances”* means, as of any particular time: (a) this Deed of Trust; (b) the Contract, as it may be amended from time to time; (c) the Indenture; (d) utility, access and other easements and rights of way, restrictions and exceptions which exist of record as of the closing date and date which do not interfere with or impair the intended use of the Premises; (e) such minor defects, irregularities, encumbrances and clouds on title as normally exist with respect to property of the general character of the Premises and as do not materially impair title to the Premises; and (f) any other encumbrances described in Schedule B to the title insurance commitment Number [\_\_\_\_\_] dated [Date] issued by [Title Insurance Company], which commitment is incorporated herein by this reference, pursuant to which [Title Insurance Company] will issue the title insurance policy as required by Section 5.5 of the Contract.

**WATAUGA PUBLIC FACILITIES CORPORATION**

**AND**

**[TRUSTEE],**  
AS TRUSTEE

**INDENTURE OF TRUST**

Dated as of  
June 1, 2012

This instrument has been entered into by the within-described parties to secure certain Limited Obligation Bonds evidencing proportionate undivided interests in rights to receive certain revenues pursuant to an Installment Financing Contract between Watauga Public Facilities Corporation and the County of Watauga, North Carolina, as more fully described herein.

## INDENTURE OF TRUST

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## INDENTURE OF TRUST

*THIS INDENTURE OF TRUST* dated as of June 1, 2012 (this “*Indenture*”), by and between **WATAUGA PUBLIC FACILITIES CORPORATION** (the “*Corporation*”) and [TRUSTEE], as trustee (the “*Trustee*”), a [national banking association duly organized and validly existing under the laws of the United States of America], having an office and place of business in [City, State], being authorized to accept and execute trusts of the character herein set out.

### WITNESSETH:

*WHEREAS*, the County of Watauga, North Carolina (the “*County*”) is a duly and regularly created, organized and existing political subdivision validly existing as such under and by virtue of the Constitution, statutes and laws of the State of North Carolina (the “*State*”);

*WHEREAS*, the County, for the purposes of refinancing a portion of its installment payment obligations under the Prior Contract, has, under Section 160A-20 of the General Statutes of North Carolina, entered into an Installment Financing Contract dated as of June 1, 2012 (the “*Contract*”) with the Corporation under which it will make Installment Payments and Additional Payments in consideration thereof;

*WHEREAS*, pursuant to this Indenture, the Corporation has assigned all of its right, title and interest in and to the Trust Estate, including (1) the Contract (except the rights of the Corporation under Article X, certain notice rights and those Additional Payments payable to the Corporation under the Contract), (2) the Deed of Trust and the Premises and (3) all money and securities from time to time held by the Trustee under this Indenture in any fund or account (other than the Rebate Fund), each as further described herein;

*WHEREAS*, the Bonds evidence proportionate undivided interests in the rights to receive certain Revenues payable by the County under and pursuant to the Contract and shall be payable solely from the sources provided for in this Indenture;

*WHEREAS*, pursuant to the Contract, the County will pay certain Installment Payments in consideration for the advancement by the Corporation of the Purchase Price under the Contract, which Installment Payments will be deposited by the Trustee in the funds and accounts established hereunder in accordance with the terms hereof and of the Contract;

*WHEREAS*, the execution, delivery and performance of the Contract by the Corporation, and the assignment by the Corporation to the Trustee, pursuant to this Indenture, of the Trust Estate have been authorized, approved and directed by all necessary and appropriate action of the Corporation;

*WHEREAS*, the Trustee has entered into this Indenture for and on behalf of the Owners, and will hold its rights hereunder, except as otherwise specifically provided herein, for the equal and proportionate benefit of the Owners, and will disburse money received by the Trustee in accordance with this Indenture;

*WHEREAS*, the obligation of the County to make Installment Payments and Additional Payments under and pursuant to the Contract shall not constitute a pledge of the faith and credit of the County within the meaning of the Constitution of the State;

*WHEREAS*, to further secure the obligations of the County under the Contract, the County will deliver a Deed of Trust, Security Agreement and Fixture Filing dated as of June 1, 2012 (the “*Deed of Trust*”) to the deed of trust trustee named therein for the benefit of the Corporation and its assignee;

*WHEREAS*, no deficiency judgment may be rendered against the County in any action for its breach of the Contract, and the taxing power of the County is not and may not be pledged in any way directly or indirectly or contingently to secure any money due under the Contract; and

*WHEREAS*, all things necessary to make the Bonds, when executed and delivered by the Corporation and authenticated by the Trustee as provided in this Indenture, legal, valid and binding proportionate interests in rights to receive certain Revenues pursuant to the Contract, as herein provided, and to constitute this Indenture a valid, binding and legal instrument for the security of the Bonds in accordance with its terms, have been done and performed;

*NOW, THEREFORE, THIS INDENTURE OF TRUST WITNESSETH:*

That the Corporation, in consideration of the premises and the mutual covenants herein contained and for the benefit of the Owners and the sum of One Dollar (\$1.00) to it duly paid by the Trustee at or before the execution of these presents, and for other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, to secure the payment of the principal, premium, if any, and interest with respect to all Bonds at any time outstanding under this Indenture, according to their tenor and effect, and to secure the performance and observance of all the covenants and conditions in the Bonds and herein contained, and to declare the terms and conditions on and subject to which the Bonds are executed and delivered and secured, has executed and delivered this Indenture and has granted, warranted, aliened, remised, released, conveyed, assigned, pledged, set over and confirmed, and by these presents does grant, warrant, alien, remise, release, convey, assign, sell, set over and confirm unto [Trustee], as the Trustee, and to its successors and assigns forever, all and singular the following described property, franchises and income (collectively, the “*Trust Estate*”):

(a) All rights, title and interest of the Corporation in the Contract, except its rights under Article X thereof, its rights to receive notices and those Additional Payments payable to the Corporation under the Contract;

(b) All rights, title and interest of the Corporation in the Deed of Trust and the Premises; and

(c) All money and securities from time to time held by the Trustee under this Indenture in any fund or account (except the Rebate Fund) and any and all other personal property of every name and nature from time to time hereafter by delivery or by writing of any kind specially, pledged or hypothecated, as and for additional security hereunder, by the Corporation, or by anyone on its behalf, in favor of the Trustee, which is hereby authorized to receive any and all such property at any and all times and to hold and apply the same subject to the terms hereof;

*TO HAVE AND TO HOLD* the same with all privileges and appurtenances hereby conveyed and assigned, or agreed or intended to be, to the Trustee and its successors in said trust and assigns forever;

*IN TRUST, NEVERTHELESS*, on the terms herein set forth for itself and for the equal and proportionate benefit, security and protection of all Owners, without privilege, priority or distinction as to the lien or otherwise of any of the Bonds over any other of the Bonds;

*PROVIDED, HOWEVER*, that if the principal with respect to the Bonds and the premium, if any, and the interest due or to become due with respect thereto, shall be paid at the times and in the manner mentioned in the Bonds according to the true intent and meaning thereof, and if there are paid to the Trustee all sums of money due or to become due to the Trustee in accordance with the terms and provisions hereof, then on such final payment this Indenture and the rights hereby granted shall cease, determine and be void; otherwise this Indenture to be and remain in full force and effect; and

*THIS INDENTURE FURTHER WITNESSETH* and it is expressly declared, that all Bonds executed and delivered and secured hereunder are to be executed, authenticated and delivered and all said property, rights, interests, revenues and receipts hereby pledged, assigned and mortgaged are to be dealt with and disposed of under, on and subject to the terms, conditions, stipulations, covenants, agreements, trusts, uses and purposes as hereinafter expressed, and the Corporation has agreed and covenanted, and does hereby agree and covenant, with the Trustee for the benefit of the Owners, as follows:

## **ARTICLE I DEFINITIONS AND INTERPRETATIONS**

Section 1.01. *Definitions.* All words and phrases defined in Article I of the Contract have the same meaning in this Indenture and are incorporated herein by reference. In addition, the following terms, except where the context indicates otherwise, have the respective meanings set forth below.

“*Acquisition and Construction Fund*” means the special fund created under Section 3.11 of this Indenture.

“*Additional Bonds*” means Bonds executed and delivered in accordance with Section 2.11.

“*Arbitrage and Tax Regulatory Agreement*” means the Arbitrage and Tax Regulatory Agreement dated [Closing Date], executed by and among the County, the Corporation and the Trustee to signify the acceptance of certain covenants and obligations necessary for the exclusion of interest with respect to the 2012 Bonds from the gross income of the owners thereof under the Internal Revenue Code of 1986, as amended.

“*Bank*” means Branch Banking and Trust Company, as initial purchaser and Owner of the 2012B Bond, and its successors and assigns.

“*Bonds*” means the 2012 Bonds and any Additional Bonds.

“*Bond Fund*” means the special fund created under Section 3.02 of this Indenture.

“*Business Day*” means a day on which the Trustee or the County is not required or authorized by law to remain closed.

“*Cede & Co.*” means Cede & Co., the nominee of DTC or any successor nominee of DTC with respect to the Bonds.

“*Contract*” means the Installment Financing Contract dated as of June 1, 2012 between the Corporation and the County and any amendments or supplements thereto, including the Exhibits attached thereto.

“*Corporation Representative*” means any person or persons at the time designated to act on behalf of the Corporation for purposes of performing any act on behalf of the Corporation under the Contract and this Indenture by a written certificate furnished to the County and the Trustee containing the specimen signature of such person or persons and signed on behalf of the Corporation by its President.

“*Cost of Acquisition and Construction*” includes payment of or reimbursement for the following items:

- (a) the Costs of Issuance;
- (b) obligations incurred or assumed for the Projects in connection with the acquisition, construction, renovation and equipping thereof, including, without limitation, costs of obtaining title insurance and a survey of the real property that is subject to the Deed of Trust;
- (c) the cost of acquisition, construction, renovation, equipping and refinancing of the Projects, including, without limitation, the Corporation’s fees and expenses (including the fees and expenses of its counsel), the fees and expenses of the LGC, legal fees and expenses, taxes, inspection costs, a financial guaranty insurance policy, if any, printing costs, permit fees, filing and recording costs and advertising expenses in connection with the acquisition, construction, renovation and equipping of the Projects; and
- (d) all other costs which are considered to be a part of the cost of acquisition, construction, renovation and equipping of the Projects in accordance with generally accepted accounting principles and which will not affect the exclusion from gross income for federal income tax purposes of the designated interest component of Installment Payments payable by the County, including sums required to reimburse the County for advances made by the County that are properly chargeable to the acquisition, construction, renovation and equipping of the Projects.

“*Costs of Issuance*” means the costs incurred in connection with the initial execution and delivery of the Bonds, including, without limitation, all printing expenses in connection with this Indenture, the Contract, and the documents and certificates contemplated hereby, the Preliminary Official Statement and the Official Statement for the Bonds, and the Bonds, legal fees and expenses of counsel to the Corporation, special counsel, counsel to the County, other counsel, counsel to the purchaser or purchasers of the Bonds, rating agency fees, any accounting expenses incurred in connection with determining that the Bonds are not “arbitrage bonds” within the meaning of the Code, the Trustee’s initial fees and expenses (including attorney’s fees), and state license fees, on the submission of requisitions by the County signed by a County Representative stating the amount to be paid, to whom it is to be paid and the reason for such payment, and that the amount of such requisition is justly due and owing and has not been the subject of another requisition which was paid and is a proper expense of executing and delivering the Bonds.

“*DTC*” means The Depository Trust Company, a limited purpose company organized under the law of the State of New York, and its successors and assigns.

“*DTC Participant*” or “*DTC Participants*” means securities brokers and dealers, banks, trust companies, clearing corporations and certain other corporations which have access to the DTC system.



“*Event of Default*” means those events specified as such in Section 7.01 of this Indenture.

“*Federal Securities*” means, to the extent such investments qualify under Section 159-30 of the General Statutes of North Carolina as amended from time to time, (a) direct obligations of the United States of America for the payment of which the full faith and credit of the United States of America are pledged (including any securities issued or held in the name of the Trustee in book entry form on the books of the Department of the Treasury of the United States of America) which obligations are held by the Trustee and are not subject to prepayment or purchase before maturity at the option of anyone other than the holder; (b) any bonds or other obligations of any state or territory of the United States of America or of any agency, instrumentality or local governmental unit of any such state or territory which are (1) not callable before maturity or (2) as to which irrevocable instructions have been given to the trustee or escrow agent of such bonds or other obligations by the obligor to give due notice of redemption and to call such bonds for redemption on the date or dates specified, and which are rated by Moody’s and S&P within its highest rating category and which are secured as to principal, redemption premium, if any, and interest by a fund consisting only of cash or bonds or other obligations of the character described in clause (a) of this definition which fund may be applied only to the payment of such principal of and interest and redemption premium, if any, on such bonds or other obligations on the maturity date or dates thereof or the specified prepayment date or dates pursuant to such irrevocable instructions, as appropriate; or (c) evidences of ownership of proportionate interests in future interest and principal payments on specified obligations described in clause (a) or (b) held by a bank or trust company as custodian, under which the owner of the investment is the real party in interest and has the right to proceed directly and individually against the obligor on the underlying obligations described in clause (a) or (b), and which underlying obligations are not available to satisfy any claim of the custodian or any person claiming through the custodian or to whom the custodian may be obligated.

“*Interest Payment Date*” means each June 1 and December 1, beginning December 1, 2012.

“*LGC*” means the Local Government Commission of North Carolina.

“*Moody’s*” means Moody’s Investors Service, its successors and their assigns, and, if such entity for any reason no longer performs the function of a securities rating agency, “*Moody’s*” will be deemed to refer to any other nationally recognized securities rating agency designated by the Corporation.

“*Opinion of Counsel*” means an opinion in writing of legal counsel, who may be counsel to the Trustee, the County or the Corporation.

“*Outstanding*” or “*Bonds Outstanding*” means all Bonds which have been executed and delivered, except:

- (a) Bonds canceled or which have been surrendered to the Trustee for cancellation;
- (b) Bonds in lieu of which other Bonds have been authenticated under Sections 2.08 or 2.09;
- (c) Bonds which have been prepaid as provided in Article IV (including Bonds prepaid on a partial payment as provided in Section 4.01); and
- (d) Bonds which are deemed to have been paid under Article VI.

“*Owner*” or “*Owners*” means the registered owner or owners of any Bond fully registered as shown in the registration books of the Trustee.

“*Permitted Investments*” means Federal Securities and any other investments which are qualified under Section 159-30 of the General Statutes of North Carolina, as amended from time to time.

“*Person*” or “*person*” means natural persons, firms, associations, corporations and public bodies.

“*Prepayment Fund*” means the special fund created under Section 3.07.

“*Rebate Fund*” means the special fund created under Section 3.09.

“*Record Date*” means the 15<sup>th</sup> day (whether or not a Business Day) of the month next preceding an Interest Payment Date.

“*S&P*” means Standard and Poor’s Ratings Services, a Standard & Poor’s Financial Services LLC business, its successors and their assigns, and, if such entity for any reason no longer performs the function of a securities rating agency, “*S&P*” will be deemed to refer to any other nationally recognized securities rating agency designated by the Corporation.

“*Trustee*” means [Trustee], acting in the capacity of trustee for the Owners pursuant to the Indenture, and any successor thereto appointed under this Indenture.

“*Trust Estate*” means the property pledged and assigned to the Trustee pursuant to and defined as such in the granting clauses hereof.

“*Trustee Representative*” means the person or persons at the time designated to act on behalf of the Trustee for purposes of performing any act on behalf of the Trustee under this Indenture by a written certificate furnished to the County and the Corporation containing the specimen signature of such person or persons and signed on behalf of the Trustee by any duly authorized officer of the Trustee.

“*2012 Bonds*” means, collectively, the 2012A Bonds and the 2012B Bond.

“*2012A Bonds*” means the \$[A Amount] Refunding Limited Obligation Bonds (County of Watauga, North Carolina), Series 2012A evidencing proportionate undivided interests in rights to receive certain Revenues pursuant to the Contract.

“*2012B Bond*” means the \$10,000,000 Refunding Limited Obligation Bonds (County of Watauga, North Carolina), Series 2012B evidencing proportionate undivided interests in rights to receive certain Revenues pursuant to the Contract.

“*Underwriters*” means BB&T Capital Markets, a division of Scott & Stringfellow LLC, and [co-manager].

Section 1.02. ***Interpretations.*** For purposes of this Indenture:

(a) *Successors.* References to specific persons, positions or officers include those who or which succeed to or perform their respective functions, duties or responsibilities.

(b) *Laws.* References to the Code, or to the laws or Constitution of the State, or rules or regulations thereunder, or to a section, division, paragraph or other provision thereof, include those laws and rules and regulations, and that section, division, paragraph or other provision thereof as from time to time amended, modified, supplemented, revised or superseded, provided that no such amendment, modification, supplement, revision or supersession shall be applied to alter the obligation to pay the principal, premium, if any, or interest due and owing with respect to the Bonds Outstanding in the amount and manner, at the times, and from the sources provided in this Indenture, except as otherwise herein permitted.

(c) *Singular/Plural.* Unless the context otherwise indicates, words importing the singular number include the plural number and words importing the plural number include the singular number.

(d) *Computations.* Unless otherwise provided in this Indenture or the facts are then otherwise, all computations required for the purposes of this Indenture shall be made on the assumptions that: (1) all Installment Payments are paid as and when the same become due; and (2) all credits required by this Indenture to be made to any fund or account are made in the amounts and at the times required.

(e) *Exclusion of Bonds Held by or for the County and the Corporation.* In determining whether the Owners of the requisite principal amount of Bonds Outstanding have given any request, demand, authorization, direction, notice, consent or waiver hereunder, Bonds owned by the County and the Corporation shall be disregarded and deemed not to be Outstanding, except that, in determining whether the Trustee is protected in relying on any such request, demand, authorization, direction, notice, consent or waiver, only Bonds which the Trustee actually knows to be so owned shall be disregarded.

(f) *Counsel Opinions.* Any opinion of counsel may be qualified by reference to the constitutional powers of the United States of America and the State, the police and sovereign powers of the State, judicial discretion, and bankruptcy, insolvency, reorganization, moratorium and other laws affecting creditors' rights and similar matters.

(g) *Consolidated Certifications, Opinions and Instruments.* When several matters are required to be certified by, or covered by an opinion of, any specified person, it is not necessary that all such matters be certified by, or covered by the opinion of, only one such person, or that they are so certified or covered by only one document, but one such person may certify or give an opinion with respect to some matters and one or more other such persons as to other matters, and any such person may certify or give an opinion as to such matters in one or several documents. When any person is required to make, give or execute two or more applications, requests, consents, certificates, statements, opinions or other instruments under this Indenture, such instruments may, but need not, be consolidated and form one instrument.

(h) *Opinions and Certifications of County and Corporation.* Any certificate or opinion of an officer of the County or Corporation may be based, insofar as it relates to legal matters, on a certificate or opinion of, or representations by, counsel, unless such officer knows, or in the exercise of reasonable care should know, that the certificate or opinion or representations with respect to the matters on which his or her certificate or opinion is based are erroneous. Any such certificate or opinion may be based, insofar as it

relates to factual matters, on a certificate or opinion of, or representations by, an officer or officers of the Corporation or the County stating that the information with respect to such factual matters is in the possession of the County or the Corporation, unless such officer knows, or in the exercise of reasonable care should know, that the certificate or opinion or representations with respect to such factual matters are erroneous.

(i) *References to Indenture.* The terms “*herein*,” “*hereunder*,” “*hereby*,” “*hereto*,” “*hereof*” and any similar terms refer to this Indenture as a whole and not to any particular article, section or subdivision hereof; and the term “*heretofore*” means before the date of execution of this Indenture, the term “*now*” means at the date of execution of this Indenture, and the term “*hereafter*” means after the date of execution of this Indenture.

(j) *Section and Article References.* References in this Indenture to Section or Article numbers, without added references to other documents, are to the indicated Sections or Articles in this Indenture.

(k) *Gender.* Words of the masculine gender include correlative words of the feminine and neuter genders.

(l) *Remedies.* Nothing expressed or implied in this Indenture is intended or shall be construed to confer on or to give any Person, other than the County, the Trustee, the Corporation and the Owners of the Bonds, any right, remedy or claim under or by reason of this Indenture or any covenant, agreement, condition or stipulation hereof.

(m) *References to Fees and Expenses.* Whenever this Indenture contains a reference to fees or expenses, such reference is deemed to include the word “*reasonable*” as an antecedent thereto.

[End of Article I]

**ARTICLE II**  
**AUTHORIZATION, TERMS, ISSUANCE OF BONDS**

Section 2.01. **Authorized Amount of Bonds.** No Bonds may be executed and delivered under this Indenture except in accordance with this Article II. The aggregate principal amount of 2012A Bonds that may be executed and delivered under Section 2.07 is \$[A Amount]. The aggregate principal amount of the 2012B Bond that may be executed and delivered under Section 2.07 is \$10,000,000. Additional Bonds may be delivered as provided in Section 2.11.

Section 2.02. **Issuance of Bonds.** To provide funds for the payment of the Cost of Acquisition and Construction and to provide money for deposit in the other funds and accounts created hereunder, the Bonds shall be executed, sold and delivered under this Indenture. The Bonds shall constitute proportionate undivided interests in the rights to receive Revenues under the Contract.

The 2012A Bonds shall mature on June 1 in each year in the amounts and bear interest (computed on the basis of a 360-day year of twelve 30-day months and payable on each Interest Payment Date) from the dates as determined by reference to the paragraphs below until the principal with respect to the 2012A Bonds has been paid in full or duly provided for in accordance with the provisions hereof as follows:

<u>Maturity Date</u>	<u>Principal Amount</u>	<u>Interest Rate</u>	<u>Maturity Date</u>	<u>Principal Amount</u>	<u>Interest Rate</u>
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The 2012B Bond shall mature on June 1, 2028 and bear interest at a rate of [Rate]% per annum (computed on the basis of a 360-day year of twelve 30-day months and payable on each Interest Payment Date) from the dates as determined by reference to the paragraphs below until the principal with respect to the 2012B Bond has been paid in full or duly provided for in accordance with the provisions hereof.

The 2012 Bonds shall be dated as of the date of their delivery, if executed and delivered before the first Interest Payment Date, or if executed and delivered on any later date, as of the Interest Payment Date next preceding their date of execution and delivery, or if executed and delivered on an Interest Payment Date, as of such date; provided, however, that if the interest with respect to the 2012 Bonds has not been paid in full and is in default, 2012 Bonds executed and delivered in exchange for 2012 Bonds surrendered for transfer or exchange will be dated as of the date to which interest has been paid in full on the 2012 Bonds so surrendered.

The 2012A Bonds will be executed and delivered by means of a book-entry system with no physical distribution of 2012A Bonds made to the public. One 2012A Bond for each maturity will be delivered to DTC and immobilized in its custody. A book-entry system will be employed, evidencing ownership of the 2012A Bonds in principal amounts of \$5,000 or any integral multiple thereof, with transfers of beneficial ownership effected on the records of DTC and DTC Participants pursuant to rules and procedures established by DTC.

Each DTC Participant will be credited in the records of DTC with the amount of such DTC Participant's interest in the 2012A Bonds. Beneficial ownership interests in the 2012A Bonds may be purchased by or through DTC Participants. The holders of these beneficial ownership interests are hereinafter referred to as the "*Beneficial Owners*." The Beneficial Owners will not receive 2012A Bonds representing their beneficial ownership interests. The ownership interests of each Beneficial Owner will be recorded through the records of the DTC Participant from which such Beneficial Owner purchased its Bonds. Transfers of ownership interests in the 2012A Bonds will be accomplished by book entries made by DTC and, in turn, by DTC Participants acting on behalf of Beneficial Owners. SO LONG AS CEDE & CO., AS NOMINEE FOR DTC, IS THE REGISTERED OWNER OF THE 2012A BONDS, THE TRUSTEE SHALL TREAT CEDE & CO. AS THE ONLY HOLDER OF THE 2012A BONDS FOR ALL PURPOSES UNDER THE INDENTURE, INCLUDING RECEIPT OF ALL PRINCIPAL, PREMIUM, IF ANY, AND INTEREST WITH RESPECT TO THE 2012A BONDS, RECEIPT OF NOTICES, VOTING AND REQUESTING OR DIRECTING THE TRUSTEE TO TAKE OR NOT TO TAKE, OR CONSENTING TO, CERTAIN ACTIONS UNDER THIS INDENTURE.

Payments of principal, interest and prepayment premium, if any, with respect to the 2012A Bonds, so long as DTC is the only Owner of the 2012A Bonds, will be paid by the Trustee directly to DTC or its nominee, Cede & Co., as provided in the Blanket Letter of Representation from the County to DTC (the "*Letter of Representation*"). DTC will remit such payments to DTC Participants, and such payments thereafter will be paid by DTC Participants to the Beneficial Owners. The County and the Trustee shall not be responsible or liable for payment by DTC or DTC Participants, for sending transaction statements or for maintaining, supervising or reviewing records maintained by DTC or DTC Participants.

In the event that (a) DTC determines not to continue to act as securities depository for the 2012A Bonds or (b) the County determines that the continuation of the book-entry system of evidence and transfer of ownership of the 2012A Bonds would adversely affect the interests of the County or the Beneficial Owners of the 2012A Bonds, the County shall discontinue the book-entry system with DTC. If the County fails to identify another qualified securities depository to replace DTC, the County will cause the Trustee to authenticate and deliver replacement Bonds in the form of fully registered 2012A Bonds in accordance with DTC's rules and procedures.

THE COUNTY, THE CORPORATION AND THE TRUSTEE DO NOT HAVE ANY RESPONSIBILITY OR OBLIGATIONS TO ANY DTC PARTICIPANT OR ANY BENEFICIAL OWNER WITH RESPECT TO (A) THE 2012A BONDS; (B) THE ACCURACY OF ANY RECORDS MAINTAINED BY DTC OR ANY DTC PARTICIPANT; (C) THE PAYMENT BY DTC OR ANY DTC PARTICIPANT OF ANY AMOUNT DUE TO ANY BENEFICIAL OWNER IN RESPECT OF THE PRINCIPAL AND PREMIUM, IF ANY, AND INTEREST WITH RESPECT TO THE 2012A BONDS; (D) THE DELIVERY OR TIMELINESS OF DELIVERY BY DTC OR ANY DTC PARTICIPANT OF ANY NOTICE DUE TO ANY BENEFICIAL OWNER WHICH IS REQUIRED OR PERMITTED UNDER THE TERMS OF THIS INDENTURE TO BE GIVEN TO OWNERS; (E) THE SELECTION OF BENEFICIAL OWNERS TO RECEIVE PAYMENTS IN THE EVENT OF ANY PARTIAL PREPAYMENT OF THE 2012A BONDS; OR (F) ANY CONSENT GIVEN OR OTHER ACTION TAKEN BY DTC, OR ITS NOMINEE, CEDE & CO., AS OWNER.

If a book-entry system of evidence and transfer of ownership of the 2012A Bonds is discontinued pursuant to the provisions of this Section, the 2012A Bonds shall be delivered solely as fully registered Bonds without coupons in the denominations of \$5,000 and any integral multiple thereof, shall be lettered "RA" and numbered separately from 1 upward, and shall be payable, executed, authenticated, registered, exchanged and canceled pursuant to the provisions of Article II.

The 2012B Bond shall be delivered solely as a fully registered Bond, shall be lettered “RB-1” and shall be payable, executed, authenticated, registered, exchanged and canceled pursuant to the provisions of Article II.

The Bonds and any premiums on the prepayment thereof before maturity will be payable in lawful money of the United States of America and at the designated corporate trust office of the Trustee on presentation and surrender. Interest with respect to the Bonds will be paid by the Trustee by check mailed on the Interest Payment Date to each Owner as its name and address appear on the register kept by the Trustee at the close of business on the Record Date.

Section 2.03. **Limited Obligation.** Each Bond shall evidence a proportionate undivided interest in the right to receive certain Revenues. The Bonds are payable solely from Revenues as, when and if the same are received by the Trustee, which Revenues are to be held in trust by the Trustee for such purposes in the manner and to the extent provided herein. The Owner of each Bond is not entitled to receive more than the amount of principal, premium, if any, and interest represented by such Bond. The Bonds do not constitute a debt of the County or any assignee of the County under the Contract.

NOTWITHSTANDING ANY PROVISION OF THIS INDENTURE, THE CONTRACT OR THE DEED OF TRUST WHICH MAY BE TO THE CONTRARY, NO PROVISION OF THIS INDENTURE, THE CONTRACT OR THE DEED OF TRUST SHALL BE CONSTRUED OR INTERPRETED AS CREATING A PLEDGE OF THE FAITH AND CREDIT OF THE COUNTY WITHIN THE MEANING OF THE CONSTITUTION OF THE STATE. NO PROVISION OF THIS INDENTURE, THE CONTRACT OR THE DEED OF TRUST SHALL BE CONSTRUED OR INTERPRETED AS CREATING A DELEGATION OF GOVERNMENTAL POWERS NOR AS A DONATION BY OR A LENDING OF THE CREDIT OF THE COUNTY WITHIN THE MEANING OF THE CONSTITUTION OF THE STATE. THIS INDENTURE, THE CONTRACT OR THE DEED OF TRUST SHALL NOT DIRECTLY OR INDIRECTLY OR CONTINGENTLY OBLIGATE THE COUNTY TO MAKE ANY PAYMENTS BEYOND THOSE APPROPRIATED IN THE SOLE DISCRETION OF THE COUNTY FOR ANY FISCAL YEAR IN WHICH THE CONTRACT IS IN EFFECT; PROVIDED, HOWEVER, ANY FAILURE OR REFUSAL BY THE COUNTY TO APPROPRIATE FUNDS, WHICH RESULTS IN THE FAILURE BY THE COUNTY TO MAKE ANY PAYMENT COMING DUE UNDER THE CONTRACT WILL IN NO WAY OBLIVATE THE OCCURRENCE OF THE EVENT OF DEFAULT RESULTING FROM SUCH NONPAYMENT. NO DEFICIENCY JUDGMENT MAY BE RENDERED AGAINST THE COUNTY IN ANY ACTION FOR ANY BREACH OF THE CONTRACT, THIS INDENTURE OR THE DEED OF TRUST, AND THE TAXING POWER OF THE COUNTY IS NOT AND MAY NOT BE PLEDGED DIRECTLY OR INDIRECTLY OR CONTINGENTLY TO SECURE ANY MONEY DUE UNDER THIS INDENTURE, THE CONTRACT OR THE DEED OF TRUST. TO THE EXTENT OF ANY CONFLICT BETWEEN THIS PARAGRAPH AND ANY OTHER PROVISION OF THIS INDENTURE, THIS PARAGRAPH SHALL TAKE PRIORITY AND SHALL INCORPORATE HEREIN BY REFERENCE ARTICLE XIV OF THE CONTRACT.

Section 2.04. **Execution of the Bonds.** The Bonds will be executed on behalf of the Corporation with the manual or facsimile signature of its President or Vice President and have impressed or imprinted thereon, by facsimile or otherwise, the official seal of the Corporation, and be attested with the manual or facsimile signature of its Secretary or Assistant Secretary. If any officer of the Corporation whose signature or whose facsimile signature appears on the Bonds ceases to be such officer before the authentication of such Bonds, such signature or the facsimile thereof shall nevertheless be valid and sufficient for all purposes as if he had remained in office until authentication; and any Bond may be signed on behalf of the Corporation by such persons as are at the time of execution of such Bond proper officers of the Corporation, even though at the date of this Indenture, such person was not such officer.

Section 2.05. **Authentication.** No Bond is valid or becomes obligatory for any purpose or is entitled to any security or benefit under this Indenture unless and until a certificate of authentication on

such Bond substantially in the form included in Exhibit A hereto has been duly executed by the Trustee and such executed certificate of the Trustee on any such Bond is conclusive evidence that such Bond has been authenticated and delivered under this Indenture. The Trustee's certificate of authentication on any Bond is deemed to have been executed by it if signed by an authorized officer or signatory of the Trustee, but it is not necessary that the same officer or signatory sign the certificate of authentication on all of the Bonds executed and delivered under this Indenture.

Section 2.06. **Form of 2012 Bonds.** The 2012A Bonds shall be substantially in the form set forth in Exhibit A to this Indenture, with such appropriate variations, omissions and insertions as may be permitted or required hereby. The 2012B Bond shall be substantially in the form set forth in Exhibit B to this Indenture, with such appropriate variations, omissions and insertions as may be permitted or required hereby.

Section 2.07. **Delivery of the 2012 Bonds.** On the execution and delivery of this Indenture, the Corporation shall initially execute and deliver to the Trustee (1) the 2012A Bonds in the aggregate principal amount of \$[A Amount] and (2) the 2012B Bond in the aggregate principal amount of \$10,000,000, and the Trustee shall authenticate the 2012 Bonds and shall deliver them to the original purchaser thereof as directed by the Corporation as hereinafter in this Section provided.

(a) Before the delivery of any of the 2012 Bonds, the Trustee shall have received:

(1) an originally executed counterpart of the Contract, this Indenture and the Deed of Trust and a certified copy of the resolution adopted by the Board approving the Contract;

(2) a request and authorization to the Trustee on behalf of the Corporation and signed by a Corporation Representative to authenticate and deliver the 2012 Bonds;

(3) the approval of the LGC; and

(4) an executed opinion of nationally recognized bond counsel.

(b) Then, the Trustee shall deliver (1) the 2012A Bonds, on payment to the Trustee of a sum specified in a bond purchase agreement among the County, the Corporation and the Underwriters and (2) the 2012B Bond, on payment to the Trustee of [a sum specified in a bond purchase agreement among the County, the Corporation and the Bank]. Such sums shall be applied as provided in Article III.

Section 2.08. **Mutilated, Lost, Stolen or Destroyed Bonds.** If any Bond is mutilated, lost stolen or destroyed, a new Bond may be executed on behalf of the Corporation, of like date, maturity, denomination and series as that mutilated, lost, stolen or destroyed; provided that the Trustee has received indemnity of the County, the Corporation and the Trustee from the Owner of the Bond satisfactory to the Trustee and provided further, in case of any mutilated Bond, that such mutilated Bond is first surrendered to the Trustee, and in the case of any lost, stolen or destroyed Bond, that there is first furnished to the Trustee evidence of such loss, theft or destruction satisfactory to the Trustee. If any such Bond has matured, instead of delivering a duplicate Bond, the Trustee may pay the same without surrender thereof. The Trustee may charge the Owner of the Bond with its reasonable fees and expenses in this connection.



Section 2.09. **Registration of Bonds; Persons Treated as Owners; Transfer of Bonds.** Books for the registration and for the transfer of Bonds shall be kept by the Trustee which is hereby appointed the registrar. On surrender for transfer of a Bond at the designated corporate trust office of the Trustee, duly endorsed for transfer or accompanied by an assignment duly executed by the Owner or his attorney duly authorized in writing, the Trustee shall deliver in the name of the transferee or transferees a new authenticated and fully registered Bond or Bonds of the same series.

The Trustee is not required to register the transfer of any Bonds during the period of 15 days next preceding the mailing of notice calling such Bond for prepayment as herein provided, or after any Bond has been selected for prepayment.

As to any Bond, the person in whose name the same is registered is deemed and regarded as the absolute Owner thereof for all purposes, and payment of either principal or interest with respect to such Bond shall be made only to or on the written order of the Owner thereof or his legal representative, but such registration may be changed as provided in this Section. All such payments shall be valid and effectual to satisfy and discharge such Bond to the extent of the sum or sums paid.

The Trustee shall require the payment, by any Owner requesting transfer of Bonds, of any tax, trustee fee, fee or other governmental charge required to be paid with respect to such transfer. If any transfer requires that more than one Bond be executed and delivered, the principal amounts of which equal the principal amount of the Bonds surrendered for transfer, an additional fee (including the cost of printing the Bonds, if necessary) will be required.

Notwithstanding anything in this Indenture to the contrary, the 2012B Bond may not be transferred except to a bank, insurance company or similar financial institution without the prior written consent of the LGC.

Section 2.10. **Cancellation of Bonds.** Whenever any Outstanding Bonds are delivered to the Trustee for cancellation pursuant to this Indenture, on payment thereof or for or after replacement pursuant to Section 2.08 or 2.09 of this Indenture, such Bonds shall be promptly canceled in accordance with the Trustee's procedures for the cancellation and destruction of instruments.

Section 2.11. **Additional Bonds.** So long as the Contract remains in effect and no Event of Default has occurred and is continuing, additional Bonds (the "Additional Bonds") may be executed and delivered on the terms and conditions provided herein.

Additional Bonds may be delivered by the Trustee at the direction of the Corporation to provide funds to pay: (1) the cost of acquiring, constructing, renovating and equipping other facilities or acquiring equipment and other capital assets for use by the County for public purposes; (2) the cost of refunding of all or any portion of the Bonds then Outstanding or any other installment financing obligations of the County; and (3) the Costs of Issuance relating to the execution, delivery and sale of the Additional Bonds.

Additional Bonds may be executed and delivered only on there being filed with the Trustee:

(a) Originally executed counterparts of a supplemental indenture and an amendment to the Contract adopted in accordance with the requirements of Article IX and approved by the LGC, if so required by law, including requirements regarding approval of the Owners, if applicable, expressly providing that the Additional Bonds being executed and delivered as well as any Bonds and Additional Bonds theretofore executed and delivered shall be secured on a parity as hereinafter provided, except that

the date or dates of the Additional Bonds, the rate or rates of interest with respect to the Additional Bonds, the time or times of payment of the interest with respect thereto and the principal amount thereof, and provisions for the prepayment thereof, if any, all shall be as provided in the supplemental indenture and amendment to the Contract, and further providing for an increase in the Purchase Price and the Installment Payments required or authorized to be paid to the Trustee under the Contract in such amount as shall be necessary to pay (assuming that no Event of Default shall occur), the principal, premium, if any, and interest with respect to the Additional Bonds.

(b) A written opinion or opinions of nationally recognized bond counsel and mutually acceptable to the County, the Corporation and the Trustee, to the effect that the amendment to the Contract and the authentication of the Additional Bonds have been duly authorized, that the amendment to the Contract is valid and enforceable against the County and that the exclusion from gross income for federal income tax purposes of the interest component of the Installment Payments will not be adversely affected by the execution and delivery of the Additional Bonds, and that the sale and delivery of the Additional Bonds will not constitute a default under the Contract or this Indenture or cause any violation of the covenants, agreements or representations therein or herein.

(c) A written order to the Trustee to deliver the Additional Bonds to the purchaser or purchasers therein identified on payment to the Trustee of a specified sum plus accrued interest, if any.

Each of the Additional Bonds executed and delivered under this Section 2.11 shall evidence a proportionate undivided interest in rights to receive certain Revenues under the Contract, as amended, proportionately and ratably secured with the 2012 Bonds originally executed and delivered and all Additional Bonds, if any, executed and delivered under this Section 2.11, without preference, priority or distinction of any 2012 Bond or Additional Bond over any other.

[End of Article II]

**ARTICLE III  
REVENUES AND FUNDS**

Section 3.01. ***Source of Payment of Bonds; Deposit of Bond Proceeds.*** The Bonds evidence proportionate undivided interests in rights to receive certain Revenues under the Contract. Installment Payments, when, as and if received by the Trustee, shall be held hereunder for payment of the principal, premium, if any, and interest with respect to the Bonds as provided in this Indenture. From the proceeds from the sale of the 2012 Bonds, the Trustee shall, without further requisition and, in accordance with separate wiring instructions provided by the County, (1) deposit \$[Deposit Amount] to the credit of the 2012 Account of the Acquisition and Construction Fund and (2) transfer \$[BB&T Amount] to Branch Banking and Trust Company to discharge the County's obligations under the Prior Contract.

The proceeds of any Additional Bonds, executed and delivered under Section 2.11, shall be applied by the Trustee as directed in a certificate signed by a County Representative.

Section 3.02. ***Creation of the Bond Fund.*** A special fund is hereby created and established with the Trustee, to be designated "Watauga County, NC 2012 Installment Financing Contract Bond Fund" (the "Bond Fund"), the money in which shall be used to pay the principal, premium, if any, and interest with respect to the Bonds. Within the Bond Fund, there are hereby created and ordered established an Interest Account and a Principal Account, the money in which shall be used as set forth in Section 3.05.

Section 3.03. ***Payments Into the Interest Account of the Bond Fund.*** There shall be deposited into the Interest Account of the Bond Fund (1) that portion of each payment of Installment Payments which is designated and paid as interest with respect to the Bonds under the Contract; (2) investment earnings on the Bond Fund and the Prepayment Fund, as provided in Section 3.05 and Section 3.07, respectively; (3) Net Proceeds from any lease of the Premises after an Event of Default to the extent required to pay the next installment of interest or any previous installment of interest not paid; (4) all money required to be deposited therein in accordance with this Indenture; and (5) all other money received by the Trustee under this Indenture accompanied by directions from the County that such money is to be deposited into the Interest Account of the Bond Fund. The Trustee shall credit all amounts deposited into the Interest Account of the Bond Fund, including particularly the amounts set forth in Section 3.1 of the Contract, toward the interest component of the Installment Payment then due and payable under the Contract. The Trustee shall notify the County of all amounts credited toward such Installment Payments within 30 days of such credit.

Section 3.04. ***Payments Into the Principal Account of the Bond Fund.*** There shall be deposited into the Principal Account of the Bond Fund (a) that portion of each payment of Installment Payments which is designated and paid as principal with respect to the Bonds under the Contract; (b) Net Proceeds from any lease of the Premises after an Event of Default after the deposit required by Section 3.03; (c) all money required to be deposited therein in accordance with this Indenture; and (d) all other funds received by the Trustee under this Indenture accompanied by directions from the County that such funds are to be deposited into the Principal Account of the Bond Fund.

Section 3.05. ***Use of Money in the Bond Fund.*** Money in the Interest Account of the Bond Fund shall be used for the payment of the interest with respect to the Bonds as the same becomes due and payable. Money in the Principal Account of the Bond Fund shall be used for the payment of the principal with respect to the Bonds. Investment earnings on money on deposit in the Interest Account and Principal Account of the Bond Fund shall be applied to the next payment of Installment Payments with respect to the Bonds. If the Bonds are to be prepaid in whole pursuant to Section 4.01(a), any money

remaining in the Interest Account and Principal Account of the Bond Fund shall be applied to such prepayment along with other funds held by the Trustee for such purpose.

Section 3.06. ***Custody of the Bond Fund.*** The Bond Fund shall be in the custody of the Trustee. The Trustee shall withdraw sufficient funds from the Bond Fund to pay the principal of and interest with respect to the Bonds as the same become due and payable.

Section 3.07. ***Creation of the Prepayment Fund.*** There is hereby created and established with the Trustee the “*Watauga County, NC 2012 Installment Financing Contract Prepayment Fund*” (the “*Prepayment Fund*”). The Trustee shall deposit into the Prepayment Fund any money provided by the County as a prepayment of principal components of Installment Payments. Money on deposit in each account of the Prepayment Fund shall be disbursed for prepayment of the Bonds as provided in Sections 4.01(a) and 4.01(b) of this Indenture. Any income from investment of money in the Prepayment Fund shall be deposited into the Interest Account of the Bond Fund and applied to the interest component of the next payment of the Installment Payments. Whenever any money on deposit in the Prepayment Fund is disbursed for prepayment of less than all of the Outstanding Bonds, the Installment Payments set forth in the Contract shall be recalculated by the Trustee to reflect the reduction in the outstanding principal amount of the Bonds after such prepayment.

Section 3.08. ***Nonpresentment of Bonds.*** If any Bond is not presented for payment when due, if funds sufficient to pay such Bond have been made available to the Trustee for the benefit of the Owner thereof, it is the duty of the Trustee to hold such funds without liability for interest with respect thereto, for the benefit of the Owner of such Bond, who shall be restricted exclusively to such funds for any claim of whatever nature on his or her part under the Contract or this Indenture or on or with respect to such Bond.

Any money that is so set aside or transferred and that remains unclaimed by the Owners for a period of three years after the date on which such Bonds have become payable will be treated as abandoned property under N.C.G.S. § 116B *et seq.*, and the Trustee shall report and remit this property to the State Treasurer according to the requirements of N.C.G.S. § 116B. Thereafter, the Owners may look to the State Treasurer for payment and then only to the extent of the amounts so received without any interest with respect thereto, and the Trustee, the Corporation and the County shall have no responsibility with respect to such money.

Section 3.09. ***Rebate Fund.*** If the County informs the Trustee that funds are to be set aside in a separate account of the Trustee to be held for the payment of rebate payments to the Federal Government pursuant to the terms of the Arbitrage and Tax Regulatory Agreement, the Trustee shall create and establish the “*Watauga County, NC 2012 Installment Financing Contract Rebate Fund*” (the “*Rebate Fund*”). The Trustee shall deposit in the Rebate Fund the amounts as directed by the County. The County shall make or cause to be made the calculation or calculations required by the Arbitrage and Tax Regulatory Agreement and shall direct the Trustee to make deposits and disbursements from the Rebate Fund in accordance therewith. The Trustee shall invest the Rebate Fund as directed by the County.

Section 3.10. ***Rebate Disbursements.*** Not later than 30 days after the end of the fifth anniversary of the execution and delivery of the 2012 Bonds and every five years thereafter, the Trustee shall pay to the United States the amount required to be on deposit in the Rebate Fund as of such payment date as determined by the County. Such amounts required to be on deposit in the Rebate Fund shall be provided from the County to the Trustee, and the Trustee shall not be required to risk or expend any of its own money for this purpose. Not later than 30 days after the final retirement of the 2012 Bonds, the

Trustee shall pay to the United States such amount from the Rebate Fund as directed by the County. Each payment required to be paid to the United States pursuant to this Section shall be filed with the Internal Revenue Service Center, 1160 West 1200 Street, Ogden, Utah 84201 or such other place as the County may direct. The Trustee shall have no liability for the calculation or payment of rebate except in accordance with this Indenture, the Trustee's express obligations under the Arbitrage and Tax Regulatory Agreement and instructions provided to the Trustee by the County. Each payment shall be accompanied by a statement, prepared or caused to be prepared by the County, summarizing the determination of the amount to be paid to the United States.

Section 3.11. ***Creation of the Acquisition and Construction Fund.*** A special fund is hereby created and established with the Trustee to be designated "Watauga, NC 2012 Installment Financing Contract Acquisition and Construction Fund" (the "Acquisition and Construction Fund"). Within the Acquisition and Construction Fund, there is hereby created and ordered established a "2012 Account." The Trustee shall deposit in the 2012 Account of the Acquisition and Construction Fund the amount as set forth in Section 3.01. In addition, the Trustee shall deposit into the Acquisition and Construction Fund such amounts as the County may designate in a certificate signed by a County Representative in connection with the execution and delivery of Additional Bonds under Section 2.11. All Costs of Issuance with respect to the 2012 Bonds shall be paid from funds in the 2012 Account of the Acquisition and Construction Fund.

Any money held in the Acquisition and Construction Fund or any account thereof shall be invested and reinvested by the Trustee in accordance with this Indenture, and the income therefrom shall be retained in the Acquisition and Construction Fund or any account thereof and used (together with all other money held in the Acquisition and Construction Fund) to pay the Cost of Acquisition and Construction attributable to the Projects, as directed by the County in accordance with Section 4.2 of the Contract. The Trustee shall create additional accounts within the Acquisition and Construction Fund on the County's written direction. After the completion of the acquisition of any Projects funded with the proceeds of Additional Bonds, the proceeds of the applicable series of Bonds may be moved from one account to another account in the Acquisition and Construction Fund or to the Bond Fund on the County's written direction. The balance, if any, remaining in the 2012 Account of the Acquisition and Construction Fund on August 1, 2012 will be deposited to the credit of the Interest Account of the Bond Fund and applied to the next payment of interest with respect to the 2012 Bonds.

Section 3.12. ***Reserved.***

Section 3.13. ***Money To Be Held in Trust; Reports to County.*** The ownership of the Bond Fund, the Prepayment Fund, the Acquisition and Construction Fund and any other fund or account, except for the Rebate Fund, created hereunder or under the Contract shall be in the Trustee, for the benefit of the Owners as specified in the Indenture. Not less than once during each calendar year, the Trustee shall provide the County with an accounting for all receipts to and disbursements from each fund or account.

Section 3.14. ***Repayment to the County from the Trustee.*** After payment in full of the Bonds, the interest with respect thereto, any premium with respect thereto, the fees, charges and expenses of the Trustee and all other amounts required to be paid hereunder, any amounts remaining in the Bond Fund, the Prepayment Fund, the Acquisition and Construction Fund or otherwise held by the Trustee pursuant hereto other than the Rebate Fund shall be paid to the County on the expiration or sooner termination of the Contract as a return of an overpayment of Installment Payments.

Section 3.15. ***Custody of Separate Trust Fund.*** The Trustee is authorized and directed to hold all Net Proceeds from any insurance proceeds or condemnation awards and disburse such proceeds in accordance with Article VII of the Contract.

[End of Article III]

**ARTICLE IV  
PREPAYMENT OF 2012 BONDS**

Section 4.01. *Prepayment Dates and Prices.* The 2012 Bonds are subject to prepayment, in whole or in part, as set forth below:

(a) *Optional Prepayment.*

(1) The 2012A Bonds maturing on or before June 1, 20\_\_ are not subject to optional prepayment before maturity. The 2012A Bonds maturing on or after June 1, 20\_\_ are subject to optional prepayment in whole or in part on any date on or after June 1, 2021, at the option of the County, at the prepayment price equal to 100% of the principal amount of such 2012A Bonds to be prepaid, together with accrued interest to the date fixed for prepayment.

(2) The 2012B Bond is subject to optional prepayment in whole or in part on any date, at the option of the County, at the prepayment price equal to 100% of the principal amount of such 2012B Bond to be prepaid, together with accrued interest to the date fixed for prepayment.

(b) *Extraordinary Prepayment.* If the County elects to prepay the Purchase Price in full or in part in accordance with Section 3.5(c) of the Contract, the 2012 Bonds shall be called for prepayment in whole or in part, as applicable, on any date selected by the County before maturity from the Net Proceeds and other available money described in Section 3.5(c) of the Contract, in the event that (1) all or any portion of the Premises is damaged or destroyed or taken in eminent domain and the Net Proceeds are greater than or equal to \$500,000 and (2) the County elects, pursuant to the Contract, not to apply any Net Proceeds and any other available money to the repair or replacement of the Premises. The 2012 Bonds called for prepayment under this subsection (b) shall be prepaid at the prepayment price of 100% of the principal amount thereof, together with accrued interest to the prepayment date, without premium.

(c) *Mandatory Prepayment.*

[Mandatory prepayment provision for 2012A Bonds to be added, if applicable.]

(1) The 2012B Bond is subject to mandatory sinking fund prepayment on June 1 in each year from the principal components of the Installment Payments required to be paid by the County under the Contract with respect to each such prepayment date, at a prepayment price equal to 100% of the principal amount thereof to be prepaid, together with accrued interest with respect thereto to the prepayment date, without premium as follows:

<u>YEAR</u>	<u>AMOUNT</u>	<u>YEAR</u>	<u>AMOUNT</u>
2013		2021	
2014		2022	
2015		2023	
2016		2024	
2017		2025	
2018		2026	
2019		2027	

2020

2028\*

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 \*Maturity.

(2) At its option, to be exercised on or before the 45th day next preceding any mandatory prepayment date, the County may receive a credit in respect of its mandatory prepayment obligation for any portion of the 2012B Bond which before said date has been prepaid (otherwise than through mandatory prepayment under this Section 4.01(c)) and canceled by the Trustee and not theretofore applied as a credit against any mandatory prepayment obligation. Each such portion of the 2012B Bond so prepaid and canceled by the Trustee shall be credited by the Trustee at 100% of the principal amount thereof against the Installment Payment obligation corresponding to such mandatory prepayment date. To the extent that the aggregate principal amount of such portion of the 2012B Bond exceeds the Installment Payment obligation on such mandatory prepayment date, any excess over such amount shall be credited against future Installment Payment obligations with respect to the 2012B Bond, as directed by the County, and the principal amount of the 2012B Bond to be prepaid shall be accordingly reduced.

The County must on or before the 45<sup>th</sup> day next preceding each such mandatory prepayment date furnish the Trustee with its certificate indicating to what extent the provisions the preceding paragraph are to be availed of with respect to such mandatory prepayment.

(3) The Trustee will pay the mandatory prepayment amounts set forth in this Section 4.01(c) to the Owner of the 2012B Bond without any notice of prepayment. The Owner of the 2012B Bond will record such payments on its books and records and on the 2012B Bond certificate. The Owner will not be required to deliver the 2012B Bond for payment.

(d) *Selection.* If called for prepayment in part, the 2012 Bonds to be prepaid shall be prepaid in such order as the County shall select and, with respect to any 2012A Bonds called for prepayment in part, within the same maturity as selected by DTC pursuant to its rules and procedures or, if the book-entry system with respect to the 2012A Bonds is discontinued as provided in Section 2.02, by lot within a maturity in such manner as the Trustee in its discretion may determine.

When 2012 Bonds are to be prepaid in part, the schedule of Installment Payments set forth in the Contract shall be recalculated as necessary by the Trustee in the manner required by Section 3.07.

The Trustee shall pay to the Owners of 2012 Bonds so prepaid the amounts due on their respective 2012 Bonds at the designated corporate trust office of the Trustee on presentation and surrender of the 2012 Bonds; *provided, however*, that, if the 2012A Bonds are prepaid in part, the 2012A Bonds may be prepaid only in multiples of \$5,000. Prepayments shall be accompanied by a written designation prepared by the Trustee stating the portion of the payment representing the unpaid principal amount of the 2012 Bond immediately before the payment, the portion of the payment representing interest, and the remaining portion, if any, which shall be designated and paid as a prepayment premium.

Section 4.02. *Notice of Prepayment.* Except for any prepayment under Section 4.01(c), notice of prepayment identifying the Bonds or portions thereof to be prepaid shall be given by the Trustee in writing not less than 30 days nor more than 60 days before the date fixed for prepayment by first-class



mail, postage prepaid (or, in the case of notice to DTC, by registered or certified mail or otherwise in accordance with DTC's then-existing rules and procedures) (1) to DTC or its nominee or to the then-existing securities depositories, or (2) if DTC or its nominee or another securities depository is no longer the Owner of the Bonds, to the then-registered Owners of the Bonds to be prepaid at their addresses appearing on the registration books maintained by the Trustee, (3) to the LGC, and (4) to the Municipal Securities Rule Making Board (the "MSRB") in an electronic format as prescribed by the MSRB.

Notwithstanding the foregoing, (1) if notice is given, the failure to receive an appropriate notice shall not affect the validity of the proceedings for such prepayment, (2) the failure to give any such notice or any defect therein shall not affect the validity of the proceedings for the prepayment of the Bonds or portions thereof with respect to which notice was correctly given, and (3) the failure to give any such notice to the parties described in clauses (3) and (4) in the preceding paragraph, or any defect therein, shall not affect the validity of any proceedings for the prepayment of the Bonds.

Notice of prepayment shall specify, as applicable, (1) that the Bonds or a designated portion thereof are to be prepaid, (2) the CUSIP numbers of the Bond or Bonds to be prepaid (unless all the Bonds are being prepaid), (3) the prepayment date, (4) the prepayment price, (5) the prepayment agent's name and address, (6) the date of original execution and delivery of the Bonds, (7) the interest rate with respect to the Bond, (8) the maturity date of the Bond and (9) if a prepayment in part, called amounts for prepaid Bonds.

Any notice mailed as provided in this Section shall be conclusively presumed to have been duly given, whether or not the Owner receives the notice.

If at the time of mailing of notice of prepayment there shall not have been deposited with the Trustee money sufficient to prepay all the Bonds or portions thereof called for prepayment, which money is or will be available for prepayment of Bonds, such notice will state that it is conditional on the deposit of the prepayment money with the Trustee not later than the opening of business on the prepayment date, and such notice shall be of no effect unless such money is so deposited.

Section 4.03. **Prepayments.** Before the date fixed for prepayment, funds shall be deposited with the Trustee to pay, and the Trustee is hereby authorized and directed to apply such funds to the payment of the Bonds or portions thereof called, together with accrued interest with respect thereto to the prepayment date, and any required premium. On the giving of notice and the deposit of such funds for prepayment pursuant to this Indenture, interest with respect to the Bonds or portions thereof thus called shall no longer accrue after the date fixed for prepayment.

The Bonds or portions thereof called for prepayment shall be due and payable on the prepayment date at the prepayment price, together with accrued interest with respect thereto to the prepayment date and any applicable prepayment premium. If any required notice of prepayment has been given and money sufficient to pay the prepayment price, together with accrued interest with respect thereto to the prepayment date and any required prepayment premium, has been deposited with the Trustee, the Bonds or portions thereof so called for prepayment shall cease to be entitled to any benefit or security under this Indenture and the Owners of such Bonds shall have no rights with respect to such Bonds or portions thereof so called for prepayment except to receive payment of the prepayment price and accrued interest to the prepayment date from such funds held by the Trustee.

Anything in this Indenture to the contrary notwithstanding, if an Event of Default occurs and is continuing, there will be no prepayment of less than all of the Bonds Outstanding.

Section 4.04. ***Cancellation.*** All Bonds which have been prepaid shall not be redelivered but shall be canceled by the Trustee in accordance with Section 2.10.

Section 4.05. ***Delivery of New Bonds On Partial Prepayment of Bonds.*** On surrender and cancellation of the Bonds called for prepayment in part only, a new Bond or Bonds of the same maturity and interest rate and of authorized denominations, in an aggregate principal amount equal to the unrepaid portion thereof, shall be executed on behalf of the Corporation and authenticated and delivered by the Trustee. The expenses of such execution, authentication, delivery and exchange shall be paid by the County as Additional Payments under the Contract.

[End of Article IV]

**ARTICLE V  
INVESTMENTS**

All money held as part of the Bond Fund, the Prepayment Fund, the Acquisition and Construction Fund or any other fund or account created hereunder or under the Contract except the Rebate Fund shall be deposited or invested and reinvested from time to time by the Trustee, at the written direction of the County as agent of the Corporation, in deposits or investments, which are Permitted Investments subject to the following restrictions:

(a) Money in the Acquisition and Construction Fund shall be invested only in obligations which will by their terms mature not later than the date the County estimates, in a writing provided to the Trustee, the money represented by the particular investment will be needed for withdrawal from the Acquisition and Construction Fund; and

(b) Money in the Bond Fund shall be invested only in obligations which will by their terms mature on such dates as to ensure that on the date of each interest and principal payment, there will be in the Bond Fund from matured obligations and other money already in the Bond Fund, cash to pay the interest and principal payable on such payment date; and

(c) Money in the Prepayment Fund shall be invested in obligations which will by their terms mature, or will be subject to prepayment at the option of the owner thereof, on or before the date funds are expected to be required for expenditure or withdrawal.

The Rebate Fund shall be invested and reinvested by the Trustee, at the written direction of the County, in accordance with the Arbitrage and Tax Regulatory Agreement.

Any and all such deposits or investments shall be held by or under the control of the Trustee. The Trustee may make any and all such deposits or investments through its own investment department or the investment department of any bank or trust company under common control with the Trustee. The Trustee is specifically authorized to enter into agreements with itself or any other person, which agreements guarantee the repurchase of specific Permitted Investments at specific prices. Except as expressly provided in Article III of this Indenture, deposits or investments shall at all times be a part of the fund or account from which the money used to acquire such deposits or investments shall have come, and all income and profits on such deposits or investments shall be credited to, and losses thereon shall be charged against, such fund or account. In computing the amount in any fund or account held under the provisions of this Indenture, obligations purchased as a deposit or investment of money therein shall be valued at the market price thereof, exclusive of accrued interest. The Trustee shall sell and reduce to cash a sufficient amount of such deposits or investments whenever the cash balance in any fund or account created hereunder is insufficient to satisfy the purposes of such fund or account.

[End of Article V]

**ARTICLE VI**  
**DISCHARGE OF INDENTURE**

If, when the Bonds secured hereby become due and payable in accordance with their terms or otherwise as provided in this Indenture, the whole amount of the principal, premium, if any, and interest due and payable with respect to all of the Bonds shall be paid or provision has been made for the payment of the same, together with all other sums payable hereunder, then the right, title and interest of the Trustee in and to the Trust Estate and all covenants, agreements and other obligations of the Corporation to the Trustee and the Owners shall then cease, terminate and become void and be discharged and satisfied. In such event, on the request of the County, the Trustee shall transfer and convey to the County all property assigned or pledged to the Trustee by the Corporation then held by the Trustee pursuant to this Indenture, and the Trustee shall execute such documents as may be reasonably required by the County and shall turn over to the County any surplus in any fund created under this Indenture other than the Rebate Fund.

Outstanding Bonds shall, before the maturity or prepayment date thereof, be deemed to have been paid within the meaning and with the effect expressed in this Article VI if (a) in case said Bonds are to be prepaid on any date before their maturity, the County has given to the Trustee in form satisfactory to the Trustee irrevocable instructions to give on a date in accordance with the provisions of Section 4.02 notice of prepayment of such Bonds on said prepayment date, (b) there has been deposited with the Trustee either money in an amount which shall be sufficient, or Federal Securities, the principal of and the interest on which when due, and without any reinvestment thereof, will provide money which, together with the money, if any, deposited with or held by the Trustee at the same time, shall be sufficient to pay when due the principal, premium, if any, and interest due and to become due with respect to said Bonds on and before the prepayment date or maturity date thereof, as the case may be, and (c) in the event said Bonds are not by their terms subject to prepayment within the next 60 days, the County has given the Trustee in form satisfactory to it (1) irrevocable instructions to give, as soon as practicable in the same manner as the notice of prepayment is given pursuant to Section 4.02, a notice to the Owners of such Bonds that the deposit required by (b) above has been made with the Trustee and that said Bonds are deemed to have been paid in accordance with this Section and stating such maturity or prepayment date on which money is to be available for the payment of the principal, premium, if any, and interest with respect to said Bonds, (2) verification from an independent accountant or other nationally recognized expert not unacceptable to the Trustee that the money or Federal Securities deposited with the Trustee will be sufficient to pay when due the principal, premium, if any, and interest due and to become due with respect to the Bonds on and before the prepayment date or maturity date thereof and (3) an opinion of nationally recognized bond counsel that such deposit of money or Federal Securities will not adversely affect the exclusion from gross income for federal income tax purposes of interest with respect to the Bonds. Neither the Federal Securities nor money deposited with the Trustee pursuant to this Article VI or principal or interest payments on any such Federal Securities shall be withdrawn or used for any purpose other than, and such Federal Securities or money shall be held in trust for, the payment of the principal, premium, if any, and interest with respect to said Bonds; provided any cash received from such principal or interest payments on such Federal Securities deposited with the Trustee, if not then needed for such purpose, shall, to the extent practicable, be reinvested in Federal Securities of the type described in clause (b) of this paragraph maturing at the times and in amounts sufficient (together with any other money or Federal Securities then held by the Trustee as described above) to pay when due the principal, premium, if any, and interest to become due with respect to said Bonds on or before such prepayment date or maturity date thereof, as the case may be. At such time as any Bonds shall be deemed paid as aforesaid, such Bonds shall no longer be secured by or entitled to the benefits of this Indenture and the Contract, except for the purpose of exchange and transfer and any payment from such money or Federal Securities deposited with the Trustee.

The release of the obligations of the Corporation under this Section is without prejudice to the rights of the Trustee to be paid reasonable compensation for all services rendered by it hereunder and all its reasonable expenses, charges and other disbursements incurred with respect to the administration of the trust hereby created and the performance of its powers and duties hereunder.

[End of Article VI]

**ARTICLE VII**  
**DEFAULTS AND REMEDIES**

Section 7.01. ***Events of Default.*** If any of the following events occur it is hereby defined as and shall be deemed an “*Event of Default*” under this Indenture:

- (a) Default in the payment of the principal or premium, if any, with respect to any Bond when the same becomes due and payable, whether at the stated maturity thereof or on proceedings for prepayment.
- (b) Default in the payment of any installment of interest with respect to any Bond when the same becomes due and payable.
- (c) The occurrence of an “*Event of Default*” as provided in Section 12.1 of the Contract.

Section 7.02. ***Remedies on Default.***

(a) On the occurrence and continuance of an Event of Default, the Trustee shall, if required by a majority in aggregate principal amount of the Owners of the Bonds, by written notice to the County, declare the obligations of the County as to the principal and interest components of Installment Payments and the aggregate principal amount of Bonds and the accrued interest with respect thereto to be immediately due and payable, whereupon they will, without further action, become due and payable.

(b) The provisions of the preceding paragraph are subject to the condition that if, after the principal with respect to any of the Installment Payments and the Bonds has been so declared to be due and payable, and before the earlier of (1) the exercise of rights granted under the Deed of Trust or (2) to the extent permitted by applicable law and Section 2.03, any judgment or decree for the payment of the money due has been obtained or entered as hereinafter provided, the defaulting party (the “*Defaulting Party*”) shall cause to be deposited with the Trustee a sum sufficient to pay all matured installments of the principal and interest with respect to all Bonds which have become due otherwise than by reason of such declaration (with interest on such overdue installments of principal and interest, to the extent permitted by law, at the rate or rates per annum borne by the Bonds) and such amount as is sufficient to cover reasonable compensation and reimbursement of expenses payable to the Trustee, and all Events of Default hereunder other than nonpayment of the principal or interest with respect to the Bonds which have become due by said declaration have been remedied, then, in every such case, such Event of Default shall be deemed waived and such declaration and its consequences rescinded and annulled, and the Trustee shall promptly give written notice of such waiver, rescission or annulment to the Defaulting Party and shall give notice thereof by first-class mail to all Owners; but no such waiver, rescission and annulment shall extend to or affect any subsequent Event of Default or impair any right or remedy consequent thereon.

The provisions of paragraph (a) are further subject to the condition that any waiver of any event of default under the Contract and a rescission and annulment of its consequences shall constitute a waiver of the corresponding Event of Default under this Indenture and a rescission and annulment of the consequences thereof. If notice of such

event of default under the Contract has been given as provided herein, the Trustee shall promptly give written notice of such waiver, rescission or annulment to the Defaulting Party and shall give notice thereof by first-class mail to all Owners; but no such waiver, rescission and annulment shall extend to or affect any subsequent Event of Default or impair any right or remedy consequent thereon.

(c) On the occurrence and continuance of any Event of Default, then and in every such case the Trustee in its discretion may, to the extent permitted by Section 2.03 and applicable law, and on the written direction of Owners of not less than a majority in principal amount of the Bonds Outstanding and receipt of indemnity to its satisfaction, shall, in its own name and as the Trustee of an express trust:

(1) by mandamus, or other suit, action or proceeding at law or in equity, enforce all rights of the Owners, and require the Defaulting Party to carry out any agreements with or for the benefit of the Owners and to perform its or their duties under the Contract and this Indenture, provided that any such remedy may be taken only to the extent permitted under the applicable provisions of the Contract or this Indenture, as the case may be;

(2) take whatever action at law or in equity is permissible and may appear necessary or desirable to enforce its rights against the Defaulting Party or the Premises held as security therefor.

No right or remedy is intended to be exclusive of any other rights or remedies, but each and every such right or remedy shall be cumulative and in addition to any other remedy given hereunder or now or hereafter existing at law or in equity or by statute. If any Event of Default has occurred and if requested by the Owners of a majority in aggregate principal amount of Bonds then Outstanding and indemnified as provided in Section 8.01(m), the Trustee is obligated to exercise, to the extent permitted by applicable law and subject to Section 2.03, such one or more of the rights and powers conferred by this Section as the Trustee, being advised by counsel, shall deem most expedient in the interests of the Owners.

Section 7.03. **Majority of Owners May Control Proceedings.** The Owners of a majority in aggregate principal amount of the Bonds then Outstanding have the right, at any time, to the extent permitted by law, by an instrument or instruments in writing executed and delivered to the Trustee, to direct the time, method and place of conducting all proceedings to be taken in connection with the enforcement of the terms and conditions of this Indenture, or for the appointment of a receiver, and any other proceedings hereunder; provided that such direction shall not be otherwise than in accordance with the provisions hereof. The Trustee is not required to act on any direction given to it pursuant to this Section until the indemnity described in Section 8.01(m) of this Indenture is furnished to it by such Owners.

Section 7.04. **Rights and Remedies of Owners.** No Owner has any right to institute any suit, action or proceeding in equity or at law for the enforcement of this Indenture or for the execution of any trust hereof or for the appointment of a receiver or any other remedy hereunder, unless (1) a default has occurred of which the Trustee has been notified as provided in Section 8.01(h), or of which by said Section it is deemed to have notice, (2) such default has become an Event of Default as defined in Section 7.01, and the Owners of not less than a majority in aggregate principal amount of Bonds then Outstanding have made written request to the Trustee, have offered reasonable opportunity either to proceed to exercise the powers hereinbefore granted or to institute such action, suit or proceedings in its own name and have offered to the Trustee indemnity as provided in Section 8.01(m) and (3) the Trustee

thereafter fails or refuses to exercise the powers hereinbefore granted, or to institute such action, suit or proceeding in its own name; and such notification, request and offer of indemnity are hereby declared in every case at the option of the Trustee to be conditions precedent to the execution of the powers and trusts of this Indenture, and to any action or cause of action for the enforcement of this Indenture, or for the appointment of a receiver or for any other remedy hereunder; it being understood and intended that no one or more Owners have any right in any manner whatsoever to affect, disturb or prejudice the lien of this Indenture by his action or to enforce any right hereunder except in the manner herein provided and that all proceedings at law or in equity shall be instituted, had and maintained in the manner herein provided and for the equal benefit of the Owners of all Bonds then Outstanding. Nothing contained in this Indenture shall, however, affect or impair the right of any Owner to enforce the payment of the principal, premium, if any, and interest with respect to any Bond at and after the maturity thereof to the extent permitted by Section 2.03 and applicable law.

Section 7.05. ***Trustee May Enforce Rights Without Bonds.*** All rights of action and claims under this Indenture or any of the Bonds Outstanding hereunder may be enforced by the Trustee without the possession of any of the Bonds or the production thereof in any trial or proceedings relative thereto; and any suit or proceeding instituted by the Trustee shall be brought in its name as the Trustee, without the necessity of joining as plaintiffs or defendants any Owners of the Bonds, and any recovery of judgment is for the ratable benefit of the Owners of the Bonds, subject to the provisions of this Indenture.

Section 7.06. ***Delay or Omission No Waiver.*** No delay or omission of the Trustee or of any Owner to exercise any right or power accruing on any default shall exhaust or impair any such right or power or shall be construed to be a waiver of any such default, or acquiescence therein; and every power and remedy given by this Indenture, to the extent permitted by applicable law and subject to Section 2.03, may be exercised from time to time and as often as may be deemed expedient.

Section 7.07. ***No Waiver of One Default to Affect Another.*** No waiver of any default hereunder, whether by the Trustee or the Owners, shall extend to or affect any subsequent or any other then existing default or shall impair any rights or remedies consequent thereon.

Section 7.08. ***Discontinuance of Proceedings on Default; Position of Parties Restored.*** If the Trustee has proceeded to enforce any right under this Indenture and such proceedings have been discontinued or abandoned for any reason, or have been determined adversely to the Trustee, then and in every such case the Corporation, the County, the Trustee and the Owners shall be restored to their former positions and rights hereunder with respect to the Trust Estate, and all rights, remedies and powers of the Trustee shall continue as if no such proceedings had been taken.

Section 7.09. ***Waivers of Events of Default.*** The Trustee may in its discretion waive any Event of Default hereunder and its consequences, and notwithstanding anything else to the contrary contained in this Indenture shall do so on the written request of the Owners of a majority in aggregate principal amount of all the Bonds then Outstanding; provided, however, that there shall not be waived without the consent of the Owners of 100% of the Bonds then Outstanding as to which the Event of Default exists (a) any Event of Default in the payment of the principal or premium with respect to any Outstanding Bonds at the date of maturity specified therein or (b) any default in the payment when due of the interest with respect to any such Bonds, unless before such waiver or rescission, all arrears of interest and all arrears of payments of principal and premium, if any, then due, as the case may be (both with interest on all overdue installments at the rate or rates borne by the Bonds), and all expenses of the Trustee in connection with such default have been paid or provided for. In case of any such waiver, or in case any proceedings taken by the Trustee on account of any such default have been discontinued or abandoned or determined adversely to the Trustee, then and in every such case the Corporation, the



County, the Trustee and the Owners shall be restored to their former positions and rights hereunder, respectively, but no such waiver or rescission shall extend to any subsequent or other default, or impair any right consequent thereon.

Section 7.10. ***Application of Money.*** All money received by the Trustee pursuant to any right given or action taken under the provisions of this Article VII shall, after payment of the costs and expenses of the proceedings resulting in the collection of such money and of the expenses, liabilities and advances incurred or made by the Trustee, be deposited in the Bond Fund and applied as follows:

(a) Unless the principal with respect to all of the Bonds have become or have been declared due and payable, all such money shall be applied:

FIRST - To the payment to the persons entitled thereto of all installments of interest then due with respect to the Bonds, in the order of the maturity of the installments of such interest beginning with the earliest such maturity and, if the amount available is not sufficient to pay in full any particular installment, then to the payment ratably, according to the amounts due on such installment, to the persons entitled thereto, without any discrimination or privilege; and

SECOND - To the payment to the persons entitled thereto of the unpaid principal and premium, if any, with respect to any of the Bonds which have become due (other than Bonds matured or called for prepayment for the payment of which money is held pursuant to the provisions of this Indenture), in the order of their due dates and beginning with the earliest due date and, if the amount available is not sufficient to pay in full Bonds due on any particular date, then to the payment ratably, according to the amount of principal due on such date, to the persons entitled thereto without any discrimination or privilege; and

THIRD - To the payment to the persons entitled thereto of interest on overdue installments of principal, premium, if any, and interest, to the extent permitted by law, and if the amount available is not sufficient to pay in full any particular installment, then to the payment ratably, according to the amounts due on such particular installment, to the persons entitled thereto, without any discrimination or privilege; and

FOURTH - To be held for the payment to the persons entitled thereto, as the same become due, of the principal, premium, if any, and interest with respect to the Bonds which may thereafter become due in accordance with the terms of this Indenture.

(b) If the principal with respect to all of the Bonds has become due or has been declared due and payable, all such money shall be applied to the payment of the principal and interest then due and unpaid with respect to the Bonds, without preference or priority of principal over interest or of interest over principal, or of any installment of interest over any other installment of interest, or of any Bond over any other Bond, ratably, according to the amounts due, respectively, for principal and interest, to the persons entitled thereto without any discrimination or privilege, with interest on overdue installments of interest or principal, to the extent permitted by law.

Whenever money is to be applied pursuant to the provisions of this Section 7.10, such money shall be applied at such times, and from time to time, as the Trustee shall determine, having due regard to the amount of such money available for application and the likelihood of additional money becoming available for such application in the future. Whenever the Trustee shall apply such funds, it shall fix the date (which shall be an Interest Payment Date unless it shall deem another date more suitable) on which such application is to be made and on such date interest with respect to the amounts of principal to be paid on such dates shall cease to accrue. The Trustee shall give such notice as it may deem appropriate of the deposit with it of any such money and of the fixing of any such date, and shall not be required to make payment to the Owner of any Bond until such Bond shall be presented to the Trustee for appropriate endorsement or for cancellation if fully paid.

Whenever the principal, premium, if any, and interest with respect to all of the Bonds have been paid under the provisions of this Section 7.10 and all expenses and charges of the Trustee have been paid, any balance remaining in the Bond Fund shall be paid to the County.

[End of Article VII]

**ARTICLE VIII  
CONCERNING THE TRUSTEE**

Section 8.01. *Duties of the Trustee.* The Trustee hereby accepts the trusts imposed on it by this Indenture and agrees to perform said trusts (including, without limitation, all duties delegated and all rights assigned to the Trustee by the Corporation under the Contract), but only on and subject to the following express terms and conditions, and no implied covenants or obligations shall be read into this Indenture against the Trustee:

(a) The Trustee, before the occurrence of an Event of Default and after the curing of all Events of Default which may have occurred, undertakes to perform such duties and only such duties as are specifically set forth in this Indenture. In case an Event of Default has occurred (which has not been cured or waived) the Trustee shall exercise such of the rights and powers vested in it by this Indenture, and use the same degree of care and skill in its exercise as a reasonable and prudent person would exercise or use under the circumstances in the conduct of his or her own affairs.

(b) The Trustee may execute any of the trusts or powers hereof and perform any of its duties by or through attorneys, agents, receivers or employees but shall be answerable for the conduct of the same in accordance with the standard specified above, and shall be entitled to act on an Opinion of Counsel concerning all matters of trust hereof and the duties hereunder, and may in all cases pay such reasonable compensation to all such attorneys, agents, receivers and employees as may reasonably be employed in connection with the trusts hereof. The Trustee may act on an Opinion of Counsel and shall not be responsible for any loss or damage resulting from any action or nonaction taken by or omitted to be taken in good faith in reliance on such Opinion of Counsel.

(c) The Trustee is not responsible for any recital herein or in the Bonds (except in respect to the execution of the certificate of authentication on behalf of the Trustee), or for the recording or rerecording, filing or refiling of the Contract or this Indenture or of any supplements thereto or hereto or instruments of further assurance, or insuring the security for the Bonds or the Premises, or collecting any insurance money or for the validity of the execution by the Corporation of this Indenture or of any supplements hereto or instruments of further assurance, or for the sufficiency of the security for the Bonds executed and delivered hereunder or intended to be secured hereby, or for the value of or title to the Premises, or for the maintenance of the security for the Bonds, and the Trustee is not bound to ascertain or inquire as to the performance or observance of any covenants, conditions or agreements on the part of the Corporation or the County, except as provided herein; but the Trustee may require of the Corporation or the County full information and advice as to the performance of the covenants, conditions and agreements aforesaid. The Trustee has no obligation to perform any of the duties of the County under the Contract; and the Trustee is not responsible or liable for any loss suffered in connection with any investment of funds made by it in accordance with Article V.

(d) The Trustee may become the Owner of Bonds with the same rights which it would have if not the Trustee.

(e) The Trustee shall be protected in acting on any notice, request, consent, **certificate**, order, affidavit, letter, telegram or other paper or document believed to be

genuine and correct and to have been signed or sent by the proper person or persons. Any action taken by the Trustee under this Indenture on the request or authority or consent of any person who at the time of making such request or giving such authority or consent is the Owner of any Bond is conclusive and binding on all future Owners of the same Bond and on any Bonds executed and delivered in place thereof.

(f) As to the existence or nonexistence of any fact or as to the sufficiency or validity of any instrument, paper or proceeding, the Trustee is entitled to rely on a certificate signed on behalf of the Corporation by a Corporation Representative, or on behalf of the County by a County Representative or such other person as may be designated for such purpose by a certified resolution, as sufficient evidence of the facts therein contained, and, before the occurrence of a default of which the Trustee has been notified as provided in subsection (h) of this Section or of which by said subsection it is deemed to have notice, is also at liberty to accept a similar **certificate** to the effect that any particular dealing, transaction or action is necessary or expedient, but in no case is bound to secure the same.

(g) The permissive right of the Trustee to do things enumerated in this Indenture shall not be construed as a duty and the Trustee is not answerable for other than its negligence or default.

(h) The Trustee is not required to take notice or be deemed to have notice of any default hereunder except failure by the County or the Corporation to cause to be made any of the payments to the Trustee required to be made by Article III hereof, unless the Trustee is specifically notified in writing of such default by the Corporation or the County or by the Owners of at least 25% in aggregate principal amount of Bonds then Outstanding, and all notices or other instruments required by this Indenture to be delivered to the Trustee, must, to be effective, be delivered at the corporate trust office of the Trustee identified in Section 10.09, and in the absence of such notice so delivered or express knowledge to the contrary, the Trustee may conclusively assume there is no default except as aforesaid.

(i) All money received by the Trustee shall, until used or applied or invested as herein provided, be held in trust in the manner and for the purposes for which they were received but need not be segregated from other funds except to the extent required by this Indenture or law. The Trustee is not under any liability for interest on any money received hereunder except such as may be agreed on.

(j) At any and all reasonable times the Trustee, and its duly authorized agents, attorneys, experts, engineers, accountants and representatives, have the right, but are not required, to inspect any and all of the property pledged herein, including all books, papers and records of the Corporation or the County pertaining to the Premises or the Projects.

(k) The Trustee is not required to give any bond or surety in respect of the execution of the said trusts and powers or otherwise in respect of the premises.

(l) Notwithstanding anything in this Indenture contained, the Trustee has the right, but is not required, to demand in respect of the execution and delivery of any Bonds, the withdrawal of any cash, or any action whatsoever within the purview of this

Indenture, any showings, **certificates**, opinions, appraisals or other information, or corporate action or evidence thereof, in addition to that by the terms hereof required, as a condition of such action by the Trustee deemed desirable for the purpose of establishing the right of the Corporation or the County to the execution and delivery of any Bonds, the withdrawal of any cash, or the taking of any other action by the Trustee.

(m) Before taking any action hereunder (except for the acceleration of the Bonds under Section 7.02(a)) the Trustee may require that satisfactory indemnity be furnished to it by the Owners for the reimbursement of all expenses which it may incur and to protect it against all liability, except liability which may result from its negligence or default, by reason of any action so taken.

(n) The Trustee may use the services of an agent to carry out the duties, responsibilities and obligations required of the Trustee hereunder and where the Trustee is required to act, the agent of the Trustee may act in the place and stead of the Trustee; provided, however, that the use of any agent does not relieve the Trustee of any of its obligations under the Indenture. Where any act is to be performed or any event is to occur under the Indenture at the designated corporate trust office of the Trustee, such act or event may be performed or occur, as the case may be, at the office of the agent of the Trustee.

(o) The Trustee may not serve as the provider of any financial guaranty instrument under this Indenture or any subsequent supplemental indenture.

(p) The Trustee is not liable to the Corporation or the County for any loss suffered as a result of or in connection with any investment of funds made by the Trustee in good faith as instructed by or approved by the County.

(q) The Trustee is not accountable for the use by the Corporation or the County of the proceeds of the Bonds.

(r) The Trustee has no duty or responsibility to examine or review, and has no liability for the contents of, any documents submitted or delivered to any Owner in the nature of a preliminary or final placement memorandum, official statement, offering circular or similar disclosure document.

(s) The Trustee is not liable for any debts contracted or for damages to persons or to personal property injured or damaged, or for salaries or nonfulfillment of contracts, relating to the Premises or the Projects. The Trustee has no duty to inspect the Premises or the Projects or to verify the truthfulness or accuracy of the certifications made by the Corporation with respect to the Trustee's disbursements for Costs of Acquisition and Construction in accordance with this Indenture and the Contract.

Section 8.02. ***Fees and Expenses of Trustee.*** The Trustee is entitled to payment and reimbursement for its reasonable fees for its services rendered hereunder as and when the same become due and all expenses reasonably and necessarily made or incurred by the Trustee in connection with such services as and when the same become due as provided in Section 4.7 of the Contract.

Section 8.03. ***Resignation or Replacement of Trustee.*** The Trustee may resign by giving written notice to the County, the Corporation and the LGC not less than 60 days before such resignation is

to take effect. Such resignation shall take effect only on the appointment of a successor qualified as provided in the third paragraph of this Section 8.03. The Trustee may be removed at any time (1) by the Corporation, at the direction of the County or (2) by an instrument in writing, executed by the Owners of a majority in aggregate principal amount of the Bonds then Outstanding. The Corporation may not, however, remove the Trustee if an Event of Default under this Indenture has occurred and is continuing. No removal will be effective until a successor Trustee qualified as provided in the third paragraph of this Section 8.03 has been appointed and until such appointment has been accepted.

If the Trustee resigns or is removed or otherwise becomes incapable of acting, a successor may be appointed by the County, or if there is an “*Event of Default*” by the County as provided in Section 12.1 of the Contract, by the Owners of a majority in aggregate principal amount of the Bonds then Outstanding by an instrument or concurrent instruments signed by such Owners, or their attorneys-in-fact duly appointed; provided that the Corporation may, by an instrument executed by it, appoint a successor until a new successor is appointed by the Owners as herein authorized. The County, on making such appointment, shall forthwith give notice thereof to each Owner, the LGC and to the Corporation, which notice may be given concurrently with the notice of resignation given by any resigning Trustee. Any successor so appointed by the County shall immediately and without further act be superseded by a successor appointed in the manner above provided by the Owners of a majority in aggregate principal amount of the Bonds Outstanding.

Every successor shall be approved by the LGC and shall always be a bank or trust company in good standing, qualified to act hereunder, and having a capital and surplus of not less than \$100,000,000. Any successor appointed hereunder shall execute, acknowledge and deliver to the County and to the Corporation an instrument accepting such appointment hereunder, and thereon such successor shall, without any further act, deed or conveyance, become vested with all the estates, properties, rights, powers and trusts of its predecessor in the trust hereunder with like effect as if originally named as Trustee herein; but the Trustee retiring shall, nevertheless, on the written demand of its successor, execute and deliver an instrument conveying and transferring to such successor, on the trusts herein expressed, all the estates, properties, rights, powers and trusts of the predecessor, which shall duly assign, transfer and deliver to the successor all properties and money held by it under this Indenture. Should any instrument in writing from the County or the Corporation be required by any successor for more fully vesting in and confirming to it, the said deeds, conveyances and instruments in writing shall be made, executed, acknowledged and delivered by the County or the Corporation on request of such successor.

The instruments evidencing the resignation or removal of the Trustee and the appointment of a successor hereunder, together with all other instruments provided for in this Section shall be filed and/or recorded by the successor Trustee in each recording office, if any, where this Indenture has been filed or recorded.

Section 8.04. ***Conversion, Consolidation or Merger of Trustee.*** Any bank or trust company into which the Trustee or its successor may be converted or merged, or with which it may be consolidated, or to which it may sell or transfer its trust business as a whole shall be the successor of the Trustee under this Indenture with the same rights, powers, duties and obligations and subject to the same restrictions, limitations and liabilities as its predecessor, all without the execution or filing of any papers or any further act on the part of any of the parties hereto or thereto, anything herein or therein to the contrary notwithstanding; provided, however, that such merged or successor entity meets the qualifications of a successor Trustee under Section 8.03. If any of the Bonds to be executed and delivered hereunder have been authenticated, but not delivered, any successor Trustee may adopt the certificate of any predecessor Trustee, and deliver the same as authenticated; and, if any of such Bonds have not been

authenticated, the Corporation may authenticate the Bond and any successor Trustee may deliver the same in the manner provided in Article II of this Indenture.

Section 8.05. ***Intervention by Trustee.*** In any judicial proceeding to which the Corporation or the County is a party and which in the opinion of the Trustee and its counsel has a substantial bearing on the interests of Owners of the Bonds, the Trustee may intervene on behalf of Owners of the Bonds, and shall do so if requested in writing by the Owners of at least 25% in aggregate principal amount in Bonds then Outstanding, so long as they have provided satisfactory indemnity pursuant to Section 8.01(m).

[End of Article VIII]

**ARTICLE IX  
SUPPLEMENTAL INDENTURES AND  
AMENDMENTS OF THE CONTRACT**

Section 9.01. *Supplemental Indentures Not Requiring Consent of Owners.* The Trustee and the Corporation may, with the written consent of the County, but without the consent of, or notice to, the Owners, enter into such indentures supplemental hereto for any one or more or all of the following purposes, as long as such supplemental indenture does not adversely affect the interests of the Owners:

- (a) To add to the covenants and agreements of the Corporation contained in this Indenture other covenants and agreements to be thereafter observed by the Corporation;
- (b) To cure any ambiguity, or to cure, correct or supplement any defect or omission or inconsistent provision contained in this Indenture, or to make any provisions with respect to matters arising under this Indenture or for any other purpose if such provisions are necessary or desirable and do not adversely affect the interests of the Owners; or
- (c) To execute and deliver Additional Bonds as provided in Section 2.11.

Section 9.02. *Supplemental Indentures Requiring Consent of Owners.* Exclusive of supplemental indentures covered by Section 9.01, the written consent of the County, the LGC and the consent of the Owners of not less than a majority in aggregate principal amount of the Bonds then Outstanding is required for the execution by the Corporation and the Trustee of any indenture or indentures supplemental hereto; provided, however, that without the consent of the Owners of all the Bonds at the time Outstanding affected thereby nothing herein contained shall permit, or be construed as permitting:

- (a) A change in the terms of prepayment or maturity of the principal amount of or the interest with respect to any Outstanding Bond, or a reduction in the principal amount of or premium payable on any prepayment of any Outstanding Bond or the rate of interest with respect thereto;
- (b) The deprivation of the Owner of any Bond then Outstanding of the lien created by this Indenture (other than as originally permitted hereby);
- (c) A privilege or priority of any Bond or Bonds over any other Bond or Bonds; or
- (d) A reduction in the aggregate principal amount of the Bonds required for consent to such supplemental indenture.

If at any time the County or the Corporation requests the Trustee to enter into such supplemental indenture for any of the purposes of this Section, the Trustee shall, on being satisfactorily indemnified with respect to expenses, cause notice of the proposed execution of such supplemental indenture to be mailed by first-class mail to the Owners of the Bonds then Outstanding at the address shown on the registration books maintained by the Trustee. Such notice shall briefly set forth the nature of the proposed supplemental indenture and shall state that copies thereof are on file at the designated corporate trust office of the Trustee for inspection by all Owners. If, within 60 days or such longer period as is



prescribed by the County following the giving of such notice, the Owners of not less than a majority in aggregate principal amount of the Bonds then Outstanding at the time of the execution of any such supplemental indenture have consented to and approved the execution thereof as herein provided, no Owner has any right to object to any of the terms and provisions contained therein, or in the operation thereof, or in any manner to question the propriety of the execution thereof, or to enjoin or restrain the Trustee or the Corporation from executing the same or from taking any action pursuant to the provisions thereof.

Section 9.03. ***Execution of Supplemental Indenture.*** The Trustee is authorized to join with the Corporation in the execution of any such supplemental indenture and to make further agreements and stipulations which may be contained therein, but the Trustee is not obligated to enter into any such supplemental indenture which affects its rights, duties or immunities under this Indenture. Any supplemental indenture executed in accordance with the provisions of this Article shall thereafter form a part of this Indenture; and all the terms and conditions contained in any such supplemental indenture as to any provision authorized to be contained therein shall be deemed to be part of this Indenture for any and all purposes. In case of the execution and delivery of any supplemental indenture, express reference may be made thereto in the text of the Bonds executed and delivered thereafter, if any, if deemed necessary or desirable by the Trustee.

Section 9.04. ***Amendments of the Contract or the Deed of Trust Not Requiring Consent of Owners.*** The Corporation and the Trustee may, with the written consent of the County, but without the consent of or notice to the Owners, consent to any amendment, change or modification of the Contract or the Deed of Trust that does not materially adversely affect the interests of the existing Owners as may be required (a) by the provisions of the Contract, the Deed of Trust or this Indenture; (b) for the purpose of curing any ambiguity or formal defect or omission in the Contract or the Deed of Trust; (c) to more precisely identify the Premises or to add or substitute improvements acquired in accordance with the Contract, the Deed of Trust and this Indenture; (d) to execute and deliver Additional Bonds as provided in Section 2.11; (e) to amend the County's continuing disclosure obligation as provided in Article VIII of the Contract; or (f) in connection with any other change therein which, in the judgment of the Trustee, does not materially adversely affect the interests of the existing Owners.

Section 9.05. ***Amendments of the Contract or the Deed of Trust Requiring Consent of Owners.*** Except for the amendments, changes or modifications permitted by Section 9.04, neither the Corporation nor the Trustee shall consent to any other amendment, change or modification of the Contract or the Deed of Trust without the giving of notice thereof to the LGC and to the Owners and receipt of written consent by the LGC and consent by the Owners of not less than a majority in aggregate principal amount of the Bonds at the time Outstanding given and procured as provided in Section 9.02. If the County and the Corporation requests the consent of the Trustee to any such proposed amendment, change or modification of the Contract or the Deed of Trust, the Trustee shall, on being satisfactorily indemnified with respect to expenses, cause notice of such proposed amendment, change or modification to be given in the same manner as provided in Section 9.02. Such notice shall briefly set forth the nature of such proposed amendment, change or modification and shall state that copies of the instrument embodying the same are on file at the designated corporate trust office of the Trustee for inspection by all Owners.

Section 9.06. ***Notice to Moody's and S&P.*** Notice of any amendment, change or modification to this Indenture or the Contract shall be given by the Trustee, on the written request and at the expense of the County, within ten days before the effective date thereof to Moody's and to S&P at the address set forth in Section 10.09.

Section 9.07. ***Consent of Initial Purchaser, Underwriter or Remarketing Agent.*** Any person

that holds any Bond as an Owner, including an initial purchaser, underwriter or remarketing agent that holds such Bond with an intent to sell or distribute such Bond in the future, shall be deemed to be the Owner of such Bond for the purpose of giving any consent required under this Article, including any consent to an amendment or supplemental indenture that adversely affects the interests of other Owners. Notwithstanding anything in this Indenture to the contrary, neither the County nor any initial purchaser, underwriter or remarketing agent providing its consent to an amendment or supplemental indenture pursuant to this Section shall be required to provide any prior notice or other documentation regarding such amendment or supplemental indenture to any Owner of any Bond.

[End of Article IX]

**ARTICLE X**  
**MISCELLANEOUS**

Section 10.01. ***Evidence of Signature of Owners and Ownership of Bonds.*** Any request, consent or other instrument which this Indenture may require or permit to be signed and executed by the Owners may be in one or more instruments of similar tenor, and shall be signed or executed by such Owners in person or by their attorneys appointed in writing. Proof of the execution of any such instrument or of an instrument appointing any such attorney, or the ownership of Bonds is sufficient (except as otherwise herein expressly provided) if made in the following manner, but the Trustee may, nevertheless, in its discretion require further or other proof in cases where it deems the same desirable:

(a) The fact and date of the execution by any Owner or his or her attorney of such instrument may be proved by the Bond of any officer authorized to take acknowledgments in the jurisdiction in which he or she purports to act that the person signing such request or other instrument acknowledged to him or her the execution thereof, or by an affidavit of a witness of such execution, duly sworn to before a notary public.

(b) The ownership of the Bonds shall be proved by the registration books kept under the provisions of Section 2.09.

Any request or consent of the Owner of any Bond binds all future Owners of such Bond in respect of any thing done or suffered to be done by the County or the Trustee in accordance therewith.

Section 10.02. ***Covenants of Corporation.*** The Corporation agrees that the Trustee as assignee of the Corporation under the Contract may enforce, in its name or in the name of the Corporation, all rights of the Corporation and all obligations of the County under the Contract, for and on behalf of the Owners, whether or not the Corporation is in default under this Indenture. The Trustee and the Corporation hereby agree that the Corporation is not obligated to make any payments or to take any other action with respect to the Premises or the Projects under the Contract.

Section 10.03. ***Inspection of the Premises.*** The Trustee and its duly authorized agents have the right, on reasonable notice to the County, at all reasonable times, to examine and inspect the Premises. The Trustee and its duly authorized agents shall also be permitted, at all reasonable times, to examine the books, records, reports and other papers of the County with respect to the Premises.

Section 10.04. ***Parties Interested Herein.*** Nothing in this Indenture expressed or implied is intended or shall be construed to confer on, or to give to any person other than the County, the Corporation, the Trustee and the Owners, any right, remedy or claim under or by reason of this Indenture or any covenant, condition or stipulation hereof; and all the covenants, stipulations, promises and agreements in this Indenture contained by and on behalf of the Corporation or the Trustee shall be for the sole and exclusive benefit of the County, the Corporation, the Trustee and the Owners.

Section 10.05. ***Titles, Headings and Captions.*** The titles, captions and headings of the articles, sections and subdivisions of this Indenture have been inserted for convenience of reference only and shall in no way modify or restrict any of the terms or provisions hereof.

Section 10.06. ***Severability.*** If any provision of this Indenture, other than Section 2.03, is held invalid or unenforceable by any court of competent jurisdiction, such holding shall not invalidate or render unenforceable any other provision hereof. If any one or more of the provisions provided in this

Indenture shall be construed to be held invalid or unenforceable, the parties hereto shall, in the alternative, agree to replace such provision with a lawful provision which most nearly approximates the provision held to be invalid or unenforceable.

Section 10.07. **Governing Law.** This Indenture shall be construed, interpreted, governed and enforced in accordance with the laws and Constitution of the State.

Section 10.08. **Execution in Counterparts.** This Indenture may be executed in several counterparts, each of which shall be an original and all of which constitute but one and the same instrument.

Section 10.09. **Notices.** All notices, certificates or other communications are sufficiently given and shall be deemed given when delivered or mailed by certified or registered mail, postage prepaid (or, with respect to notices delivered to the County, the Corporation or the Trustee, by electronic mail with confirmation of delivery receipt), as follows:

- |                        |                                                                                                                                                                                                                        |
|------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| If to the County:      | County of Watauga, North Carolina<br>814 West King Street, Room 216<br>Boone, North Carolina 28607<br>Attention: Finance Director<br>Email: Margaret.Pierce@watgov.org                                                 |
| If to the Corporation: | Watauga Public Facilities Corporation<br>c/o County of Watauga, North Carolina<br>814 West King Street, Room 216<br>Boone, North Carolina 28607<br>Attention: Secretary-Treasurer<br>Email: Margaret.Pierce@watgov.org |
| If to the Trustee:     | [Trustee]<br>[Address]<br>Email: [Email]                                                                                                                                                                               |
| If to Moody's:         | Moody's Investors Service<br>250 Greenwich Street<br>7 World Trade Center<br>New York, NY 10007<br>Attention: Public Finance Department Rating Desk                                                                    |
| If to S&P:             | Standard & Poor's Ratings Services,<br>a Standard & Poor's Financial Services LLC business<br>55 Water Street, 38 <sup>th</sup> Floor<br>New York, NY 10041<br>Attention: Public Finance Department                    |

The County, the Corporation, the Trustee, Moody's and S&P may, by written notice, designate any further or different addresses to which subsequent notices, certificates or other communications shall be sent.

Section 10.10. **Payments Due on Holidays.** If the date for making any payment or the last day

for performance of any act or the exercising of any right, as provided in this Indenture, is not a Business Day, such payment may be made or act performed or right exercised on the next succeeding Business Day with the same force and effect as if done on the nominal date provided in this Indenture.

Section 10.11. *Corporation, County, and Trustee Representatives.* Whenever under the provisions hereof the approval of the Corporation, the County or the Trustee is required, or the County, the Corporation or the Trustee is required to take some action at the request of the other, unless otherwise provided, such approval or such request shall be given for the Corporation by a Corporation Representative, for the County by a County Representative and for the Trustee by a Trustee Representative, and the Corporation, the County and the Trustee shall be authorized to act on any such approval or request.

[SIGNATURES ON FOLLOWING PAGE]

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

**WATAUGA PUBLIC FACILITIES CORPORATION**

[SEAL]

By: \_\_\_\_\_  
President

Attest:

\_\_\_\_\_  
Secretary

[COUNTERPART SIGNATURE PAGE TO THE INDENTURE]

[TRUSTEE],  
as Trustee

By: \_\_\_\_\_  
Vice President

**EXHIBIT A  
FORM OF 2012A BOND**

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\$

**UNITED STATES OF AMERICA  
STATE OF NORTH CAROLINA**

**REFUNDING LIMITED OBLIGATION BOND  
(COUNTY OF WATAUGA, NORTH CAROLINA),  
SERIES 2012A**

**EVIDENCING A PROPORTIONATE UNDIVIDED  
INTEREST IN RIGHTS TO RECEIVE  
CERTAIN REVENUES PURSUANT TO AN  
INSTALLMENT FINANCING CONTRACT  
BETWEEN WATAUGA PUBLIC FACILITIES CORPORATION AND THE  
COUNTY OF WATAUGA, NORTH CAROLINA**

<u>INTEREST RATE</u>	<u>MATURITY DATE</u>	<u>DATED DATE</u>	<u>CUSIP</u>
--------------------------	----------------------	-------------------	--------------

**REGISTERED OWNER: CEDE & CO.**

**PRINCIPAL SUM: DOLLARS**

*THIS CERTIFIES THAT THE REGISTERED OWNER* (named above), or registered assigns, has a proportionate undivided interest in rights to receive certain revenues, as described below, pursuant to a certain Installment Financing Contract dated as of June 1, 2012 (which agreement as from time to time amended is referred to herein as the “*Contract*”), between WATAUGA PUBLIC FACILITIES CORPORATION (the “*Corporation*”) and the COUNTY OF WATAUGA, NORTH CAROLINA, a political subdivision of the State of North Carolina (the “*County*”). The interest of the Owner of this Bond (this “*2012A Bond*”) is secured as provided in the Indenture of Trust dated as of June 1, 2012 (the “*Indenture*”) between the Corporation and [TRUSTEE], as trustee (the “*Trustee*”), for the registered owners of the 2012A Bonds (the “*Owners*”) at the close of business on the 15<sup>th</sup> day of the month preceding each Interest Payment Date (as defined below) (the “*Record Date*”), by which the rights (with certain exceptions) of the Corporation, under the Contract, have been assigned by the Corporation to the Trustee for the benefit of the Owners. Pursuant to the Contract and the Indenture, the Owner hereof is entitled to receive, solely out of and to the extent available from the sources hereinafter identified, on the Maturity Date stated above (or earlier as hereinafter provided), the Principal Sum stated above, and interest with respect thereto from the Dated Date (shown above) at the interest rate per annum stated above, payable commencing on December 1, 2012, and semiannually thereafter on June 1 and December 1 in each year until payment in full of such Principal Sum. Principal with respect to this 2012A Bond is payable in lawful money of the United States of America at the designated corporate trust office of the Trustee located in [City, State], or that of its successor; and interest with respect to this 2012A Bond is payable to the Owner hereof by check or draft of the Trustee, or its successor, to be mailed to such Owner at his or her address as it last appears in the



registration books kept by the Trustee. Notwithstanding the foregoing, so long as Cede & Co. is the registered Owner of this 2012A Bond, the principal and interest with respect to this 2012A Bond shall be paid by wire transfer in immediately available funds on each principal payment date and interest payment date.

The 2012A Bonds will be delivered by means of a book-entry system with no physical distribution of 2012A Bonds made to the public. One 2012A Bond for each maturity will be executed and delivered to The Depository Trust Company, New York, New York (“DTC”), and immobilized in its custody. A book-entry system will be employed, evidencing ownership of the 2012A Bonds in principal amounts in the denomination of \$5,000 or any integral multiple thereof, with transfers of beneficial ownership effected on the records of DTC and its participants pursuant to rules and procedures established by DTC. While DTC or its nominee is the registered owner of this 2012A Bond, payments of principal and interest will be made to DTC or its nominee in accordance with existing arrangements by wire transfer in immediately available funds. The County and the Trustee will not be responsible or liable for maintaining, supervising, or reviewing the records maintained by DTC, its participants or persons acting through such participants.

If (a) DTC determines not to continue to act as securities depository for the 2012A Bonds or (b) the County determines that the continuation of the book-entry system of evidence and transfer of ownership of the 2012A Bonds would adversely affect the interests of the County or the beneficial owners of the 2012A Bonds, the County will discontinue the book-entry system with DTC. If the County fails to identify another qualified securities depository to replace DTC, the Trustee will authenticate and deliver replacement 2012A Bonds in the form of fully registered 2012A Bonds in accordance with DTC rules and procedures.

The County, the Corporation, and the Trustee do not have any responsibility or obligations with respect to (a) the accuracy of any records maintained by DTC; (b) the payment by DTC of any amount due to any beneficial owners in respect of the principal and interest with respect to the 2012A Bonds; (c) the delivery or timeliness of delivery by DTC of any notice which is required or permitted under the terms of the Contract or Indenture to be given to Owners; (d) the selection of Owners to receive payments in the event of any partial prepayment of the 2012A Bonds; or (e) any consent given or other action taken by DTC, or its nominee.

EACH 2012A BOND EVIDENCES A PROPORTIONATE UNDIVIDED INTEREST IN THE RIGHT TO RECEIVE CERTAIN REVENUES UNDER THE CONTRACT. THE OBLIGATION OF THE COUNTY TO MAKE INSTALLMENT PAYMENTS AND ADDITIONAL PAYMENTS IS A LIMITED OBLIGATION OF THE COUNTY, PAYABLE SOLELY FROM CURRENTLY BUDGETED APPROPRIATIONS OF THE COUNTY; DOES NOT CONSTITUTE A GENERAL OBLIGATION OR OTHER INDEBTEDNESS OF THE COUNTY WITHIN THE MEANING OF THE CONSTITUTION OF THE STATE OF NORTH CAROLINA; AND DOES NOT CONSTITUTE A DIRECT OR INDIRECT PLEDGE OF THE FAITH AND CREDIT OR TAXING POWER OF THE COUNTY WITHIN THE MEANING OF THE CONSTITUTION OF THE STATE OF NORTH CAROLINA.

Each capitalized, undefined term used herein has the meaning ascribed thereto in the Contract and the Indenture.

This 2012A Bond is one of the Bonds evidencing proportionate undivided interests in rights to receive certain revenues (the “Revenues”) pursuant to the Contract and the Indenture, in an aggregate principal amount of \$[Par Amount] executed and delivered under the Indenture for the purpose, among others, of providing funds to refinance a portion of the County’s installment payment obligations under the Prior Contract. Simultaneously with the execution and delivery of this 2012A Bond, a Refunding

Limited Obligation Bond (County of Watauga, North Carolina), Series 2012B (the “2012B Bond,” and together with the 2012A Bonds, the “2012 Bonds”) in the aggregate principal amount of \$10,000,000 will be executed and delivered under the Indenture for the purpose, among others, of providing funds to refinance a portion of the County’s installment payment obligations under the Prior Contract. The 2012 Bonds and any Additional Bonds that may be executed and delivered under the Indenture will be parity obligations.

Under the Contract, the Corporation has agreed to advance to the County the Purchase Price, the proceeds from which will be used to refinance a portion of the County’s installment payment obligations under the Prior Contract, and the County has agreed to pay directly to the Trustee semiannual payments (the “*Installment Payments*”) in repayment of the Purchase Price, the proceeds of which are required by the Indenture to be distributed by the Trustee to the payment of the principal, premium, if any, and interest with respect to the Bonds. In addition to the Installment Payments, the County has agreed to make certain other payments (the “*Additional Payments*”) sufficient to pay the fees and expenses of the Trustee and the Corporation and other expenses required to be paid by the County under the Contract. The County has covenanted in the Contract to pay the Installment Payments and the Additional Payments as they become due, and executed and delivered as security for that payment obligation the Deed of Trust, Security Agreement and Fixture Filing dated as of June 1, 2012 (the “*Deed of Trust*”) from the County to the Deed of Trust trustee named therein for the benefit of the Corporation with respect to the Premises. If the Contract is terminated by reason of an Event of Default, the principal amount of this 2012A Bond and the interest with respect thereto will be payable from such money, if any, as may be available for such purpose, including any money received by the Trustee from the sale, lease, sublease or other disposition of the Premises pursuant to the Deed of Trust. The Contract may also be terminated if the County exercises its option to prepay in full the Purchase Price. If the County prepays the Purchase Price in full, the proceeds thereof are required to be used to pay the principal, premium, if any, and interest with respect to the Bonds. Reference is hereby made to the Contract and the Indenture for a description of the rights, duties and obligations of the County, the Corporation, the Trustee and the Owners, the terms on which the 2012A Bonds are secured, the terms and conditions on which the 2012A Bonds will be deemed to be paid at or before maturity or prepayment of the 2012A Bonds on the making of provision for the full or partial payment thereof, and the rights of the Owners on the occurrence of an Event of Default or circumstances under which Additional Bonds can be executed and delivered.

Subject to the execution and delivery of any Additional Bonds in accordance with the Indenture, if the County pays all Installment Payments due under the Contract through June 1, 2028 and otherwise complies with its obligations under the Contract through such date, the Indenture and the Contract provide that the Trustee shall release the lien of the Indenture on June 1, 2028.

The 2012A Bonds are executed and delivered solely as fully registered Bonds without coupons in denominations of \$5,000 and any integral multiple thereof.

This 2012A Bond is transferable by the Owner hereof in person or by his or her attorney duly authorized in writing on the registration books kept at the designated corporate trust office of the Trustee on surrender of this 2012A Bond together with a duly executed written instrument of transfer satisfactory to the Trustee. On such transfer, a new fully registered 2012A Bond or Bonds without coupons of the same maturity, of authorized denomination or denominations, for the same aggregate principal amount, will be executed and delivered to the transferee in exchange herefor, all on payment of the charges and subject to the terms and conditions set forth in the Indenture. The Trustee shall deem the person in whose name this 2012A Bond is registered as the absolute owner hereof, whether or not this 2012A Bond shall be overdue, for the purpose of receiving payment and for all other purposes, and neither the County nor the Trustee shall be affected by any notice to the contrary.

The 2012A Bonds maturing on or before June 1, 20\_\_ are not subject to optional prepayment before maturity. The 2012A Bonds maturing on or after June 1, 20\_\_ are subject to optional prepayment in whole or in part on any date on or after June 1, 20\_\_, at the option of the County, at the prepayment price equal to 100% of the principal amount of such 2012A Bonds to be prepaid, together with accrued interest to the date fixed for prepayment.

In the case of any partial prepayment, the 2012A Bonds to be prepaid shall be prepaid in such order as the County shall select and within the same maturity as selected by DTC pursuant to its rules and procedures or, if the book-entry system with respect to the 2012A Bonds is discontinued as provided in the Indenture, by lot within a maturity in such manner as the Trustee in its discretion may determine.

If a 2012A Bond subject to prepayment is in a denomination larger than the minimum authorized denomination, a portion of such 2012A Bond may be prepaid, but only in a principal amount such that the unprepaid portion of such 2012A Bond is equal to an authorized denomination. For any 2012A Bond in a denomination of more than the minimum authorized denomination, the Trustee shall treat each such 2012A Bond as representing a single 2012A Bond in the minimum authorized denomination plus that number of 2012A Bonds that is obtained by dividing the remaining principal amount of such 2012A Bond by the minimum authorized denomination.

If it is determined that one or more, but not all, of the authorized denominations of principal amount represented by any 2012A Bond is to be called for prepayment, then, on notice of intention to prepay such authorized denominations of principal amount with respect to such 2012A Bond, the Owner of such 2012A Bond, on surrender of such 2012A Bond to the Trustee for payment of the principal amount with respect to such 2012A Bond, will be entitled to receive new 2012A Bonds in the aggregate principal amount of the unprepaid balance of the principal amount with respect to such 2012A Bond. New 2012A Bonds representing the unprepaid balance of the principal amount with respect to such 2012A Bonds will be executed and delivered to the Owner thereof without charge therefor.

If the Owner of any 2012A Bond of a denomination greater than the amount being prepaid fails to present such 2012A Bond to the Trustee for payment and exchange as aforesaid, such 2012A Bond will, nevertheless, become due and payable on the date fixed for prepayment to the extent of the denomination being prepaid and to that extent only.

The Indenture permits amendments thereto and to the Contract and the Deed of Trust on the agreement of the Corporation and the Trustee and with the approval of the Owners of not less than a majority or, in certain instances, 100% in aggregate principal amount of the Bonds at the time Outstanding. The Indenture also contains provisions permitting the Corporation and the Trustee to enter into amendments to the Indenture and the Contract without the consent of the Owners of the Bonds for certain purposes.

Any consent or request by the Owner of this 2012A Bond is conclusive and binding on such Owner and on all future Owners of this 2012A Bond and of any Bond executed and delivered on the transfer of this 2012A Bond, whether or not notation of such consent or request is made on this 2012A Bond.

This 2012A Bond is executed and delivered with the intent that the laws of the State of North Carolina shall govern its legality, validity, enforceability and construction.

This 2012A Bond is not entitled to any right or benefit under the Indenture, or valid or obligatory for any purposes until this 2012A Bond has been authenticated by the execution by the Trustee, or its successors as Trustee, of the certificate of authentication inscribed hereon.

*IN WITNESS WHEREOF*, the Watauga Public Facilities Corporation has caused this 2012 Bond to be executed with the manual or facsimile signature of its President and its corporate seal or a facsimile thereof to be impressed or imprinted hereon and attested with the manual or facsimile signature of its Assistant Secretary, all as of the Dated Date set forth above.

**WATAUGA PUBLIC FACILITIES CORPORATION**

[SEAL]

By: \_\_\_\_\_  
President

Attest:

\_\_\_\_\_  
Secretary

**CERTIFICATE OF AUTHENTICATION**

This is one of the Refunding Limited Obligation Bonds (County of Watauga, North Carolina), Series 2012A evidencing a proportionate undivided interest in rights to receive within-mentioned Revenues pursuant to the within-mentioned Contract.

**[TRUSTEE],**  
as Trustee

Dated: [Closing Date]

By: \_\_\_\_\_  
Vice President

[FORM OF ASSIGNMENT]

ASSIGNMENT

FOR VALUE RECEIVED the undersigned hereby sells, assigns and transfers unto

\_\_\_\_\_  
(Please print or typewrite Name and Address,  
including Zip Code, and Federal Taxpayer Identification or  
Social Security Number of Assignee)

\_\_\_\_\_  
the within Bond and all rights thereunder, and hereby irrevocably constitutes and appoints

\_\_\_\_\_  
Attorney to register the transfer of the within Bond on the books kept for registration thereof,  
with full power of substitution in the premises.

Dated: \_\_\_\_\_

Signature guaranteed by:

\_\_\_\_\_  
**NOTICE:** Signature must be guaranteed by a  
Participant in the Securities Transfer Agent  
Medallion Program (“Stamp”) or similar  
program.

\_\_\_\_\_  
**NOTICE:** The signature to this assignment must  
correspond with the name as it appears on the  
face of the within Bond in every particular,  
without alteration, enlargement or any change  
whatever

**EXHIBIT B  
FORM OF 2012B BOND**

RB-1

\$10,000,000

**UNITED STATES OF AMERICA  
STATE OF NORTH CAROLINA**

**REFUNDING LIMITED OBLIGATION BOND  
(COUNTY OF WATAUGA, NORTH CAROLINA),  
SERIES 2012B**

**EVIDENCING A PROPORTIONATE UNDIVIDED  
INTEREST IN RIGHTS TO RECEIVE  
CERTAIN REVENUES PURSUANT TO AN  
INSTALLMENT FINANCING CONTRACT  
BETWEEN WATAUGA PUBLIC FACILITIES CORPORATION AND THE  
COUNTY OF WATAUGA, NORTH CAROLINA**

<b><u>INTEREST</u></b>			
<b><u>RATE</u></b>	<b><u>MATURITY DATE</u></b>	<b><u>DATED DATE</u></b>	<b><u>CUSIP</u></b>
	June 1, 2028		N/A

**REGISTERED OWNER: BRANCH BANKING AND TRUST COMPANY**

**PRINCIPAL SUM: TEN MILLION DOLLARS**

*THIS CERTIFIES THAT THE REGISTERED OWNER* (named above), or registered assigns, has a proportionate undivided interest in rights to receive certain revenues, as described below, pursuant to an Installment Financing Contract dated as of June 1, 2012 (which agreement as from time to time amended is referred to herein as the “*Contract*”) between WATAUGA PUBLIC FACILITIES CORPORATION (the “*Corporation*”) and the COUNTY OF WATAUGA, NORTH CAROLINA, a political subdivision of the State of North Carolina (the “*County*”). The interest of the Owner of this Bond (this “*2012B Bond*”) is secured as provided in the Indenture of Trust dated as of June 1, 2012 (the “*Indenture*”) between the Corporation and [TRUSTEE], as trustee (the “*Trustee*”), for the registered owner of this 2012B Bond (the “*Owner*”) at the close of business on the 15<sup>th</sup> day of the month preceding each Interest Payment Date (as defined below) (the “*Record Date*”), by which the rights (with certain exceptions) of the Corporation, under the Contract, have been assigned by the Corporation to the Trustee for the benefit of the Owner. Pursuant to the Contract and the Indenture, the Owner hereof is entitled to receive, solely out of and to the extent available from the sources hereinafter identified, on the Maturity Date stated above (or earlier as hereinafter provided), the Principal Sum stated above, and interest with respect thereto from the Dated Date (shown above) at the interest rate per annum stated above, payable commencing on December 1, 2012, and semiannually thereafter on June 1 and December 1 in each year until payment in full of such Principal Sum. Principal with respect to this 2012B Bond is payable in lawful money of the United States of America at the designated corporate trust office of the Trustee located in [City, State], or that of its successor; and interest with respect to this 2012B Bond is payable to the Owner hereof by check or draft of the Trustee, or its successor, to be mailed to such Owner at his or her address as it last



appears in the registration books kept by the Trustee. Notwithstanding the foregoing, payments of principal and interest with respect to this 2012B Bond may, at the option of the Owner, be transmitted by wire transfer to the Owner as specified in writing by the Owner by the applicable Record Date.

THIS 2012B BOND EVIDENCES A PROPORTIONATE UNDIVIDED INTEREST IN THE RIGHT TO RECEIVE CERTAIN REVENUES UNDER THE CONTRACT. THE OBLIGATION OF THE COUNTY TO MAKE INSTALLMENT PAYMENTS AND ADDITIONAL PAYMENTS IS A LIMITED OBLIGATION OF THE COUNTY, PAYABLE SOLELY FROM CURRENTLY BUDGETED APPROPRIATIONS OF THE COUNTY; DOES NOT CONSTITUTE A GENERAL OBLIGATION OR OTHER INDEBTEDNESS OF THE COUNTY WITHIN THE MEANING OF THE CONSTITUTION OF THE STATE OF NORTH CAROLINA; AND DOES NOT CONSTITUTE A DIRECT OR INDIRECT PLEDGE OF THE FAITH AND CREDIT OR TAXING POWER OF THE COUNTY WITHIN THE MEANING OF THE CONSTITUTION OF THE STATE OF NORTH CAROLINA.

Each capitalized, undefined term used herein has the meaning ascribed thereto in the Contract and the Indenture.

This 2012B Bond is one of the Bonds evidencing proportionate undivided interests in rights to receive certain revenues (the "*Revenues*") pursuant to the Contract and the Indenture, in an aggregate principal amount of \$[Par Amount] executed and delivered under the Indenture for the purpose, among others, of providing funds to refinance a portion of the County's installment payment obligations under the Prior Contract. Simultaneously with the execution and delivery of this 2012B Bond, Refunding Limited Obligation Bonds (County of Watauga, North Carolina), Series 2012A (the "*2012A Bonds*," and together with this 2012B Bond, the "*2012 Bonds*") in the aggregate principal amount of \$[A Amount] will be executed and delivered under the Indenture for the purpose, among others, of providing funds to refinance a portion of the County's installment payment obligations under the Prior Contract. The 2012 Bonds and any Additional Bonds that may be executed and delivered under the Indenture will be parity obligations.

Under the Contract, the Corporation has agreed to advance to the County the Purchase Price, the proceeds from which will be used to refinance a portion of the County's installment payment obligations under the Prior Contract, and the County has agreed to pay directly to the Trustee semiannual payments (the "*Installment Payments*") in repayment of the Purchase Price, the proceeds of which are required by the Indenture to be distributed by the Trustee to the payment of the principal, premium, if any, and interest with respect to the Bonds. In addition to the Installment Payments, the County has agreed to make certain other payments (the "*Additional Payments*") sufficient to pay the fees and expenses of the Trustee and the Corporation and other expenses required to be paid by the County under the Contract. The County has covenanted in the Contract to pay the Installment Payments and the Additional Payments as they become due, and executed and delivered as security for that payment obligation the Deed of Trust, Security Agreement and Fixture Filing dated as of June 1, 2012 (the "*Deed of Trust*") from the County to the Deed of Trust trustee named therein for the benefit of the Corporation with respect to the Premises. If the Contract is terminated by reason of an Event of Default, the principal amount of this 2012B Bond and the interest with respect thereto will be payable from such money, if any, as may be available for such purpose, including any money received by the Trustee from the sale, lease, sublease or other disposition of the Premises pursuant to the Deed of Trust. The Contract may also be terminated if the County exercises its option to prepay in full the Purchase Price. If the County prepays the Purchase Price in full, the proceeds thereof are required to be used to pay the principal, premium, if any, and interest with respect to the Bonds. Reference is hereby made to the Contract and the Indenture for a description of the rights, duties and obligations of the County, the Corporation, the Trustee and the Owners, the terms on which this 2012B Bond is secured, the terms and conditions on which this 2012B Bond will be deemed to be paid at or before maturity or prepayment of this 2012B Bond on the making of provision for the full or

partial payment thereof, and the rights of the Owners on the occurrence of an Event of Default or circumstances under which Additional Bonds can be executed and delivered.

Subject to the execution and delivery of any Additional Bonds in accordance with the Indenture, if the County pays all Installment Payments due under the Contract through June 1, 2028 and otherwise complies with its obligations under the Contract through such date, the Indenture and the Contract provide that the Trustee shall release the lien of the Indenture on June 1, 2028.

This 2012B Bond is executed and delivered solely as a fully registered Bond without coupons.

This 2012B Bond may not be transferred except to a bank, insurance company or similar financing institution without the prior written consent of the North Carolina Local Government Commission.

This 2012B Bond is subject to optional prepayment in whole or in part on any date, at the option of the County, at the prepayment price equal to 100% of the principal amount of such 2012B Bond to be prepaid, together with accrued interest to the date fixed for prepayment.

The Indenture permits amendments thereto and to the Contract and the Deed of Trust on the agreement of the Corporation and the Trustee and with the approval of the Owners of not less than a majority or, in certain instances, 100% in aggregate principal amount of the Bonds at the time Outstanding. The Indenture also contains provisions permitting the Corporation and the Trustee to enter into amendments to the Indenture and the Contract without the consent of the Owners of the Bonds for certain purposes.

Any consent or request by the Owner of this 2012B Bond is conclusive and binding on such Owner and on all future Owners of this 2012B Bond and of any Bond executed and delivered on the transfer of this 2012B Bond, whether or not notation of such consent or request is made on this 2012B Bond.

This 2012B Bond is executed and delivered with the intent that the laws of the State of North Carolina shall govern its legality, validity, enforceability and construction.

This 2012B Bond is not entitled to any right or benefit under the Indenture, or valid or obligatory for any purposes until this 2012B Bond has been authenticated by the execution by the Trustee, or its successors as Trustee, of the certificate of authentication inscribed hereon.

*IN WITNESS WHEREOF*, the Watauga Public Facilities Corporation has caused this 2012B Bond to be executed with the manual or facsimile signature of its President and its corporate seal or a facsimile thereof to be impressed or imprinted hereon and attested with the manual or facsimile signature of its Assistant Secretary, all as of the Dated Date set forth above.

**WATAUGA PUBLIC FACILITIES CORPORATION**

[SEAL]

By: \_\_\_\_\_  
President

Attest:

\_\_\_\_\_  
Secretary

**CERTIFICATE OF AUTHENTICATION**

This is the Refunding Limited Obligation Bond (County of Watauga, North Carolina), Series 2012B evidencing a proportionate undivided interest in rights to receive within-mentioned Revenues pursuant to the within-mentioned Contract.

**[TRUSTEE],**  
as Trustee

Dated: [Closing Date]

By: \_\_\_\_\_  
Vice President

**[FORM OF ASSIGNMENT]**

**ASSIGNMENT**

*FOR VALUE RECEIVED* the undersigned hereby sells, assigns and transfers unto

---

(Please print or typewrite Name and Address,  
including Zip Code, and Federal Taxpayer Identification or  
Social Security Number of Assignee)

---

the within Bond and all rights thereunder, and hereby irrevocably constitutes and appoints

---

Attorney to register the transfer of the within Bond on the books kept for registration thereof,  
with full power of substitution in the premises.

Dated: \_\_\_\_\_

Signature guaranteed by:

---

**NOTICE:** Signature must be guaranteed by a Participant in the Securities Transfer Agent Medallion Program (“*Stamp*”) or similar program.

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**NOTICE:** The signature to this assignment must correspond with the name as it appears on the face of the within Bond in every particular, without alteration, enlargement or any change whatever

APPENDIX A

**THE COUNTY**

**General Description**

The County was formed in 1849 from Ashe, Caldwell, Wilkes, and Yancey Counties. The County was named Watauga after an Indian word meaning “whispering waters.” The County has a land area of approximately 320 square miles and is located in the Blue Ridge Mountains of Western North Carolina near the Eastern Continental Divide. U.S. Highways 321, 421, and 221 all come through the County to provide easy highway travel in all directions.

Thirty-five miles of the Blue Ridge Parkway thoroughfare passes through the County. Recognized as the “All American Road” by the Federal Highway Administration, the Blue Ridge Parkway is one of America’s most scenic drives. The general elevation of the County is the highest in the State. Grandfather Mountain, which borders Watauga and Avery Counties, registers the highest elevation at 5,300 feet above sea level. The elevation of Boone, the County seat, is 3,333 feet and has been designated the “Heart of the High Country”. Boone is the home of Appalachian State University and is the largest town in the County. Other towns located in the County are Blowing Rock, Seven Devils and Beech Mountain.

**Demographic Characteristics**

The United States Department of Commerce, Bureau of the Census, has recorded the population of the County to be as follows:

<u>1990</u>	<u>2000</u>	<u>2010</u>
36,952	42,695	51,079

The North Carolina Office of State Budget and Management has estimated the 2011 population of the County to be 51,326.

Per capita income data for the County and the State are presented in the following table:

<u>Year</u>	<u>County</u>	<u>State</u>
2005	\$28,722	\$32,035
2006	30,253	33,562
2007	31,822	34,968
2008	32,273	35,683
2009	32,193	34,879

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Source: United States Department of Commerce, Bureau of Economic Analysis (latest data available).

## Economic Profile

The County economic base is diverse, driven by the presence of a major State University, year round tourism, light industry, agriculture, and retail components.

Appalachian State University is the largest single employer in the County. The more than 17,000 student University employs over 4,000 including faculty and staff. Enrollment is expected to increase by approximately 2,000 on campus students over the next eight years. The University presence enhances the stability of the local economy. The annual economic impact of the University in 2006 was approximately \$506 million.

The County is home to some 35 manufacturing firms, employing from five to more than 150 employees per firm. Principally, these are highly successful “home grown” companies, which manufacture and distribute items such as leather products, wood furniture components, indoor metal furniture, candies and mints, wire-bound resistors, log homes and specialty paint systems.

In 2011 the County ranked 19th out of North Carolina’s 100 counties in the economic impact of tourism. Tourists spent over \$190 million in the County in 2011, with a payroll of more than \$50 million. It is estimated that more than 1.5 million tourists visit the County annually. Area attractions include “Horn in the West” outdoor drama, Tweetsie Railroad, Grandfather Mountain, numerous 18-hole golf courses, Scottish Highland Games, Blue Ridge Parkway, ski slopes, and the annual fall foliage color changes. The County’s mountain scenery attracts tourists from many states. Accommodations include a choice of over 50 motels, hotels, and other rentals providing approximately 2,000 rooms. The many dining facilities located in the County offer a wide variety of cuisine.

The County is a regional shopping area with a Tanger Outlet in Blowing Rock. During the fiscal year ended June 30, 2011 taxable retail sales for the County totaled approximately \$611 million. Taxable retail sales in the County for the five most recent fiscal years and the eight-month period ended February 29, 2012 are shown in the following table:

<u>Fiscal Year</u> <u>Ended/Ending June 30</u>	<u>Taxable Retail Sales</u>	<u>Increase (Decrease) Over</u> <u>Previous Year</u>
2007	665,012,583	52,073,753
2008	670,742,733	5,730,150
2009	613,875,789	-56,866,944
2010	591,564,245	-22,311,544
2011	611,846,387	20,282,142
2012 (8 months)	446,416,413	

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Source: North Carolina Department of Revenue, Sales and Use Tax Division

Agriculture income is an important part of the economy of the County, ranking behind tourism and Appalachian State University. Fraser fir Christmas trees are the largest cash crop, followed by livestock, hay, and an increasing amount of vegetable crops.

Employment in the County relies heavily on education and therefore is less volatile than other counties in NC who are more manufacturing based. The major employers in the County are as follows:

<u>Company or Institution</u>	<u>Product/Service</u>	<u>Approximate Number of Employees</u>
Appalachian State University	Education & Health Services	4,006
Appalachian Regional Healthcare	Education & Health Services	950
Watauga Board of Education	Education & Health Services	725
Samaritan's Purse	Education & Health Services	481
Wal-Mart Associates, Inc	Trade, Transportation & Utilities	320
Watauga County	Public Administration	282
Mast General Store	Trade, Transportation & Utilities	209
Town of Boone	Public Administration	165
Glenbridge Health & Rehabilitation	Education & Health Services	165
Hospitality Mints	Manufacturing	150
Lowe's Home Centers, Inc	Trade, Transportation & Utilities	143
Food Lion LLC	Trade, Transportation & Utilities	136
Boone Drug, Inc	Education & Health Services	135

Source: Economic Development Commission and North Carolina Employment Security Commission.

Construction in the County saw the same decline during the recession as the rest of the nation but has stabilized and seen moderate increases in the past year. The following table illustrates building activity in the County since 2007 as shown by the number of building permits issued and value of the related construction for the past five calendar years:

<u>Calendar Year</u>	<u>Non-Residential</u>		<u>Residential</u>		<u>Total Value</u>
	<u>Number</u>	<u>Value</u>	<u>Number</u>	<u>Value</u>	
2007					
2008					
2009					
2010					
2011					

Source: County and Town Building Inspections Departments.



The North Carolina Employment Security Commission has estimated the percentage of unemployment in the County as follows:

	<u>2008</u>	<u>2009</u>	<u>2010</u>	<u>2011</u>	<u>2012</u>
January	4.4%	7.7%	9.2%	8.6%	9.3%
February	4.6	8.5	9.6	8.3	N/A
March	4.4	8.0	9.3	8.1	
April	4.0	7.9	8.1	7.6	
May	4.5	8.3	8.0	7.4	
June	5.0	8.7	7.9	8.2	
July	5.3	8.3	7.7	8.0	
August	4.7	7.9	7.5	8.0	
September	4.5	7.5	6.8	7.5	
October	4.5	7.6	6.9	7.4	
November	5.4	8.1	7.5	7.3	
December	6.0	8.5	7.9	7.8	

## **Government and Major Services**

### GOVERNMENT STRUCTURE

The County has a Commissioner-Manager form of government. The Board of Commissioners consists of five members, three of whom are elected every two years. The candidate with the least number of votes serves a two-year term, and the other two candidates elected serve four-year terms. The County Manager, responsible for the general and technical direction of all departments of County government, is appointed by and serves at the pleasure of the Board of Commissioners. The County Manager serves as Budget Officer and insures that the orders, ordinances, resolutions, and regulations of the Commissioners are faithfully executed within the County.

### EDUCATION

School services are provided in the Watauga County School Administrative Unit under the direction of the Watauga County Board of Education. The school system is comprised of eight K-8 schools and one high school. One charter school exists in the County and serves a small K-8 population.

According to the North Carolina Department of Public Instruction, Watauga County schools rank among the top public school systems in the State. All eight elementary schools as well as Watauga High School are fully accredited by the State of North Carolina and the Southern Association of Colleges and Schools. On the ABCs of Public Education, all eight K-8 schools are seeing high or expected academic growth by State standards, with one earning designation as a "School of Excellence," where at least 90 percent of the students are at or above grade level in reading, math, writing, computer skills and algebra I. Six of the remaining elementary schools as well as Watauga High School were awarded "School of Distinction"

status, where at least 80 percent of the students are at or above grade level on the same measurements. Watauga High School has traditions of excellence in academics, the arts, student activities and athletics. As one measure of success, students' SAT scores rank well above state averages.

North Carolina State law provides a basic minimum educational program, which is supplemented by local and Federal funds. State funding provides primarily for current operating costs, although a small amount of State dollars is available for facility construction. The bulk of the capital for new facilities is provided by the County in addition to funding for current operating expenses above the level provided by the State. NC Lottery Fund dollars are being used to assist with school capital needs.

School operating funds are provided by a combination of Federal, State and local funds. State and Federal monies provided 71% of budgeted operating revenues in the fiscal year ended June 30, 2011, with the County funds amounting to the remaining 29%. The County appropriated \$11,393,129 for school operating purposes for the fiscal year ended June 30, 2011 and budgeted \$12,161,794 for school operating purposes for the fiscal year ending June 30, 2012.

The following table shows the number of schools and average daily membership (ADM) for the Watauga County School Administrative Unit for the past five school years. Charter school numbers are not included.

<u>School Year</u>	<u>K-8</u>		<u>9-12</u>		<u>Total ADM</u>
	<u>Number of Schools</u>	<u>ADM</u>	<u>Number of Schools</u>	<u>ADM</u>	
2007-08	8	3034	1	1510	4544
2008-09	8	3035	1	1485	4520
2009-10	8	2977	1	1453	4430
2010-11	8	2922	1	1420	4342
2011-12	8	2923	1	1457	4380

Source: NC Department of Public Instruction.

Located in Boone, Appalachian State University is one of the 16 campuses in the University of North Carolina System, with a current enrollment of over 17,000 students. The University offers four-year curricula with more than 140 undergraduate and graduate majors. In U.S. News and World Report's 2012 America's Best Colleges Guide, Appalachian was ranked third among top public universities in the South and tenth in the South among public and private four-year institutions.

The Watauga Campus of Caldwell Community College and Technical Institute with full-time equivalent enrollment of 1391 is also located in Boone and offers quality, inexpensive education opportunities through technical, industrial, and general adult education programs to meet the needs of the citizens of Watauga County.

## TRANSPORTATION

The County is served by three U.S. highways (421, 321, and 221) and by two North Carolina highways (105 and 194), providing highway travel in all directions. In addition the County is within an hour's drive of three interstate highways (40, 77, and 81).

The County has access to a small private paved landing strip which charges a user fee to customers. The nearest airport with scheduled commercial flights is in Hickory (within an hour's driving time). The closest major terminals are located in Charlotte and Greensboro, North Carolina and Johnson City, Tennessee (within 2-3 hours driving time).

The County, the Town of Boone, and Appalachian State University participate in offering a transit service with regular stops throughout the major business and commercial sections in the Town of Boone. The program, AppalCART, is assisted in part by funds from the Federal and State governments and is a component unit of the County.

## MEDICAL FACILITIES

Appalachian Regional Healthcare System operates Watauga Medical Center and Blowing Rock Hospital in Watauga County and Cannon Memorial Hospital in Avery County along with a variety of special services. Blowing Rock Hospital provides acute, intermediate and skilled care – emergency services, physical therapy, respiratory therapy and ultrasound services, as well as long term care. Watauga Medical Center is fully accredited by the Joint Commission of the Accreditation of Healthcare Organizations and licensed as a regional referral medical complex offering both primary and secondary care facilities. Watauga Medical Center is a non-profit general acute care facility operated by Watauga Hospital, Inc. pursuant to contractual arrangements with the County also serving the surrounding counties in North Carolina and Tennessee. In addition to the traditional services, Watauga Medical Center offers a 24-hour physician staffed emergency department, magnetic resonance imaging, and a lab for sleep breathing disorders, a pain clinic, pathology, in-house heart catheterization laboratory, educational space and numerous surgical and medical specialties. Special services include the Fresenius Kidney Dialysis Center, The Sanger Cardiology Clinic, and a branch of the Area Health Education Center, the Paul H. Broyhill Wellness Center and Medical Center Home Health. The Seby B. Jones Regional Cancer Center, which includes the David Karl Mallard Medical Oncology Unit, is a freestanding center on the campus of Watauga Medical Center. The Cancer Center has been awarded "Certificate of Approval" by the Commission on Cancer of the American College of Surgeons.

Watauga Medical Center located in the Town of Boone has 240-beds with a ratio of 70 percent private/30 percent semi-private rooms. Blowing Rock Hospital located in the Town of Blowing Rock has 100 beds: 28 of these beds are for acute care patients and 72 are extended care units.

## PUBLIC SERVICE ENTERPRISES

Water. Public water services within the County are provided by water systems owned by the Towns of Boone, Blowing Rock, Seven Devils, and Beech Mountain. The systems have a combined permitted capacity of 6 million gallons per day expandable to approximately 9 million

gallons per day. Average daily usage is approximately 2 million gallons per day. Other areas of the County have individual privately maintained water systems.

Sanitary Sewer. The Towns of Boone, Beech Mountain, Blowing Rock, and Seven Devils have sewage collection and treatment facilities. The other communities in the County have individual domestic waste disposal facilities or privately maintained collection and disposal facilities.

Solid Waste. The County owns and operates a solid waste transfer facility for solid waste generated in the County. Solid waste is loaded at the transfer facility for shipment to the Foothills Environmental Landfill located in Caldwell County, NC owned and operated by Republic Services NC, LLC. The County also operates a roll off recycling center at the waste transfer facility for sorting, baling and shipping of marketable waste materials. This system recycled over 4,038 tons during the fiscal year ended June 30, 2011. The County appropriated \$4,377,140 for the fiscal year ended June 30, 2011 and budgeted \$4,038,340 for the fiscal year ending June 30, 2012 for the operation of the solid waste management system. All municipalities in the County and Appalachian State University have access to the transfer/disposal system.

A new system to convert methane gas from the closed landfill to usable energy was completed in December 2011. The energy generated is expected to serve the needs of the solid waste operations and have surplus energy available for purchase by Duke Power.

Fire Protection. Two municipalities and 11 fire districts provide fire protection in the County. The County levies and collects ad valorem taxes on behalf of 11 special fire-tax districts and five service tax districts. The County provides annual funding to each fire district in addition to the ad valorem taxes levied.

## HUMAN SERVICES

Social Services. The Department of Social Services provides financial assistance and social services to help the citizens of the County become self-sufficient, reduce dependency, and live free from abuse, neglect, or exploitation. Federal, State and County monies fund these various programs and services, with the Federal government being the largest contributor. Financial programs include: TANF, Medicaid, Food Stamps, Low Income Energy Assistance, and General Assistance. Non-financial services include: protective services for children and adults; foster care services for children and adults; adoption; adolescent parenting; day care; Work First employment programs; services to enable persons to stay in their own homes; health support; and child support. The County appropriated \$1,587,845 from the General Fund for the fiscal year ended June 30, 2011 for these services. The appropriation for the fiscal year ending June 30, 2012 is \$1,794,654.

Health Department. The Appalachian District Board of Health provides health services for Watauga, Ashe, and Allegheny Counties. District headquarters are located in the Watauga County Health Department west of Boone. A major emphasis of the Health Department is on prevention of health problems and protection of the environment. Services provided include the following: adult health services, home health services, maternal health services, child health services, communicable disease services, family planning services, WIC program including

supplemental food and nutrition counseling, special medical services, school health services, health education services, dental health services, and hospice services. In addition the Health Department maintains vital records in reference to birth, death and population. Also, the Environmental Health Division provides inspections for restaurants and food establishments, permits, inspections and testing of water supply and compliance investigations.

The County's local funding appropriation to the Appalachian District Board of Health was \$541,127 for the fiscal year ended June 30, 2011. The County appropriation for the fiscal year ending June 30, 2012 is \$541,127. In addition the County provides the 23,000 square foot building to house the local clinical programs and the regional administrative offices. The balance of the operating budget is generated through fee-for-service activities on a sliding scale and State and Federal grants.

**Mental Health.** Mental health services are provided in the County through Smoky Mountain Center by a wide variety of mental health professionals, including psychologists, nurses, social workers, alcoholism counselors, pastoral counselors, and a psychiatrist. Services include: outpatient services; consultative, educational and preventive services; emergency services; screening and evaluation; detoxification services; community support and partial hospitalization. The County's share of Smoky Mountain Center's budget for the fiscal year ended June 30, 2011 was \$221,194. The appropriation for the fiscal year ending June 30, 2012 is \$221,194.

## RECREATION/CULTURAL SERVICES

The County offers the public many recreational opportunities. The County operates approximately 127 acres of recreational facilities providing four lighted tennis courts, eight parks with picnic shelters and tables, fourteen athletic fields, an indoor three-pool complex and bathhouse, community recreation gymnasium, and a community recreation building. A new 170 acres mountain bike park is being developed by the County in conjunction with the Watauga County Tourism Development Authority and expects to formally open in the summer of 2012. The County schools have athletic fields, tennis courts, and park facilities. Appalachian State University also has many recreational facilities available to the public.

Commercial recreation includes a wellness center with indoor pool, four ski slopes, three 18-hole golf courses with five others within a 40-mile radius, a driving range, and a miniature golf course. The Blue Ridge Parkway offers many miles of scenic beauty and trails, and many areas to camp, picnic, fish, and hike. Grandfather Mountain, Tweetsie Railroad, and the Horn in the West outdoor theater offer the public entertainment and scenic recreational experiences.

The Watauga County Library is part of the Appalachian Regional Library, an administrative unit that also serves public libraries in Wilkes and Ashe Counties. The main branch is located in Boone with a satellite branch located in the western part of the County. The Belk Library located on the Appalachian State University campus is also available for public use. The Town of Blowing Rock also has a small public library.

Other cultural activities are available through an Artist and Lecture Series at Appalachian State University, Appalachian Summer Concert Series, Blowing Rock Stage Company, Blue Ridge Community Theater, as well as various other activities.

## Debt Information

### LEGAL DEBT LIMIT

In accordance with the provisions of the State Constitution and The Local Government Bond Act, as amended, allowing for issuance of all presently authorized bonds, including those being offered by this Official Statement, the County has the statutory capacity to incur additional net debt in the approximate amount of \$627,828,731.

### OUTSTANDING GENERAL OBLIGATION DEBT

	Principal Outstanding as of			
	June 30, <u>2009</u>	June 30, <u>2010</u>	June 30, <u>2011</u>	December 31, <u>2011</u>
General Obligation Bonds				
Schools	\$7,342,576	7,303,232	5,904,048	5,904,048
Baler/Solid Waste	62,424	57,042	52,199	52,199
Total	\$7,405,000	7,360,274	5,956,247	5,956,247

### GENERAL OBLIGATION DEBT RATIOS

<u>At July 1</u>	<u>Total GO Debt</u>	<u>Assessed Valuation</u>	<u>Total GO Debt to Assessed Valuation</u>	<u>Population</u>	<u>Total GO Debt Per Capita</u>	<u>Assessed Valuation Per Capita</u>
2009	\$7,405,000	\$8,617,927,095	.09%	44,696 <sup>1</sup>	\$165.67	\$192,797.95
2010	7,360,274	8,716,919,512	.08	51,079 <sup>2</sup>	144.10	170,655.64
2011	5,956,247	8,774,294,098	.07	51,326 <sup>1</sup>	116.05	170,952.23
At 12/31/11	5,956,247	8,496,986,069	.07	51,326 <sup>1</sup>	116.05	165,549.35

<sup>1</sup> Estimate of North Carolina Office of State Budget and Management.

<sup>2</sup> United States Department of Commerce, Bureau of the Census.

GENERAL OBLIGATION DEBT SERVICE REQUIREMENTS AS OF DECEMBER 31, 2011

Fiscal Year	ENTERPRISE		OTHER		TOTAL	
	Existing Debt		Existing Debt		Existing Debt	
	Principal	Principal & Interest	Principal	Principal & Interest	Principal	Principal & Interest
2011-12	\$85,990	\$91,110	\$5,319,084	\$6,667,031	\$5,405,074	\$6,758,141
2012-13	120,250	127,263	5,606,288	8,090,040	5,726,538	8,217,303
2013-14	50,585	54,380	5,592,365	7,865,612	5,642,950	7,919,992
2014-15	38,746	40,392	5,559,204	7,622,136	5,597,950	7,662,528
2015-16	0	0	4,442,949	6,301,608	4,442,949	6,301,608
2016-17	0	0	4,442,949	6,138,814	4,442,949	6,138,814
2017-18	0	0	4,442,949	5,976,019	4,442,949	5,976,019
2018-19	0	0	4,247,949	5,621,121	4,247,949	5,621,121
2019-20	0	0	3,849,610	5,078,521	3,849,610	5,078,521
2020-21	0	0	3,720,588	4,812,953	3,720,588	4,812,953
2021-22	0	0	3,720,588	4,676,407	3,720,588	4,676,407
2022-23	0	0	3,720,588	4,539,862	3,720,588	4,539,862
2023-24	0	0	3,720,588	4,403,316	3,720,588	4,403,316
2024-25	0	0	3,720,588	4,266,771	3,720,588	4,266,771
2025-26	0	0	3,720,588	4,130,225	3,720,588	4,130,225
2026-27	0	0	3,720,588	3,993,679	3,720,588	3,993,679
2027-28	0	0	3,720,588	3,857,134	3,720,588	3,857,134
2028-29						
2029-30						
	<u>\$295,571</u>	<u>\$313,145</u>	<u>\$73,268,051</u>	<u>\$94,041,249</u>	<u>\$73,563,622</u>	<u>\$94,037,141</u>

## GENERAL OBLIGATION BONDS AUTHORIZED AND UNISSUED

The County currently has no general obligation bonds authorized and unissued.

## GENERAL OBLIGATION DEBT INFORMATION FOR UNDERLYING UNITS AS OF MARCH 31, 2012

<u>Unit</u>	<u>2010 Population<sup>1</sup></u>	<u>Assessed Valuation</u>	<u>Tax Rate Per \$100</u>	<u>Bonds Authorized and Unissued</u>		<u>Total GO Debt</u>		<u>Total GO Debt Per Capita</u>
				<u>Utility</u>	<u>Other</u>	<u>Utility</u>	<u>Other</u>	
Beech Mountain	322	\$ 593,958,225	\$0.64	--	--	--	--	--
Blowing Rock	1,247	1,102,259,271	0.28	--	--	--	\$210,000	\$168.40
Boone	17,186	1,354,738,783	0.37	\$25,000,000	--	--	--	--

<sup>1</sup>Estimates of North Carolina Office of State Budget and Management.

## OTHER LONG-TERM COMMITMENTS

The County is obligated under lease or installment purchase agreements for equipment and vehicles in the following amounts:

<u>Fiscal Year</u>	<u>Debt Service</u>
2012-2013	\$6,730,573
2013-2014	6,498,170
2014-2015	6,335,375
2015-2016	6,172,580
2016-2017	6,009,785
Total	\$31,746,483

## DEBT OUTLOOK

The County expects to continue its conservative approach to debt and does not anticipate issuing new debt in the next two to three years.



## Tax Information

### GENERAL INFORMATION:

	<u>Fiscal Year Ended or Ending June 30</u>			
	<u>2009</u>	<u>2010</u>	<u>2011</u>	<u>2012</u> <sup>3</sup>
Assessed Valuation:				
Assessment Ratio <sup>1</sup>	100%	100%	100%	100%
Real Property	7,971,079,604	8,111,236,265	8,180,630,847	8,227,215,012
Personal Property	571,358,646	570,484,501	514,266,562	461,404,595
Public Service Companies <sup>2</sup>	75,488,845	77,714,513	79,396,689	79,009,472
Total Assessed Valuation	8,617,927,095	8,759,435,279	8,774,294,098	8,837,010,952
Assessed Valuation Per Capita	\$192,797.95	170,655.64	170,952.23	165,549.35
Rate per \$100	0.313	0.313	0.313	0.313
County-wide Levy	27,009,982	27,309,634	27,484,010	27,657,230

<sup>1</sup> Percentage of appraised value has been established by statute.

<sup>2</sup> Valuation of railroads, telephone companies and other utilities as determined by the North Carolina Property Tax Commission.

<sup>3</sup> Estimated as of March 31, 2012.

Note: Revaluation of real property became effective with the 2006 tax levy. The next scheduled revaluation will become effective with the 2014 tax levy.

In addition to the County-wide levy, the following table lists the levies by the County on behalf of certain special districts for the fiscal years ended or ending June 30:

	<u>2009</u>	<u>2010</u>	<u>2011</u>	<u>2012</u> <sup>1</sup>
Fire Districts	2,598,939	2,616,720	2,646,894	2,404,087

<sup>1</sup> Estimated as of March 31, 2012.

### TAX COLLECTIONS

<u>Year Ended/Ending June 30</u>	<u>Prior Years' Levies Collected</u>	<u>Current Year's Levy Collected</u>	<u>Percentage of Current Year's Levy Collected</u>
2008	355,489	25,540,936	97.87
2009	379,447	26,203,052	97.01
2010	657,812	26,606,340	97.42
2011	557,711	26,712,340	97.21
2012 (9 months)	582,893	26,353,873	95.74

## TEN LARGEST TAXPAYERS FOR FISCAL YEAR 2010-11

<u>Taxpayer</u>	<u>Type of Business</u>	<u>Assessed Valuation</u>	<u>Tax Levy</u>	<u>Percentage of Assessed Value</u>
BR Development Group LLC	Real Estate Development	\$122,985,800	\$384,946	1.40%
Blue Ridge Electric	Electric Utility	58,659,433	183,604	0.67
Mountaineer Village LLC	Rental Properties	25,769,700	80,659	0.29
Lowe's Home Centers	Retail/Home Supply Center	21,595,300	67,593	0.25
Appalachian South	Rental Properties	20,082,500	62,858	0.23
Village at Meadowview of Boone LTD	Rental Properties	18,906,800	59,178	0.22
BellSouth	Telephone Utility	15,157,995	47,445	0.17
Templeton Properties LP	Commercial Rental Properties	15,060,730	47,140	0.17
Paul Brown Enterprises	Rental Properties	14,165,420	44,338	0.16
WM Land Boone LTD Partnership	Real Estate Development	<u>12,423,600</u>	<u>38,886</u>	<u>0.14</u>
		<u>\$324,807,278</u>	<u>\$1,016,647</u>	<u>3.70%</u>

### Budget Commentary

The 2011-12 fiscal year General Fund budget as of March 31, 2012 is approximately \$48 million, a net increase of approximately \$1.8 million from the adopted budget. The increase reflects approved construction and/or renovation projects in progress. In addition, several federal and state grants have been awarded since July 1, 2012.

As of March 31, 2012, the County had incurred 72% of budgeted general fund expenditures and had received 77% of budgeted revenues.

The County's General Fund revenues are slightly below previous year collections through March 2012. General Fund expenditures are slightly below previous years percentage levels for the same period. Overall expenditures are expected to be about 3% under budget for the fiscal year. With the budgeted transfer of \$4.1 million for the debt service plan, Fund Balance is expected to be lower than beginning Fund Balance. Fund Balance is still expected to be in the 25-27% range at fiscal year end.

### Pension Plans

The following information on the pension plans is presented on the calendar year basis, whereas the information in the independent auditor's footnote was presented on the fiscal year basis.

The County participates in the North Carolina Local Governmental Employees' Retirement System, a service agency administered through a board of trustees by the State for public employees of counties, cities, boards, commissions and other similar governmental entities. While the State Treasurer is the custodian of system funds, administrative costs are borne by the participating governmental entities. The State makes no contributions to the System.

The System provides, on a uniform system-wide basis, retirement and, at each employer's option, death benefits from contributions made by employers and employees. Employee members contribute six percent of their individual compensation. Each new employer makes a normal contribution plus, where applicable, a contribution to fund any accrued liability over a 24-year period. The normal contribution rate is currently 7.00 percent of eligible payroll for general employees, and 7.05 percent of eligible payroll for law enforcement officers. The accrued liability contribution rate is determined separately for each employer and covers the liability of the employer for benefits based on employees' service rendered prior to the date the employer joins the system.

Members qualify for a vested deferred benefit at age 50 with at least 20 years of service or at age 60 after at least five years of creditable service to the unit of local government. Unreduced benefits are available at age 65, with at least five years of service, or after 30 years of creditable service, regardless of age. Benefit payments are computed by taking an average of the annual compensation for the four consecutive years of membership service yielding the highest average. This average is then adjusted by a percentage formula, by a total years of service factor, and by an age service factor if the individual is not eligible for unreduced benefits.

Required contributions to the system are determined on an actuarial basis by the State each year.

For information concerning the County's participation in the North Carolina Local Governmental Employees' Retirement System and the Supplemental Retirement Income Plan of North Carolina see the Notes to the County's Audited Financial Statements in Appendix A.

Financial statements and required supplementary information for the North Carolina Local Governmental Employees' Retirement System are included in the Comprehensive Annual Financial Report ("CAFR") for the State. Please refer to the State's CAFR for additional information.

### **Other Post-Employment Benefits**

[Text to come.]

### **Contingent Liabilities and Litigation**

The County has no pending litigation the outcome of which, in the opinion of the County Attorney, would materially and adversely affect the County's ability to meet its financial obligations. Furthermore, the County has no other contingent liabilities the outcome of which would materially and adversely affect the County's ability to meet its financial obligations.

Draft No. 1  
April 13, 2012

BOND PURCHASE AGREEMENT

Among

WATAUGA PUBLIC FACILITIES CORPORATION,  
COUNTY OF WATAUGA, NORTH CAROLINA

and

BRANCH BANKING AND TRUST COMPANY

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## BOND PURCHASE AGREEMENT

concerning

Refunding Limited Obligation Bond  
(County of Watauga, North Carolina),  
Series 2012B

June \_\_, 2012

Watauga Public Facilities Corporation  
Watauga, North Carolina

County of Watauga, North Carolina  
Watauga, North Carolina

Ladies and Gentlemen:

Branch Banking and Trust Company (the “Bank”) hereby offers to enter into this Bond Purchase Agreement with Watauga Public Facilities Corporation (the “Corporation”), which, upon acceptance of this offer by the Corporation, and the approval of this offer and of the Corporation’s acceptance thereof by the County of Watauga, North Carolina (the “County”), will be binding upon the Corporation, the County and the Bank. This offer is made subject to acceptance by the Corporation and approval by the County on or before 5:00 p.m., Watauga, North Carolina time, on the date hereof and, if not so accepted, will be subject to withdrawal by the Bank upon written notice delivered to the Corporation and the County at any time prior to such acceptance.

1. Purchase and Sale of the Bond. Upon the terms and conditions hereof and upon the basis of the representations set forth herein, the Bank hereby agrees to purchase from the Corporation, and the Corporation hereby agrees to sell to the Bank, \$10,000,000 aggregate principal amount of the Corporation’s Refunding Limited Obligation Bond (County of Watauga, North Carolina), Series 2012B evidencing proportionate undivided interests in rights to receive certain revenues pursuant to an Installment Financing Contract, dated as of June 1, 2012 (the “Contract”), between the County and the Corporation (the “Bond”). The purchase price for the Bond shall be \$\_\_\_\_\_ (representing the aggregate par amount of the Bond). The delivery and payment for the Bond and other actions contemplated hereby shall take place at the time thereof being herein sometimes called the “Closing.”

The Bond shall be dated as of the date of delivery thereof, shall mature, subject to prior prepayment, on June 1, in such years and amounts and shall bear interest from their date, at such rate and shall have such other terms as set forth in the Indenture (as hereinafter defined). The Bond shall be issued and secured under the provisions of an Indenture of Trust, dated as of June 1, 2012 (the “Indenture”), between the Corporation and \_\_\_\_\_, as trustee (the

“Trustee”). Capitalized terms used herein and not otherwise defined shall have the meaning given such terms in the Contract and the Indenture.

The County will enter into the Contract for the purpose of providing funds to the County, together with any other available funds, to (1) refinance an installment financing contract (the “Prior Contract”), the proceeds of which were used to finance and refinance the acquisition, construction, equipping and furnishing of a high school in the County, as described in the Official Statement relating to the Refunding Limited Obligation Bonds (County of Watauga, North Carolina), Series 2012A, and (2) pay the other costs incurred in connection with the issuance and sale of the Bond. Pursuant to the Contract, the County is obligated to make installment payments in amounts sufficient to pay when due the principal and interest with respect to the Bond. As security for performance of the County’s obligations under the Contract, the County will execute and deliver to a deed of trust trustee, for the benefit of the Corporation, a Deed of Trust, Security Agreement and Fixture Filing, dated as of June 1, 2012 (the “Deed of Trust”), granting a first lien of record on certain real property and the improvements thereon (the “Premises”), subject only to certain permitted encumbrances. The Corporation’s rights under the Contract (except certain reserved rights), including its right to receive installment payments thereunder, and the Corporation’s rights as beneficiary under the Deed of Trust (except certain reserved rights) will be assigned to the Trustee pursuant to the Indenture.

2. Representations of the Bank; Purchase for Bank’s Account. (a) The Bank hereby acknowledges and represents, in respect of the Bond, that:

(i) The Bank is familiar with the County;

(ii) The Bank has been furnished with all financial and other information about the County, the Corporation and the Bond as requested by the Bank; and

(iii) The County has made available to the Bank the opportunity to obtain additional information about the County.

(b) The Bank further acknowledges and represents in respect of the Bond that a part of the Bank’s business consists of the purchase, holding and sale of obligations of the same general character as the Bond, and the Bank has such knowledge and experience in financial and business matters that it is capable of evaluating the merits and risks inherent in purchasing the Bond. The Bank has made such investigation of the Bond and of the financial condition and operations of the County as it deems necessary to evaluate the merits and risks inherent in purchasing the Bond. The Bank is aware that there may be no secondary market for the Bond and that it may be required to hold the Bond for an indefinite period. The Bank represents that it is purchasing the Bond for its own account with no present intention to resell or distribute the Bond or any interest therein; provided, however, that the Bank reserves the right at all times to control the disposition of its assets, including the Bond, and reserves the right to sell, assign and transfer the Bond or fractional interests in the Bond to other banks, insurance companies or similar financial institutions or to any other purchaser if such sale, assignment or transfer to such other purchaser is approved in writing by the LGC.

4. Representations and Warranties of the County. The County, by its acceptance hereof, represents and warrants to the Bank as follows:

(a) The County is a political subdivision duly organized and validly existing under the Constitution and laws of the State of North Carolina, and is authorized and empowered to refinance the acquisition, construction and equipping of the Prior Project by entering into the Contract and the Deed of Trust and by causing the Bond to be issued.

(b) The County (i) has full legal right, power and authority to execute and deliver this Bond Purchase Agreement, the Contract and the Deed of Trust as provided herein and to carry out and consummate all the transactions contemplated by each of the aforesaid documents and (ii) has complied with all provisions of applicable law in all material matters relating to such transactions.

(c) The County has duly authorized (i) the execution and delivery of this Bond Purchase Agreement, the Contract and the Deed of Trust and (ii) such action as may be required on the part of the County to consummate the transactions contemplated by such documents.

(d) This Bond Purchase Agreement, the Contract and the Deed of Trust, when duly executed and delivered by the respective parties thereto, will constitute legal, valid and binding obligations of the County enforceable in accordance with their respective terms, except as enforcement thereof may be limited by bankruptcy, insolvency, reorganization, moratorium or similar laws affecting the enforcement of creditors' rights generally and by general equitable principles.

(e) The execution, delivery and performance of the obligations of the County under this Bond Purchase Agreement, the Contract or the Deed of Trust do not and will not conflict with, result in the creation or imposition of any lien, charge or encumbrance upon any of the assets of the County pursuant to the terms of, or constitute a default under, any agreement, trust agreement or instrument to which the County is a party or by which the County or its property is bound, or result in a violation of any applicable constitutional provision, law or administrative regulation or any order, rule or regulation of any court or governmental agency having jurisdiction over the County or its property.

(f) Except for any action that may be required by applicable federal or state securities laws, no consent, authorization or order of, or filing or registration with, any court or governmental agency not already obtained or made is required for the execution, delivery and performance of this Bond Purchase Agreement or the consummation of the transactions contemplated hereunder, and any such consent, authorization or order so obtained is in full force and effect.

(g) The County is not in violation of any applicable constitutional provision, law or administrative rule or regulation of the State of North Carolina or of the United States of America or in default under any agreement, resolution, trust agreement or instrument to which the County is a party or by which the County or its property is bound, the effect of which



violation or default would be material to the County, and no event has occurred and is continuing which with the passage of time or the giving of notice, or both, would constitute such a violation or default hereunder or thereunder.

(h) Any certificate signed by an authorized officer of the County and delivered to the Bank, the Corporation or the Trustee shall be deemed a representation and warranty of the County to the Bank as to the statements made therein.

(i) To the best knowledge of the County, there is no litigation or any other proceeding before or by any court, public board, agency or body, pending or threatened against or affecting the County or any of the members of the Board of Commissioners in their respective capacities as such (nor is there any basis therefor), wherein an unfavorable decision, ruling or finding would in any way materially adversely affect (i) the transactions contemplated by this Bond Purchase Agreement, (ii) the organization, existence or powers of the County or the title to the office of any of the members of said Board of Commissioners, (iii) the properties or assets or the condition, financial or otherwise, of the County, (iv) the validity or enforceability of this Bond Purchase Agreement, the Contract or the Deed of Trust, (or any other agreement or instrument of which the County is a party or used or contemplated for use in the consummation of the transactions contemplated hereby) or (v) the exemption from federal or State of North Carolina income taxation of the interest with respect to the Bond.

4. Representations and Warranties of the Corporation. The Corporation, by its acceptance hereof, represents and warrants to the Bank that:

(a) The Corporation is a nonprofit corporation duly organized and validly existing under the laws of the State of North Carolina and is authorized and empowered to assist the County in the financing of the acquisition, construction and equipping of the Project by entering into the Contract and the Indenture and issuing and delivering the Bond.

(b) The Corporation has the full legal right, power and authority to enter into and to perform its obligations under this Bond Purchase Agreement, the Contract and the Indenture.

(c) The Corporation has duly authorized (i) the execution and delivery of this Bond Purchase Agreement, the Contract and the Indenture and (ii) such action as may be required on the part of the Corporation to consummate the transactions contemplated by such agreements.

(d) This Bond Purchase Agreement, the Contract and the Indenture, when duly executed and delivered, will constitute legally binding obligations of the Corporation enforceable in accordance with their respective terms, except as enforcement thereof may be limited by bankruptcy, insolvency, reorganization, moratorium or similar laws affecting the enforcement of creditors' rights generally and by general equitable principles.

(e) When delivered to and paid for by the Bank at the Closing in accordance with the provisions of this Bond Purchase Agreement, the Bond will have been duly authorized, executed and delivered by the Corporation and will represent the proportionate undivided interests in rights to receive certain revenues, and will be entitled to the benefit and security of the Indenture.

(f) The Bond will be in substantially the form provided in the Indenture.

(g) The Corporation is not in violation of any applicable constitutional provision, law or administrative rule or regulation of the State of North Carolina or in default under any agreement, resolution, Indenture or instrument to which the Corporation is a party or by which the Corporation or its property is bound the effect of which violation or default would be material to the Corporation, and no event has occurred and is continuing which with the passage of time or the giving of notice, or both, would constitute such a violation or default hereunder or thereunder.

(h) The execution, delivery and performance of the obligations of the Corporation under this Bond Purchase Agreement, the Contract or the Indenture do not and will not conflict with, result in the creation or imposition of any lien, charge or encumbrance upon any of the assets of the Corporation pursuant to the terms of, or constitute a default under, any other agreement, Indenture or instrument to which the Corporation is a party or by which the Corporation or its property is bound, or result in a violation of any applicable constitutional provision, law or administrative regulation or any order, rule or regulation of the State of North Carolina.

(i) Except for any action required by applicable federal or state securities laws, no consent, authorization or order of, or filing or registration with, any court or governmental agency, not already obtained or made, is required for the execution, delivery and performance by the Corporation of this Bond Purchase Agreement or the consummation of the transactions contemplated hereunder, and any such consent, authorization or order so obtained is in full force and effect.

(j) Any certificate signed by an authorized officer of the Corporation and delivered to the Bank, the County or the Trustee shall be deemed a representation and warranty of the Corporation to the Bank as to the statements made therein.

(k) To the best knowledge of the Corporation, there is no litigation or any other proceeding before or by any court, public board, agency or body, pending or threatened against or affecting the Corporation or any of the members of the Board of Directors of the Corporation in their respective capacities as such (nor is there any basis therefor) wherein an unfavorable decision, ruling or finding would in any way materially adversely affect (i) the transactions contemplated by this Bond Purchase Agreement, (ii) the organization, existence or powers of the Corporation or the title to the office of any of the members of said Board, (iii) the validity or enforceability of this Bond Purchase Agreement, the Contract, the Indenture or the Bond (or any other agreement or instrument to which the Corporation is a party or used or contemplated for use in the consummation of the transactions contemplated hereby) or (iv) the exemption from federal or State of North Carolina income taxation of the interest with respect to the Bond.

5. Payment and Delivery. At 10:00 a.m., New York time, on June \_\_, 2012, or at such other time or on such earlier or later date as mutually agreed upon, the Corporation and the County will deliver to the Bank at such place specified by the Bank to the County and the Corporation, the Bond as described below duly executed and authenticated. Upon such delivery

of the Bond, the Bank will pay the full purchase price thereof in immediately available funds to the Trustee in \_\_\_\_\_, \_\_\_\_\_.

The Closing on the Bond will be held at the offices of Parker Poe Adams & Bernstein LLP, Charlotte, North Carolina, or at such other place as we may mutually agree upon, except that physical delivery of the Bond shall be made as provided in the preceding paragraph.

6. Conditions of Closing. The Bank has entered into this Bond Purchase Agreement in reliance upon the representations and warranties of the County and the Corporation contained herein and to be contained in the documents and instruments to be delivered at Closing and upon the performance by the County and the Corporation of their respective obligations hereunder, both as of the date hereof and as of the date of Closing. Accordingly, the Bank's obligation under this Bond Purchase Agreement to purchase and pay for the Bond shall be subject to the performance by the County and the Corporation of their respective obligations to be performed hereunder and under such documents and instruments at or prior to Closing, and shall also be subject to the following conditions:

(a) At the time of Closing (i) the representations and warranties of the County and the Corporation, respectively, contained herein shall be true, complete and correct with the same effect as if made on the date of Closing, (ii) the Contract, the Deed of Trust, the Indenture and this Bond Purchase Agreement shall be in full force and effect and shall not have been amended, modified or supplemented except as may have been agreed to by the Bank and (iii) the County and the Corporation shall have duly adopted and there shall be in full force and effect such resolutions as in the opinion of Bond Counsel, shall be necessary in connection with the transactions contemplated hereby, and such resolutions shall not have been amended, modified or supplemented, except as may have been agreed to by the Bank.

(b) The Bank shall have the right to terminate its obligations under this Bond Purchase Agreement to purchase and pay for the Bond by notifying the County and the Corporation of their election to do so if, after the execution hereof and prior to Closing:

(i) legislation shall have been introduced in or enacted by the Congress of the United States or the North Carolina General Assembly, or legislation pending in the Congress of the United States or the North Carolina General Assembly shall have been amended, or a decision shall have been rendered by a court of the United States or the State of North Carolina, including the Tax Court of the United States, or a ruling shall have been made or a regulation shall have been proposed or made or a press release or other form of notice shall have been issued by the Treasury Department of the United States, the Internal Revenue Service, the North Carolina Department of Revenue or other federal or North Carolina authority, with respect to interest on obligations of the general character of the Bond, which may have the purpose or effect, directly or indirectly, of affecting the tax status of the County or the Corporation, their property or income, their securities (including the Bond) or the interest thereon, or any tax exemption granted or authorized by relevant North Carolina statutes or, in the opinion of the Bank, affects materially and adversely the market price of obligations of the general character of the Bond;

(ii) there occurs any new outbreak of hostilities not existing on the date hereof, or any change in the nature or extent of such presently existing hostilities or any national or international calamity or crisis, including a financial crisis, or any escalation of activities, the effect of which on the financial markets of the United States is such as, in the judgment of the Bank, would materially and adversely affect the market price generally of obligations of the general character of the Bond; or

(iii) there shall have occurred and be in force a general suspension of trading on the New York Stock Exchange or the declaration of a general banking moratorium by United States, State of North Carolina or State of New York authorities; or

(iv) there shall have occurred any material adverse change in the affairs of the County or the Corporation; or

(v) a decision of any federal or state court or a ruling or regulation (final, temporary or proposed) of the Securities and Exchange Commission or other governmental agency shall have been made or issued that would make the Bond or any securities of the County or the Corporation or any similar body of the type contemplated herein subject to the registration requirements of the Securities Act of 1933, as amended, or require the qualification of the Indenture or any similar indentures of the County or the Corporation under the Trust Indenture Act of 1939, as amended; or

(vi) the withdrawal or downgrading of any rating of the County's outstanding general obligation or installment financing indebtedness by a national rating agency.

(c) On or prior to the date of Closing, the Bank shall have received the following documents in form and substance reasonably satisfactory to the Bank and Womble Carlyle Sandridge & Rice, LLP, Raleigh, North Carolina ("Bank Counsel"):

(1) Opinion of Bond Counsel, dated as of the date of Closing and addressed to the Bank, in form and substance satisfactory to the Bank;

(2) Supplemental opinion of Bond Counsel, dated as of the date of Closing, in substantially the forms attached hereto as Exhibit A;

(3) Opinion of Eggers, Eggers, Eggers, & Eggers, PLLC, County Attorney, dated as of the date of Closing, in substantially the form attached hereto as Exhibit B;

(4) Opinion of Parker Poe Adams & Bernstein LLP, counsel to the Corporation, dated as of the date of Closing, in substantially the form attached hereto as Exhibit C;

(5) A certificate, dated as of the date of Closing, signed by a County official satisfactory to the Bank, to the effect that:

(A) to the best of his or her knowledge, each of the representations and warranties of the County set forth herein is true, accurate and complete in all respects as of the date of Closing and each of the agreements to be complied with

and obligations to be performed by the County hereunder on or prior to the date of Closing have been complied with and performed;

(B) to the best of his or her knowledge, there is no litigation or any other proceeding before or by any court, public board or body pending or threatened against or affecting the County or any members of the Board of Commissioners, nor is there any basis therefor, wherein an unfavorable decision, ruling or finding would materially and adversely affect (i) the transactions contemplated by this Bond Purchase Agreement, (ii) the organization, existence, or powers of the County or the title to the office of any of the members of said Board of Commissioners, (iii) the properties or assets or the condition, financial or otherwise, of the County, (iv) the validity or enforceability of this Bond Purchase Agreement, the Contract or the Deed of Trust (or any other agreement or instrument of which the County is a party, used or contemplated for use in the consummation of the transactions contemplated hereby) or (v) the exemption from federal or State of North Carolina income taxation of the interest with respect to the Bond; and

(C) to the best of his or her knowledge, there is no litigation or any other proceeding pending or threatened restraining or enjoining the sale, execution or delivery of the Bond, or in any way contesting or affecting the validity of the Bond or any proceedings of the County taken with respect to the sale, execution or delivery thereof;

(6) A certificate, dated as of the date of Closing, signed by a Corporation official satisfactory to the Bank, to the effect that:

(A) to the best of his or her knowledge, each of the representations and warranties of the Corporation set forth herein is true, accurate and complete in all respects as of the date of Closing and each of the agreements to be complied with and obligations to be performed by the Corporation hereunder on or prior to the date of Closing have been complied with and performed;

(B) to the best of his or her knowledge, there is no litigation or any other proceeding before or by any court, public board or body pending or threatened against or affecting the Corporation or any members of the Board of Directors of the Corporation, nor is there any basis therefor, wherein an unfavorable decision, ruling or finding would materially and adversely affect (i) the transactions contemplated by this Bond Purchase Agreement, (ii) the organization, existence, or powers of the Corporation or the title to the offices of any of the members of said Board, (iii) the validity or enforceability of this Bond Purchase Agreement, the Contract, the Indenture or the Bond (or any other agreement or instrument to which the Corporation is a party, used or contemplated for use in the consummation of the transactions contemplated hereby) or (iv) the exemption from federal or State of North Carolina income taxation of the interest with respect to the Bond; and

(C) to the best of his or her knowledge, there is no litigation or any other proceeding pending or threatened restraining or enjoining the sale, execution or delivery of the Bond, or in any way contesting or affecting the validity of the Bond or any proceedings of the Corporation taken with respect to the sale, execution or delivery thereof;

(7) Executed copies of the Contract, the Deed of Trust and the Indenture;

(8) Specimen Bond;

(9) Executed counterparts or copies, certified by appropriate officials satisfactory to the Bank of all proceedings of the County and the Corporation relating to approvals or authorizations for the Bond, the execution and delivery of this Bond Purchase Agreement, the Contract, the Deed of Trust and the Indenture;

(10) Policy of mortgagee title insurance satisfactory to the Bank insuring that the Deed of Trust constitutes a first lien of record against the Premises, subject only to permitted encumbrances acceptable to the Bank;

(11) Evidence that the Deed of Trust (or a memorandum thereof) has been recorded in the office of the Watauga County Register of Deeds and that a Uniform Commercial Code financing statement with respect to the security interest granted in the fixtures has been filed in the office of the Watauga Register of Deeds;

(12) Evidence of satisfaction of the Prior Contract and release of Premises from any prior liens related thereto; and

(13) Such additional certificates (including appropriate no-litigation certificates), instruments, opinions or other documents as the Bank or the Bank's Counsel may reasonably request.

All representations and warranties of the County and the Corporation set forth in this Bond Purchase Agreement shall remain operative and in full force and effect regardless of (i) any investigation made by or on behalf of the Bank or any person controlling the Bank and (ii) acceptance of and payment for the Bond.

7. Payment of Expenses. The County shall pay all expenses incident to the County's and Corporation's obligations hereunder and in connection with the authorization, execution, delivery and sale of the Bond to the Bank including the cost of preparing and printing the Bond Trustee's fees and expenses, the fees and expenses of Bank's Counsel, the fees and expenses of Bond Counsel, counsel to the County and counsel to the Corporation and the fees and expenses of any consultants.

8. Parties in Interest. This Bond Purchase Agreement is made solely for the benefit of the Bank and persons controlling the Bank, the County and the Corporation, and their respective successors and assigns, and no other person, partnership, or corporation shall acquire or have any right under or by virtue of this Bond Purchase Agreement. The terms "successors" and "assigns"

shall not include any purchaser of Bond from the Bank merely because of such purchase. The representations, warranties and agreements contained in this Bond Purchase Agreement shall survive the delivery of, and payment for, the Bond and any termination hereof.

9. Counterparts. This Bond Purchase Agreement may be executed in several counterparts, each of which shall be an original and all of which shall constitute but one and the same instrument.

10. Notices. Any notice or other communication to be given under this Bond Purchase Agreement may be given by delivering the same in writing by registered or certified mail to the following addresses:

To the County:

County of Watauga, North Carolina  
814 West King Street, Room 216  
Boone, North Carolina 28607  
Attention: Finance Director

To the Corporation:

Watauga Public Facilities Corporation  
c/o County of Watauga, North Carolina  
County of Watauga, North Carolina  
814 West King Street, Room 216  
Boone, North Carolina 28607  
Attention: Finance Director

To the Bank:

Branch Banking and Trust Company  
5130 Parkway Plaza Blvd.  
Charlotte, North Carolina 28217  
Attention: Louis Loyd, III, Senior Vice President

11. Governing Law. This Bond Purchase Agreement shall be governed by, and construed in accordance with, the laws of the State of North Carolina.

12. Severability. In the event any provision of this Bond Purchase Agreement shall be held invalid or unenforceable by a court of competent jurisdiction, such holding shall not invalidate or render unenforceable any other provision hereof.

[Signatures to follow]

This Bond Purchase Agreement shall become effective upon the execution of the acceptance hereof by a duly authorized member of the Corporation and the County and shall be valid and enforceable as of the time of such acceptance.

BRANCH BANKING AND TRUST COMPANY

By: \_\_\_\_\_  
Senior Vice President

(signatures continued)



Bond Purchase Agreement:

Watauga Public Facilities Corporation  
Refunding Limited Obligation Bond (County of Watauga, North Carolina), Series 2012B

Accepted:

WATAUGA PUBLIC FACILITIES CORPORATION

By: \_\_\_\_\_  
President

Approved:

COUNTY OF WATAUGA, NORTH CAROLINA

By: \_\_\_\_\_  
**[Finance Director]**

EXHIBIT A

[To be Discussed]

[OPINION OF COUNTY ATTORNEY]

[Closing Date]

Branch Banking and Trust Company  
Charlotte, North Carolina

Parker Poe Adams & Bernstein LLP  
Charlotte, North Carolina

Re: \$\_\_\_\_\_ Refunding Limited Obligation Bond (County of Watauga, North Carolina), Series 2012B

Ladies and Gentlemen:

We serve as the County Attorney for the County of Watauga, North Carolina (the “County”) and have served in such capacity in connection with the issuance of the above-captioned Bond, which is being purchased today by Branch Banking and Trust Company (the “Bank”) pursuant to a Bond Purchase Agreement, dated June \_\_, 2012 (the “Bond Purchase Agreement”), among Watauga Public Facilities Corporation (the “Corporation”), the County and the Bank. All capitalized terms used herein and not otherwise defined shall have the meaning given such terms in the Bond Purchase Agreement.

Based upon such examination as we have deemed necessary for the purpose of expressing the opinions set forth below, we are of the opinion, as of the date hereof and under existing law, that:

1. The County is a political subdivision duly organized and validly existing under the Constitution and laws of the State of North Carolina and has the full legal right, power and authority to execute and deliver the Contract, the Deed of Trust and the Bond Purchase Agreement and to perform all of its obligations thereunder and as contemplated thereby.

2. The County has duly authorized and has executed and delivered the Contract and the Deed of Trust.

3. The County has duly authorized and has executed and delivered the Bond Purchase Agreement and, assuming due authorization, execution and delivery by the other parties thereto, the Bond Purchase Agreement constitutes a legal, valid and binding agreement of the County enforceable in accordance with its terms, except that the enforceability thereof may be subject to bankruptcy, insolvency, fraudulent conveyance, moratorium or similar laws affecting creditors’ rights generally from time to time in effect and by principles of equity that a court may apply.

4. No further consent, authorization or order of any governmental or regulatory authority is required to be obtained as a condition precedent to the execution and delivery of the Contract, the Deed of Trust or the Bond Purchase Agreement by the County

5. To the best of our knowledge, the County is not in violation or breach of or default under any applicable law or administrative regulation of the State of North Carolina or the United States or any applicable judgment or decree or administrative ruling or any agreement, resolution, bond or other instrument to which the County is a party or is otherwise subject, which violation, breach or default would in any way materially adversely affect the County's transactions contemplated by the Bond Purchase Agreement or the execution and delivery of the Bond, and, to the best of my knowledge, no event has occurred and is continuing which with the passage of time or giving of notice, or both, would constitute such a violation or breach thereof or default thereunder.

6. The execution and delivery of the Contract, the Deed of Trust and the Bond Purchase Agreement by the County, and compliance with the provisions thereof, do not and will not conflict with or constitute a breach or violation of or a default under any applicable law, rule or regulation of the United States or of the State of North Carolina or of any department, division, agency or instrumentality thereof having jurisdiction over the County or, to the best of my knowledge, any applicable order, judgment or decree of any court or other governmental agency or body or any bond, note, loan agreement, resolution, Bond, agreement or other instrument to which the County is a party or by which it or its property is bound.

7. To the best of our knowledge, there is no litigation or any other proceeding before any court or public board, agency or body pending or threatened against the County wherein an unfavorable decision, ruling or finding would adversely affect the transactions contemplated by the Bond Purchase Agreement or which, in any way, would adversely affect the validity or enforceability of the Bond Purchase Agreement, the Contract, the Deed of Trust, the Indenture or the Bond or the exemption of interest with respect to the Bond from federal or State of North Carolina taxation.

8. We have caused the Deed of Trust to be recorded in the Office of the Register of Deeds of the County of Watauga, North Carolina. The recording of the Deed of Trust is in accord with North Carolina law.

9. We have caused financing statements relating to the security interest in the fixtures in respect of the Mortgaged Property (the "Fixtures") to be filed under the North Carolina Uniform Commercial Code in the office of the Register of Deeds of the County of Watauga, North Carolina. The filing of such financing statements is in accord with North Carolina law to perfect the security interest in the fixtures.

With respect to the opinions expressed in paragraphs 1 and 3 above, we note that the covenants of the County in the Bond Purchase Agreement relating to indemnification or contribution are given to the extent permitted by law, and we express no opinion with respect to whether such covenants are permitted by law.

This opinion is rendered solely for your benefit in connection with the subject transaction and may not be relied upon by you or any other person for any other purposes without my prior written consent.

Respectfully submitted,

[OPINION OF COUNSEL TO THE CORPORATION]

[Closing Date]

County of Watauga, North Carolina  
Watauga, North Carolina

Branch Banking and Trust Company  
Charlotte, North Carolina

Watauga Public Facilities Corporation  
Watauga, North Carolina

Re: \$\_\_\_\_\_ Refunding Limited Obligation Bond (County of Watauga, North Carolina), Series 2012B

Ladies and Gentlemen:

We have acted as counsel to Watauga Public Facilities Corporation (the “Corporation”), a nonprofit corporation organized under the Constitution and laws of the State of North Carolina, in connection with the execution and delivery by the Corporation of (1) its \$10,000,000 Refunding Limited Obligation Bond (County of Watauga, North Carolina), Series 2012B (the “2012B Bond”), (2) an Installment Financing Contract, dated as of June 1, 2012 (the “Contract”), between the County of Watauga, North Carolina (the “County”) and the Corporation, (3) an Indenture of Trust, dated as of June 1, 2012 (the “Indenture”), between the Corporation and \_\_\_\_\_, as trustee (the “Trustee”), and (4) the Bond Purchase Agreement, dated June \_\_, 2012 (the “Bond Purchase Agreement”), among the Corporation, the County and Branch Banking and Trust Company (the “Bank”). This opinion letter is delivered pursuant to Section 7(c)(4) of the Bond Purchase Agreement.

In such capacity, we have examined the following:

(i) The statutes, public records, proceedings, resolutions and documents in connection with the organization of the Corporation which we consider necessary for the purpose of this opinion; and

(ii) Executed counterparts of the following documents (collectively, the “Corporation Documents”): (a) the Indenture, (b) the Contract, (c) the 2012B Bond and (d) the Bond Purchase Agreement.

In connection with this opinion, we also have examined originals, or copies identified to our satisfaction, of such other documents, instruments, certificates and records as we have considered appropriate in order to render our opinions contained herein. Where we have considered it appropriate, as to certain facts we have relied, without investigation or analysis of any underlying data contained therein, upon certificates or other comparable documents of public officials or other appropriate representatives of the Corporation.

In rendering the opinions set forth herein, we have assumed, among other things, the legal capacity of all natural persons, the genuineness of all signatures not signed in our presence, the authenticity of all documents submitted to us as originals, that all documents submitted to us as copies conform with the originals thereof, that the Corporation Documents fully state the agreement between the Corporation and the other parties thereto, and that the Corporation Documents constitute the legal, valid and binding obligation of the parties thereto other than the Corporation, enforceable in accordance with their respective terms.

The phrases “to our knowledge” and “known to us” mean conscious awareness of lawyers in the primary lawyer group of factual matters such lawyers recognize as being relevant to the opinion or confirmation so qualified. “Primary lawyer group” means any lawyer in this firm (i) who signs this opinion letter, (ii) who is actively involved in negotiating or documenting the execution and delivery of the 2012B Bond or the Corporation Documents, or (iii) solely as to information relevant to a particular opinion or factual confirmation issue, who is primarily responsible for providing the response concerning the particular opinion or issue.

The opinions set forth herein are limited to matters governed by the laws of the State of North Carolina and the federal laws of the United States of America, and no opinion is expressed herein as to the laws of any other jurisdiction. We express no opinion concerning any matter respecting or affected by any laws other than laws that a lawyer in North Carolina exercising customary professional diligence would reasonably recognize as being directly applicable to the Corporation, the 2012B Bond or both of them.

Based upon the foregoing examination, we are of the opinion, as of the date hereof and under existing law, that:

1. The Corporation is a nonprofit corporation duly organized and validly existing in good standing under the laws of the State of North Carolina and has full power and authority to enter into and perform its obligations under the Corporation Documents and to execute and deliver the 2012B Bond.

2. Each of the Corporation Documents has been duly authorized, executed and delivered by the Corporation and, assuming due authorization, execution and delivery thereof by the other parties thereto, each constitutes a valid and binding agreement of the Corporation enforceable in accordance with its terms, except that the enforceability of the Corporation Documents may be limited by applicable bankruptcy, reorganization, insolvency, moratorium, fraudulent conveyance or other similar laws affecting the enforcement of creditors’ rights generally and by general principles of equity.

3. No further consent or approval of any governmental body is required to be obtained for the sale of the 2012B Bond to the Bank or the execution and delivery of the Corporation Documents by the Corporation.

4. The execution and delivery of the Corporation Documents by the Corporation, and compliance with the provisions thereof under the circumstances contemplated thereby, (a)

are within the powers of the Corporation, (b) do not and will not conflict with the Corporation's articles of incorporation or bylaws, (c) to the best of our knowledge, do not and will not in any material respect conflict with, or constitute on the part of the Corporation a breach of or default under, any indenture, deed of trust, mortgage, agreement or other instrument to which the Corporation is a party, or conflict with, violate or result in a breach of any judgment, court order or consent decree to which the Corporation is subject and (d) to the best of our knowledge, do not and will not conflict with, violate or result in a breach of any existing law, public administrative rule or regulation to which the Corporation is subject.

The opinions expressed above are subject to the following qualifications and limitations:

1. Enforcement of the Corporation Documents is subject to the effect of applicable bankruptcy, insolvency, reorganization, fraudulent conveyance, moratorium and similar laws affecting the enforcement of creditors' rights generally.

2. Enforcement of the Corporation Documents is subject to the effect of general principles of equity (regardless of whether considered in a proceeding in equity or at law) by which a court with proper jurisdiction may deny rights of specific performance, injunction, self-help, possessory remedies or other remedies.

3. Indemnification provisions in the Corporation Documents are subject to and may be rendered unenforceable by applicable law or public policy, including applicable securities law.

Except as disclosed to the Bank, to the best of our knowledge, there is no action, suit, proceeding or governmental investigation at law or in equity before, or by, any court, public board or body, pending of which the Corporation has been served with a summons and complaint or other notice of commencement, or threatened against or affecting the Corporation, challenging the validity of the Corporation Documents or contesting the power and authority of the Corporation to execute and deliver the Corporation Documents or to consummate the transactions contemplated therein.

The opinions contained herein are limited to matters arising under the laws of the State of North Carolina and the federal laws of the United States of America.

This opinion is delivered to you and for your benefit in connection with the above transaction; it may not be relied upon by you for any other purposes and may not be relied upon by, nor may copies be provided to, any other person, firm, corporation or other entity without our prior written consent.

Very truly yours,



Draft No. 1  
April 13, 2012

**BOND PURCHASE AGREEMENT**

Among

**WATAUGA PUBLIC FACILITIES CORPORATION,**

**COUNTY OF WATAUGA, NORTH CAROLINA**

and

**BB&T CAPITAL MARKETS,**  
a division of Scott & Stringfellow, LLC,  
as Representative of the Underwriters

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## BOND PURCHASE AGREEMENT

concerning

Refunding Limited Obligation Bonds  
(County of Watauga, North Carolina),  
Series 2012A

June \_\_, 2012

Watauga Public Facilities Corporation  
Watauga, North Carolina

County of Watauga, North Carolina  
Watauga, North Carolina

Ladies and Gentlemen:

The underwriters named below (the “Underwriters”) hereby offer to enter into this Bond Purchase Agreement with Watauga Public Facilities Corporation (the “Corporation”), which, upon acceptance of this offer by the Corporation, and the approval of this offer and of the Corporation’s acceptance thereof by the County of Watauga, North Carolina (the “County”), will be binding upon the Corporation, the County and the Underwriters. This offer is made subject to acceptance by the Corporation and approval by the County on or before 5:00 p.m., Watauga, North Carolina time, on the date hereof and, if not so accepted, will be subject to withdrawal by the Underwriters upon written notice delivered to the Corporation and the County at any time prior to such acceptance.

1. Purchase and Sale of the Bonds. Upon the terms and conditions hereof and upon the basis of the representations set forth herein, the Underwriters hereby agree to purchase from the Corporation, and the Corporation hereby agrees to sell to the Underwriters, \$\_\_\_\_\_ aggregate principal amount of the Corporation’s Refunding Limited Obligation Bonds (County of Watauga, North Carolina), Series 2012A evidencing proportionate undivided interests in rights to receive certain revenues pursuant to an Installment Financing Contract, dated as of June 1, 2012 (the “Contract”), between the County and the Corporation (the “Bonds”). The purchase price for the Bonds shall be \$\_\_\_\_\_ (representing the aggregate par amount of the Bonds, plus/less a net original issuance premium/discount of \$\_\_\_\_\_ and less an underwriters’ discount of \$\_\_\_\_\_). The delivery and payment for the Bonds and other actions contemplated hereby shall take place at the time thereof being herein sometimes called the “Closing.”

The Bonds shall be dated as of the date of delivery thereof, shall mature, subject to prior prepayment, on April 1, in such years and amounts and shall bear interest from their date, at such rate and shall have such other terms as set forth in the Indenture and the Official Statement (both as hereinafter defined). The Bonds shall be issued and secured under the provisions of an Indenture of Trust, dated as of June 1, 2012 (the “Indenture”), between the Corporation and

\_\_\_\_\_, as trustee (the “Trustee”). Capitalized terms used herein and not otherwise defined shall have the meaning given such terms in the Contract and the Indenture.

The County will enter into the Contract for the purpose of providing funds to the County, together with any other available funds, to (1) refinance an installment financing contract (the “Prior Contract”), the proceeds of which were used to finance and refinance the acquisition, construction, equipping and furnishing of a high school in the County, as described in the Official Statement (as defined herein) and (2) pay the other costs incurred in connection with the issuance and sale of the Bonds Pursuant to the Contract, the County is obligated to make installment payments in amounts sufficient to pay when due the principal and interest with respect to the Bonds. As security for performance of the County’s obligations under the Contract, the County will execute and deliver to a deed of trust trustee, for the benefit of the Corporation, a Deed of Trust, Security Agreement and Fixture Filing, dated as of June 1, 2012 (the “Deed of Trust”), granting a first lien of record on certain real property and the improvements thereon (the “Premises”), subject only to certain permitted encumbrances. The Corporation’s rights under the Contract (except certain reserved rights), including its right to receive installment payments thereunder, and the Corporation’s rights as beneficiary under the Deed of Trust (except certain reserved rights) will be assigned to the Trustee pursuant to the Indenture.

You shall deliver or cause to be delivered to us prior to your acceptance hereof a copy of the Official Statement, dated the date hereof, relating to the Bonds, substantially in the form of the Preliminary Official Statement, dated May \_\_, 2012 (the “Preliminary Official Statement”), with only such changes therein as shall have been approved by us (such Preliminary Official Statement, with such changes and including the cover page and the appendices, being herein called the “Official Statement,” except that, if the Official Statement has been amended between the date thereof and the date of Closing referred to in Section 6 hereof, the term “Official Statement” shall refer to the Official Statement as so amended), signed on behalf of the Corporation by an authorized officer of the Corporation and on behalf of the County by the County Manager or any other authorized officer of the County.

2. Public Offering; Role of the Underwriters. The primary role of the Underwriters is to purchase the Bonds for resale to investors in an arm’s-length commercial transaction between the Corporation, the County and the Underwriters. The Underwriters, in such capacity, have financial and other interests that differ from those of the County and the Corporation.

The County and the Corporation acknowledge and agree that: (i) the transactions contemplated by this Agreement are arm’s length, commercial transactions between the County, the Corporation and the Underwriters, in which the Underwriters are acting solely as principals and are not acting as a municipal advisor, financial advisor or fiduciary to the County or the Corporation; (ii) the Underwriters have not assumed any advisory or fiduciary responsibility to the County or the Corporation with respect to the transactions contemplated hereby and the discussions, undertakings and procedures leading thereto (irrespective of whether the Underwriters or any of their affiliates have provided other services or are currently providing other services to the County or the Corporation on other matters); (iii) the only obligations the Underwriters have to the County or the Corporation with respect to the transaction contemplated

hereby expressly are set forth in this Agreement; and (iv) the County and the Corporation have consulted their own financial and/or municipal, legal, accounting, tax, and other advisors, as applicable, to the extent they have deemed appropriate.

The Underwriters agree to make a bona fide public offering of the Bonds at the initial offering prices set forth on the inside cover page of the Official Statement. The Underwriters, however, reserve the right to change such initial offering prices as the Underwriters shall deem necessary in connection with the marketing of the Bonds and to offer and sell the Bonds to certain dealers (including dealers depositing the Bonds into investment trusts) and others at prices lower than the initial offering prices set forth on the inside cover page of the Official Statement. The Underwriters shall inform the County and the Corporation of any such changes in offering price and the amount of any such changes. At Closing, the Underwriters shall deliver to the County a certificate, in a form satisfactory to Parker Poe Adams & Bernstein LLP, Charlotte, North Carolina, Bond Counsel to the County (“Bond Counsel”) executed by an appropriate representative of the Underwriters, stating the initial offering prices paid by the public for the Bonds, excluding underwriters, bond houses, brokers and other intermediaries.

The Underwriters represent and warrant that they will offer the Bonds only pursuant to the Official Statement and only in states where the offer and sale of the Bonds are legal, either as exempt or covered securities, as exempt transactions or as a result of due registration of the Bonds for sale in any such state.

The Underwriters acknowledge that neither the County nor the Corporation has authorized or consented to:

(a) the sale of Bonds to any purchaser in connection with the initial public offering of the Bonds unless a copy of the Official Statement is delivered to such purchaser not later than the settlement of such transaction;

(b) making any representations or providing any information to prospective purchasers of the Bonds in connection with the public offering and sale of Bonds other than the information set forth in the Official Statement and any amendment thereto approved in writing by the County and the Corporation; and

(c) any actions in connection with the public offering and sale of the Bonds in violation of applicable requirements of federal and state securities laws and any applicable requirements of the Municipal Securities Rulemaking Board and the Financial Industry Regulatory Authority, Inc.

3. Representations of the Underwriters. The Underwriters have designated BB&T Capital Markets, a division of Scott & Stringfellow, LLC, to act as their representative (the “Representative”) and to execute this Bond Purchase Agreement on their behalf, and BB&T Capital Markets, a division of Scott & Stringfellow, LLC, hereby represents that it, as Representative, has been duly authorized to execute and act under the provisions of this Bond Purchase Agreement as set forth herein. The payment for, acceptance of and execution and delivery of any receipt for the Bonds and any other instruments in connection with the Closing shall be valid and sufficient for all purposes and binding upon the Underwriters, provided that

any such action by the Underwriters shall not impose any obligation or liability upon the Underwriters other than as may arise as expressly set forth in this Bond Purchase Agreement.

4. Representations and Warranties of the County. The County, by its acceptance hereof, represents and warrants to the Underwriters as follows:

(a) The County is a political subdivision duly organized and validly existing under the Constitution and laws of the State of North Carolina, and is authorized and empowered to refinance the acquisition, construction and equipping of the Prior Project by entering into the Contract and the Deed of Trust and by causing the Bonds to be issued.

(b) The County (i) has full legal right, power and authority to execute and deliver this Bond Purchase Agreement, the Contract and the Deed of Trust as provided herein and to carry out and consummate all the transactions described in the Official Statement or contemplated by each of the aforesaid documents and (ii) has complied with all provisions of applicable law in all material matters relating to such transactions.

(c) The County has duly authorized (i) the execution and delivery of this Bond Purchase Agreement, the Contract and the Deed of Trust, (ii) the distribution of the Preliminary Official Statement and the execution, delivery and distribution of the Official Statement and (iii) such action as may be required on the part of the County to consummate the transactions contemplated by such documents.

(d) This Bond Purchase Agreement, the Contract and the Deed of Trust, when duly executed and delivered by the respective parties thereto, will constitute legal, valid and binding obligations of the County enforceable in accordance with their respective terms, except as enforcement thereof may be limited by bankruptcy, insolvency, reorganization, moratorium or similar laws affecting the enforcement of creditors' rights generally and by general equitable principles.

(e) The execution, delivery and performance of the obligations of the County under this Bond Purchase Agreement, the Contract or the Deed of Trust do not and will not conflict with, result in the creation or imposition of any lien, charge or encumbrance upon any of the assets of the County pursuant to the terms of, or constitute a default under, any agreement, trust agreement or instrument to which the County is a party or by which the County or its property is bound, or result in a violation of any applicable constitutional provision, law or administrative regulation or any order, rule or regulation of any court or governmental agency having jurisdiction over the County or its property.

(f) Except for any action that may be required by applicable federal or state securities laws, no consent, authorization or order of, or filing or registration with, any court or governmental agency not already obtained or made is required for the execution, delivery and performance of this Bond Purchase Agreement or the consummation of the transactions contemplated hereunder, and any such consent, authorization or order so obtained is in full force and effect.

(g) The County is not in violation of any applicable constitutional provision, law or administrative rule or regulation of the State of North Carolina or of the United States of America or in default under any agreement, resolution, trust agreement or instrument to which the County is a party or by which the County or its property is bound, the effect of which violation or default would be material to the County, and no event has occurred and is continuing which with the passage of time or the giving of notice, or both, would constitute such a violation or default hereunder or thereunder.

(h) As of the date of the Official Statement and as of the date of Closing, the Official Statement does not and will not contain any untrue statement of a material fact or omit to state any material fact required to be stated therein or necessary to make the statements therein, in the light of the circumstances under which they were made, not misleading; provided, however, that the County makes no representation or warranty as to information with respect to the offering of the Bonds set forth on the inside cover page of, in the Stabilizing Legend in or under the heading "UNDERWRITING" in, the Official Statement or under the headings "THE LOCAL GOVERNMENT COMMISSION" and "LITIGATION" (with respect to the Corporation) in, or Appendices D and E to, the Official Statement.

(i) The financial statements of the County contained in the Preliminary Official Statement and the Official Statement present fairly the financial position of the County as of the dates specified therein, and the results of its operations and changes in its financial position for the periods specified therein, in conformity with generally accepted accounting principles applied on a consistent basis. Subsequent to the respective dates of the most recent financial statements included in the Preliminary Official Statement and the Official Statement, there has been no material adverse change in the financial position or results of operations of the County except as set forth or contemplated in the Preliminary Official Statement and the Official Statement.

(j) Between the date of this Bond Purchase Agreement and the date of Closing, the County will not issue any bonds, notes or other obligations for borrowed money which will materially and adversely affect the transactions contemplated by the Official Statement, and subsequent to the respective dates as of which information is given by the Official Statement and up to and including the date of Closing, the County will not incur any material liabilities, direct or contingent, nor will there be any adverse change of a material nature in the financial position, results of operations or condition, financial or otherwise, of the County except as described in the Official Statement.

(k) The County will furnish such information, execute such instruments and take such other action in cooperation with the Underwriters as the Underwriters may reasonably request to qualify the Bonds for offer and sale under the securities laws or regulations of such states and other jurisdictions as the Underwriters may designate; provided, however, that in no event shall the County be obligated to take any action which would subject it to general service of process in any state where it is not now so subject, or qualify it to do business in any such state, it being understood that the County is not responsible for compliance with or the consequences of failure to comply with applicable state securities laws and regulations.

(l) If between the date of this Bond Purchase Agreement and the date of Closing, any event shall occur which might or would cause the Official Statement to contain any untrue statement of a material fact or to omit to state a material fact required to be stated therein or necessary to make the statements therein, in the light of the circumstances under which they were made, not misleading, the County shall notify the Corporation and the Underwriters thereof, and if, in the opinion of the County, the Corporation and the Underwriters, such event requires the preparation and publication of a supplement or amendment to the Official Statement, the County will, at its expense, supplement or amend the Official Statement in a form and in a manner approved by the County, the Corporation and the Underwriters.

(m) Any certificate signed by an authorized officer of the County and delivered to the Underwriters, the Corporation or the Trustee shall be deemed a representation and warranty of the County to the Underwriters as to the statements made therein.

(n) To the best knowledge of the County, there is no litigation or any other proceeding before or by any court, public board, agency or body, pending or threatened against or affecting the County or any of the members of the Board of Commissioners for the County in their respective capacities as such (nor is there any basis therefor), wherein an unfavorable decision, ruling or finding would in any way materially adversely affect (i) the transactions contemplated by this Bond Purchase Agreement or the Official Statement, (ii) the organization, existence or powers of the County or the title to the office of any of the members of said Board of Commissioners, (iii) the properties or assets or the condition, financial or otherwise, of the County, (iv) the validity or enforceability of this Bond Purchase Agreement, the Contract or the Deed of Trust, (or any other agreement or instrument of which the County is a party or used or contemplated for use in the consummation of the transactions contemplated hereby) or (v) the exemption from federal or State of North Carolina income taxation of the interest with respect to the Bonds as described in the Official Statement.

(o) The Preliminary Official Statement is deemed to be a final official statement within the meaning of Rule 15c2-12 of the Securities Exchange Act of 1934, as amended (“Rule 15c-12”), except for the omission of certain pricing and other information authorized to be omitted by Rule 15c2-12.

(p) The Official Statement is deemed to be a final official statement within the meaning of Rule 15c2-12.

(q) Pursuant to the Contract, the County will undertake to provide certain annual financial information and operating data and notice of the occurrence of certain material events as specified in the Contract and the Official Statement (the “Undertaking”).

5. Representations and Warranties of the Corporation. The Corporation, by its acceptance hereof, represents and warrants to the Underwriters that:

(a) The Corporation is a nonprofit corporation duly organized and validly existing under the laws of the State of North Carolina and is authorized and empowered to assist the County in



the financing of the acquisition, construction and equipping of the Project by entering into the Contract and the Indenture and executing and delivering the Bonds.

(b) The Corporation has the full legal right, power and authority to enter into and to perform its obligations under this Bond Purchase Agreement, the Contract and the Indenture.

(c) The Corporation has duly authorized (i) the execution and delivery of this Bond Purchase Agreement, the Contract and the Indenture, (ii) the distribution of the Preliminary Official Statement and the execution, delivery and distribution of the Official Statement and (iii) such action as may be required on the part of the Corporation to consummate the transactions contemplated by such agreements.

(d) This Bond Purchase Agreement, the Contract and the Indenture, when duly executed and delivered, will constitute legally binding obligations of the Corporation enforceable in accordance with their respective terms, except as enforcement thereof may be limited by bankruptcy, insolvency, reorganization, moratorium or similar laws affecting the enforcement of creditors' rights generally and by general equitable principles.

(e) When delivered to and paid for by the Underwriters at the Closing in accordance with the provisions of this Bond Purchase Agreement, the Bonds will have been duly authorized, executed and delivered by the Corporation and will represent the proportionate undivided interests in rights to receive certain revenues, and will be entitled to the benefit and security of the Indenture.

(f) The Bonds will be in substantially the form provided in the Indenture, and the Bonds and the Indenture will conform to the descriptions thereof contained in the Official Statement.

(g) The Corporation is not in violation of any applicable constitutional provision, law or administrative rule or regulation of the State of North Carolina or in default under any agreement, resolution, Indenture or instrument to which the Corporation is a party or by which the Corporation or its property is bound the effect of which violation or default would be material to the Corporation, and no event has occurred and is continuing which with the passage of time or the giving of notice, or both, would constitute such a violation or default hereunder or thereunder.

(h) The execution, delivery and performance of the obligations of the Corporation under this Bond Purchase Agreement, the Contract or the Indenture do not and will not conflict with, result in the creation or imposition of any lien, charge or encumbrance upon any of the assets of the Corporation pursuant to the terms of, or constitute a default under, any other agreement, Indenture or instrument to which the Corporation is a party or by which the Corporation or its property is bound, or result in a violation of any applicable constitutional provision, law or administrative regulation or any order, rule or regulation of the State of North Carolina.

(i) Except for any action required by applicable federal or state securities laws, no consent, authorization or order of, or filing or registration with, any court or governmental agency, not already obtained or made, is required for the execution, delivery and performance by the Corporation of this Bond Purchase Agreement or the consummation of the transactions

contemplated hereunder, and any such consent, authorization or order so obtained is in full force and effect.

(j) As of the date of the Official Statement and as of the date of Closing, the information in the Official Statement relating to the Corporation does not and will not contain any untrue statement of a material fact or omit to state any material fact required to be stated therein or necessary to make the statements therein, in the light of the circumstances under which they were made, not misleading.

(k) Between the date of this Bond Purchase Agreement and the date of Closing, the Corporation will not issue any bonds, notes or other obligations for borrowed money which will materially and adversely affect the transactions contemplated by the Official Statement, and subsequent to the respective dates as of which information is given by the Official Statement and up to and including the date of Closing, the Corporation will not incur any material liabilities, direct or contingent, nor will there be any adverse change of a material nature in the financial position, results of operations or condition, financial or otherwise, of the Corporation except as described in the Official Statement.

(l) The Corporation will furnish such information, execute such instruments and take such other action in cooperation with the Underwriters as the Underwriters may reasonably request to qualify the Bonds for offer and sale under the securities laws or regulations of such states and other jurisdictions as the Underwriters may designate; provided, however, that in no event shall the Corporation be obligated to take any action which would subject it to general service of process in any state where it is not now so subject, or qualify it to do business in any such state, it being understood that the Corporation is not responsible for compliance with or the consequences of failure to comply with applicable state securities laws and regulations.

(m) If between the date of this Bond Purchase Agreement and the date of Closing, any event shall occur which might or would cause the information in the Official Statement relating to the Corporation to contain any untrue statement of a material fact or to omit to state a material fact required to be stated therein or necessary to make the statements therein, in the light of the circumstances under which they were made, not misleading, the Corporation shall notify the County and the Underwriters, thereof, and if in the opinion of the Corporation, the County and the Underwriters such event requires the preparation and publication of a supplement or amendment to the Official Statement, the Corporation shall, at the County's expense, supplement or amend the Official Statement in a form and in a manner approved by the County, the Corporation and the Underwriters.

(n) Any certificate signed by an authorized officer of the Corporation and delivered to the Underwriters, the County or the Trustee shall be deemed a representation and warranty of the Corporation to the Underwriters as to the statements made therein.

(o) To the best knowledge of the Corporation, there is no litigation or any other proceeding before or by any court, public board, agency or body, pending or threatened against or affecting the Corporation or any of the members of the Board of Directors of the Corporation in their respective capacities as such (nor is there any basis therefor) wherein an unfavorable

decision, ruling or finding would in any way materially adversely affect (i) the transactions contemplated by this Bond Purchase Agreement or the Official Statement, (ii) the organization, existence or powers of the Corporation or the title to the office of any of the members of said Board, (iii) the validity or enforceability of this Bond Purchase Agreement, the Contract, the Indenture or the Bonds (or any other agreement or instrument to which the Corporation is a party or used or contemplated for use in the consummation of the transactions contemplated hereby) or (iv) the exemption from federal or State of North Carolina income taxation of the interest with respect to the Bonds as described in the Official Statement.

(p) The Preliminary Official Statement is deemed to be a final official statement within the meaning of Rule 15c2-12, except for the omission of certain pricing and other information authorized to be omitted by Rule 15c2-12.

(q) The Official Statement is deemed to be a final official statement within the meaning of Rule 15c2-12.

6. Payment and Delivery. At 10:00 a.m., New York time, on June \_\_, 2012, or at such other time or on such earlier or later date as mutually agreed upon, the Corporation and the County will cause the Trustee to deliver to The Depository Trust Company (“DTC”) in New York, New York, or at such other place specified by the Underwriters to the County and the Corporation, the Bonds as described below duly executed and authenticated. It is anticipated that CUSIP identification numbers will be placed on the Bonds, but neither the failure to print such numbers on any Bond nor any error with respect thereto shall constitute cause for a failure or refusal by the Underwriters to accept delivery of and pay for the Bonds in accordance with the terms of this Bond Purchase Agreement. Upon such delivery of the Bonds, the Underwriters will pay the full purchase price thereof in immediately available funds to the Trustee in \_\_\_\_\_, \_\_\_\_\_.

One fully registered Bond in the aggregate principal amount of each maturity shall be registered in the name of Cede & Co., as nominee for DTC, as securities depository, and the beneficial interests in the Bonds so registered will be credited to such accounts with DTC as the Underwriters shall designate. The Bonds so registered to and held by DTC or its nominee or agent, and the beneficial interests therein, shall be transferable only in accordance with the book-entry system.

The Closing on the Bonds will be held at the offices of Parker Poe Adams & Bernstein LLP, Charlotte, North Carolina, or at such other place as we may mutually agree upon, except that physical delivery of the Bonds shall be made as provided in the preceding paragraph.

7. Conditions of Closing. The Underwriters have entered into this Bond Purchase Agreement in reliance upon the representations and warranties of the County and the Corporation contained herein and to be contained in the documents and instruments to be delivered at Closing and upon the performance by the County and the Corporation of their respective obligations hereunder, both as of the date hereof and as of the date of Closing. Accordingly, the Underwriters’ obligation under this Bond Purchase Agreement to purchase and pay for the Bonds shall be subject to the performance by the County and the Corporation of their respective

obligations to be performed hereunder and under such documents and instruments at or prior to Closing, and shall also be subject to the following conditions:

(a) At the time of Closing (i) the representations and warranties of the County and the Corporation, respectively, contained herein shall be true, complete and correct with the same effect as if made on the date of Closing, (ii) the Contract, the Deed of Trust, the Indenture and this Bond Purchase Agreement shall be in full force and effect and shall not have been amended, modified or supplemented except as may have been agreed to by the Underwriters, (iii) the County shall have entered into the Undertaking as described in the Official Statement and (iv) the County and the Corporation shall have duly adopted and there shall be in full force and effect such resolutions as in the opinion of Bond Counsel, shall be necessary in connection with the transactions contemplated hereby, and such resolutions shall not have been amended, modified or supplemented, and the Official Statement shall not have been amended, modified or supplemented, except as may have been agreed to by the Underwriters.

(b) The Underwriters shall have the right to terminate its obligations under this Bond Purchase Agreement to purchase and pay for the Bonds by notifying the County and the Corporation of their election to do so if, after the execution hereof and prior to Closing:

(i) legislation shall have been introduced in or enacted by the Congress of the United States or the North Carolina General Assembly, or legislation pending in the Congress of the United States or the North Carolina General Assembly shall have been amended, or a decision shall have been rendered by a court of the United States or the State of North Carolina, including the Tax Court of the United States, or a ruling shall have been made or a regulation shall have been proposed or made or a press release or other form of notice shall have been issued by the Treasury Department of the United States, the Internal Revenue Service, the North Carolina Department of Revenue or other federal or North Carolina authority, with respect to interest on obligations of the general character of the Bonds, which may have the purpose or effect, directly or indirectly, of affecting the tax status of the County or the Corporation, their property or income, their securities (including the Bonds) or the interest thereon, or any tax exemption granted or authorized by relevant North Carolina statutes or, in the opinion of the Underwriters, affects materially and adversely the market for the Bonds, or the market price generally of obligations of the general character of the Bonds;

(ii) there occurs any new outbreak of hostilities not existing on the date hereof, or any change in the nature or extent of such presently existing hostilities or any national or international calamity or crisis, including a financial crisis, or any escalation of activities, the effect of which on the financial markets of the United States is such as, in the judgment of the Underwriters, would materially and adversely affect the market for the Bonds, or the market price generally of obligations of the general character of the Bonds; or

(iii) there shall have occurred and be in force a general suspension of trading on the New York Stock Exchange or the declaration of a general banking moratorium by United States, State of North Carolina or State of New York authorities; or

(iv) there shall have occurred any material adverse change in the affairs of the County or the Corporation; or

(v) there shall be established any new restrictions on transactions in securities materially affecting the free market for securities (including the imposition of any limitation on interest rates) or the extension of credit by, or the charge to the net capital requirements of underwriters established by the New York Stock Exchange, the Securities and Exchange Commission, any other federal or state agency or the Congress of the United States or by Executive Order; or

(vi) a decision of any federal or state court or a ruling or regulation (final, temporary or proposed) of the Securities and Exchange Commission or other governmental agency shall have been made or issued that would make the Bonds or any securities of the County or the Corporation or any similar body of the type contemplated herein subject to the registration requirements of the Securities Act of 1933, as amended, or require the qualification of the Indenture or any similar indentures of the County or the Corporation under the Trust Indenture Act of 1939, as amended; or

(vii) the withdrawal or downgrading of any rating of the County's outstanding general obligation or installment financing indebtedness by a national rating agency; or

(viii) an event occurs which, in the opinion of the Underwriters, requires the preparation and distribution of a supplement or amendment to the Official Statement.

(c) On or prior to the date of Closing, the Underwriters shall have received the following documents in form and substance reasonably satisfactory to the Underwriters and Womble Carlyle Sandridge & Rice, LLP, Raleigh, North Carolina ("Underwriters' Counsel"):

(1) Opinion of Bond Counsel, dated as of the date of Closing, in substantially the form attached to the Official Statement as Appendix D;

(2) Supplemental opinion of Bond Counsel, dated as of the date of Closing, in substantially the forms attached hereto as Exhibit A;

(3) Opinion of Eggers, Eggers, Eggers, & Eggers, PLLC, County Attorney, dated as of the date of Closing, in substantially the form attached hereto as Exhibit B;

(4) Opinion of Parker Poe Adams & Bernstein LLP, counsel to the Corporation, dated as of the date of Closing, in substantially the form attached hereto as Exhibit C;

(5) Opinions of Underwriters' Counsel, dated as of the date of Closing, in substantially the forms attached hereto as Exhibit D and Exhibit E;

(6) A copy of the Official Statement executed on behalf of the County and the Corporation by duly authorized representatives thereof;

(7) A certificate, dated as of the date of Closing, signed by a County official satisfactory to the Underwriters, to the effect that:

(A) to the best of his or her knowledge, each of the representations and warranties of the County set forth herein is true, accurate and complete in all respects as of the date of Closing and each of the agreements to be complied with and obligations to be performed by the County hereunder on or prior to the date of Closing have been complied with and performed;

(B) to the best of his or her knowledge, there is no litigation or any other proceeding before or by any court, public board or body pending or threatened against or affecting the County or any members of the Board of Commissioners for the County, nor is there any basis therefor, wherein an unfavorable decision, ruling or finding would materially and adversely affect (i) the transactions contemplated by this Bond Purchase Agreement or the Official Statement, (ii) the organization, existence, or powers of the County or the title to the office of any of the members of said Board of Commissioners, (iii) the properties or assets or the condition, financial or otherwise, of the County, (iv) the validity or enforceability of this Bond Purchase Agreement, the Contract or the Deed of Trust (or any other agreement or instrument of which the County is a party, used or contemplated for use in the consummation of the transactions contemplated hereby) or (v) the exemption from federal or State of North Carolina income taxation of the interest with respect to the Bonds as described in the Official Statement;

(C) to the best of his or her knowledge, the Official Statement did not as of its date and does not as of the date of Closing contain any untrue statement of a material fact or omit to state a material fact required to be stated therein for the purpose for which the Official Statement is to be used or necessary to make the statements therein, in the light of the circumstances under which they were made, not misleading, provided that the County makes no representation or warranty with respect to the offering of the Bonds set forth on the cover page of, in the Stabilizing Legend in or under the heading "UNDERWRITING" in, the Official Statement or under the headings "THE LOCAL GOVERNMENT COMMISSION" and "LITIGATION" (with respect to the Corporation) in, or Appendices D and E to, the Official Statement; and

(D) to the best of his or her knowledge, there is no litigation or any other proceeding pending or threatened restraining or enjoining the sale, execution or delivery of the Bonds, or in any way contesting or affecting the validity of the Bonds or any proceedings of the County taken with respect to the sale, execution or delivery thereof;

(8) A certificate, dated as of the date of Closing, signed by a Corporation official satisfactory to the Underwriters, to the effect that:

(A) to the best of his or her knowledge, each of the representations and warranties of the Corporation set forth herein is true, accurate and complete in all respects as of the date of Closing and each of the agreements to be complied with and obligations to be performed by the Corporation hereunder on or prior to the date of Closing have been complied with and performed;

(B) to the best of his or her knowledge, there is no litigation or any other proceeding before or by any court, public board or body pending or threatened against or affecting the Corporation or any members of the Board of Directors of the Corporation, nor is there any basis therefor, wherein an unfavorable decision, ruling or finding would materially and adversely affect (i) the transactions contemplated by this Bond Purchase Agreement or the Official Statement, (ii) the organization, existence, or powers of the Corporation or the title to the offices of any of the members of said Board, (iii) the validity or enforceability of this Bond Purchase Agreement, the Contract, the Indenture or the Bonds (or any other agreement or instrument to which the Corporation is a party, used or contemplated for use in the consummation of the transactions contemplated hereby) or (iv) the exemption from federal or State of North Carolina income taxation of the interest with respect to the Bonds as described in the Official Statement;

(C) to the best of his or her knowledge, the information in the Official Statement relating to the Corporation did not as of its date and does not as of the date of Closing contain any untrue statement of a material fact or omit to state a material fact required to be stated therein for the purpose for which the Official Statement is to be used or necessary to make the statements therein, in the light of the circumstances under which they were made, not misleading; and

(D) to the best of his or her knowledge, there is no litigation or any other proceeding pending or threatened restraining or enjoining the sale, execution or delivery of the Bonds, or in any way contesting or affecting the validity of the Bonds or any proceedings of the Corporation taken with respect to the sale, execution or delivery thereof;

(9) Executed copies of the Contract, the Deed of Trust and the Indenture;

(10) Specimen Bond;

(11) Executed counterparts or copies, certified by appropriate officials satisfactory to the Underwriters of all proceedings of the County and the Corporation relating to approvals or authorizations for the Bonds, the execution and delivery of this Bond Purchase Agreement, the Contract, the Deed of Trust, the Indenture and the Official Statement and authorizing the use of the Preliminary Official Statement and the Official Statement by the Underwriters in connection with the offering of the Bonds;

(12) Evidence of the receipt of [a “\_\_\_” rating assigned to the Bonds by Moody’s Investors Service, Inc., a “\_\_\_” rating assigned to the Bonds by Fitch

**Ratings and a “\_\_\_” rating assigned to the Bonds by Standard & Poor’s Ratings Services]** and that such ratings are in effect on the date of Closing;

(13) Letter from Bond Counsel, dated as of the date of Closing and addressed to the Underwriters, stating that the Underwriters is entitled to rely on their respective approving legal opinions as if such opinions were addressed to the Underwriter;

(14) Policy of mortgagee title insurance satisfactory to the Underwriters insuring that the Deed of Trust constitutes a first lien of record against the Premises, subject only to permitted encumbrances acceptable to the Underwriters;

(15) Evidence that the Deed of Trust (or a memorandum thereof) has been recorded in the office of the Watauga County Register of Deeds and that a Uniform Commercial Code financing statement with respect to the security interest granted in the fixtures has been filed in the office of the Watauga Register of Deeds;

(16) Evidence of satisfaction of the Prior Contract and release of Premises from any prior liens related thereto; and

(16) Such additional certificates (including appropriate no-litigation certificates), instruments, opinions or other documents as the Underwriters or Underwriters’ Counsel may reasonably request.

All representations and warranties of the County and the Corporation set forth in this Bond Purchase Agreement shall remain operative and in full force and effect regardless of (i) any investigation made by or on behalf of the Underwriters or any person controlling the Underwriters and (ii) acceptance of and payment for the Bonds.

8. Payment of Expenses. The County shall pay all expenses incident to the County’s and Corporation’s obligations hereunder and in connection with the authorization, execution, delivery and sale of the Bonds to the Underwriters, including the cost of preparing, printing and distributing the Bonds, the Preliminary Official Statement and the Official Statement, rating agency fees, Trustee’s fees and expenses, the fees and expenses of Underwriters’ Counsel, the fees and expenses of Bond Counsel, counsel to the County and counsel to the Corporation and the fees and expenses of any consultants.

The Underwriters shall pay its out-of-pocket expenses, the cost of the blue sky memorandum and any advertising expenses in connection with the public offering of the Bonds.

In order to ensure compliance with applicable state and/or local ethics statutes that may apply to representatives of the County as well as federal securities regulations that may apply to the Underwriters, the County will pay any expenses incurred on behalf of the County’s commissioners, officers or employees which are incidental to implementing this Bond Purchase Agreement, including, without limitation, meals, transportation and lodging of such board members, officers and employees (which expenses may be included in the expense component of the underwriter’s discount); provided, however, that the County will pay from its own funds not



constituting proceeds of the Bonds any entertainment expenses incurred on behalf of the County's commissioners, officers or employees.

9. Parties in Interest. This Bond Purchase Agreement is made solely for the benefit of the Underwriters and persons controlling the Underwriters, the County and the Corporation, and their respective successors and assigns, and no other person, partnership, or corporation shall acquire or have any right under or by virtue of this Bond Purchase Agreement. The terms "successors" and "assigns" shall not include any purchaser of Bonds from the Underwriters merely because of such purchase. The representations, warranties and agreements contained in this Bond Purchase Agreement shall survive the delivery of, and payment for, the Bonds and any termination hereof.

10. Delivery of Official Statement; Underwriting Period. (a) Within seven business days after the execution of this Bond Purchase Agreement and in any event within one business day prior to the Closing Date, the Corporation and the County shall deliver to the Underwriters copies of the Official Statement (with only such changes therein as shall have been approved by the Underwriters), in such quantities as the Underwriters may reasonably request in order for the Underwriters to comply with the rules of the Securities and Exchange Commission ("SEC") and the Municipal Securities Rulemaking Board ("MSRB"), executed by authorized officers of the Corporation and the County. The Official Statement, including any amendments thereto, shall be prepared in word-searchable PDF format as described in MSRB Rule G-32 and the electronic copy of the word-searchable PDF format of the Official Statement shall be provided to the Underwriters no later than one business day prior to the Closing Date in order to enable the Underwriters to comply with MSRB Rule G-32. Delivery of such copies of the Official Statement shall constitute the Corporation's and the County's authorization for the Official Statement, the information contained therein and the documents referred to therein to be used in connection with the public offering of the Bonds by the Underwrites.

(b) If on or prior to the 25<sup>th</sup> day following the "end of the underwriting period" (as such expression is used in Rule 15c2-12), an event occurs affecting the Corporation or the County that materially affects the purpose for which the Official Statement is to be used and is not disclosed in the Official Statement, the Corporation and the County agree to notify the Underwriters thereof, and if in the opinion of the Corporation, the County, or the Underwriters such event requires a supplement or amendment to the Official Statement, the Corporation and the County will, at the County's expense, supplement or amend the Official Statement in a manner approved by the Corporation, the County and the Underwriters (such approval not to be unreasonably delayed or withheld) and will thereafter until the end of such stated period provide the Underwriters with copies of the Official Statement, as so supplemented or amended (including electronic copies in word-searchable PDF format), in sufficient quantities to allow the Underwriters to comply with the requirements referred to in subsection (a) above.

The Underwriters agree to notify the Corporation and the County of the end of the underwriting period. In the event the Underwriters fails to notify the Corporation and the County of the end of the underwriting period, the end of the underwriting period shall be deemed to be the Closing Date.

The Underwriters agree to cause a copy of the Official Statement to be deposited before the end of the underwriting period with each of the parties required by the applicable rules of the SEC and the MSRB.

11. Indemnification. (a) To the fullest extent permitted by applicable law, the County agrees to indemnify and hold harmless the Underwriters against any and all losses, damages, expenses (including reasonable legal and other fees and expenses), liabilities or claims (or actions in respect thereof), to which the Underwriters, or the other persons described in subsection (b) of this Section may become subject under any federal or state securities laws or other statutory law or at common law or otherwise, caused by or arising out of or based upon any untrue statement or misleading statement or alleged untrue statement or alleged misleading statement of a material fact contained in the Preliminary Official Statement or the Official Statement or caused by any omission or alleged omission from the Preliminary Official Statement or the Official Statement of any material fact required to be stated therein or necessary in order to make the statements made therein, in the light of the circumstances under which they were made, not misleading, unless such untrue statement or misleading statement, such alleged untrue statement or alleged misleading statement, or such omission or alleged omission was made in reliance upon and in conformity with information furnished to the County by the Underwriters expressly for use in the Preliminary Official Statement or the Official Statement, including any amendment thereto.

(b) The indemnity provided under this Section will extend upon the same terms and conditions to each officer, director, member, employee, agent or attorney of the Underwriters and each person, if any, who controls the Underwriters within the meaning of Section 15, as amended, of the Securities Act of 1933 or Section 20, as amended, of the Securities Exchange Act of 1934 (“indemnified party”). Such indemnity will also extend, without limitation, to any and all expenses whatsoever reasonably incurred by any indemnified party in connection with investigating, preparing for or defending against, or providing evidence, producing documents or taking any other reasonable action in respect of, any loss, damage, expense, liability or claim referred to in subsection (a) of this Section (or action in respect thereof), whether or not resulting in any liability, and will include the aggregate amount paid in settlement of any litigation, commenced or threatened, or of any claim whatsoever as set forth herein, if such settlement is effected with the written consent of the County.

(c) Within a reasonable time after an indemnified party under subsections (a) and (b) of this Section will have been served with the summons or other first legal process or has received written notice of the threat of a claim in respect of which an indemnity may be claimed, such indemnified party must, if a claim for indemnity in respect thereof is to be made against the County under this Section, notify the County in writing of the commencement thereof; but the omission to so notify the County will not relieve it from any liability that it may otherwise have to any indemnified party other than pursuant to the indemnification provisions set forth in subsections (a) and (b) of this Section. The County will be entitled to participate at its own expense in the defense, and if the County so elects within a reasonable time after receipt of such notice, or if all indemnified parties seeking indemnification in such notice so direct, the County will assume the defense of any suit brought to enforce any such claim, and such defense will be conducted by counsel chosen promptly by the County and reasonably satisfactory to the

indemnified party; provided, however, that, if the defendants in any action include an indemnified party and the County, or include more than one indemnified party, and any such indemnified party has been advised by its counsel that there may be legal defenses available to such indemnified party that are different from or additional to those available to the County or another indemnified party, and that in the reasonable opinion of such counsel are sufficient to make it undesirable for the same counsel to represent such indemnified party and the County, or another indemnified party, such indemnified party will have the right to employ separate counsel in such action (and the County will not be entitled to assume the defense thereof on behalf of such indemnified party), and in such event the reasonable fees and expenses of such counsel will be borne by the County. Nothing contained in this subsection (c) will preclude any indemnified party, at its own expense, from retaining additional counsel to represent such party in any action with respect to which indemnity may be sought from the County hereunder.

(d) If the indemnification provided for in subsections (a) and (b) of this Section is unavailable to or insufficient to hold harmless and indemnify any indemnified party in respect of any losses, damages, expenses, liabilities, or claims (or actions in respect thereof) referred to therein, or if the indemnified party failed to give the notice required under subsection (c) of this Section, then the County, to the fullest extent permitted by applicable law, on the one hand, and the indemnified party, on the other hand, will contribute to the amount paid or payable by the indemnified party as a result of such losses, damages, expenses, liabilities or claims (or actions in respect thereof) in such proportion as is appropriate to reflect the relative benefits received by the County on the one hand and the indemnified party on the other hand from the offering of the Bonds. If, however, the allocation provided by the immediately preceding sentence is not permitted by applicable law, then the County, to the fullest extent permitted by applicable law, on the one hand and the indemnified party on the other hand will contribute to such amount paid or payable by the indemnified party in such proportion as is appropriate to reflect not only such relative benefits but also the relative fault of the County on the one hand and the indemnified party on the other in connection with the statements or omissions that resulted in such losses, damages, expenses, liabilities or claims (or actions in respect thereof), as well as any other relevant equitable considerations. The relative benefits received by the County on the one hand and the indemnified party on the other hand will be deemed to be in such proportion so that the indemnified party is responsible for that portion represented by the percentage that the underwriting discount payable to the Underwriters hereunder (i.e., the excess of the aggregate public offering price for the Bonds as set forth on the cover page of the Official Statement over the price to be paid by the Underwriters to the County upon delivery of the Bonds as specified in Section 1 hereof) bears to the aggregate public offering price as described above, and the County is responsible for the balance. The relative fault will be determined by reference to, among other things, whether the untrue or alleged untrue statement of a material fact or the omission or alleged omission to state a material fact relates to information supplied by the County on the one hand or the indemnified party on the other hand and the parties' relative intent, knowledge, access to information and opportunity to correct or prevent such statement or omission.

In the event an indemnified party has knowledge of a claim subject to the contribution provided by this subsection, such indemnified party agrees, within a reasonable time of obtaining such knowledge, to convey notice of such claim to the County. It is agreed and understood that if the indemnified party fails, under the circumstances set forth in the preceding sentence, to convey

the above referenced notice to the County, then the County will not be obligated to provide contribution pursuant to this subsection.

The County and the Underwriters agree that it would not be just and equitable if contribution pursuant to this subsection were determined by any method of allocation that does not take account of the equitable considerations referred to in this subsection. The amount paid or payable by an indemnified party as a result of the losses, damages, expenses, liabilities or claims (or actions in respect thereof) referred to in this subsection will be deemed to include any legal or other expenses reasonably incurred by such indemnified party in connection with investigating or defending any such action or claim.

The indemnity and contribution provided by this Section will be in addition to any other liability that the County may otherwise have hereunder, at common law or otherwise, and is provided solely for the benefit of the indemnified party, and its respective successors, assigns and legal representatives, and no other person will acquire or have any right under or by virtue of such provisions of this Agreement.

(e) The Corporation or its officers and directors shall not be liable in any way whatsoever to the County or the Underwriters with respect to the County's obligations under this Bond Purchase Agreement in connection with the offering and sale of the Bonds, and the County or the Underwriters shall not have any cause of action whatsoever against the Corporation or its officers and directors for any default by the County or the Underwriters or any obligation created between the County or the Underwriters by virtue of, or relating to, this Bond Purchase Agreement.

To the extent permitted by law, the County shall indemnify, defend and hold harmless the Corporation and its officers and directors against any and all losses, claims, damages, actions or liabilities, including fees and expenses incurred in connection herewith or in connection with investigating any such matters to which the Corporation may become subject to under any statute, or at law or in equity or otherwise regarding transactions contemplated by virtue of, or relating to, this Bond Purchase Agreement.

12. Counterparts. This Bond Purchase Agreement may be executed in several counterparts, each of which shall be an original and all of which shall constitute but one and the same instrument.

13. Notices. Any notice or other communication to be given under this Bond Purchase Agreement may be given by delivering the same in writing by registered or certified mail to the following addresses:

To the County:

County of Watauga, North Carolina  
814 West King Street, Room 216  
Boone, North Carolina 28607  
Attention: Finance Director

To the Corporation:

Watauga Public Facilities Corporation  
c/o County of Watauga, North Carolina  
County of Watauga, North Carolina  
814 West King Street, Room 216  
Boone, North Carolina 28607  
Attention: Finance Director

To the Underwriters:

BB&T Capital Markets  
901 East Byrd Street, Suite 260  
Richmond, Virginia 23219  
Attention: Senior Vice President

14. Governing Law. This Bond Purchase Agreement shall be governed by, and construed in accordance with, the laws of the State of North Carolina.

15. Severability. In the event any provision of this Bond Purchase Agreement shall be held invalid or unenforceable by a court of competent jurisdiction, such holding shall not invalidate or render unenforceable any other provision hereof.

[Signatures to follow]

This Bond Purchase Agreement shall become effective upon the execution of the acceptance hereof by a duly authorized member of the Corporation and the County and shall be valid and enforceable as of the time of such acceptance.

BB&T CAPITAL MARKETS, a division of Scott & Stringfellow, LLC,  
[CO-MANAGER].

By: BB&T CAPITAL MARKETS, a division of  
Scott & Stringfellow, LLC, as Representative

By: \_\_\_\_\_  
Senior Vice President

(signatures continued)

Bond Purchase Agreement:

Watauga Public Facilities Corporation  
Refunding Limited Obligation Bonds (County of Watauga, North Carolina), Series 2012A

Accepted:

WATAUGA PUBLIC FACILITIES CORPORATION

By: \_\_\_\_\_  
President

Approved:

COUNTY OF WATAUGA, NORTH CAROLINA

By: \_\_\_\_\_  
**[Finance Director]**

[SUPPLEMENTAL OPINION OF BOND COUNSEL]

[Closing Date]

BB&T Capital Markets, a division of Scott & Stringfellow, LLC  
Richmond, Virginia

[Co-Manager]

Re: \$\_\_\_\_\_ Refunding Limited Obligation Bonds (County of Watauga, North Carolina), Series 2012A

Ladies and Gentlemen:

We have acted as bond counsel to the County of Watauga, North Carolina (the “County”) in connection with the execution and delivery on the date hereof of the \$\_\_\_\_\_ Refunding Limited Obligation Bonds (County of Watauga, North Carolina), Series 2012A (the “2012A Bonds”), evidencing proportionate undivided interests in rights to receive certain Revenues pursuant to the Installment Financing Contract, dated as of June 1, 2012 (the “Contract”), between the County and Watauga Public Facilities Corporation (the “Corporation”). The 2012A Bonds are being purchased today by BB&T Capital Markets, a division of Scott & Stringfellow, LLP and \_\_\_\_\_ (the “Underwriters”), pursuant to a Bond Purchase Agreement, dated June \_\_, 2012 (the “Bond Purchase Agreement”), among the Corporation, the County and the Underwriters. Capitalized terms used herein and not otherwise defined shall have the meaning given such terms in the Bond Purchase Agreement.

In our capacity as bond counsel, we have on this date delivered our principal opinion relating to the Contract and the 2012A Bonds and the legality of the authorization and execution and delivery thereof, the treatment as ordinary income for federal income tax purposes of the portion of the Installment Payments designated and paid as interest with respect to the 2012A Bonds and certain other matters, which opinion may be relied upon by you to the same extent as if addressed to you.

In connection with this opinion, we have examined and are familiar with originals or copies, certified or otherwise identified to our satisfaction, of various documents, certificates and opinions of counsel (including the opinion dated the date hereof of Eggers, Eggers, Eggers, & Eggers, PLLC, counsel to the County) and the final Official Statement, dated June \_\_, 2012, with respect to the 2012A Bonds (the “Official Statement”), and have examined such other documents, certificates, opinions of counsel, instruments and records, and have made such investigations of law, as we have deemed necessary and appropriate as a basis for the opinions hereinafter expressed. In our examination, we have assumed the genuineness of all signatures, the legal capacity of natural persons, the authenticity of all documents submitted to us as



originals, the conformity to original documents of all documents submitted to us as certified or photostatic copies, and the authenticity of originals of such copies. As to any facts material to this opinion that we did not independently establish or verify, we have relied upon statements and representations of officers and other representatives of the County, the Corporation and others.

On the basis of and in reliance upon the foregoing, we are of the opinion that:

1. The statements in the Official Statement on the cover page and under the headings “INTRODUCTION – Security” and “-The 2012A Bonds,” “THE 2012A BONDS”, “SECURITY AND SOURCES OF PAYMENT OF 2012A BONDS” and “CONTINUING DISCLOSURE OBLIGATION” and in Appendix C - “SUMMARY OF PRINCIPAL LEGAL DOCUMENTS,” to the extent such statements purport to summarize certain terms of the Contract, the Deed of Trust, the Indenture and the 2012A Bonds, fairly and accurately summarize such terms. The statements contained in the Official Statement under the headings “INTRODUCTION – Tax Status” and “TAX TREATMENT” present fairly and accurately the matters referred to therein.

2. The 2012A Bonds are not subject to the registration requirements of the Securities Act of 1933, as amended, and the Indenture is exempt from qualification as an indenture under the Trust Indenture Act of 1939, as amended.

This opinion is furnished to you solely for your benefit and may not be used, circulated, quoted or otherwise referred to without our prior written consent.

Very truly yours,

[OPINION OF COUNTY ATTORNEY]

[Closing Date]

BB&T Capital Markets, a division of Scott & Stringfellow, LLC  
Richmond, Virginia

[Co-Manager]

Parker Poe Adams & Bernstein LLP  
Charlotte, North Carolina

Re: \$\_\_\_\_\_ Refunding Limited Obligation Bonds (County of Watauga, North Carolina), Series 2012A

Ladies and Gentlemen:

We serve as the County Attorney for the County of Watauga, North Carolina (the “County”) and have served in such capacity in connection with the issuance of the above-captioned Bonds, which are being purchased today by BB&T Capital Markets, a division of Scott & Stringfellow, LLC, and \_\_\_\_\_. (the “Underwriters”) pursuant to a Bond Purchase Agreement, dated June \_\_, 2012 (the “Bond Purchase Agreement”), among Watauga Public Facilities Corporation (the “Corporation”), the County and the Underwriters. All capitalized terms used herein and not otherwise defined shall have the meaning given such terms in the Bond Purchase Agreement.

Based upon such examination as we have deemed necessary for the purpose of expressing the opinions set forth below, we are of the opinion, as of the date hereof and under existing law, that:

1. The County is a political subdivision duly organized and validly existing under the Constitution and laws of the State of North Carolina and has the full legal right, power and authority to execute and deliver the Contract, the Deed of Trust and the Bond Purchase Agreement and to perform all of its obligations thereunder and as contemplated thereby.

2. The County has duly authorized and has executed and delivered the Contract and the Deed of Trust.

3. The County has duly authorized and has executed and delivered the Bond Purchase Agreement and, assuming due authorization, execution and delivery by the other parties thereto, the Bond Purchase Agreement constitutes a legal, valid and binding agreement of the County enforceable in accordance with its terms, except that the enforceability thereof may be subject to bankruptcy, insolvency, fraudulent conveyance, moratorium or similar laws affecting creditors’ rights generally from time to time in effect and by principles of equity that a court may apply.

4. No further consent, authorization or order of any governmental or regulatory authority is required to be obtained as a condition precedent to the execution and delivery of the Contract, the Deed of Trust or the Bond Purchase Agreement by the County, except that we express no opinion as to any regulatory requirements applicable to the Underwriters or any action required under federal or state securities of blue sky laws in connection with the offering and sale of the Bonds by the Underwriters.

5. The County has duly authorized, executed and delivered the Official Statement and has approved the use of the Preliminary Official Statement and the Official Statement in connection with the offering and sale of the Bonds.

6. To the best of our knowledge, the County is not in violation or breach of or default under any applicable law or administrative regulation of the State of North Carolina or the United States or any applicable judgment or decree or administrative ruling or any agreement, resolution, Bond or other instrument to which the County is a party or is otherwise subject, which violation, breach or default would in any way materially adversely affect the County's transactions contemplated by the Bond Purchase Agreement or the execution and delivery of the Bonds, and, to the best of my knowledge, no event has occurred and is continuing which with the passage of time or giving of notice, or both, would constitute such a violation or breach thereof or default thereunder.

7. The execution and delivery of the Contract, the Deed of Trust and the Bond Purchase Agreement by the County, and compliance with the provisions thereof, do not and will not conflict with or constitute a breach or violation of or a default under any applicable law, rule or regulation of the United States or of the State of North Carolina or of any department, division, agency or instrumentality thereof having jurisdiction over the County or, to the best of my knowledge, any applicable order, judgment or decree of any court or other governmental agency or body or any bond, note, loan agreement, resolution, Bond, agreement or other instrument to which the County is a party or by which it or its property is bound.

8. To the best of our knowledge, there is no litigation or any other proceeding before any court or public board, agency or body pending or threatened against the County wherein an unfavorable decision, ruling or finding would adversely affect the transactions contemplated by the Bond Purchase Agreement or which, in any way, would adversely affect the validity or enforceability of the Bond Purchase Agreement, the Contract, the Deed of Trust, the Indenture or the Bonds or the exemption of interest with respect to the Bonds from federal or State of North Carolina taxation as described in the Official Statement.

9. Based upon information made available to us in the course of our representation of the County, and without having undertaken to determine independently the accuracy or completeness of the statements contained in the Official Statement, nothing has come to our attention that would lead us to believe that the information contained in the Official Statement under the headings "THE PLAN OF REFUNDING," "ESTIMATED SOURCES AND USES OF FUNDS," and "LITIGATION" (with respect to the County) and in Appendix A to the Official Statement (excluding in all cases financial and statistical data included or mentioned therein, as to which we express no opinion) contains any untrue statement of a material fact or omits to state

a material fact required to be stated therein or necessary to make the statements therein, in light of the circumstances under which they were made, not misleading.

10. We have caused the Deed of Trust to be recorded in the Office of the Register of Deeds of the County of Watauga, North Carolina. The recording of the Deed of Trust is in accord with North Carolina law.

11. We have caused financing statements relating to the security interest in the fixtures in respect of the Mortgaged Property (the "Fixtures") to be filed under the North Carolina Uniform Commercial Code in the office of the Register of Deeds of the County of Watauga, North Carolina. The filing of such financing statements is in accord with North Carolina law to perfect the security interest in the fixtures.

With respect to the opinions expressed in paragraphs 1 and 3 above, we note that the covenants of the County in the Bond Purchase Agreement relating to indemnification or contribution are given to the extent permitted by law, and we express no opinion with respect to whether such covenants are permitted by law.

This opinion is rendered solely for your benefit in connection with the subject transaction and may not be relied upon by you or any other person for any other purposes without my prior written consent.

Respectfully submitted,

[OPINION OF COUNSEL TO THE CORPORATION]

[Closing Date]

County of Watauga, North Carolina  
Watauga, North Carolina  
  
Watauga Public Facilities Corporation  
Watauga, North Carolina

BB&T Capital Markets, a division of Scott &  
Stringfellow, LLC  
Richmond, Virginia  
[Co-Manager]

\_\_\_\_\_  
\_\_\_\_\_

Re: \$\_\_\_\_\_ Refunding Limited Obligation Bonds (County of Watauga, North Carolina), Series 2012A

Ladies and Gentlemen:

We have acted as counsel to Watauga Public Facilities Corporation (the “Corporation”), a nonprofit corporation organized under the Constitution and laws of the State of North Carolina, in connection with the execution and delivery by the Corporation of (1) its \$\_\_\_\_\_ Refunding Limited Obligation Bonds (County of Watauga, North Carolina), Series 2012A (the “2012A Bonds”), (2) an Installment Financing Contract, dated as of June 1, 2012 (the “Contract”), between the County of Watauga, North Carolina (the “County”) and the Corporation, (3) an Indenture of Trust, dated as of June 1, 2012 (the “Indenture”), between the Corporation and \_\_\_\_\_, as trustee (the “Trustee”), and (4) the Bond Purchase Agreement, dated June \_\_, 2012 (the “Bond Purchase Agreement”), among the Corporation, the County and BB&T Capital Markets, a division of Scott & Stringfellow, LLC, and \_\_\_\_\_ (the “Underwriters”). This opinion letter is delivered pursuant to Section 7(c)(4) of the Bond Purchase Agreement.

In such capacity, we have examined the following:

(i) The statutes, public records, proceedings, resolutions and documents in connection with the organization of the Corporation which we consider necessary for the purpose of this opinion;

(ii) Executed counterparts of the following documents (collectively, the “Corporation Documents”): (a) the Indenture, (b) the Contract, (c) the 2012A Bonds and (d) the Bond Purchase Agreement; and

(iii) The Preliminary Official Statement dated May \_\_, 2012, and the Official Statement dated June \_\_, 2012 (together, the “Official Statement”) used in connection with the sale of the 2012A Bonds.

In connection with this opinion, we also have examined originals, or copies identified to our satisfaction, of such other documents, instruments, certificates and records as we have considered appropriate in order to render our opinions contained herein. Where we have considered it appropriate, as to certain facts we have relied, without investigation or analysis of any underlying data contained therein, upon certificates or other comparable documents of public officials or other appropriate representatives of the Corporation.

In rendering the opinions set forth herein, we have assumed, among other things, the legal capacity of all natural persons, the genuineness of all signatures not signed in our presence, the authenticity of all documents submitted to us as originals, that all documents submitted to us as copies conform with the originals thereof, that the Corporation Documents fully state the agreement between the Corporation and the other parties thereto, and that the Corporation Documents constitute the legal, valid and binding obligation of the parties thereto other than the Corporation, enforceable in accordance with their respective terms.

The phrases “to our knowledge” and “known to us” mean conscious awareness of lawyers in the primary lawyer group of factual matters such lawyers recognize as being relevant to the opinion or confirmation so qualified. “Primary lawyer group” means any lawyer in this firm (i) who signs this opinion letter, (ii) who is actively involved in negotiating or documenting the execution and delivery of the 2012A Bonds or the Corporation Documents, or (iii) solely as to information relevant to a particular opinion or factual confirmation issue, who is primarily responsible for providing the response concerning the particular opinion or issue.

The opinions set forth herein are limited to matters governed by the laws of the State of North Carolina and the federal laws of the United States of America, and no opinion is expressed herein as to the laws of any other jurisdiction. We express no opinion concerning any matter respecting or affected by any laws other than laws that a lawyer in North Carolina exercising customary professional diligence would reasonably recognize as being directly applicable to the Corporation, the 2012A Bonds or both of them.

Based upon the foregoing examination, we are of the opinion, as of the date hereof and under existing law, that:

1. The Corporation is a nonprofit corporation duly organized and validly existing in good standing under the laws of the State of North Carolina and has full power and authority to enter into and perform its obligations under the Corporation Documents and to execute and deliver the 2012A Bonds.

2. Each of the Corporation Documents has been duly authorized, executed and delivered by the Corporation and, assuming due authorization, execution and delivery thereof by the other parties thereto, each constitutes a valid and binding agreement of the Corporation enforceable in accordance with its terms, except that the enforceability of the Corporation Documents may be limited by applicable bankruptcy, reorganization, insolvency, moratorium, fraudulent conveyance or other similar laws affecting the enforcement of creditors’ rights generally and by general principles of equity.

3. The Corporation has duly approved the Preliminary Official Statement and the Official Statement and the use thereof by the Underwriters in connection with the offering and sale of the 2012A Bonds.

4. No further consent or approval of any governmental body is required to be obtained for the sale of the 2012A Bonds to the Underwriters or the execution and delivery of the Corporation Documents by the Corporation, except that we express no opinion as to any federal or state regulatory requirements of the Underwriters or any action required under federal or state securities or Blue Sky laws in connection with the offering and sale of the 2012A Bonds by the Underwriters.

5. The execution and delivery of the Corporation Documents by the Corporation, and compliance with the provisions thereof under the circumstances contemplated thereby, and the approval of the Preliminary Official Statement and the Official Statement, (a) are within the powers of the Corporation, (b) do not and will not conflict with the Corporation's articles of incorporation or bylaws, (c) to the best of our knowledge, do not and will not in any material respect conflict with, or constitute on the part of the Corporation a breach of or default under, any indenture, deed of trust, mortgage, agreement or other instrument to which the Corporation is a party, or conflict with, violate or result in a breach of any judgment, court order or consent decree to which the Corporation is subject and (d) to the best of our knowledge, do not and will not conflict with, violate or result in a breach of any existing law, public administrative rule or regulation to which the Corporation is subject.

The opinions expressed above are subject to the following qualifications and limitations:

1. Enforcement of the Corporation Documents is subject to the effect of applicable bankruptcy, insolvency, reorganization, fraudulent conveyance, moratorium and similar laws affecting the enforcement of creditors' rights generally.

2. Enforcement of the Corporation Documents is subject to the effect of general principles of equity (regardless of whether considered in a proceeding in equity or at law) by which a court with proper jurisdiction may deny rights of specific performance, injunction, self-help, possessory remedies or other remedies.

3. Indemnification provisions in the Corporation Documents are subject to and may be rendered unenforceable by applicable law or public policy, including applicable securities law.

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To the best of our knowledge after reasonable investigation, the statements contained in the Official Statement under the headings entitled "THE CORPORATION" and "LEGAL MATTERS-Litigation" (with respect to the Corporation only) are true and correct and do not contain any untrue statement of a material fact or omit to state a material fact required to be stated therein or necessary to make such statements, in light of the circumstances in which they are made, not misleading.

Except as disclosed in the Official Statement, to the best of our knowledge, there is no action, suit, proceeding or governmental investigation at law or in equity before, or by, any court, public board or body, pending of which the Corporation has been served with a summons and complaint or other notice of commencement, or threatened against or affecting the Corporation, challenging the validity of the Corporation Documents or contesting the power and authority of the Corporation to execute and deliver the Corporation Documents or to consummate the transactions contemplated therein.

The opinions contained herein are limited to matters arising under the laws of the State of North Carolina and the federal laws of the United States of America.

This opinion is delivered to you and for your benefit in connection with the above transaction; it may not be relied upon by you for any other purposes and may not be relied upon by, nor may copies be provided to, any other person, firm, corporation or other entity without our prior written consent.

Very truly yours,



[OPINION OF UNDERWRITERS' COUNSEL]

[Closing Date]

BB&T Capital Markets, a division of Scott & Stringfellow, LLC  
Richmond, Virginia

[Co-Manager]

Re: \$\_\_\_\_\_ Refunding Limited Obligation Bonds (County of Watauga, North Carolina), Series 2012A

Ladies and Gentlemen:

We have acted as counsel to you, the Underwriters, in connection with your purchase on the date hereof of the above-referenced Bonds (the "Bonds") pursuant to a Bond Purchase Agreement, dated June \_\_, 2012 (the "Bond Purchase Agreement"), among the County of Watauga, North Carolina (the "County"), Watauga Public Facilities Corporation (the "Corporation") and you. Capitalized terms used herein and not otherwise defined shall have the meaning given such terms in the Bond Purchase Agreement.

We have examined such documents and reviewed such questions of law and made such other inquiries as we have considered appropriate for the purpose of this opinion. On the basis of the foregoing, we are of the opinion, as of the date hereof and under existing law, that the Bonds are exempt from registration under the Securities Act of 1933, as amended, and the Indenture is exempt from qualification as an indenture under the Trust Indenture Act of 1939, as amended.

We are not passing upon and do not assume any responsibility for the accuracy, completeness or fairness of any of the statements made in the Official Statement and make no representation that we have independently verified the accuracy, completeness or fairness of any such statements. However, to assist you in your investigation concerning the Official Statement, we have reviewed certain documents and have participated in conferences in which the contents of the Official Statement and related matters were discussed. During the course of our work on this matter, no facts have come to our attention that cause us to believe that the Official Statement (except for any financial and statistical data, forecasts, numbers, estimates, assumptions, expressions of opinion and information concerning The Depository Trust Company and the book-entry system for the Bonds, which we expressly exclude from the scope of this sentence) contains, as of the date hereof, any untrue statement of a material fact or omits to state any material fact necessary to make the statements made therein, in the light of the circumstances under which they were made, not misleading. In rendering the advice set forth in this paragraph, we are not rendering any opinion with respect to the validity or tax status of the Bonds. On the date hereof, Parker Poe Adams & Bernstein LLP has rendered its approving legal opinion with

respect to such matters and have consented to your reliance thereon. The advice set forth in this paragraph is given assuming the accuracy of such counsel's opinion.

This letter is furnished by us solely for your benefit and may not be relied upon by any other person or entity. We disclaim any obligation to supplement this letter to reflect any facts or circumstances that may hereafter come to our attention or any changes in the law that may hereafter occur.

[OPINION OF UNDERWRITERS' COUNSEL]

[Closing Date]

BB&T Capital Markets, a division of Scott & Stringfellow, LLC  
Richmond, Virginia

[Co-Manager]

Re: \$\_\_\_\_\_ Refunding Limited Obligation Bonds (County of Watauga, North Carolina), Series 2012A

Pursuant to a Bond Purchase Agreement, dated June \_\_, 2012 (the "Bond Purchase Agreement"), among the County of Watauga, North Carolina (the "County"), Watauga Public Facilities Corporation (the "Corporation") and you, you are purchasing on the date hereof the above-referenced Bonds (the "Bonds"). Capitalized terms used herein shall have the meanings given such terms in the Bond Purchase Agreement.

Pursuant to the Contract, the County has undertaken to provide certain annual financial information and operating data relating to the County and notices of the occurrence of certain material events as specified in the Resolutions and the Official Statement (the "Undertaking").

The United States Securities and Exchange Commission (the "SEC") has promulgated Rule 15c2-12, as amended ("Rule 15c2-12") under the Securities Exchange Act of 1934, as amended. Rule 15c2-12 requires, among other things, underwriters of municipal securities to determine that the issuer of the municipal securities or an obligated person (as such terms are defined in Rule 15c2-12) have undertaken to provide to the continuing disclosure information specified by Rule 15c2-12 to the Municipal Securities Rulemaking Board at the times and in the manner also specified by Rule 15c2-12. The SEC has issued a number of releases (the "SEC Releases") that discuss Rule 15c2-12 and proposed changes thereto (some of which proposed changes were later adopted and some of which were not) and comments received by the SEC regarding Rule 15c2-12 from time to time. Rule 15c2-12 has also been the subject of commentary and interpretation by various SEC letters to industry participants responding to questions posed to the SEC (the "SEC Interpretation Letters").

Based upon our review of the Undertaking, Rule 15c2-12, the SEC Releases and the SEC Interpretation Letters, we are of the opinion that the Undertaking will permit you to comply with clause (b)(5) of Rule 15c2-12 in connection with the primary offering of the Bonds. In rendering the foregoing opinion, we do not express any opinion as to the validity or enforceability of the Undertaking and, with your consent, are assuming such validity and enforceability.

This opinion is furnished by us for your sole benefit in connection with your offering and sale of the Bonds, and no other person or entity may rely upon this opinion without our prior express written consent.

**[Red Herring Language]** THIS PRELIMINARY OFFICIAL STATEMENT AND THE INFORMATION CONTAINED HEREIN ARE SUBJECT TO COMPLETION OR AMENDMENT IN A FINAL OFFICIAL STATEMENT. Under no circumstances shall this Preliminary Official Statement constitute an offer to sell or the solicitation of an offer to buy, and there shall not be any sale of the 2012A Bonds offered hereby in any jurisdiction in which such offer, solicitation or sale would be unlawful prior to registration or qualification under the securities laws of that jurisdiction.

**PRELIMINARY OFFICIAL STATEMENT DATED MAY \_\_, 2012**

**NEW ISSUE BOOK-ENTRY ONLY**

**Ratings:** [Fitch: \_\_  
Moody's: \_\_  
S&P: \_\_]  
(See "RATINGS" herein)

*In the opinion of Bond Counsel, under existing law, assuming compliance by the County with certain requirements of the Internal Revenue Code of 1986, as amended, interest with respect to the 2012A Bonds (1) is excludable from gross income for federal income tax purposes, (2) is not an item of tax preference for purposes of the federal alternative minimum tax imposed on individuals and corporations and (3) is exempt from State of North Carolina income taxation. See "TAX TREATMENT" herein.*

\$\_\_\_\_\_\*

**Watauga Public Facilities Corporation  
Refunding Limited Obligation Bonds  
(County of Watauga, North Carolina)  
Series 2012**

[insert logo]

**COUNTY OF WATAUGA, NORTH CAROLINA**

**Dated: Date of Delivery**

**Due: June 1, as shown on inside cover**

This Official Statement has been prepared by the County of Watauga, North Carolina (the "County") to provide information on the Refunding Limited Obligation Bonds (County of Watauga, North Carolina), Series 2012A (the "2012A Bonds"). Selected information is presented on this cover page for the convenience of the user. Investors must read the entire Official Statement to obtain information essential to the making of an informed investment decision. Capitalized terms used in this Official Statement, unless otherwise defined herein, have the meanings set forth in Appendix C hereto under "SUMMARY OF PRINCIPAL LEGAL DOCUMENTS – Definitions."

**Security:**

The 2012A Bonds (as defined herein) and all other Bonds outstanding under the Indenture evidence proportionate undivided interests in rights to receive certain Revenues pursuant to the Installment Financing Contract, dated as of June 1, 2012 (the "Contract"), between the Watauga Public Facilities Corporation (the "Corporation") and the County. The performance by the County of its obligations under the Contract, including the obligation to make Installment Payments thereunder, is secured by a Deed of Trust, Security Agreement and Fixture Filing, dated as of June 1, 2012 (the "Deed of Trust"), from the County to the deed of trust trustee named therein for the benefit of the Corporation, granting

a lien of record on the Premises (as defined in the Deed of Trust), subject to permitted encumbrances, as described in the Contract and Deed of Trust. The Corporation has assigned to Regions Bank, as trustee (the "Trustee"), for the benefit of the registered Owners of the 2012A Bonds and all other Bonds outstanding under the Indenture, substantially all of its rights under the Contract, including the right to receive Installment Payments, and all of its rights as beneficiary of the Deed of Trust.

THE PRINCIPAL, PREPAYMENT PRICE AND INTEREST ON THE 2012A BONDS ARE PAYABLE SOLELY FROM AMOUNTS PAYABLE FROM THE COUNTY UNDER THE CONTRACT AND, TO THE EXTENT PROVIDED IN THE INDENTURE, THE PROCEEDS OF THE SALE OF THE 2012A BONDS, CONDEMNATION AWARDS OR THE SALE OR LEASE OF THE PREMISES. NEITHER THE CONTRACT, THE 2012A BONDS NOR THE INTEREST THEREON CONSTITUTES A GENERAL OBLIGATION OR OTHER INDEBTEDNESS OF THE COUNTY. NO DEFICIENCY JUDGMENT MAY BE RENDERED AGAINST THE COUNTY IN ANY ACTION FOR BREACH OF ANY CONTRACTUAL OBLIGATION TO MAKE INSTALLMENT PAYMENTS PURSUANT TO THE CONTRACT, AND THE TAXING POWER OF THE COUNTY IS NOT PLEDGED DIRECTLY OR INDIRECTLY TO SECURE ANY MONEYS DUE THE OWNERS OF THE 2012A BONDS. THE REMEDIES AFFORDED TO THE TRUSTEE AND THE OWNERS UPON AN EVENT OF DEFAULT RESULTING FROM THE COUNTY'S FAILURE TO MAKE INSTALLMENT PAYMENTS UNDER THE CONTRACT ARE LIMITED IN THE CONTRACT TO THOSE OF A SECURED PARTY UNDER THE LAWS OF THE STATE OF NORTH CAROLINA, INCLUDING FORECLOSING UPON THE PREMISES IN ACCORDANCE WITH THE DEED OF TRUST AND ARE ON A PARITY WITH THOSE RIGHTS AND REMEDIES AVAILABLE TO THE OWNERS OF ALL BONDS OUTSTANDING UNDER THE INDENTURE. See "SECURITY AND SOURCES OF PAYMENT OF 2012A BONDS" herein.

***Prepayment:*** The 2012A Bonds are subject to optional, [extraordinary] [and mandatory sinking fund] prepayment prior to their maturities as described herein.

***Purpose:*** The proceeds of the 2012A Bonds will be used by the County, together with other funds as described herein, to (1) refinance an installment financing contract, the proceeds of which were used to finance and refinance the acquisition, construction, equipping and furnishing of a high school in the County, as more particularly described herein (the "Prior Contract") and (2) pay the other costs incurred in connection with the issuance and sale of the 2012A Bonds.

***Interest Payment Dates:***

June 1 and December 1 of each year, beginning December 1, 2012.

***Denominations/ Registration:***

\$5,000 and any integral multiple thereof. Book-entry-only through DTC (see Appendix E hereto).

***Delivery Date:***

June \_\_, 2012.

**Trustee:** \_\_\_\_\_, \_\_\_\_\_, \_\_\_\_\_.

**Bond Counsel:** Parker Poe Adams & Bernstein LLP, Charlotte, North Carolina.

**County Attorney:** Eggers, Eggers, Eggers, & Eggers, PLLC, Boone, North Carolina.

**Underwriters’  
Counsel:** Womble Carlyle Sandridge & Rice, LLP, Raleigh, North Carolina.

**BB&T Capital Markets**

**[Co-Manager]**

June \_\_, 2012

\_\_\_\_\_  
\*Preliminary; subject to change.

**MATURITY SCHEDULE\***

<u>Due June 1</u>	<u>Principal Amount</u>	<u>Interest Rate</u>	<u>Yield</u>	<u>Due June 1</u>	<u>Principal Amount</u>	<u>Interest Rate</u>	<u>Yield</u>
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\$ \_\_\_\_\_ % Term Bonds due June 1, 20\_\_ – Yield \_\_\_\_\_%

\_\_\_\_\_  
\* Preliminary; subject to change.



IN CONNECTION WITH THIS OFFERING, THE UNDERWRITERS MAY OVER-ALLOT OR EFFECT TRANSACTIONS THAT STABILIZE OR MAINTAIN THE MARKET PRICE OF THE 2012A BONDS AT A LEVEL ABOVE THAT WHICH MIGHT OTHERWISE PREVAIL IN THE OPEN MARKET. SUCH STABILIZING, IF COMMENCED, MAY BE DISCONTINUED AT ANY TIME.

No dealer, broker, salesman or other person has been authorized to give any information or to make any representation other than as contained in this Official Statement, and if given or made, such other information or representation must not be relied upon. This Official Statement does not constitute an offer to sell or the solicitation of any offer to buy, nor shall there be any sale of the 2012A Bonds by any person in any jurisdiction in which it is not lawful for such person to make such offer, solicitation or sale. The information set forth herein has been obtained from the Corporation, the County and other sources that are deemed to be reliable.

NEITHER THE 2012A BONDS NOR THE INDENTURE HAVE BEEN REGISTERED WITH THE SECURITIES AND EXCHANGE COMMISSION BY REASON OF THE PROVISIONS OF SECTION 3(A)(2) OF THE SECURITIES ACT OF 1933, AS AMENDED. THE REGISTRATION OR QUALIFICATION OF THE 2012A BONDS AND THE INDENTURE IN ACCORDANCE WITH APPLICABLE PROVISIONS OF SECURITIES LAWS OF THE STATES IN WHICH THE 2012A BONDS AND THE INDENTURE HAVE BEEN REGISTERED OR QUALIFIED, AND THE EXEMPTION FROM REGISTRATION OR QUALIFICATION IN OTHER STATES, SHALL NOT BE REGARDED AS A RECOMMENDATION THEREOF.

In making an investment decision, investors must rely on their own examination of the terms of the offering, including the merits and risks involved. These securities have not been recommended by any federal or state securities commission or regulatory authority. Furthermore, the foregoing authorities have not confirmed the accuracy or determined the adequacy of this document. Any representation to the contrary is a criminal offense.

All quotations from and summaries and explanations of laws and documents herein do not purport to be complete, and reference is made to such laws and documents for full and complete statements of their provisions. Any statements made in this Official Statement involving estimates or matters of opinion, whether or not expressly so stated, are intended merely as estimates or opinions and not as representations of fact. The information and expressions of opinion herein are subject to change without notice, and neither the delivery of this Official Statement nor any sale of the 2012A Bonds shall under any circumstances create any implication that there has been no change in the affairs of the County since the date hereof.

The Underwriters have provided the following sentence for inclusion in this Official Statement: The Underwriters have reviewed the information in this Official Statement in accordance with, and as part of, their responsibilities to investors under the federal securities laws as applied to the facts and circumstances of this transaction, but the Underwriters do not guarantee the accuracy or completeness of such information.

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\$ \_\_\_\_\_ \*

**Watauga Public Facilities Corporation  
Refunding Limited Obligation Bonds  
(County of Watauga, North Carolina)  
Series 2012A**

**COUNTY OF WATAUGA, NORTH CAROLINA**

**INTRODUCTION**

The purpose of this Official Statement, which includes the Appendices hereto, is to provide certain information in connection with the execution, sale and delivery of the Refunding Limited Obligation Bonds (County of Watauga, North Carolina), Series 2012A, in the aggregate principal amount of \$ \_\_\_\_\_ \* (the “2012A Bonds”) which evidence proportionate undivided interests in rights to receive certain Revenues (as defined herein) pursuant to an Installment Financing Contract, dated as of June 1, 2012 (the “Contract”), between Watauga Public Facilities Corporation (the “Corporation”) and the County of Watauga, North Carolina (the “County”). The 2012A Bonds will be issued pursuant to an Indenture of Trust, dated as of June 1, 2012 (the “Indenture”), between the Corporation and \_\_\_\_\_, as trustee (the “Trustee”).

Simultaneously with the issuance of the 2012A Bonds, \$10,000,000 Refunding Limited Obligation Bond (County of Watauga, North Carolina), Series 2012B (the “2012B Bond” and, together with the 2012A Bonds, the 2012 Bonds) will be issued pursuant to the Indenture. The 2012B Bond will be privately placed with Branch Banking and Trust Company and is not being offered pursuant to this Official Statement. A portion of the proceeds of the 2012B Bonds will be applied to pay a portion of the costs of refinancing the Prior Contract (as defined below and described herein).

Capitalized terms used in this Official Statement, unless otherwise defined herein, have the meanings set forth in Appendix C hereto.

This Introduction provides only certain limited information with respect to the contents of this Official Statement and is expressly qualified by the Official Statement as a whole. Prospective investors should review the full Official Statement and each of the documents summarized or described herein. This Official Statement speaks only as of its date, and the information contained herein is subject to change.

**The County**

The County is a political subdivision of the State of North Carolina (the “State”). See Appendix A hereto for certain information regarding the County. The County’s most recent audited financial statements are contained in Appendix B hereto.

**Purpose**

The proceeds of the 2012A Bonds will be used by the County, together with other funds as described herein, to (1) refinance an installment financing contract, the proceeds of which were used to finance and refinance the acquisition, construction, equipping and furnishing of a high school in the County, as more particularly described herein (the “Prior Contract”) and (2) pay the other costs incurred in connection with the issuance and sale of the 2012A Bonds, all as more particularly described under “THE PLAN OF FINANCE” herein. See the captions “THE PLAN OF FINANCE” and “ESTIMATED SOURCES AND USES OF FUNDS” herein.

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\* Preliminary; subject to change.

## Security

The 2012A Bonds and any other Bonds outstanding under the Indenture (the “Additional Bonds”) evidence proportionate undivided interests in the right to receive certain Revenues under the Contract. The 2012A Bonds are secured by such moneys as may be on deposit under the Indenture. The 2012A Bonds are payable solely from the Installment Payments and certain other moneys as provided in the Indenture. Upon issuance, the 2012A Bonds and the 2012B Bond will be the only Bonds outstanding under the Indenture.

As security for its obligations under the Contract, the County will execute and deliver to a deed of trust trustee (the “Deed of Trust Trustee”), for the benefit of the Corporation or its assignee, a Deed of Trust, Security Agreement and Fixture Filing, dated as of June 1, 2012 (the “Deed of Trust”), granting a lien of record on the Prior Project (as defined herein) and the real property on which such facilities are located, and any additions, modifications, attachments, replacements and parts thereof, as more particularly described in the Deed of Trust (the “Premises”), subject to certain permitted encumbrances as described in the Contract and the Deed of Trust. See the caption “SECURITY AND SOURCES OF PAYMENT OF 2012A BONDS – Deed of Trust” herein. Pursuant to the Indenture, the Corporation will assign to the Trustee for the benefit of the Owners of the 2012A Bonds, the 2012B Bond and any Additional Bonds (a) all rights, title and interest of the Corporation in the Contract (except for certain reserved rights), including its right to receive the Installment Payments thereunder, (b) all rights, title and interest of the Corporation in the Deed of Trust and the Premises and (c) all money and securities from time to time held by the Trustee under the Indenture in any fund or account (except the Rebate Fund). Pursuant to the Contract, the Installment Payments are payable by the County directly to the Trustee. Additional Bonds which have equal rights in the security available to the Owners of the 2012A Bonds and the 2012B Bond may be executed and delivered in accordance with the provisions of the Indenture. See the captions “SECURITY AND SOURCES OF PAYMENT OF 2012A BONDS – Additional Bonds” herein and “SUMMARY OF PRINCIPAL LEGAL DOCUMENTS – The Indenture – Additional Bonds” in Appendix C hereto.

The Deed of Trust will authorize Additional Bonds to be secured by the Deed of Trust, provided that the total amount of present and future obligations secured by the Deed of Trust at any one time does not exceed \$100,000,000 and such future obligations are incurred not later than 30 years from the date of the Deed of Trust.

Under certain conditions, the Deed of Trust Trustee may release portions of the Premises from the lien of the Deed of Trust. See the caption “SECURITY AND SOURCES OF PAYMENT OF 2012A BONDS – Deed of Trust” herein and “SUMMARY OF PRINCIPAL LEGAL DOCUMENTS – The Deed of Trust” in Appendix C hereto.

If a default occurs under the Contract, the Trustee may attempt to dispose of the Premises and apply the proceeds received as a result of any such disposition to the payment of the amounts due to the Owners of the 2012A Bonds, the 2012B Bond and any Additional Bonds. No assurance can be given that any such proceeds will be sufficient to pay the principal and interest with respect to the 2012A Bonds. In addition, no deficiency judgment can be obtained against the County if the proceeds from any such disposition (together with other funds that may be held by the Trustee under the Indenture) are insufficient to pay the 2012 Bonds in full. Neither the 2012A Bonds, the 2012B Bond nor the County’s obligation to make payments under the Contract constitute a pledge of the County’s faith and credit within the meaning of any constitutional provision. See the caption “SECURITY AND SOURCES OF PAYMENT OF 2012A BONDS” herein.

## **The 2012A Bonds**

The 2012A Bonds will be dated their date of initial execution and delivery. Interest is payable on June 1 and December 1 of each year, beginning December 1, 2012, at the rates set forth on the inside cover page of this Official Statement. Principal is payable on June 1 in the years and in the amounts set forth on the inside cover page of this Official Statement.

### **Book-Entry Only**

The 2012A Bonds will be delivered in book-entry form only, without physical delivery of bonds. Payments to beneficial owners of the 2012A Bonds will be made by the Trustee through The Depository Trust Company, New York, New York (“DTC”) and its participants. See “BOOK-ENTRY ONLY SYSTEM” in Appendix E hereto.

### **Tax Status**

In the opinion of Bond Counsel, under existing law, assuming compliance by the County with certain requirements of the Internal Revenue Code of 1986, as amended, interest with respect to the 2012A Bonds (1) is excludable from gross income for federal income tax purposes, (2) is not an item of tax preference for purposes of the federal alternative minimum tax imposed on individuals and corporations and (3) is exempt from State of North Carolina income taxation. See “TAX TREATMENT” herein.

### **Professionals**

BB&T Capital Markets, a division of Scott & Stringfellow, LLC, Richmond, Virginia and \_\_\_\_\_, \_\_\_\_\_, \_\_\_\_\_ (the “Underwriters”) are underwriting the 2012A Bonds. \_\_\_\_\_, \_\_\_\_\_, \_\_\_\_\_, is serving as Trustee with respect to the 2012A Bonds. Parker Poe Adams & Bernstein LLP, Charlotte, North Carolina, is serving as Bond Counsel and counsel to the Corporation. Eggers, Eggers, Eggers, & Eggers, PLLC, Boone, North Carolina, is serving as County Attorney. Womble Carlyle Sandridge & Rice, LLP, Raleigh, North Carolina, is serving as counsel to the Underwriters.

### **Additional Information**

Additional information and copies in reasonable quantity of the principal financing documents may be obtained during the offering period from BB&T Capital Markets at \_\_\_\_\_. After the offering period, copies of such documents may be obtained from the Trustee at \_\_\_\_\_.

The County will undertake in the Contract to provide continuing disclosure of certain annual financial information and operating data and material events regarding the Contract and the 2012 Bonds. See the caption “CONTINUING DISCLOSURE OBLIGATION” herein.

## **THE 2012A BONDS**

### **Authorization**

The 2012A Bonds will be executed and delivered pursuant to the Indenture. The 2012A Bonds evidence proportionate undivided interests in the right to receive certain Revenues pursuant to the Contract. The 2012A Bonds are payable solely from the Installment Payments and certain other moneys as provided in the Indenture.

The County is entering into the Contract under the provisions of Section 160A-20 of the General Statutes of North Carolina, as amended. The Board of Commissioners for the County (the "Board") authorized the County's execution and delivery of the Contract in a resolution adopted on April 17, 2012.

In addition, the County's entering into the Contract received the required approval of the North Carolina Local Government Commission (the "LGC") on May 1, 2012. See "THE LOCAL GOVERNMENT COMMISSION" herein.

## **General**

Payment Terms. The 2012A Bonds will be dated their date of initial execution and delivery. Interest with respect to the 2012A Bonds is payable on each June 1 and December 1 beginning December 1, 2012, at the rates set forth on the inside cover page of this Official Statement (calculated on the basis of a 360-day year consisting of twelve 30-day months). Principal with respect to the 2012A Bonds is payable on June 1 in the years and amounts set forth on the inside cover page of this Official Statement. Payments will be effected through DTC. See "BOOK-ENTRY ONLY SYSTEM" in Appendix E hereto.

Registration and Exchange. So long as DTC or its nominee is the registered owner of the 2012A Bonds, transfers and exchanges of beneficial ownership interests in the 2012A Bonds will be available only through DTC Participants and DTC Indirect Participants. See "BOOK-ENTRY ONLY SYSTEM" in Appendix E hereto. The Indenture describes the provisions for transfer and exchange applicable if a book-entry system is no longer in effect. These provisions generally provide that the transfer of the 2012A Bonds is registrable by the Owners thereof, and the 2012A Bonds may be exchanged for an equal aggregate, unprepaid principal amount of 2012A Bonds of denominations of \$5,000 or any integral multiple thereof and of the same maturity and interest rate, only upon presentation and surrender of the 2012A Bonds to the Trustee at the designated corporate trust office of the Trustee together with an executed instrument of transfer in a form approved by the Trustee in connection with any transfer. The Trustee may require the person requesting any transfer or exchange to reimburse it for any tax or other governmental charge required to be paid with respect to such registration or exchange.

## **Prepayment Provisions**

Optional Prepayment of 2012A Bonds. The 2012A Bonds maturing on or before June 1, 20\_\_, are not subject to optional prepayment before maturity. The 2012A Bonds maturing on or after June 1, 20\_\_, are subject to optional prepayment in whole or in part on any date on or after June 1, 20\_\_, at the option of the County, at a prepayment price equal to 100% of the principal amount of such 2012A Bond to be prepaid, together with accrued interest to the date fixed for prepayment.

**[Mandatory Sinking Fund Prepayment. The 2012A Bonds maturing on June 1, 20\_\_ are subject to mandatory sinking fund prepayment in each year on and after June 1, 20\_\_, by lot from the principal components of the Installment Payments required to be paid by the County under the Contract with respect to each such prepayment date, at a prepayment price equal to 100% of the principal amount thereof to be prepaid, together with accrued interest thereon from the interest components of the Installment Payments required to be paid by the County pursuant to the Contract with respect to each such prepayment date, to the date fixed for prepayment, as follows:**

<u>Year</u>	<u>Amount</u>
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**\* Maturity**

**At its option, to be exercised on or before the 45<sup>th</sup> day next preceding any mandatory prepayment date, the County may (a) deliver to the Trustee for cancellation such 2012A Bonds or portions thereof in any aggregate principal amount desired or (b) receive a credit in respect of its mandatory prepayment obligation for any 2012A Bonds which before such date have been purchased or prepaid (otherwise than through mandatory sinking fund prepayment) and canceled by the Trustee and not theretofore applied as a credit against any mandatory sinking fund prepayment obligation. Each such 2012A Bond or portion thereof so delivered or previously purchased or prepaid and canceled shall be credited at 100% of the principal amount thereof against the Installment Payment obligation corresponding to such mandatory prepayment date and the principal amount of 2012A Bonds to be prepaid on such date shall be accordingly reduced. To the extent that the aggregate principal amount of such 2012A Bonds or portions thereof exceeds the Installment Payment obligation due on such mandatory prepayment date, any excess over such amount shall be credited against future Installment Payment obligations under the Contract, and the principal amount of 2012A Bonds to be prepaid shall be accordingly reduced.]**

General Prepayment Provisions. If the 2012A Bonds are prepaid in part, the 2012A Bonds to be prepaid will be prepaid in such order as the County selects and within the same maturity as selected by DTC pursuant to its rules and procedures or, if the book-entry system with respect to the 2012A Bonds is discontinued as provided in the Indenture, by lot within a maturity in such manner as the Trustee in its discretion may determine; provided, however, that, the 2012A Bonds or portions thereof will be prepaid only in whole multiples of \$5,000.

Except with respect to a mandatory sinking fund prepayment, notice of prepayment identifying the 2012A Bonds or portions thereof to be prepaid shall be given by the Trustee in writing not less than 30 days nor more than 60 days before the date fixed for prepayment by first-class mail, postage prepaid (or, in the case of notice to DTC, by registered or certified mail or otherwise in accordance with DTC's then existing rules and procedures) (a) to DTC or its nominee or to the then-existing securities depositories, or (b) if DTC or its nominee or another securities depository is no longer the Owner of the 2012A Bonds, to the then-registered Owners of the 2012A Bonds to be prepaid at their addresses appearing on the registration books maintained by the Trustee, (c) to the LGC, and (d) to the Municipal Securities Rule Making Board (the "MSRB") in an electronic format as prescribed by the MSRB. Notwithstanding the foregoing, (i) if notice is properly given, failure to receive an appropriate notice will not affect the validity of the proceedings for such prepayment, (ii) the failure to give any such notice or any defect therein will not affect the validity of the proceedings for prepayment of the 2012A Bonds or portions thereof with respect to which notice was correctly given and (iii) the failure to give any such notice to the parties described in clauses (c) and (d) above, or any defect therein, will not affect the validity of any proceedings for prepayment of the 2012A Bonds.

If at the time of mailing of notice of prepayment, there has not been deposited with the Trustee money sufficient to prepay all the 2012A Bonds or portions thereof called for prepayment, which moneys are or will be available for prepayment of such 2012A Bonds, such notice will state that it is conditional on the deposit of the prepayment moneys with the Trustee not later than the opening of business on the prepayment date, and such notice will be of no effect unless such moneys are so deposited.

Before the date fixed for prepayment, funds shall be deposited with the Trustee to pay, and the Trustee is authorized and directed to apply such funds to the payment of, the 2012A Bonds or portions thereof called, together with accrued interest with respect thereto to the prepayment date, and any required premium. Upon the giving of notice and the deposit of such funds for prepayment pursuant to



the Indenture, interest with respect to the 2012A Bonds or portions thereof so called for prepayment will no longer accrue after the date fixed for prepayment.

The 2012A Bonds or portions thereof called for prepayment will be due and payable on the prepayment date at the prepayment price, together with accrued interest with respect thereto to the prepayment date and any applicable prepayment premium. If the required notice of prepayment has been given and money sufficient to pay the prepayment price, together with accrued interest with respect thereto to the prepayment date and any required prepayment premium, have been deposited with the Trustee, the 2012A Bonds or portions thereof so called for prepayment will cease to be entitled to any benefit or security under the Indenture, and the Owners of such 2012A Bonds will have no rights with respect to such 2012A Bonds or portions thereof so called for prepayment except to receive payment of the prepayment price and accrued interest to the prepayment date from such funds held by the Trustee. Upon surrender and cancellation of any 2012A Bonds called for prepayment in part only, a new 2012A Bond or Bonds of the same maturity and interest rate and of authorized denominations, in an aggregate principal amount equal to the unrepaid portion thereof, will be executed on behalf of the Corporation and authenticated and delivered by the Trustee.

If an Event of Default has occurred and is continuing under the Indenture, there will be no prepayment of less than all of the 2012 Bonds Outstanding.

### **THE PLAN OF REFUNDING**

The proceeds of the 2012A Bonds will be used by the County, together with a portion of the proceeds of the 2012B Bond, to (1) refinance an Installment Financing Contract, dated as of April 1, 2008 (the "Prior Contract"), between the County and Branch Banking and Trust Company, the proceeds of which were used to finance and refinance the acquisition, construction, equipping and furnishing of a high school in the County (the "Prior Project") and (2) pay the other costs incurred in connection with the issuance and sale of the 2012A Bonds.

The Premises will consist of the site of the Prior Project, together with all improvements and fixtures located and to be located thereon. The Project is located on approximately \_\_\_ acres of land, consists of \_\_\_\_\_ square feet and can accommodate approximately \_\_\_ students.

### **ESTIMATED SOURCES AND USES OF FUNDS**

The following table presents information as to the estimated sources and uses of funds:

Sources of Funds:

Par Amount of 2012A Bonds  
Net Original Issue Discount (Premium)  
Par Amount of 2012B Bond

Total

Uses of Funds:

Prepayment of Prior Contract  
Costs of Issuance<sup>1</sup>

Total

<sup>1</sup> Includes legal fees, Underwriters' discount, rating agency fees, fees and expenses of the Trustee and miscellaneous fees and expenses.

## **SECURITY AND SOURCES OF PAYMENT OF 2012A BONDS**

The 2012A Bonds, the 2012B Bond and any Additional Bonds evidence proportionate undivided interests in the rights to receive certain Revenues pursuant to the Contract. The 2012A Bonds and the 2012B Bond will be proportionately and ratably secured with any Additional Bonds executed and delivered pursuant to the Indenture. Revenues are defined in the Contract to mean (a) all Net Proceeds not applied to the replacement of the Premises, (b) all Installment Payments and (c) all investment income on all funds and accounts created under the Indenture (other than the Rebate Fund). Notwithstanding the foregoing, the Owner of each 2012A Bond is not entitled to receive more than the amount of principal and interest represented by such 2012A Bond.

### **Installment Payments and Additional Payments**

Under the Contract, the County is required to make the Installment Payments directly to the Trustee in amounts sufficient to provide for the payment of the principal (whether at maturity, by prepayment or otherwise) and interest on the 2012A Bonds, the 2012B Bond and any Additional Bonds hereafter executed and delivered under the Indenture as the same become due and payable.

The County is also obligated under the Contract to pay as Additional Payments to such persons as are entitled thereto, the reasonable and customary expenses and fees of the Trustee and the Corporation, any expenses of the Corporation in defending an action or proceeding in connection with the Contract or the Indenture and any taxes or any other expenses, including, but not limited to, licenses, permits, state and local income, sales and use or ownership taxes or property taxes which the County or the Corporation is expressly required to pay as a result of the Contract (together with interest that may accrue thereon in the event that the County fails to pay the same).

### **Budget and Appropriation**

Pursuant to the Contract, the County shall (a) cause its budget officer (as statutorily defined) to include the Installment Payments and the reasonably estimated Additional Payments coming due in each Fiscal Year in the corresponding annual budget request, (b) require that the deletion of such funds from the County's final budget or any amended budget be made only pursuant to an express resolution of the Board which explains the reason for such action and (c) deliver notice to the Trustee, S&P, Moody's and the LGC within five days after the adoption by the Board of the resolution described in clause (b) above. Nothing contained in the Contract, however, obligates the County to appropriate moneys contained in the proposed budget for the payment of the Installment Payments or the reasonably estimated Additional Payments coming due under the Contract.

In connection with the Installment Payments and the Additional Payments, the appropriation of funds therefor is within the sole discretion of the Board.

### **Deed of Trust**

Concurrently with the execution and delivery of the Contract, the County will execute and deliver the Deed of Trust granting a lien of record on the Premises subject to certain permitted encumbrances as set forth in the Contract and the Deed of Trust. The Deed of Trust authorizes future obligations evidenced by Additional Bonds executed and delivered under the Indenture to be secured by the Deed of Trust, provided that the total amount of present and future obligations secured thereby at any one time does not exceed \$100,000,000 and such future obligations are incurred not later than 30 years from the date of the Deed of Trust.

The Premises will consist of the site of the Project, together with all improvements and fixtures

located and to be located thereon. See “THE PLAN OF REFUNDING” for a further description of the Project. See “CERTAIN RISKS OF 2012A BOND OWNERS” herein.

The Deed of Trust will be recorded in the office of the Register of Deeds of the County of Watauga, North Carolina, and the liens created thereby will be insured by a title insurance policy.

Upon the terms and conditions set forth in the Deed of Trust and so long as there is no event of default under the Deed of Trust, the Trustee, with the Corporation’s consent, must release the Premises or any part thereof from the lien and security interest of the Deed of Trust when and if the following requirements have been fulfilled:

(1) in connection with any release of the Premises, or any part thereof, there is filed with the Corporation a certified copy of the resolution of the Board of the County stating the purpose for which the County desires such release of the Premises, giving an adequate legal description of the part of the Premises to be released, requesting such release and providing for the payment by the County of all expenses in connection with such release;

(2) in connection with the release of any part of the Premises constituting less than the entire Premises, either (A) the value of the Premises remaining after the proposed release (as such value is evidenced by or derived from (i) an appraisal of the remaining Premises prepared by a certified MAI-approved appraiser, (ii) the insured replacement value of the remaining Premises or (iii) the assessed tax valuation of the remaining Premises) is not less than 50% of the aggregate principal components of the Installment Payments then Outstanding under the Indenture or (B) the County (i) provides for the substitution of other real property therefor and the value of the Premises (as such value is evidenced by or derived from (a) an appraisal of the remaining Premises prepared by a certified MAI-approved appraiser, (b) the insured replacement value of the remaining Premises or (c) the assessed tax valuation of the remaining Premises) remaining after the proposed substitution is not less than the value of the Premises (as determined above) immediately before the proposed substitution, (ii) delivers to the Trustee and the Corporation an opinion of Bond Counsel to the effect that the substitution (a) is permitted by law and under the Deed of Trust and (b) will not adversely affect the tax treatment of interest on the Bonds, and (iii) records a modification to the Deed of Trust reflecting such substitution of the Premises;

(3) in connection with the release of any part of the Premises constituting less than the entire Premises, such release will not prohibit the County’s ingress, egress and regress to and from the remainder of the Premises not being released, or materially interfere with the use of the remainder of the Premises not being released; and

(4) in connection with the release of all the property constituting the entire Premises, there is paid to the Corporation an amount sufficient to provide for the payment in full all of the Bonds then Outstanding under the Indenture.

## **Indenture**

Pursuant to the Indenture, the Corporation will assign to the Trustee for the benefit of the Owners of the 2012A Bonds, the 2012B Bond and any Additional Bonds executed and delivered under the Indenture (a) all rights, title and interest of the Corporation in the Contract (except for certain indemnification rights, certain notice rights and the right to Additional Payments payable to the Corporation), including its rights to receive the Installment Payments thereunder and (b) all moneys and securities from time to time held by the Trustee under the Indenture in any fund or account (except the Rebate Fund).

## **Enforceability**

NEITHER THE CONTRACT NOR THE 2012A BONDS CONSTITUTE A PLEDGE OF THE FAITH AND CREDIT OF THE COUNTY WITHIN THE MEANING OF ANY CONSTITUTIONAL DEBT LIMITATION. NO DEFICIENCY JUDGMENT MAY BE RENDERED AGAINST THE COUNTY IN ANY ACTION FOR BREACH OF ANY CONTRACTUAL OBLIGATION UNDER THE CONTRACT, AND THE TAXING POWER OF THE COUNTY IS NOT PLEDGED DIRECTLY OR INDIRECTLY TO SECURE ANY MONEYS DUE THE OWNERS OF THE 2012A BONDS PURSUANT TO THE CONTRACT.

THE REMEDIES AFFORDED TO THE TRUSTEE AND THE OWNERS OF THE 2012A BONDS UPON A DEFAULT BY THE COUNTY UNDER THE CONTRACT ARE LIMITED TO THOSE SPECIFIED IN THE CONTRACT AND THE INDENTURE, INCLUDING EXERCISING THE RIGHTS OF THE BENEFICIARY UNDER THE DEED OF TRUST AND THE RIGHTS OF THE TRUSTEE IN THE FUNDS HELD UNDER THE INDENTURE.

The 2012A Bonds will not constitute a debt or general obligation of the Corporation and will not give the Owners of the 2012A Bonds any recourse to the assets of the Corporation, but will be payable solely from amounts payable by the County under the Contract, from amounts realized on the foreclosure on the Premises pursuant to the Deed of Trust and from funds held in certain funds and accounts under the Indenture for such purpose.

The enforceability of the Indenture, the Contract and the Deed of Trust is subject to bankruptcy, insolvency, fraudulent conveyance and other related laws affecting the enforcement of creditors' rights generally and, to the extent that certain remedies under such instruments require, or may require, enforcement by a court, to such principles of equity as the court having jurisdiction may impose.

See "SUMMARY OF PRINCIPAL LEGAL DOCUMENTS – The Contract – Remedies on Default" in Appendix C for a more complete description of the rights and powers of the Trustee upon the occurrence of an event of default under the Contract.

## **Additional Bonds**

Under the conditions described in the Indenture and so long as no Event of Default has occurred and is continuing under the Indenture, the Corporation may execute and deliver Additional Bonds under the Indenture without the consent of the Owners of the 2012A Bonds, the 2012B Bond or any Additional Bonds then Outstanding under the Indenture to provide funds to pay (a) the cost of acquiring, constructing, renovating and equipping other facilities or acquiring equipment and other capital assets for utilization by the County for public purposes; (b) the cost of refunding of all or any portion of the Bonds then Outstanding or any other installment financing obligations of the County; and (c) the Costs of Issuance relating to the execution, delivery and sale of such Additional Bonds.

The 2012A Bonds and the 2012B Bond are payable on a parity with any Additional Bonds hereafter executed and delivered pursuant to the Indenture. The Installment Payments and any Installment Payments with respect to Additional Bonds issued under the Indenture will be deposited as received by the Trustee in the Bond Fund held by the Trustee. Moneys in the Bond Fund will be withdrawn and used to pay the principal and interest on the 2012A Bonds, the 2012B Bond and any Additional Bonds executed and delivered under the Indenture as the same become due and payable. If on any date the moneys on deposit in the Bond Fund are insufficient to pay all of the principal and interest on the 2012A Bonds, the 2012B Bond or any Additional Bonds executed and delivered under the Indenture which are due and payable on such date, such moneys will be used to pay such principal and interest on the 2012A Bonds, the 2012B Bond and any such Additional Bonds entitled to receive principal or interest

on such date in the manner provided in the Indenture. See “SUMMARY OF PRINCIPAL LEGAL DOCUMENTS – The Indenture – Application of Moneys” in Appendix C.

## **AVAILABLE SOURCES FOR PAYMENT OF INSTALLMENT PAYMENTS**

### **General**

The County may pay its Installment Payments from any source of funds available to it in each year and appropriated therefor during the term of the Contract.

### **General Fund Revenues**

The County’s general fund revenues (excluding fund balance appropriations) for the fiscal year ended June 30, 2011 were \$\_\_\_\_\_. For the fiscal year ended June 30, 2011, the County imposed an ad valorem tax of \$0.\_\_\_\_ per \$100 of assessed value. For the fiscal year ending June 30, 2012, the County imposed an ad valorem tax of \$0.\_\_\_\_ per \$100 of assessed value and \$0.01 per \$100 of assessed value is expected to generate approximately \$\_\_\_\_\_. The General Statutes of North Carolina permit cities to impose ad valorem taxes of up to \$1.50 per \$100 assessed value for certain purposes without the requirement of voter approval. See Appendix A hereto for a detailed description of the sources and uses of the County’s general fund revenues for the fiscal year ended June 30, 2011.

## INSTALLMENT PAYMENT SCHEDULE

The following schedule sets forth for each Fiscal Year of the County ending June 30 the amount of principal and interest required to be paid under the Contract with respect to the 2012A Bonds and 2012B Bond. Totals may not foot due to rounding.

<u>Fiscal Year</u> <u>Ending June 30</u>	<u>2012A Bonds</u>		<u>2012B Bond</u>		<u>Total</u>
	Principal Component of Installment Payments	Interest Component of Installment Payments	Principal Component of Installment Payments	Interest Component of Installment Payments	
2012					
2013					
2014					
2015					
2016					
2017					
2018					
2019					
2020					
2021					
2022					
2023					
2024					
2025					
2026					
2027					
2028					
2029					
2030					
2031					
2032					
Total					

## **CERTAIN RISKS OF 2012A BOND OWNERS**

### **Limited Obligation of the County**

If the Installment Payments to be made by the County are insufficient to pay the principal and interest with respect to the 2012A Bonds, the 2012B Bond and any Additional Bonds, as the same become due or, if any other event of default occurs under the Contract, the Trustee may accelerate the 2012A Bonds and all unpaid principal amounts due by the County under the Contract and foreclose on the County's interest in the Premises under the Deed of Trust.

SECTION 160A-20 OF THE GENERAL STATUTES OF NORTH CAROLINA PROVIDES THAT NO DEFICIENCY JUDGMENT MAY BE RENDERED AGAINST THE COUNTY IN ANY ACTION FOR ANY BREACH OF THE CONTRACT. THE TAXING POWER OF THE COUNTY IS NOT AND MAY NOT BE PLEDGED DIRECTLY OR INDIRECTLY OR CONTINGENTLY TO SECURE ANY MONEYS DUE UNDER THE CONTRACT. THE REMEDIES AFFORDED TO THE TRUSTEE AND THE OWNERS OF THE 2012A BONDS, THE 2012B BOND AND ANY ADDITIONAL BONDS UPON A DEFAULT BY THE COUNTY UNDER THE CONTRACT ARE LIMITED TO THOSE OF A SECURED PARTY UNDER THE LAWS OF THE STATE, INCLUDING FORECLOSING ON THE COUNTY'S INTEREST IN THE PREMISES. THERE CAN BE NO ASSURANCE THAT THE MONEYS AVAILABLE IN THE FUNDS AND ACCOUNTS HELD BY THE TRUSTEE AND THE PROCEEDS OF ANY SUCH FORECLOSURE WILL BE SUFFICIENT TO PROVIDE FOR THE PAYMENT OF THE PRINCIPAL AND INTEREST ON THE 2012A BONDS, THE 2012B BOND AND ANY ADDITIONAL BONDS OUTSTANDING UNDER THE INDENTURE.

### **Risk of Nonappropriation**

The appropriation of moneys to make the Installment Payments under the Contract is within the sole discretion of the County. If the County fails to appropriate such moneys, the only sources of payment for the 2012A Bonds will be the moneys, if any, available in the respective funds and accounts held by the Trustee under the Indenture and the proceeds of any attempted foreclosure. The amount of such proceeds may be adversely affected by (a) the costs and expenses in enforcing the lien on and security interest in the Premises, (b) the condition of the Premises and (c) the occurrence of any damage, destruction, loss or theft of the Premises which is not repaired or replaced and for which there are not received or appropriated moneys from insurance policies or any risk management program.

### **Environmental Risks**

**[The County is not aware of any recognized environmental conditions relating to the Premises. In the Deed of Trust, the County agrees that in the event of the presence of any hazardous materials at the Premises in violation of any applicable environmental laws, whether or not the same originates or emanates from the Premises, the County shall comply with all of the requirements of all environmental laws relating to the remediation thereof.]**

### **Uninsured or Underinsured Casualty**

If (a) any portion of the Premises is partially or totally damaged or destroyed by any fire or other casualty or is wholly or partially taken pursuant to eminent domain proceedings, (b) a material defect in construction of any portion of the Premises becomes apparent; or (c) title to or the use of any portion of the Premises is lost by reason of a defect in title thereto, the County may elect not to repair, restore, improve or replace the affected portion of the Premises if (1) the Net Proceeds are less than \$500,000 and (2) a County Representative certifies to the Corporation that such Net Proceeds are not necessary to

restore the affected portion of the Premises to its intended use. In such event, the County will direct the Trustee to deposit such Net Proceeds in the Bond Fund to be applied toward the next payment of principal and interest with respect to the Bonds. The Contract requires the County to maintain certain insurance with respect to the Premises, but such insurance may not cover all perils to which the Premises is subject or provide sufficient Net Proceeds to fully repair or replace the Premises.

### **Other Indebtedness and Additional Bonds**

There is no limitation on the County entering into additional contracts which provide for obligations the payment on which is subject to appropriation. See Appendix A “Debt Information – Other Long-Term Debt” herein. The Corporation may execute and deliver Additional Bonds under the Indenture that are secured by the Premises, thereby diluting the relative value of the collateral with respect to the 2012A Bonds and 2012B Bond.

### **THE CORPORATION**

The Watauga Public Facilities Corporation is a nonprofit corporation incorporated under the Nonprofit Corporation Act of the State of North Carolina in \_\_\_\_\_, 2012. [The Corporation’s purpose, as stated in its Articles of Incorporation, is to promote the general welfare of the citizens of the County by assisting the County in carrying out its municipal and governmental functions through the acquisition, construction and operation, sale or lease of real estate and improvements, facilities and equipment for the use and benefit of the general public.] The Corporation may participate in other financing transactions for the County in the future.

The Corporation’s Articles of Incorporation require a Board of Directors consisting of not less than \_\_\_\_\_, nor more than \_\_\_\_\_ persons. Directors serve for \_\_\_\_\_ year terms and are elected, appointed or designated by the Board of Directors. The current Board of Directors and officers of the Corporation are as follows:

Director/President  
Director/Vice President  
Director/Secretary/Treasurer

The Corporation’s officers and directors serve without compensation. The Corporation has no employees or assets.

The Corporation’s role in the financing described in this Official Statement will be limited. The Corporation’s officers, directors and counsel will have the opportunity to review this Official Statement and the principal financing documents and to assist in their preparation. The Corporation’s counsel will deliver certain legal opinions in connection with the transaction. The Corporation and the County expect, however, that the Corporation will have no continuing responsibilities or involvement with respect to the Prior Project, its operation or the financing, or with respect to monitoring or providing for compliance with the terms of any of the financing documents. The Corporation has no taxing power, no assets and no employees. The Corporation will not be liable to make any payments of principal, premium, if any, or interest on the 2012 Bonds.

### **THE COUNTY**

See Appendix A for a description of the County.



## **LITIGATION**

[No litigation is now pending or, to the best of the County's knowledge, threatened, against or affecting the County which seeks to restrain or enjoin the authorization, issuance or delivery of the 2012A Bonds or which contests the County's creation, organization or corporate existence, or the title of any of the present officers thereof to their respective offices or the authority or proceedings for the County's authorization, execution and delivery of the Contract, or the County's authority to carry out its obligations thereunder or which would have a material adverse impact on the County's condition, financial or otherwise. In addition, no litigation is now pending or, to the best of the Corporation's knowledge, threatened, against or affecting the Corporation which seeks to restrain or enjoin the authorization, issuance or delivery of the 2012A Bonds or Contract or which contests the validity or the authority or proceedings for the adoption, authorization, issuance or delivery of the 2012A Bonds or the Corporation's creation, organization or corporate existence, or the title of any of the present officers thereof to their respective offices or the authority or proceedings for the Corporation's authorization, issuance or delivery of the 2012A Bonds, the Indenture or the Contract, or the Corporation's authority to carry out its obligations thereunder.]

## **THE LOCAL GOVERNMENT COMMISSION**

The Contract has been approved by the LGC. The LGC is composed of nine members: the State Treasurer, the Secretary of State, the State Auditor, the Secretary of Revenue and five others by appointment (three by the Governor, one by the General Assembly upon the recommendation of the President Pro Tempore of the Senate and one by the General Assembly upon recommendation of the Speaker of the House of Representatives). The State Treasurer serves as Chairman and selects the LGC's Secretary, who heads the LGC's administrative staff.

A major function of the LGC is the approval, sale and delivery of substantially all North Carolina local government general obligation and revenue bonds and notes and the approval of contracts entered into under Section 160A-20 of the North Carolina General Statutes. A second key function is monitoring certain fiscal and accounting standards prescribed for units of local government by The Local Government Budget and Fiscal Control Act. In addition, the LGC furnishes, upon request, on-site assistance to units of local government concerning existing financial and accounting systems as well as aid in establishing new systems. Further, educational programs and materials are provided for local officials concerning finance and cash management. Before approving an installment financing, the LGC must determine, among other things, that (1) the proposed financing is necessary and expedient, (2) the financing, under the circumstances, is preferable to a general obligation or revenue bond issue for the same purpose, and (3) the sums to fall due under the proposed financing are not excessive for the local government.

## **LEGAL MATTERS**

Legal matters related to the sale and issuance of the 2012A Bonds are subject to the approval of Parker Poe Adams & Bernstein LLP, Bond Counsel. The opinion of Parker Poe Adams & Bernstein LLP, as Bond Counsel, substantially in the form set forth in Appendix D hereto, will be delivered at the time of the delivery of the 2012A Bonds. Certain legal matters will be passed on for the County by Eggers, Eggers, Eggers, & Eggers, PLLC.; for the Corporation by Parker Poe Adams & Bernstein LLP; and for the Underwriters by Womble Carlyle Sandridge & Rice, LLP.

Parker Poe Adams & Bernstein LLP is serving as Bond Counsel for the County and, from time to time it and Womble Carlyle Sandridge & Rice, LLP, counsel to the Underwriters, have represented the

Underwriters as counsel in other financing transactions. Neither the County nor the Underwriters have conditioned the future employment of either of these firms in connection with any proposed financing issues for the County or for the Underwriters on the successful issuance of the 2012A Bonds.

## **TAX TREATMENT**

**[To be reviewed by PPAB]**

### **General**

On the date of issuance of the 2012A Bonds, Parker Poe Adams & Bernstein LLP, Raleigh, North Carolina (“Bond Counsel”), will render an opinion that, under existing law and assuming compliance by the County with certain provisions of the Internal Revenue Code of 1986, as amended (the “Code”), the interest on the 2012A Bonds is excludable from gross income for federal income tax purposes and is not an item of tax preference for purposes of the federal alternative minimum tax imposed on individuals and corporations.

The interest on the 2012A Bonds will be taken into account in determining adjusted current earnings of certain corporations (as defined for federal income tax purposes) and such corporations are required to include in the calculation of federal alternative minimum taxable income 75% of the excess of such corporation’s adjusted current earnings over its federal alternative minimum taxable income (determined without regard to this adjustment and prior to reduction for certain net operating losses).

The Code imposes various restrictions, conditions and requirements relating to the exclusion of interest on obligations, such as the 2012A Bonds, from gross income for federal income tax purposes, including, but not limited to, the requirement that the County rebate certain excess earnings on proceeds and amounts treated as proceeds of the 2012A Bonds to the United States Treasury, restrictions on the investment of such proceeds and other amounts, and restrictions on the ownership and use of the facilities financed or refinanced with proceeds of the 2012A Bonds. The foregoing is not intended to be an exhaustive listing of the post-issuance tax compliance requirements of the Code, but is illustrative of the requirements that must be satisfied by the County subsequent to the issuance of the 2012A Bonds to maintain the excludability of the interest on the 2012A Bonds from gross income for federal income tax purposes. Bond Counsel’s opinion is given in reliance on certifications by representatives of the County as to certain facts material to the opinion and the requirements of the Code.

The County has covenanted to comply with all requirements of the Code that must be satisfied subsequent to the issuance of the 2012A Bonds in order that the interest on the 2012A Bonds be, or continues to be, excludable from gross income for federal income tax purposes. The opinion of Bond Counsel assumes compliance by the County with such covenants, and Bond Counsel has not been retained to monitor compliance by the County with such covenants subsequent to the date of issuance of the 2012A Bonds. Failure to comply with certain of such requirements may cause the interest on the 2012A Bonds to be included in gross income for federal income tax purposes retroactive to the date of issuance of the 2012A Bonds. No other opinion is expressed by Bond Counsel regarding the federal tax consequences of the ownership of or the receipt or accrual of interest with respect to the 2012A Bonds.

If the interest on the 2012A Bonds subsequently becomes included in gross income for federal income tax purposes due to a failure by the County to comply with any requirements described above, the Indenture does not require the County to prepay the 2012A Bonds or to pay any additional interest or penalty.

The Internal Revenue Service has established an ongoing program to audit tax-exempt obligations to determine whether interest on such obligations is includible in gross income for federal income tax purposes. Bond Counsel cannot predict whether the Internal Revenue Service will commence an audit of the 2012A Bonds. Prospective purchasers and owners of the 2012A Bonds are advised that, if the Internal Revenue Service does audit the 2012A Bonds, under current Internal Revenue Service procedures, at least during the early stages of an audit, the Internal Revenue Service will treat the County as the taxpayer, and the owners of the 2012A Bonds may have limited rights, if any, to participate in such audit. The commencement of an audit could adversely affect the market value and liquidity of the 2012A Bonds until the audit is concluded, regardless of the ultimate outcome.

Prospective purchasers of the 2012A Bonds should be aware that ownership of the 2012A Bonds and the accrual or receipt of interest on the 2012A Bonds may result in collateral federal income tax consequences to certain taxpayers, including, without limitation, financial institutions, property or casualty insurance companies, individual recipients of Social Security or Railroad Retirement benefits, certain Subchapter S Corporations with “excess net passive income,” foreign corporations subject to the branch profits tax, life insurance companies and taxpayers who may be deemed to have incurred or continued indebtedness to purchase or carry the 2012A Bonds. Bond Counsel does not express any opinion as to any such collateral tax consequences. Prospective purchasers of the 2012A Bonds should consult their own tax advisors as to the collateral tax consequences.

Proposed legislation is considered from time to time by the United States Congress that, if enacted, would affect the tax consequences of owning the 2012A Bonds. No assurance can be given that any future legislation, or clarifications or amendments to the Code, if enacted into law, will not contain provisions which could cause the interest on the 2012A Bonds to be subject directly or indirectly to federal or State of North Carolina income taxation, adversely affect the market price or marketability of the 2012A Bonds or otherwise prevent the owners of the 2012A Bonds from realizing the full current benefit of the status of the interest on the 2012A Bonds.

Bond Counsel is further of the opinion that, under existing law, the interest on the 2012A Bonds is exempt from State of North Carolina income taxation.

Bond Counsel’s opinion is based on existing law, which is subject to change. Such opinion is further based on factual representations made to Bond Counsel as of the date thereof. Bond Counsel assumes no duty to update or supplement its opinion to reflect any facts or circumstances that may thereafter come to Bond Counsel’s attention, or to reflect any changes in law that may thereafter occur or become effective. Moreover, Bond Counsel’s opinion is not a guarantee of a particular result, and is not binding on the Internal Revenue Service or the courts; rather, such opinion represents Bond Counsel’s professional judgment based on its review of existing law, and in reliance on the representations and covenants that Bond Counsel deems relevant to such opinion. Bond Counsel’s opinion expresses the professional judgment of the attorneys rendering the opinion regarding the legal issues expressly addressed therein. By rendering its opinion, Bond Counsel does not become an insurer or guarantor of the result indicated by that expression of professional judgment, of the transaction on which the opinion is rendered, or of the future performance of the County, nor does the rendering of such opinion guarantee the outcome of any legal dispute that may arise out of the transaction.

### **Original Issue Premium**

The 2012A Bonds maturing in the year 20\_\_ are being sold at initial offering prices which are in excess of the principal amount payable at maturity. The difference between (a) the initial offering prices to the public (excluding bond houses and brokers) at which a substantial amount of such 2012A Bonds is sold and (b) the principal amount payable at maturity of such 2012A Bonds constitutes original issue premium, which original issue premium is not deductible for federal income tax purposes. In the case of

an owner of a 2012A Bond, however, the amount of the original issue premium which is treated as having accrued over the term of such 2012A Bond is reduced from the owner's cost basis of such 2012A Bond in determining, for federal income tax purposes, the taxable gain or loss upon the sale, redemption or other disposition of such 2012A Bond (whether upon its sale, redemption or payment at maturity). Owners of 2012A Bonds should consult their tax advisors with respect to the determination, for federal income tax purposes, of the "adjusted basis" of such 2012A Bonds upon any sale or disposition and with respect to any state or local tax consequences of owning a 2012A Bond.

### **Original Issue Discount**

The 2012A Bonds maturing in the year 20\_\_ (the "OID Bond") are being sold at an initial offering price which is less than the principal amount payable at maturity. The difference between (a) the initial offering price to the public (excluding bond houses and brokers) at which a substantial amount of the OID Bond is sold and (b) the principal amount payable at maturity of the OID Bond constitutes original issue discount and is treated as interest which will be excluded from the gross income of and owner of the OID Bond for federal income tax purposes.

In the case of an owner of the OID Bond, the amount of original issue discount on such is treated as having accrued daily over the term of the OID Bond on the basis of a constant yield compounded at the end of each accrual period and is added to the owner's cost basis of the OID Bond in determining, for federal income tax purposes, the gain or loss upon the sale, prepayment or other disposition of the OID Bond (including its sale, prepayment or payment at maturity). Amounts received upon the sale, prepayment or other disposition of the OID Bond which are attributable to accrued original issue discount on the OID Bond will be treated as interest exempt from gross income, rather than as a taxable gain, for federal income tax purposes, and will not be a specific item of tax preference for purposes of the federal alternative minimum tax imposed on corporations and individuals. However, it should be noted that with respect to certain corporations (as defined for federal income tax purposes), a portion of the original issue discount that accrues to a corporate owner of the OID Bond in each year may be taken into account in determining the adjusted current earnings for the purpose of computing the federal alternative minimum tax imposed on such corporations and may result in other collateral federal income tax consequences for certain taxpayers in the year of accrual. Consequently, a corporate owner of the OID Bond should be aware that the accrual of original issue discount on the OID Bond in each year may result in a federal alternative minimum tax liability or other collateral federal income tax consequences, even though such corporate owner may not have received any cash payments attributable to such original issue discount in such year.

Original issue discount is treated as compounding semiannually (which yield is based on the initial public offering price of the OID Bond) at a rate determined by reference to the yield to maturity of the OID Bond. The amount treated as original issue discount on the OID Bond for a particular semiannual accrual period is equal to (a) the product of (i) the yield to maturity for the OID Bond (determined by compounding at the close of each accrual period) and (ii) the amount which would have been the tax basis of the OID Bond at the beginning of the particular accrual period if held by the original purchaser, less (b) the amount of interest payable on the OID Bond during the particular accrual period. The tax basis is determined by adding to the initial public offering price on the OID Bond the sum of the amounts which have been treated as original issue discount for such purposes during all prior accrual periods. If the OID Bond is sold between semiannual compounding dates, original issue discount which would have accrued for that semiannual compounding period for federal income tax purposes is to be appointed in equal amounts among the days in such compounding period.

The Code contains additional provisions relating to the accrual of original issue discount in the case of an owner of the OID Bond who subsequently purchases the OID Bond after the initial offering or at a price difference from the initial offering price during the initial offering of the 2012A Bonds. An

owner of the OID Bond should consult its own tax advisor with respect to the precise determination for federal and state income tax purposes of the amount of original issue discount accrued upon the sale, prepayment or other disposition of the OID Bond as of any date and with respect to other federal, state and local tax consequences of owning and disposing of the OID Bond. It is possible that under the applicable provisions governing the determination of state or local taxes, accrued original issue discount on the OID Bond may be deemed to be received in the year of accrual even though there will not be a corresponding cash payment attributable to such original issue discount until a later year.

### CONTINUING DISCLOSURE OBLIGATION

In the Contract, the County will agree, in accordance with Rule 15c2-12 (the “Rule”) promulgated by the Securities and Exchange Commission (the “SEC”), to provide to the Municipal Securities Rulemaking Board (the “MSRB”):

(1) by not later than seven months after the end of each Fiscal Year, beginning with the Fiscal Year ending June 30, 2012, the audited financial statements of the County for the preceding Fiscal Year, if available, prepared in accordance with Section 159-34 of the General Statutes of North Carolina, as it may be amended from time to time, or any successor statute, or if such audited financial statements are not then available, unaudited financial statements of the County for such Fiscal Year to be replaced subsequently by audited financial statements of the County to be delivered within 15 days after such audited financial statements become available for distribution;

(2) by not later than seven months after the end of each Fiscal Year, beginning with the Fiscal Year ending June 30, 2012, (a) the financial and statistical data as of a date not earlier than the end of the preceding Fiscal Year for the type of information included under the captions “THE COUNTY – Debt Information” and “– Tax Information” (including subheadings thereunder) in Appendix A to this Official Statement (excluding any information on overlapping or underlying units), **[to the extent such items are not included in the audited financial statements referred to in paragraph (1) above];**

(3) in a timely manner not in excess of 10 business days after the occurrence of the event, notice of any of the following events with respect to the 2012 Bonds:

- (a) principal and interest payment delinquencies;
- (b) non-payment related defaults, if material;
- (c) unscheduled draws on debt service reserves reflecting financial difficulties;
- (d) unscheduled draws on credit enhancements reflecting financial difficulties;
- (e) substitution of any credit or liquidity providers, or their failure to perform;
- (f) adverse tax opinions, the issuance by the Internal Revenue Service of proposed or final determinations of taxability, Notices of Proposed Issue (IRS Form 5701-TEB) or other material notices or determinations with respect to the tax status of the 2012 Bonds or other material events affecting the tax status of the 2012 Bonds;

- (g) modifications of the rights of the Beneficial Owners of the 2012 Bonds, if material;
- (h) call of any of the 2012 Bonds, if material, and tender offers;
- (i) defeasance of any of the 2012 Bonds;
- (j) release, substitution, or sale of any property securing repayment of the 2012 Bonds, if material;
- (k) rating changes;
- (l) bankruptcy, insolvency, receivership or similar event of the County;
- (m) the consummation of a merger, consolidation, or acquisition involving the County or the sale of all or substantially all of the assets of the obligated person, other than in the ordinary course of business, the entry into a definitive agreement to undertake such an action or the termination of a definitive agreement relating to such actions, other than pursuant to its terms, if material;
- (n) appointment of a successor or additional trustee or the change of name of a trustee, if material; and

(4) in a timely manner, notice of a failure of the County to provide required annual financial information described in (1) or (2) above on or before the date specified.

The County will agree in the Contract that its undertaking described above is intended to be for the benefit of the Owners and the beneficial owners of the 2012 Bonds and is enforceable by the Trustee or by any of them, including an action for specific performance of the County's obligations described above, but a failure to comply will not be an Event of Default under the Contract and will not result in acceleration of the principal component of Installment Payments. An action must be instituted, had and maintained in the manner provided in the Contract for the benefit of all of the Owners and beneficial owners of the 2012 Bonds.

The County may modify from time to time, consistent with the Rule, the information provided or the format of the presentation of such information, to the extent necessary or appropriate in the judgment of the County, but:

- (1) any such modification may only be made in connection with a change in circumstances that arises from a change in legal requirements, change in law or change in the identity, nature or status of the County;
- (2) the information to be provided, as modified, would have complied with the requirements of the Rule as of the date of this Official Statement, after taking into account any amendments or interpretations of the Rule as well as any changes in circumstances;
- (3) any such modification does not materially impair the interest of the Owners or the beneficial owners, as determined by nationally recognized bond counsel or by the approving vote of the Owners of a majority in principal amount of the 2012 Bonds pursuant to the Indenture as may be amended from time to time.

Any annual financial information containing modified operating data or financial information will explain, in narrative form, the reasons for the modification and the impact of the change in the type of operating data or financial information being provided.

All documents provided to the MSRB as described above are to be provided in an electronic format as prescribed by the MSRB and accompanied by identifying information as prescribed by the MSRB. The County may discharge its undertaking described above by transmitting those documents or notices in a manner subsequently required by the SEC in lieu of the manner described above.

The provisions described in this section terminate on payment, or provision having been made for payment in a manner consistent with the Rule, in full of the principal of and interest with respect to the 2012A Bonds, the 2012B Bond and any Additional Bonds.

**[The County has not failed to provide any information required to be provided by any undertaking previously made by the County pursuant to the requirements of Rule 15c2-12.]**  
**[County to confirm.]**

## UNDERWRITING

The Underwriters have agreed to purchase the 2012A Bonds at a purchase price equal to the par amount of the 2012A Bonds, plus/less a net original issuance premium/discount of \$\_\_\_\_\_ and less an Underwriters' discount of \$\_\_\_\_\_. The Underwriters are committed to take and pay for all of the 2012A Bonds if any are taken.

The Underwriters may offer and sell the 2012A Bonds to certain dealers (including dealers depositing the 2012A Bonds into investment trusts) and others at prices lower than the initial public offering prices stated on the inside cover hereof. The public offering prices may be changed from time to time by the Underwriters.

## RATINGS

**[Fitch Inc., Moody's Investors Service, Inc. and Standard & Poor's Ratings Services, a Standard & Poor's Financial Services LLC]** business, have assigned independent underlying ratings of "\_\_\_", "\_\_\_" and "\_\_\_", respectively, to the 2012A Bonds. The ratings reflect only the view of such rating agencies, and an explanation of the significance of such ratings may be obtained from such rating agencies. Certain information and materials not included in this Official Statement were furnished to such rating agencies. There is no assurance that such ratings will continue for any given period of time or that such ratings will not be revised downward or withdrawn entirely if, in the judgment of such rating agencies, circumstances so warrant. Any such downward revision or withdrawal of such ratings may have an adverse effect on the market price of the 2012A Bonds.

## MISCELLANEOUS

All quotations from and summaries and explanations of the Contract and the Indenture contained herein or in Appendix C hereto do not purport to be complete, and reference is made to such documents for full and complete statements of their respective provisions. The Appendices attached hereto are a part of this Official Statement.

The information contained in this Official Statement has been compiled or prepared from information obtained from the County and other sources deemed to be reliable and, although not

guaranteed as to completeness or accuracy, is believed to be correct as of this date. Any statements involving matters of opinion, whether or not expressly so stated, are intended as such and not as representations of fact.

**WATAUGA PUBLIC FACILITIES CORPORATION**

By: \_\_\_\_\_  
President

**COUNTY OF WATAUGA, NORTH CAROLINA**

By: \_\_\_\_\_  
County Manager



**APPENDIX A**  
**THE COUNTY**

**APPENDIX B**

**FINANCIAL INFORMATION RELATING TO THE  
COUNTY OF WATAUGA, NORTH CAROLINA**

**APPENDIX C**  
**SUMMARY OF PRINCIPAL LEGAL DOCUMENTS**

**APPENDIX D**  
**FORM OF OPINION OF BOND COUNSEL**

**APPENDIX E**

**BOOK-ENTRY ONLY SYSTEM**

## APPENDIX E

### BOOK-ENTRY ONLY SYSTEM

Beneficial ownership interests in the 2012A Bonds will be available only in a book-entry system. The actual purchasers of 2012A Bonds (the “Beneficial Owners”) will not receive physical certificates representing their interests in such 2012A Bonds purchased. So long as The Depository Trust Company (“DTC”), New York, New York, or its nominee is the registered owner of the 2012A Bonds, references in this Official Statement to the Owners of the 2012A Bonds of such series shall mean DTC or its nominee and shall not mean the Beneficial Owners of the 2012A Bonds. The Trust Agreement contains provisions applicable to periods when DTC or its nominee is not the registered owner.

The following description of DTC, of procedures and record keeping on beneficial ownership interests in the 2012A Bonds, payment of interest and other payments with respect to the 2012A Bonds to DTC Participants or to beneficial owners, confirmation and transfer of beneficial ownership interests in the 2012A Bonds and of other transactions by and between DTC, DTC Participants and beneficial owners is based on information furnished by DTC.

DTC will act as securities depository for the 2012A Bonds. The 2012A Bonds will be registered in the name of Cede & Co. (DTC’s partnership nominee) or such other name as may be requested by an authorized representative of DTC. One fully-registered certificate in the aggregate principal amount of the 2012A Bonds will be deposited with DTC. So long as Cede & Co. is the registered owner of the 2012A Bonds, as DTC’s Partnership nominee, reference herein to the Owners or registered owners of the 2012A Bonds of such series shall mean Cede & Co. and shall not mean the beneficial owners of the 2012A Bonds of such series.

DTC, the world’s largest securities depository, is a limited-purpose trust company organized under the New York Banking Law, a “banking organization” within the meaning of the New York Banking Law, a member of the Federal Reserve System, a “clearing corporation” within the meaning of the New York Uniform Commercial Code and a “clearing agency” registered pursuant to the provisions of Section 17A of the Securities Exchange Act of 1934. DTC holds and provides asset servicing for over 3.5 million issues of U.S. and non-U.S. equity issues, corporate and municipal debt issues, and money market instruments from over 100 countries that DTC’s participants (“Direct Participants”) deposit with DTC. DTC also facilitates the post-trade settlement among Direct Participants of sales and other securities transactions in deposited securities through electronic computerized book-entry transfers and pledges between Direct Participants’ accounts. This eliminates the need for physical movement of securities certificates. Direct Participants include both U.S. and non-U.S. securities brokers and dealers, banks, trust companies, clearing corporations and certain other organizations. DTC is a wholly-owned subsidiary of The Depository Trust & Clearing Corporation (“DTCC”). DTCC is the holding company for DTC, National Securities Clearing Corporation and Fixed Income Clearing Corporation, all of which are registered clearing agencies. DTCC is owned by the users of its regulated subsidiaries. Access to the DTC system is also available to others such as both U.S. and non-U.S. securities brokers and dealers; banks trust companies, and clearing corporations that clear through or maintain a custodial relationship with a Direct Participant, either directly or indirectly (“Indirect Participants”). DTC has Standard & Poor’s highest rating: AAA. The DTC Rules applicable to its Participants are on file with the Securities and Exchange Commission. More information about DTC can be found at [www.dtcc.com](http://www.dtcc.com) and [www.dtc.org](http://www.dtc.org).

Purchases of 2012A Bonds under the DTC system must be made by or through Direct Participants, which will receive a credit for 2012A Bonds of such series on DTC’s records. The ownership interest of each actual purchaser of the 2012A Bonds (the “Beneficial Owner”) is in turn to be

recorded on the Direct and Indirect Participants' records. Beneficial Owners will not receive written confirmation from DTC of their purchase. Beneficial Owners are, however, expected to receive written confirmations providing details of the transaction, as well as periodic statements of their holdings, from the Direct or Indirect Participant through which the Beneficial Owner entered into the transaction. Transfers of ownership interests in the 2012A Bonds are to be accomplished by entries made on the books of Direct and Indirect Participants acting on behalf of Beneficial Owners of such 2012A Bonds. Beneficial Owners will not receive certificates representing their ownership interests in 2012A Bonds, except in the event that use of the book-entry system for such 2012A Bonds is discontinued.

To facilitate subsequent transfers, all 2012A Bonds deposited by Direct Participants with DTC are registered in the name of DTC's partnership nominee, Cede & Co. or such name as may be requested by an authorized representative of DTC. The deposit of 2012A Bonds with DTC and their registration in the name of Cede & Co. or such other nominee do not effect any change in beneficial ownership. DTC has no knowledge of the actual Beneficial Owners of the 2012A Bonds; DTC's records reflect only the identity of the Direct Participants to whose accounts such 2012A Bonds are credited, which may or may not be the Beneficial Owners. The Direct and Indirect Participants will remain responsible for keeping account of their holdings on behalf of their customers.

Conveyance of notices and other communications by DTC to Direct Participants, by Direct Participants to Indirect Participants, and by Direct Participants and Indirect Participants to Beneficial Owners will be governed by arrangements among them, subject to any statutory or regulatory requirements as may be in effect from time to time. Beneficial Owners of the 2012A Bonds may wish to take certain steps to augment transmission to them of notices of significant events with respect to such 2012A Bonds, such as prepayments, defaults and proposed amendments to the security documents. For example, Beneficial Owners of the 2012A Bonds may wish to ascertain that the nominee holding such 2012A Bonds for their benefit has agreed to obtain and transmit notices to Beneficial Owners. In the alternative, Beneficial Owners may wish to provide their names and addresses to the registrar and request that copies of notices be provided directly to them.

Prepayment notices shall be sent to DTC. If less than all of the 2012A Bonds within a maturity are being prepaid, DTC's practice is to determine by lot the amount of the interest of each Direct Participant in the 2012A Bonds of such series to be prepaid.

Neither DTC nor Cede & Co. (nor such other DTC nominee) will consent or vote with respect to the 2012A Bonds unless authorized by a Direct Participant in accordance with DTC's procedures. Under its usual procedures, DTC mails an Omnibus Proxy to the Trustee as soon as possible after the record date. The Omnibus Proxy assigns Cede & Co.'s consenting and voting rights to those Direct Participants to whose accounts such 2012A Bonds are credited on the record date (identified in a listing attached to the Omnibus Proxy).

Because DTC is treated as the owner of the 2012A Bonds for substantially all purposes under the Trust Agreement, Beneficial Owners may have a restricted ability to influence in a timely fashion remedial action or the giving or withholding of requested consents or other directions. In addition, because the identity of Beneficial Owners is unknown to the County, to the Corporation, to DTC or to the Trustee, it may be difficult to transmit information of potential interest to Beneficial Owners in an effective and timely manner. **Beneficial Owners should make appropriate arrangements with their broker or dealer regarding distribution of information regarding the 2012A Bonds that may be transmitted by or through DTC.**

Principal, premium, if any, and interest payments with respect to the 2012A Bonds will be made to Cede & Co., or such other nominee as may be requested by an authorized representative of DTC.

DTC's practice is to credit Direct Participants' accounts upon DTC's receipt of funds and corresponding detail information from the Trustee, on the payable date in accordance with their respective holdings shown on DTC's records. Payments by Participants to Beneficial Owners will be governed by standing instructions and customary practices, as is the case with securities held for the accounts of customers in bearer form or registered in "street name," and will be the responsibility of such Participants and not of DTC (nor its nominee), the Trustee, the Corporation or the County, subject to any statutory or regulatory requirements as may be in effect from time to time. Payment of principal, premium, if any, and interest to Cede & Co. (or such other nominee as may be requested by an authorized representative of DTC) is the Trustee's responsibility, disbursement of such payments to Direct Participants is DTC's responsibility, and disbursement of such payments to the Beneficial Owners shall be the responsibility of Direct and Indirect Participants. The County and the Corporation cannot and do not give assurance that Direct and Indirect Participants will promptly transfer payments to Beneficial Owners.

DTC may discontinue providing its services as depository with respect to the 2012A Bonds at any time by giving reasonable notice to the County, the Corporation and the Trustee. Under such circumstances, in the event that a successor depository is not obtained, physical certificates representing interests in 2012A Bonds of such series are required to be printed and delivered. The County may decide to discontinue use of the system of book-entry-only transfers through DTC (or a successor securities depository). In that event, physical certificates will be printed and delivered to DTC.

The County, the Corporation and the Trustee have no responsibility or obligation to DTC, the Direct Participants, the Indirect Participants or the Beneficial Owners with respect to (1) the accuracy of any records maintained by DTC or any Participant, or the maintenance of any records; (2) the payment by DTC or any Participant of any amount due to any Beneficial Owner in respect of the 2012A Bonds, or the sending of any transaction statements; (3) the delivery or timeliness of delivery by DTC or any Participant of any notice to any Beneficial Owner which is required or permitted under the Trust Agreement to be given to Owners; (4) the selection of the Beneficial Owners to receive payments upon any partial prepayment of the 2012A Bonds; or (5) any consent given or other action taken by DTC or its nominee as the registered owner of the 2012A Bonds, including any action taken pursuant to an omnibus proxy.

The information in this section concerning DTC and DTC's book-entry system has been obtained from sources the County and the Corporation believe to be reliable, but the County and the Corporation take no responsibility for the accuracy thereof.



**AGENDA ITEM 9:**

**PUBLIC COMMENT**

**MANAGER'S COMMENTS:**

Time has been reserved to allow citizen comment to address the Board for any area of interest or concern.

**AGENDA ITEM 10:**

**BREAK**

**AGENDA ITEM 11:**

**CLOSED SESSION**

Attorney/Client Matters, per G. S. 143-318.11(a)(3)