

Extract of Minutes of a regular meeting of the Board of Commissioners of the County of Buncombe, North Carolina held in the Commissioners’ Chambers, 30 Valley Street, Asheville, North Carolina, at 4:30 p.m. on September 4, 2012.

\* \* \*

The following members were present:

The following members were absent:

Also present:

\* \* \*

Commissioner \_\_\_\_\_ moved that the following resolution (the “*Resolution*”), a copy of which was available with the Board and which was read by title:

**A RESOLUTION OF THE BOARD OF COMMISSIONERS OF THE COUNTY OF BUNCOMBE, NORTH CAROLINA PROVIDING FOR THE ISSUANCE OF A NOT TO EXCEED \$32,500,000 GENERAL OBLIGATION REFUNDING BOND, SERIES 2012 OF THE COUNTY OF BUNCOMBE, NORTH CAROLINA**

*WHEREAS*, the Bond Order (as defined below) has been adopted, and it is desirable to make provision for the issuance of the Bond authorized by the Bond Order;

*WHEREAS*, the County of Buncombe, North Carolina (the “*County*”) desires to issue its General Obligation Refunding Bond, Series 2012 (the “*Bond*”) and to request that the Local Government Commission (the “*Commission*”) sell the Bond to TD Bank, N.A. (the “*Bank*”), in accordance with the terms provided herein;

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

**Section 1.** For purposes of this Resolution, in addition to the words defined above, the following words will have the meanings ascribed to them below:

“*Bond Order*” means the Bond Order authorizing the General Obligation Refunding Bond adopted by the Board of Commissioners on August 21, 2012 and effective on its adoption.

“*Bond*” means the County’s General Obligation Refunding Bond, Series 2012, authorized under the Bond Order.

“*Code*” means the Internal Revenue Code of 1986, as amended. Each reference to a section of the Code herein will be deemed to include the United States Treasury Regulations proposed or in effect with respect thereto.

“*Federal Securities*” means, to the extent permitted by the General Statutes of North Carolina, as amended, (a) direct obligations of the United States of America for the timely payment of which the full faith and credit of the United States of America is pledged; (b) obligations issued by any agency

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

“*Moody's*” means Moody's Investors Service, a corporation organized and existing under the laws of the State of Delaware, its successors and their assigns and, if such corporation for any reason no longer performs the functions of a securities rating agency, “*Moody's*” will be deemed to refer to any other nationally recognized rating agency other than S&P designated by the County.

“*2002B Bonds*” means the \$39,500,000 aggregate principal amount of the County's Variable Rate General Obligation Bonds, Series 2002B, of which \$32,500,000 is currently outstanding.

“*Refunded Bonds*” means the 2002B Bonds maturing on and after December 1, 2012.

“*Registrar*” means the bond registrar, or alternate or successor registrars selected by the County pursuant to Section 159E-8 of the Registered Public Obligations Act, Chapter 159E of the General Statutes of North Carolina.

“*S&P*” means Standard & Poor's Ratings Services, a Standard & Poor's Financial Services LLC business, its successors and their assigns and, if such corporation for any reason no longer performs the functions of a securities rating agency, “*S&P*” will be deemed to refer to any other nationally recognized rating agency other than Moody's designated by the County.

**Section 2.** The County shall issue its Bond in an aggregate principal amount of \$32,500,000.

**Section 3.** The Bond shall be dated as of its date of issuance and is payable on December 1, 2025. The Bond shall pay interest semiannually on June 1 and December 1, beginning December 1, 2012. The Bond is being issued to refund the Refunded Bonds pursuant to and in accordance with the Bond Order in order to fix and lower the County's debt service costs related to projects financed with the proceeds of the 2002B Bonds, assuming the 2002B Bonds bear interest at their maximum rate of interest until final maturity.

**Section 4.** The Bond is to be numbered “R-1” and shall bear interest from its date at a rate of 1.70% computed on the basis of a 360-day year of twelve 30-day months.

**Section 5.** The Bond shall be registered as to principal and interest, and the Finance Director of the County is directed to maintain the registration records with respect thereto. The Bond shall bear the original or facsimile signatures of the Chairman of the Board or County Manager of the County and the Clerk to the Board. An original or facsimile of the seal of the County is to be imprinted on the Bond.

**Section 6.** The Bond is subject to redemption, in whole or in part, at any time on 30 days’ prior written notice to the Bank at a redemption price of 100% of the principal redeemed, plus accrued interest thereon to the date of redemption plus a Yield Maintenance Fee determined in the manner provided below.

The Yield Maintenance Fee shall be equal to the current cost of funds, specifically the bond equivalent yield for United States Treasury securities (bills on a discounted basis shall be converted to a bond equivalent yield) with a maturity date closest to the remaining term of the Bond, subtracted from 1.70%. If the result is zero or a negative number, there shall be no Yield Maintenance Fee due and payable. If the result is a positive number, then the resulting percentage shall be multiplied by the amount being redeemed times the number of days remaining term of the Bond and divided by 360.

The Bond is subject to redemption before maturity in part at the redemption price of 100% of the principal amount to be redeemed, without premium, on each December 1 in the years and in the amounts as follows:

<u>DATE</u>	<u>PRINCIPAL AMOUNT</u>	<u>DATE</u>	<u>PRINCIPAL AMOUNT</u>
2012	\$2,000,000	2019	\$2,400,000
2013	2,000,000	2020	2,400,000
2014	2,100,000	2021	2,400,000
2015	2,400,000	2022	2,400,000
2016	2,400,000	2023	2,400,000
2017	2,400,000	2024	2,400,000
2018	2,400,000	2025*	2,400,000

\* Maturity

**Section 7.** The Bond and the provisions for the registration of the Bond and for the approval of the Bond by the Secretary of the Commission are to be in substantially the form set forth in Appendix A hereto.

**Section 8.** The Finance Director of the County is hereby authorized to execute a no-arbitrage certificate with respect to the Bond in order to comply with Section 148 of the Code and the applicable Income Tax Regulations thereunder.

**Section 9.** The Finance Director shall cause the proceeds of the sale of the Bond necessary to redeem and discharge the 2002B Bonds to be transferred to The Bank of New York Mellon Trust Company, N.A. , the paying agent with respect to the 2002B Bonds.

**Section 10.** Actions taken by officials of the County to select paying and transfer agents, and a bond registrar, or alternate or successor agents and registrars pursuant to Section 159E-8 of the Registered Public Obligations Act, Chapter 159E of the General Statutes of North Carolina, are hereby authorized and approved.

**Section 11.** The Commission is hereby requested to sell the Bond to the Bank subject to the provisions hereof. The Bond will be non-transferable, except to a bank, insurance company or similar financial institution or any other entity approved by the Local Government Commission.

**Section 12.** The Chairman of the Board, the County Manager, the Finance Director and the Clerk to the Board of the County are hereby authorized and directed to cause the Bond to be prepared and, when they shall have been duly sold by the Commission, to execute the Bond and to turn the Bond over to the registrar and transfer agent of the County for delivery to the Bank.

**Section 13.** The Chairman of the Board, the County Manager, the Finance Director and the Clerk to the Board of the County are authorized and directed, individually and collectively, to execute and deliver for and on behalf of the County any and all additional certificates, documents, opinions or other papers and perform all other acts as may be required by the documents contemplated in this Resolution or as may be deemed necessary or appropriate in order to implement and carry out the intent and purposes of this Resolution.

**Section 14.** Portions of this Resolution may be amended or supplemented, from time to time, without the consent of the owner of the Bond if, in the opinion of nationally recognized bond counsel, such amendment or supplement would not adversely affect the interests of the owner of the Bond and would not cause the interest on the Bond to be included in the gross income of a recipient thereof for federal income tax purposes. All other amendments or supplements to this Resolution require the consent of the owner of the Bond, including any amendment or supplement that would reduce the principal amount of the Bond, reduce the interest rate payable on it, extend its maturity or the times for paying interest, change the monetary medium in which principal and interest is payable.

Any act done pursuant to a modification or amendment consented to by the owner of the Bond is binding on all owners of the Bond and will not be deemed an infringement of any of the provisions of this Resolution, whatever the character of the act may be, and may be done and performed as fully and freely as if expressly permitted by the terms of this Resolution, and after consent has been given, no owner of the Bond has any right or interest to object to the action, to question its propriety or to enjoin or restrain the County from taking any action pursuant to a modification or amendment.

**Section 15.** Nothing in this Resolution precludes (a) the payment of the Bond from the proceeds of refunding bonds or (b) the payment of the Bond from any legally available funds.

If the County causes to be paid, or has made provisions to pay, on maturity or on redemption before maturity, to the owner of the Bond the principal of the Bond (including interest to become due thereon) and, premium, if any, on the Bond, through setting aside trust funds or setting apart in a reserve fund or special trust account created pursuant to this Resolution or otherwise, or through the irrevocable segregation for that purpose in some sinking fund or other fund or trust account with an escrow agent or otherwise, moneys sufficient therefor, including, but not limited to, interest earned or to be earned on Federal Securities, such Bond shall be considered to have been discharged and satisfied, and the principal of the Bond (including premium, if any, and interest thereon) shall no longer be deemed to be outstanding and unpaid; *provided, however*, that nothing in this Resolution requires the deposit of more than such Federal Securities as may be sufficient, taking into account both the principal amount of such Federal Securities and the interest to become due thereon, to implement any such defeasance.

If such a defeasance occurs and after the County receives an opinion of a nationally recognized verification firm that the segregated moneys or Federal Securities together with interest earnings thereon are sufficient to effect a defeasance, the County shall execute and deliver all such instruments as may be necessary to effect such a defeasance and desirable to evidence such release, discharge and satisfaction.

Provisions shall be made by the County, for the mailing of a notice to the owner of the Bond that such moneys are so available for such payment.

**Section 16.** All acts and doings of the Chairman of the Board, the County Manager, the Finance Director of the County and the Clerk to the Board that are in conformity with the purposes and intents of this Resolution and in the furtherance of the issuance of the Bond are in all respects approved and confirmed.

**Section 17.** If any one or more of the agreements or provisions herein contained is held contrary to any express provision of law or contrary to the policy of express law, though not expressly prohibited, or against public policy, or for any reason whatsoever is held invalid, then such covenants, agreements or provisions are null and void and separable from the remaining agreements and provisions and will in no way affect the validity of any of the other agreements and provisions hereof or of the Bond authorized hereunder.

**Section 18.** All resolutions or parts thereof of the Board of Commissioners in conflict with the provisions herein contained are, to the extent of such conflict, hereby superseded and repealed.

**Section 19.** This Bond Resolution is effective on its adoption.

STATE OF NORTH CAROLINA            )  
  )  
COUNTY OF BUNCOMBE                )        ss:

I, *Kathy Hughes*, Clerk to the Board of Commissioners of the County of Buncombe, North Carolina ***DO HEREBY CERTIFY*** that the foregoing is a true and exact copy of a resolution entitled **“RESOLUTION OF THE BOARD OF COMMISSIONERS OF THE COUNTY OF BUNCOMBE, NORTH CAROLINA, PROVIDING FOR THE ISSUANCE OF NOT TO EXCEED \$32,500,000 GENERAL OBLIGATION REFUNDING BOND, SERIES 2012 OF THE COUNTY OF BUNCOMBE, NORTH CAROLINA”** adopted by the Board of Commissioners of the County of Buncombe, North Carolina, at a meeting held on the 4th day of September, 2012.

***WITNESS*** my hand and the corporate seal of the County of Buncombe, North Carolina, this the 4th day of September, 2012.

\_\_\_\_\_  
Kathy Hughes  
Clerk to the Board  
County of Buncombe, North Carolina

[SEAL]

**APPENDIX A**

**FORM OF BOND**

No. R-1

\$32,500,000

**UNITED STATES OF AMERICA  
STATE OF NORTH CAROLINA  
COUNTY OF BUNCOMBE**

**INTEREST**

<u>RATE</u>	<u>MATURITY DATE</u>	<u>DATED DATE</u>
1.70%	DECEMBER 1, 2025	OCTOBER 1, 2012

**REGISTERED OWNER: TD BANK, N.A.**

**PRINCIPAL SUM: THIRTY-TWO MILLION FIVE HUNDRED THOUSAND DOLLARS**

**GENERAL OBLIGATION REFUNDING BOND, SERIES 2012**

*THE COUNTY OF BUNCOMBE, NORTH CAROLINA* (the “County”) acknowledges itself indebted and for value received hereby promises to pay to the Registered Owner named above, on the Maturity Date specified above, on surrender hereof, the Principal Sum shown above and to pay to the Registered Owner hereof interest thereon from the date of this Bond until it shall mature at the Interest Rate per annum specified above, payable on December 1, 2012 and semiannually thereafter on June 1 and December 1 of each year. Principal of and interest on this Bond are payable in immediately available funds to the owner of the Bond shown above at the close of business on the 15<sup>th</sup> day of the month preceding an interest payment date or a bond payment date.

This Bond is issued in accordance with the Registered Public Obligations Act, Chapter 159E of the General Statutes of North Carolina, and pursuant to The Local Government Finance Act, a bond order adopted by the Board of Commissioners of the County on August 21, 2012 and effective on the date of its adoption. The Bond is issued to provide funds to (1) refund in advance of their maturities \$32,500,000 aggregate principal amount of the County of Buncombe, North Carolina Variable Rate General Obligation Bonds, Series 2002B and (2) pay the costs of issuing the Bond.

This Bond is subject to redemption, in whole or in part, at any time on 30 days’ prior written notice to the Bank at a redemption price of 100% of the principal redeemed, plus accrued interest thereon to the date of redemption plus a Yield Maintenance Fee determined in the manner provided below.

The Yield Maintenance Fee shall be equal to the current cost of funds, specifically the bond equivalent yield for United States Treasury securities (bills on a discounted basis shall be converted to a bond equivalent yield) with a maturity date closest to the remaining term of the Bond, subtracted from 1.70%. If the result is zero or a negative number, there shall be no Yield Maintenance Fee due and payable. If the result is a positive number, then the resulting percentage shall be multiplied by the amount being redeemed times the number of days remaining term of this Bond and divided by 360.

This Bond is subject to redemption before maturity in part at the redemption price of 100% of the principal amount to be redeemed, without premium, on each December 1 in the years and in the amounts as follows:

<u>DATE</u>	<u>PRINCIPAL AMOUNT</u>	<u>DATE</u>	<u>PRINCIPAL AMOUNT</u>
2012	\$2,000,000	2019	\$2,400,000
2013	2,000,000	2020	2,400,000
2014	2,100,000	2021	2,400,000
2015	2,400,000	2022	2,400,000
2016	2,400,000	2023	2,400,000
2017	2,400,000	2024	2,400,000
2018	2,400,000	2025*	2,400,000

\* Maturity

The Bond will be non-transferable, except to a bank, insurance company or similar financial institution or any other entity approved by the Local Government Commission.

It is hereby certified and recited that all conditions, acts and things required by the Constitution or statutes of the State of North Carolina to exist, be performed or happen precedent to or in the issuance of this Bond, exist, have been performed and have happened, and that the amount of this Bond, together with all other indebtedness of the County, is within every debt and other limit prescribed by said Constitution or statutes. The faith and credit of the County are hereby pledged to the punctual payment of the principal of and interest on this Bond in accordance with its terms.

This Bond is not valid or obligatory for any purpose until the certification hereon has been signed by an authorized representative of the Local Government Commission.

*IN WITNESS WHEREOF*, the County has caused this Bond to bear the original or facsimile of the signatures of the Chairman of the Board of Commissioners of the County and the Clerk to the Board of Commissioners of the County and an original or facsimile of the seal of the County to be imprinted hereon and this Bond to be dated as of the Dated Date above.

(SEAL)

\_\_\_\_\_  
Clerk to the Board

\_\_\_\_\_  
Chairman

Date of Execution: October 1, 2012

The issue hereof has been approved under the provisions of The Local Government Bond Act.

\_\_\_\_\_  
T. VANCE HOLLOMAN  
Secretary of the Local Government Commission



**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.

**TRANSFER FEE MAY BE REQUIRED**

