

**ORANGE COUNTY  
BOARD OF COMMISSIONERS**

**ACTION AGENDA ITEM ABSTRACT**

**Meeting Date:** November 17, 2009

**Action Agenda**

**Item No.** 4 - K

**SUBJECT:** Adoption of Resolution Approving Qualified School Construction Bond Financing for \$4,136,434 for the Carrboro High School Arts Wing

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**DEPARTMENT:** Financial Services

**PUBLIC HEARING: (Y/N)**

No

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**ATTACHMENT(S):**

Resolution

**INFORMATION CONTACT:**

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Robert Jessup 919-933-9891

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**PURPOSE:** To adopt a resolution approving Qualified School Construction Bond Installment financing in the amount \$4,136,434 under section 160A – 20 of the North Carolina Statutes to finance the Carrboro High School Arts Wing project.

**BACKGROUND:** The Orange County Board of Commissioners has previously approved proceeding with the issuance of alternative financing by the use of an installment contract as authorized under section 160A – 20 of the North Carolina General Statutes. The issuance will finance the Carrboro High School Arts Wing project under the Qualified School Construction Bond (QSCB) program in an amount not to exceed the \$4,136,434 QSCB allocation. The project cost estimate is \$4,577,300. Chapel Hill Carrboro City Schools' has agreed to ask the Chapel Hill Carrboro Board of Education to make available \$441,000 from the pay as you go funding from the County for the project, if necessary, to complete the project.

In addition, the Board has made the necessary findings of fact and conducted a public hearing concerning the project and proposed financing as prescribed under the guidelines of the Local Government Commission. The next step is for the Board to make a determination to proceed with financing and direct staff to execute documents and complete the closing of the financing through the adoption of the attached resolution. Pending Board approval, the Local Government Commission would subsequently consider approval of the financing arrangements at its December 1, 2009 meeting and the closing would occur shortly thereafter. This will enable the County to meet the December 31, 2009 deadline for issuance of financing for the 2009 QSCB allocation.

As noted during previous Board discussions, the QSCB is taxable financing with a tax credit designed to result in a zero percent (0%) rate to the County. There are very limited financing sources currently available for this type of financing. Under the current tax credit rates being issued by the US Treasury, financing sources are requiring supplemental interest coupons for this financing program. Branch Banking & Trust (BB&T) has reconsidered its earlier decision not to participate in this type of financing, and staff has negotiated with BB&T a 1.81% supplemental

coupon over a 15-year term with annual payments. Staff believes this is a good rate under the current market conditions for this program. The first debt service payment would occur in December of 2010.

At this time staff is proposing the Board approve going forward with the financing and approve the attached resolution, which includes the terms of the financing, and authorize staff to execute documents and complete the closings of the financing.

**FINANCIAL IMPACT:** The debt service for the financing proposal will require debt service of \$350,631.40 for Fiscal Year 2010-11. The tax rate equivalent for FY 2010-11 debt service is estimated at approximately .23 cents.

**RECOMMENDATION(S):** The Manager recommends that the Board adopt the resolution authorizing staff to proceed with the recommended financing proposals and directing staff to execute documents and complete the closings of the financings.

**Resolution Providing Final Approval of Terms and Agreements  
For County's 2009 QSCB Financing – Carrboro Arts Wing**

**WHEREAS:**

The Orange County Board of Commissioners has previously indicated its intent to proceed with the construction of the proposed Arts Wing at Carrboro High School (the "Project"). The County has also made a preliminary determination to finance Project costs by the use of an installment contract, as authorized under Section 160A-20 of the North Carolina General Statutes, that qualifies as a "qualified school construction bond" (a "QSCB"). The QSCB program is a federal tax credit program that provides for very low cost financing for qualified school projects.

The Finance Officer has obtained for the County a proposal from Branch Banking and Trust Company ("BB&T") to provide the QSCB installment financing to the County.

***BE IT RESOLVED*** by the Board of Commissioners of Orange County, North Carolina, as follows:

***1. Determination To Proceed with Project*** -- The Board confirms its decision to carry out the Project. The County will carry out the Project with financing from BB&T, substantially in accordance with a financing proposal dated November 5, 2009.

Under the financing plan, BB&T will make funds available to the County for use on Project costs. The County will repay the amount advanced, with interest, over time. The County will grant to BB&T a mortgage-type interest in Carrboro High School to secure the County's repayment obligation.

***2. Direction To Execute Documents*** -- The Board authorizes and directs the Board's Chair, the County Manager and the County Finance Officer, or any of them, to act on the County's behalf and execute and deliver all appropriate Agreements and other documents (the "Agreements") for the proposed financing. It is the Board's understanding that the Agreements will be in forms acceptable to the North Carolina Local Government Commission, and substantially similar to those used by BB&T in similar financings provided to the County and other North Carolina local governments, with appropriate modifications to reflect the characteristics of the QSCB program.

The execution and delivery of any document by an authorized County officer will be conclusive evidence of the approval of the final form of such document. The Agreements in final form, however, must provide (a) for the amount financed not to exceed \$4,136,434, (b) for a financing term not to extend more than 15 years from the

loan closing date, and (c) for an annual interest rate not to exceed 1.81% (in the absence of a default, or a change in tax status).

In addition, the Board's Chair and the County Manager, or either of them, are authorized and directed to approve, execute and deliver any further documents and agreements they deem desirable for carrying out the purposes and intents of this resolution. It is the Board's understanding that the financing documents may include (a) a lease agreement, providing for the School Board to continue to use the transferred school property during the term of the financing, and (b) a project agreement, under which the School Board will carry out the planned school improvements on the County's behalf.

The execution and delivery of any document by an authorized officer will be conclusive evidence of his approval of the final form of such document.

**3. *Authorization to Officers To Complete Closing*** – The Board authorizes and directs the Finance Officer and all other County officers and employees to take all proper steps to complete the financing pursuant to the Agreements and as contemplated by this resolution. The Board authorizes and directs the Finance Officer to hold executed copies of all documents and instruments authorized or permitted by this resolution in escrow on the County's behalf until the conditions for their delivery have been completed to such officer's satisfaction, and thereupon to release the executed copies of such documents and instruments for delivery to the appropriate persons or organizations.

Without limiting the generality of the foregoing, the Board specifically authorizes the Finance Officer to approve changes to any documents previously signed by County officers or employees, provided that such changes do not conflict with this resolution or substantially alter the intent of the document from that expressed in the form originally signed. The Finance Officer's authorization of the release of any such document for delivery will constitute conclusive evidence of such officer's approval of any such changes.

In addition, the Finance Officer is authorized and directed to take all appropriate steps for the efficient and convenient carrying out of the County's on-going responsibilities under the Agreements. This authorization includes, without limitation, contracting with third parties for reports and calculations that may be required under the Agreements.

**4. *Resolutions as to Tax Matters*** -- The County will not take or omit to take any action the taking or omission of which will cause its obligations to pay principal and interest (the "Obligations") to be "arbitrage bonds," within the meaning of Section 148 of the United States Internal Revenue Code of 1986, as amended, including the applicable Treasury regulations (the "Code").

5. ***Designation as a QSCB*** – The County designates the Obligations as a “qualified school construction bond” for the purposes of, and within the meaning of, Code Section 54F. The County and BB&T intend that the financing will qualify as a QSCB.

6. ***Miscellaneous Provisions*** -- All County officers and employees are authorized and directed to take all such further action as they may consider necessary or desirable in furtherance of the purposes of this resolution. All such prior actions of County officers and employees are ratified, approved and confirmed. Upon the absence, unavailability or refusal to act of the County Manager, the Board’s Chair or the Finance Officer, any other of such officers may assume any responsibility or carry out any function assigned in this resolution. All other Board proceedings, or parts thereof, in conflict with this resolution are repealed, to the extent of the conflict. This resolution takes effect immediately.

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I certify that the foregoing resolution was duly adopted at a meeting of the Board of Commissioners of Orange County, North Carolina, duly called and held on November 17, 2009, and that a quorum was present and acting throughout such meeting. Such resolution remains in full effect as of today.

Dated this \_\_\_\_ day of November, 2009.

[SEAL]

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Donna S. Baker  
Clerk, Board of Commissioners  
Orange County, North Carolina