

**FAYETTEVILLE CITY COUNCIL
AGENDA
REGULAR MEETING
SEPTEMBER 14, 2009
7:00 P.M.**

VISION STATEMENT

**The City of Fayetteville
is a GREAT PLACE TO LIVE with
a choice of DESIRABLE NEIGHBORHOODS,
LEISURE OPPORTUNITIES FOR ALL,
and BEAUTY BY DESIGN.**

**Our City has a VIBRANT DOWNTOWN,
the CAPE FEAR RIVER to ENJOY, and
a STRONG LOCAL ECONOMY.**

**Our City is a PARTNERSHIP of CITIZENS
with a DIVERSE CULTURE and RICH HERITAGE,
creating a SUSTAINABLE COMMUNITY.**

**FAYETTEVILLE CITY COUNCIL
SEPTEMBER 14, 2009
7:00 P.M.
CITY HALL COUNCIL CHAMBER**

INVOCATION

PLEDGE OF ALLEGIANCE

ITEM 1. APPROVAL OF AGENDA

ITEM 2. PUBLIC FORUM:

A. Announcements and Recognition

B. Comment Period

The public forum is designed to invite citizen input and discussion. The public forum is held on the second Monday of every month and shall be the first item of business after the Approval of the Agenda. The public forum shall last no longer than 15 minutes. The Mayor shall have the discretion to extend the public forum up to 30 minutes. Each speaker shall have up to two (2) minutes to speak. Anyone desiring to speak may sign up in advance with the City Clerk located on the Second Floor, City Hall, 433 Hay Street, Fayetteville, N.C., by FAX at (910) 433-1980, or by e-mail at cityclerk@ci.fay.nc.us. If speakers provide the subject matter ahead of the meeting, the City staff can ensure that appropriate information is available at the meeting. This information, however, is not required.

ITEM 3. CONSENT:

**A. City Attorney/Real Estate-Declare Real Property Surplus
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**B. City Attorney/Real Estate-Land Acquisition
PAGE: 3**

**C. Community Development-Contract Award-Homeless
Prevention and Rapid Re-housing Program Grant
PAGE: 5**

- D. **Finance-Special Revenue Project Ordinance 2010-8 (FY2009 American Reinvestment and Recovery Act (ARRA) COPS Hiring Recovery Program Grant)**
PAGE: 6
- E. **Finance- Tax Refunds of Greater Than \$100**
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- F. **Planning-Special Sign Permit for Event Signs from 9/26 through 10/4, at Six Locations, for the Home Builders' Parade of Homes**
PAGE: 10
- G. **Police - Wrecker Ordinance**
PAGE: 12
- H. **PWC-Annexation, Phase V, Project 2, Area 6 "South LaGrange to State Utility Contractors, Monroe, NC, the lowest responsive, responsible bidder in the total amount of \$1,310,744.93**
PAGE: 28
- I. **PWC-Annexation, Phase V, Project 2, Area 7 "Summerhill/Roundtree to ES&J Enterprises, Inc., Autryville, NC, the lowest responsive, responsible bidder in the total amount of \$1,973,196.70**
PAGE: 32
- J. **Fire-Transfer Ownership of 1990 GMC Top Kick Service Unit to Grays Creek Volunteer Fire Dept., Station #24**
PAGE: 36

ITEM 4. APPOINTMENT COMMITTEE-PRESENTATION OF APPOINTMENT COMMITTEE RECOMMENDATIONS FOR BOARD/COMMISSION APPOINTMENTS

PRESENTED BY: Council Member Bobby Hurst, District

RECOMMENDED ACTION: Approve Appointment Committee recommendations for board and commission appointments.

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ITEM 5. CITY MANAGER-CITY OF FAYETTEVILLE: STATUS REPORT OF ECONOMIC INDICATORS

PRESENTED BY: Dale Iman, City Manager

RECOMMENDED ACTION: For information only.

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**ITEM 6. FINANCE-BOND ORDER AUTHORIZING AND APPROVING THE ISSUANCE AND SALE OF NOT TO EXCEED \$145,000,000 PUBLIC WORKS COMMISSION REVENUE REFUNDING BONDS
PRESENTED BY: Lisa Smith, Chief Financial Officer**

RECOMMENDED ACTION: Adopt the bond order authorizing and approving the issuance and sale of not to exceed \$145,000,000 Public Works Commission Revenue Refunding Bonds, Series 2009A.

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**ITEM 7. FINANCE-BOND ORDER AUTHORIZING AND APPROVING THE ISSUANCE AND SALE OF NOT TO EXCEED \$45,000,000 PUBLIC WORKS COMMISSION REVENUE BONDS
PRESENTED BY: Lisa Smith, Chief Financial Officer**

RECOMMENDED ACTION: Adopt the bond order authorizing and approving the issuance and sale of not to exceed \$45,000,000 Public Works Commission Revenue Bonds, Series 2009B.

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**ITEM 8. FINANCE-RESOLUTION PROVIDING FOR THE ISSUANCE OF NOT TO EXCEED \$14,000,000 GENERAL OBLIGATION REFUNDING BONDS, SERIES 2009
PRESENTED BY: Lisa Smith, Chief Financial Officer**

RECOMMENDED ACTION: Adopt the Resolution Providing For The Issuance Of Not To Exceed \$14,000,000 General Obligation Refunding Bonds, Series 2009.

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ITEM 9. INFORMATION ITEMS

**1. Monthly Statement of Taxes Collected for the Month of August 2009 from the Cumberland County Tax Administrator
PAGE: 141**

**2. Report of the City of Fayetteville Taxes for the 2009-2010 Fiscal Year from Cumberland County Tax Administrator
PAGE: 146**

**3. Report of Tax Refunds Less Than \$100
PAGE: 148**

POLICY REGARDING NON-PUBLIC HEARING AGENDA ITEMS

Anyone desiring to address the Council on an item that is not a public hearing must present a written request to the City Manager by 10:00 a.m. on the Wednesday preceding the Monday meeting date.

POLICY REGARDING PUBLIC HEARING AGENDA ITEMS

Individuals wishing to speak at a public hearing must register in advance with the City Clerk. The Clerk's Office is located in the Executive Offices, Second Floor, City Hall, 433 Hay Street, and is open during normal business hours. Citizens may also register to speak immediately before the public hearing by signing in with the City Clerk in the Council Chamber between 6:30 and 7:00 p.m.

**POLICY REGARDING CITY COUNCIL MEETING PROCEDURES
SPEAKING ON A PUBLIC AND NON-PUBLIC HEARING ITEM**

Individuals who have not made a written request to speak on a non-public hearing item may submit written materials to the City Council on the subject matter by providing twenty (20) copies of the written materials to the Office of the City Manager before 5:00 p.m. on the day of the Council meeting at which the item is scheduled to be discussed.

**COUNCIL MEETING WILL BE AIRED
SEPTEMBER 14, 2009 - 7:00 PM
COMMUNITY CHANNEL 7**

**COUNCIL MEETING WILL BE RE-AIRED
SEPTEMBER 16, 2009 - 10:00 PM
COMMUNITY CHANNEL 7**

Notice Under the Americans with Disabilities Act (ADA): The City of Fayetteville will not discriminate against qualified individuals with disabilities on the basis of disability in the City's services, programs, or activities. The City will generally, upon request, provide appropriate aids and services leading to effective communication for qualified persons with disabilities so they can participate equally in the City's programs, services, and activities. The City will make all reasonable modifications to policies and programs to ensure that people with disabilities have an equal opportunity to enjoy all City programs, services, and activities. Anyone who requires an auxiliary aid or service for effective communications, or a modification of policies or procedures to participate in the City program, service, or activity, should contact the office of Ron McElrath, Acting ADA Coordinator, at rmcelrath@ci.fay.nc.us, 910-433-1605 or 910-433-1696, or the City Clerk at cityclerk@ci.fay.nc.us, or 910-433-1989, as soon as possible but no later than 48 hours before the scheduled event.

CITY COUNCIL ACTION MEMO

TO: Mayor and Members of City Council
FROM: Cindy Preas, Real Estate Manager
DATE: September 14, 2009
RE: **City Attorney/Real Estate - Declare Real Property Surplus**

THE QUESTION:

How best to respond to a request from Cumberland County for assistance in expediting sale of jointly owned real property.

RELATIONSHIP TO STRATEGIC PLAN:

More Efficient City Government - Cost-Effective Service Delivery

BACKGROUND:

Cumberland County and the City of Fayetteville received joint title to the properties identified as PIN 0428-58-5045 (Preston Avenue), 0447-61-7142 (North Plymouth Street), and 0447-40-3469 (Haywood Street). The County has received an offer to purchase said properties and is requesting the City declare the property surplus and quitclaim the City's interest to the County in order to expedite the sale process.

ISSUES:

- Title to the subject property is jointly held due to foreclosure by the County in its role as tax administrator.
- The subject lots are not located within the Hope VI project area, and are not needed by any City agency.
- The County is in receipt of an offer to purchase the property for a price equaling the foreclosure bid: i.e., 0428-58-5045 - \$6,126.83; 0447-61-7142 - \$3,045.10; and 0447-40-3469 - \$5,362.25. The bids include the City's share of overdue property taxes. Additionally, the City will collect \$1,140.76 of unpaid assessments, which was included in the foreclosure bid.
- If the present bids are declined, there is a good chance the property will remain in joint government ownership not earning taxes and requiring upkeep.

OPTIONS:

- Accept the County's request and quitclaim the City's title to the County.
- Decline the County's request.

RECOMMENDED ACTION:

Adopt the attached resolution declaring the property surplus and authorize the City Manager to sign a quitclaim deed conveying the City's interest to the County in exchange for the City's share of overdue property taxes and assessments.

ATTACHMENTS:

Resolution

**STATE OF NORTH CAROLINA
COUNTY OF CUMBERLAND
CITY OF FAYETTEVILLE**

Resolution R2009_____

**RESOLUTION DECLARING PROPERTY EXCESS
TO CITY'S NEEDS AND QUITCLAIMING CITY TITLE
IN THE PROPERTY TO CUMBERLAND COUNTY**

WHEREAS, the City of Fayetteville and the County of Cumberland jointly own real properties in Cumberland County, said properties having the tax map designation of PIN 0428-58-5045, 0447-61-7142 and 0447-40-3469; and

WHEREAS, the City of Fayetteville has financial interest in the form of unpaid real property taxes plus unpaid City assessments in said parcels 0428-58-5045, 0447-61-7142 and 0447-40-3469; and

WHEREAS, the properties are surplus to the needs of the City of Fayetteville; and

WHEREAS, the County of Cumberland has received an offer to purchase the parcels and requests that the City of Fayetteville join in the sale of the properties by declaring the parcels surplus to the City's needs and quitclaiming the City's title to the County; and

WHEREAS, the City Council of the City of Fayetteville finds such actions to be in the public interest.

NOW THEREFORE, the City Council of the City of Fayetteville hereby declares that the aforesaid real properties surplus to City's needs and authorizes its Manager to sign a deed quitclaiming title to the County of Cumberland.

ADOPTED this _____ day of _____, 2009 by the City Council of the City of Fayetteville, North Carolina.

CITY OF FAYETTEVILLE

(SEAL)

By: _____
ANTHONY G. CHAVONNE, Mayor

ATTEST:

Rita Perry, City Clerk

CITY COUNCIL ACTION MEMO

TO: Mayor and Members of City Council
FROM: Cindy Preas, Real Estate Manager
DATE: September 14, 2009
RE: **City Attorney/Real Estate - Land Acquisition**

THE QUESTION:

How to respond to an offer by Mr. Gordon Rose to convey to the City at a reduced rate eight (8) wooded parcels of land adjacent to the Glenville Lake watershed. The parcels are a potential connector to Little Cross Creek Greenway walking and bicycle trail.

RELATIONSHIP TO STRATEGIC PLAN:

More Attractive City - Clean and Beautiful, Growing City, Livable Neighborhoods - A Great Place to Live

BACKGROUND:

Mr. Gordon Rose representing Rose & Purcell, Inc., now known as The Rose Group, Inc., has offered to the City eight (8) wooded parcels of land in the Greenwood residential subdivision. The properties are being offered at a combined reduced rate of \$9,375.00. The properties are located on or adjacent to Spruce Street and are further identified by Cumberland County Tax PINs 0428-53-6883, 0428-53-6901, 0428-53-7615, 0428-53-9767, 0428-54-2280, 0428-54-5103, 0428-54-4047, and 0428-53-5919. The properties are located adjacent to the Glenville Lake watershed (see attached map).

ISSUES:

- A Phase 1 Environmental Site Assessment has been performed on the properties. Report states there is no evidence of environmental issues on the subject properties.
- The Parks and Recreation Director requests the properties be purchased as a potential connector to Little Cross Creek Greenway walking and bicycle trail.
- If not accepted, development or clearing of the sites could increase runoff and pollutants.

OPTIONS:

- Accept purchase offer.
- Decline purchase offer.

RECOMMENDED ACTION:

Recommend acceptance of the offer.

ATTACHMENTS:

Map



0428-54-2280-

0428-54-5103-

0428-54-4047-

0428-53-5919-

0428-53-6901-

0428-53-8883-

0428-53-9767-

0428-53-7615-

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CITY COUNCIL ACTION MEMO

TO: Mayor and Members of City Council
FROM: Victor D. Sharpe, Community Development Director
DATE: September 14, 2009
RE: **Community Development -Contract Award - Homeless Prevention and Rapid Re-housing Program Grant**

THE QUESTION:

City Council is being requested to approve two contracts for the implementation of the Homeless Prevention and Rapid Re-housing Program Grant through the American Recovery and Reinvestment Act of 2009.

RELATIONSHIP TO STRATEGIC PLAN:

Growing City, Livable Neighborhoods - A Great Place to Live

BACKGROUND:

- The City of Fayetteville has been allocated \$589,648 for the Homeless Prevention and Rapid Re-housing Program (HPRP) through the American Reinvestment and Recovery Act of 2009.
- City Council approved the substantial amendment to the 2008-2009 Annual Action Plan on May 11, 2009 for the Homeless Prevention and Rapid Re-housing Program.
- The purpose of the HPRP is to provide homeless prevention assistance to households who would otherwise become homeless and to provide assistance to rapidly re-house people who are experiencing homelessness.
- Requests for proposals were submitted for non-profit and other public agencies to provide eligible services under the requirements and rules of the program.
- It is recommended that a contract be awarded to Cumberland County Mental Health in the amount of \$150,000 and Gospel Services Benevolent Society in the amount of \$307,903 to assist in providing services eligible under the grant.
- The grant program activities will include financial assistance, housing relocation and stabilization services, data collection and administrative costs.
- The City is also receiving CDBG funding through the American Recovery and Reinvestment Act of 2009. A substantial amendment to the 2008-2009 Annual Action Plan was approved by City Council on May 26, 2009. These funds will be used for a Residential Facade Grant Program and the City's Acquisition and Demolition Program.

ISSUES:

The City has also applied to the State for Homeless Prevention and Rapid Re-housing Program funds. If awarded, we will have additional contracts with Cumberland County Mental Health and Gospel Services Benevolent Society.

OPTIONS:

- Approve contract award.
- Modify contract award.

RECOMMENDED ACTION:

Award contract to Cumberland County Mental Health and Gospel Services Benevolent Society to provide services through the Homeless Prevention and Rapid Re-housing Program Grant.

CITY COUNCIL ACTION MEMO

TO: Mayor and Members of City Council
FROM: Lisa Smith, Chief Financial Officer
DATE: September 14, 2009
RE: **Finance-Special Revenue Project Ordinance 2010-8 (FY2009 American Reinvestment and Recovery Act (ARRA) COPS Hiring Recovery Program Grant)**

THE QUESTION:

The COPS Hiring Recovery Program grant, totaling \$2,528,240, was awarded to the City of Fayetteville Police Department under the American Reinvestment and Recovery Act. This Special Revenue Project Ordinance will appropriate the \$2,528,240 for the COPS program.

RELATIONSHIP TO STRATEGIC PLAN:

Goal 1: Growing City, LIVABLE NEIGHBORHOODS – a great place to live
Objective 1: Low crime rate and reputation as a safe community

BACKGROUND:

- A local match is not required.
- The Police Department will use the grant for 36 months of personnel salary and fringe benefit costs totaling \$2,528,240 to hire 17 full-time sworn officers at a total cost of \$148,720 per officer.

ISSUES:

None

OPTIONS:

- 1) Adopt the Special Revenue Project Ordinance
- 2) Do not adopt the Special Revenue Project Ordinance

RECOMMENDED ACTION:

Adopt the Special Revenue Project Ordinance

ATTACHMENTS:

SRO 2010-8

SPECIAL REVENUE FUND PROJECT ORDINANCE
ORD 2010-8

BE IT ORDAINED by the City Council of the City of Fayetteville, North Carolina, that pursuant to Section 13.2 of Chapter 159 of the General Statutes of North Carolina, the following special revenue project ordinance is hereby adopted:

Section 1. The project authorized is for the funding of the FY2009 American Reinvestment and Recovery Act COPS Hiring Recovery program grant awarded by the U.S. Department of Justice.

Section 2. The project director is hereby directed to proceed with the project within the terms of the various contract agreements executed with the Federal and State governments and within the funds appropriated herein.

Section 3. The following revenues are anticipated to be available to the City to complete the project:

U.S. Department of Justice	\$ 2,528,240
	-
	<u>\$ 2,528,240</u>

Section 4. The following amounts are appropriated for the project:

Project Expenditures	<u>\$ 2,528,240</u>
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Section 5. Copies of this special revenue project ordinance shall be made available to the budget officer and the finance officer for direction in carrying out this project.

Adopted this 14th day of September, 2009.

CITY COUNCIL ACTION MEMO

TO: Mayor and Members of City Council
FROM: Nancy Peters, Accounts Payable Supervisor through Lisa Smith, Chief Financial Officer
DATE: September 14, 2009
RE: **Finance-Tax Refunds of Greater Than \$100**

THE QUESTION:

City Council approval is required to issue tax refund checks for \$100 or greater.

RELATIONSHIP TO STRATEGIC PLAN:

No Relationship

BACKGROUND:

Approved by the Cumberland County Special Board of Equalization for the month of August, 2009.

ISSUES:

None

OPTIONS:

Approve the refund.

RECOMMENDED ACTION:

Approval

ATTACHMENTS:

Finance- Tax Refunds of Greater Than \$100



September 14, 2009

MEMORANDUM

TO: Lisa Smith, Chief Financial Officer *LS*

FROM: Nancy Peters, Accounts Payable *N.P.*

RE: Tax Refunds of Greater Than \$100

The tax refunds listed below for greater than \$100 were approved by the Cumberland County Special Board of Equalization for the month of August, 2009.

NAME	BILL NO.	YEAR	BASIS	CITY REFUND
Carter, Rebecca Jernigan	5740245	2007	Corrected Assessment	105.42
TOTAL				\$105.42

CITY COUNCIL ACTION MEMO

TO: Mayor and Members of City Council
FROM: Karen Hilton, Acting Planning Director
DATE: September 14, 2009
RE: **Planning-Special Sign Permit for Event Signs from 9/26 through 10/4, at Six Locations, for the Home Builders' Parade of Homes**

THE QUESTION:

Approval of Sign Permit

RELATIONSHIP TO STRATEGIC PLAN:

Partnership of Citizens

BACKGROUND:

The sign ordinance contains a provision allowing special signs for major events for the purpose of giving directions and information to include temporary on- and off-premises signs. These signs are subject to a special permit granted by City Council.

The Home Builders Association of Fayetteville is conducting its annual fall Parade of Homes the last weekend of September and first weekend in October. HBAF is requesting approval of six 2-sided sandwich-board type signs to be placed at six intersections identified on the attached letter. The signs will be on display from Friday September 26 through Sunday, October 4.

ISSUES:

The City Council has routinely approved similar requests, including the annual request for the Parade of Homes event signage.

OPTIONS:

1. Grant the sign permit as requested.
2. Deny the request.

RECOMMENDED ACTION:

Staff recommends that Council move to grant the temporary sign permit as requested.

ATTACHMENTS:

Request for Parade of Homes signs, 6 locations

September 4, 2009

PARADE OF HOMES SIGN PETITION REQUEST

TO THE HONORABLE MEMBERS OF THE FAYETTEVILLE CITY COUNCIL

This letter is a formal request for a special use permit as described in section 32-59:9:1.1. of The City of Fayetteville Advertising and Sign Ordinance to allow temporary off premises signs. The purpose of the signs is to advertise the Home Builders Association of Fayetteville's Parade of Homes. The Parade of Homes will be held on the weekends of September 26, 27 and October 3,4 at various locations inside Fayetteville and Cumberland County.

These temporary signs consist of 18" X 24" single and 24" x 24" sandwich types. The signs will simply state- Parade of Homes, this weekend, Saturday and Sunday. The signs will be on display from Friday September 26 – Sunday, October 4. They will be picked up by Monday, October 5.

The following are the locations that are requested:

1. North side of town on Ramsey Street, in front of RBC Homes
2. Corner of Camden Road and Hope Mills Road
3. Corner of Owen Drive and Village Drive, near First Citizens Bank
4. 87/South just past the Deerfield Subdivision
5. Skibo Road, in front of Target
6. Corner of Raeford Road and McPherson Church Road

Thank you in advance for granting this petition.

Sincerely,

Natalie H. Woodbury
Executive Officer
Home Builders Association of Fayetteville

CITY COUNCIL ACTION MEMO

TO: Mayor and Members of City Council
FROM: Tom Bergamine, Chief of Police
DATE: September 14, 2009
RE: Police - Wrecker Ordinance

THE QUESTION:

Whether to approve the proposed ordinance revisions to Article VII, Wrecker & Tow Service of the Fayetteville City Code?

RELATIONSHIP TO STRATEGIC PLAN:

This action is requested based on Principle H of the Council's Strategic Plan, Partnership and Citizens, specifically, working together with citizens to solve problems. Additionally, this is also an initiative under the guiding principle of Operational Efficiency within the Police Department's Community Wellness Plan (Target for Action: Crime Reduction Strategy and Report).

BACKGROUND:

At the City Council Work Session on August 3, 2009, the Police Department, by and through Sergeant Dow and Chief Bergamine, presented information regarding a new management system that will aid citizens in the recovery of towed vehicles and the management of the City's wrecker rotation list. During the presentation, the Council was also provided the proposed ordinance revisions that are necessary for the successful implementation of the new management system.

ISSUES:

Update on status of new Wrecker Ordinance.

OPTIONS:

Approve all ordinance revisions; or approve some ordinance revisions; or decline to approve ordinance revisions.

RECOMMENDED ACTION:

Staff recommends approval of all proposed ordinance revisions.

ATTACHMENTS:

POLICE - Article VII. Wrecker & Tow Service

ARTICLE VII. WRECKER AND TOW SERVICE

Sec. 24-221. Definitions.

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Applicant means a person, firm, or corporation engaged in the business of, or offering the services of, a vehicle wrecker or towing service whereby motor vehicles are or may be towed or otherwise removed from one place to another by the use of a motor vehicle manufactured and designed for the primary purpose of removing and towing disabled motor vehicles.

Chief of police means the executive head of the police department of the city or anyone designated by him.

Licensee means a person, firm or corporation, or employee, agent or contract agent of any person, firm or corporation issued a license under the terms of this article.

Rollback means a truck chassis having a minimum gross vehicle weight rating of 14,000 pounds, a minimum deck length of 16 feet, and being constructed of steel or aluminum. The deck must have a minimum load capacity of 7,000 pounds, a deck winch with a minimum capacity of 6,000 pounds, and a winch cable with a minimum diameter of three-eighths of an inch and a minimum length of 25 feet.

Rotation list means a list maintained by the police department containing the names of those wreckers licensed by the city to respond to requests made by the police department for the towing of vehicles.

Wrecker means a truck chassis having a minimum gross vehicle weight rating of 14,000 pounds, a boom assembly having a minimum lifting power of 16,000 pounds, a wheel lift having a minimum lifting power of 3,000 pounds retracted, as rated by the manufacturer. A wrecker must also have any additional safety equipment as specified by the chief of police and incorporated by reference as set forth in this article. Any licensee that is currently on the rotation list as of September 1, 2000, may meet the requirements set forth in section 24-223 by using the size requirement set forth in section 24-224 until such equipment is replaced.

“Non-consent tow” means a tow occurs without prior consent or authorization of the owner or operator of the motor vehicle that is to be towed. For purposes of this provision, a “non-consent tow” includes:

- (i) a repossession;
- (ii) a city (county) initiated tow from public or private property;
- (iii) a law enforcement initiated tow from public property;
or
- (iv) a tow of a vehicle initiated by a private party.

(Code 1961, § 20-164; Ord. No. S2001-004, §§ 1, 2, 2-5-2001)

Cross references: Definitions generally, § 1-2.

Sec. 24-222. Policy.

In order to protect persons who operate motor vehicles inside the city, it is desirable and necessary to adopt this article to ensure licensing, storage, availability, and other controls over persons and firms licensed to provide wrecker service.

(Code 1961, § 20-165)

Sec. 24-223. Duties and requirements of licensees under this article.

(a) The licensee shall provide a wrecker vehicle of sufficient size and weight as defined in section 24-221. The operator of such wrecker shall follow the manufacturer's operation manual in the operation of such wrecker. The wrecker operator shall not attempt to tow any vehicle that would reduce the weight of the front axles of the wrecker by 50 percent or more.

(b) All wreckers shall be equipped with warning lights required under state law. Wreckers shall operate all warning devices while on scene and while vehicle is in tow. Pursuant to North Carolina state law, all wreckers shall also have the name of the owner printed on both the sides of the vehicle in letters not less than three inches in height.

(c) The licensee shall provide continuous 24-hour-a-day service each day of the year, and there shall be an employee of the licensee, on duty at the storage lot, during regular business hours, 8:00 a.m. to 5:00 p.m., Monday through Friday except for emergencies and wrecker service calls. The daytime calls at the daytime rate will be for calls received from 8:00 a.m. until 5:00 p.m. Monday through Friday. The nighttime call rate will be for calls received from 5:01 p.m. until 7:59 a.m. Monday through Friday. The night rate will be charged for all calls received on weekends and holidays.

(d) The licensee shall assume all liability and shall indemnify and save the city harmless from such liability for damages sustained by vehicles while being towed or stored and for all personal injuries occurring to any of the firm's employees or other persons and shall maintain the required insurance policies.

(e) The licensee shall not release any vehicle directly impounded by the city without authorization by the police department.

(f) The licensee shall charge for services such rates as may be fixed by the city council.

(g) Wrecker services shall perform towing service for the city on a rotation basis.

(h) No licensee or agent of the licensee shall intercept police calls by any means for the purpose of soliciting business.

- (i) No licensee or agent of the licensee shall engage in unfair and deceptive trade practices in the course and operation of its business.
- (j) Only wrecker drivers licensed by the State of North Carolina may respond to city rotation calls. Drivers licensed by states other than North Carolina are prohibited from responding to city rotation calls. Drivers with offenses involving moral turpitude or the offense of driving under the influence of an intoxicating liquor or drug, or who are habitual offenders of traffic laws, will not be authorized to respond to city rotation calls.
- (k) The licensee shall provide:
 - (1) Available space for properly accommodating and protecting a minimum of 15 disabled motor vehicles to be towed or otherwise removed from the place where they are disabled. Such storage space for vehicles shall be enclosed by a minimum six-foot chain link fence or a fence of similar strength and shall have all entrances and exits secure from public access;
 - (2) A storage vault or storage room on the storage lot or premises which is adequate to secure and protect personal property which may be left in vehicles towed to a private wrecker. An office space with proper signage identifying the business and telephone number
 - (3) The storage lot shall be located within the corporate limits of the City Fayetteville. For the purpose of licensing, Licensees are prohibited from operating more than one business out of the same structure, including, but not limited to, buildings, warehouses, or garages. Similarly, licensees are prohibited from sharing any equipment, including, but not limited to, wreckers, vehicles, front-end loaders, or backhoes, with other licensees.
- (l) Licensees shall be held responsible for the actions of their employees. Failure to correct or prevent conduct that is in violation of this article that the Licensee had knowledge of, or should have had knowledge of by the exercise of due diligence, will result in action being taken against the Licensee, up to, and including, removal from the city rotation list.

(Code 1961, § 20-166)

Sec. 24-224. Additional equipment authorized.

- (a) After having met the requirement of subsection 24-223(a), an operator may have an additional wrecker of not less than 10,000 pounds GVW (one ton) with dual rear wheels. This wrecker must have at least a single cable with no smaller than a 5/16 inch in diameter, 100 feet in length and 6,000-pound winch and boom structure and a minimum of 3,000-pound wheel lift as rated by the manufacturer. All auxiliary equipment must be duplicated on this additional wrecker as required by the wrecker inspector for large wreckers.
- (b) After having met the requirement of subsection 24-223(a), an operator may have a rollback for the purpose of initial response to rotation calls. This rollback

must have a minimum gross vehicle weight of 14,000 pounds, a minimum deck length of 16 feet and be constructed of steel or aluminum. The deck winch must have a minimum capacity of 6,000 pounds and a winch cable with a minimum diameter of three-eighths of an inch and a minimum length of 25 feet. All auxiliary equipment must be duplicated on the rollback as required by the wrecker inspector for the primary rotation wrecker, except dollies.

(c) It is not the intent of this section to allow the wrecker defined in subsection (a) of this section to be used as a substitute for that required in subsection 24-223(a), in order to be eligible to be on the rotation list.

(Code 1961, § 20-167; Ord. No. S2001-004, § 3, 2-5-2001)

Sec. 24-225. Application for license.

Any person desiring to be added to the city wrecker rotation list as a licensee for the city shall submit an "application for wrecker service license" in duplicate to the wrecker inspector. Applications shall be obtained from the office of the wrecker inspector. This application shall include:

- (1) The name, home and business address and telephone number of the applicant/owner, and name of the business if different from name of owner;
- (2) That the storage lot on which towed vehicles will be stored is located within the city limits and additional information concerning the size and security features of the lot;
- (3) The towing equipment available, its size and capacity;
- (4) A complete listing of the insurance policies, complying with section 24-229 and the carriers and agents the wrecker applicant would place into effect upon license approval;
- (5) A copy of a current city privilege license;
- (6) Copies of all valid North Carolina driver's licenses for its wrecker drivers.

- (7) Such other information as the wrecker inspector may find reasonably necessary to determine whether or not the requirements of this article will be complied with and that it is in the best interest of the public health, safety and welfare to issue a license to the applicant;

(Code 1961, § 20-168)

Sec. 24-226. Licensing.

(a) Within a reasonable period, but no later than ninety (90) days after receiving an "application for wrecker service license," the wrecker inspector shall conduct an investigation to determine if the applicant has complied with the necessary

standards and criteria of this article, and that it is in the best interest of the public health, safety and welfare that a license shall be issued to the applicant after having complied with the provisions of section 24-223. If approved, the applicant's name shall be placed at the end of rotation list; provided, that if an applicant is refused a license by the wrecker inspector, the applicant shall have the right to appeal the denial to the wrecker review board for a determination concerning the issuance of license to such applicant. The appeal shall be in accordance with section 24-243.

- (b) After the initial approval of the licensing, the wrecker inspector shall conduct an annual inspection to ensure that the licensee maintains the necessary equipment and is otherwise in compliance with the requirements of this article.
- (c) The rotation list shall be limited to thirty wrecker companies. Prospective applications will be placed on a waiting list and considered for selection to the City wrecker rotation list in the order that the applications were received.

(Code 1961, § 20-169)

Sec. 24-227. Mandatory refusal of application.

If an applicant has been convicted, entered a plea of nolo contendere, or received a prayer continued for judgment within the last five years for any criminal offense as defined by Chapters 14 or 90 of the North Carolina General Statutes or the offense of driving under the influence of an intoxicating liquor or drug, or is an habitual offender of traffic laws, it is the finding of the city council that it is not in the best interest of the public health, safety or welfare to issue a license under this article to such applicant and therefore any such application shall be denied.

(Code 1961, § 20-170)

Sec. 24-228. Conditions precedent to issuance of license.

When an application is approved, a license will be issued when:

- (1) Insurance policies required by this article have been procured and a copy of each policy has been given to the wrecker inspector. Each policy shall be written by a company licensed to do business in North Carolina, and issued in the name of the licensee.
- (2) Each licensee must have its own insurance policy to insure its business, including, but not limited to, equipment, employees, real property and other personal property. Licensees are prohibited from including multiple licensees on one policy, or having licensees as additional insured on their respective policies.
- (3) The requirements of this article and all other governing laws and ordinances have been met, including that each licensee maintains a business with a business telephone listing within the city limits. This business will be at the same location as the storage lot.

(Code 1961, § 20-171)

Sec. 24-229. Insurance.

The following are the minimum insurance requirements to be kept and maintained by any licensee under this article at all times such license is in effect:

(1) *Garage liability policy.* A garage liability policy covering the operation of the licensee's business equipment, or other vehicles for any bodily injury or property damage. This policy shall be in the minimum of \$100,000.00 for any one person injured or killed and a minimum of \$300,000.00 for more than one person killed or injured in any accident and an additional \$50,000.00 for property damage.

(2) *Garage keeper's policy.* A garage keeper's legal liability policy for each storage premises covering fire, theft, windstorm, vandalism and explosion in the amount of \$100,000.00 (\$20,000.00 per claim per vehicle). This shall not be a requirements for open storage areas.

(3) *Notice of change.* Each policy required under this section must contain an endorsement by carriers providing ten days' notice to both the city and the insured in the event of any change in coverage under the policy.

(Code 1961, § 20-172)

Sec. 24-230. Hold harmless provision.

Any licensee shall indemnify, save and hold harmless the city, its officers, agents, and employees, from any and all claims, actions, defenses, suits, and proceedings arising out of any negligent, grossly negligent or intentional, willful or wanton misconduct on the part of a licensee, employee, or part-time employee of the licensee, which such misconduct is the proximate cause of damage to any vehicle towed or stored in a lot authorized under the terms of this article.

(Code 1961, § 20-173)

Sec. 24-231. Wrecker inspector; office created.

There is hereby created the office of wrecker inspector, who shall be appointed by the city manager.

(Code 1961, § 20-174)

Sec. 24-232. Duties generally.

The wrecker inspector shall be responsible for:

(1) The practical administration of the wrecker ordinances and regulations and the safety and welfare of the public in connection with the operation and use of rotation wreckers;

(2) The inspection of wreckers;

(3) Advising the chief of police, the city manager, and the wrecker review board with respect to matters governed or incidentally involved in the operation or administration of the wreckers and the rotation wrecker ordinance.

(4) Making recommendations for submission to the city manager, wrecker review board, and to the city council with respect to the adequacy of wrecker service in the city to serve the public convenience and necessity;

(5) Making such studies and recommendations as he may deem advisable looking towards more efficient operation of wreckers and rotation wreckers to the end that the public safety and welfare will be served and proper as adequate wrecker service to the general public will be promoted;

(6) May collect data and statistics related to non-consent tow and release of vehicles.

(7) The wrecker inspector may prescribe procedures for the reporting of information relating to the impound and recovery of non-consent tows and, consistent with law, operate a centralized data system for the tracking of this information.

(8) All other duties as required by this article.

(Code 1961, § 20-175)

Sec. 24-233. Cost and inspections.

(a) Except as provided in section 24-234, all costs incident to towing and storage shall be paid by the owner, or person in charge or possession of the towed and stored vehicle, to the licensee, and a receipt for payment shall be issued to such person. The city shall assume no liability or responsibility for any vehicle removed from any place without the authority of the police department. Each licensee shall maintain approved records and claim check system to assure release of vehicles to the rightful owner or authorized person. Such records shall be open to the police department and/or the wrecker inspector for investigation of specific complaints, in writing, and for compiling surveys under this article. Any licensee shall permit any person appointed by the wrecker inspector to inspect his records, vault, security room, or storage area at such reasonable times as the wrecker inspector shall deem appropriate..

(b) Any administrative costs due to the city, to include any service fee due for the operation and maintenance of a centralized electronic data reporting system, and imposed by this article shall be collected by the licensee at the same time the cost incident to towing and storage are collected in subsection (a) of this section, and immediately paid to the City's Finance Department by the licensee.

(Code 1961, § 20-176)

Sec. 24-234. Wreckers called by the police.

The police department shall ensure that wreckers are called to the scene of an accident or to impound vehicles on a rotation basis, distributing the calls from the rotation list. The chief of police shall not call or cause to be called any wrecker not on the rotation list unless all such wreckers are unavailable, or unless the owner of the vehicle to be towed requests that a specific wrecker be called; any wrecker called by the police department not on the rotation list shall comply with statutory insurance requirements. In accordance with North Carolina General Statute 20-161(f), as may be periodically modified, it is specifically permitted for the police department to call a wrecker out of sequence where, due to the public's health, safety and welfare, or in an emergency or life-threatening situation, proximity to the wreck and estimated response time make it more necessary to do so. Out of sequence calls shall count as rotation calls.

(Code 1961, § 20-177)

Sec. 24-235. Storage of vehicles.

(a) It shall be the responsibility of any licensee to secure in a safe manner any vehicle or personal property contained in such vehicle that is placed in the custody of the licensee as a result of being called by the city police department to perform a tow. The area within which such vehicle and/or personal property shall be stored shall meet the minimum requirements of subsection 16-223(i). If at the time the vehicle was towed the storage area provided by the licensee is full, then the licensee shall secure the vehicle and/or personal property elsewhere as permitted by the police department. In the event that the vehicle or personal property placed in his custody is the subject of a police investigation for evidentiary purposes, and the storage area is full, then the licensee shall immediately contact the wrecker inspector or the desk sergeant on duty and make arrangements to secure the vehicle and/or personal property in a safe manner.

(b) Whenever a vehicle is impounded and held for evidentiary purposes as the result of a criminal arrest, the owner of the vehicle shall be reimbursed by the city for any towing and storage fees incurred during the period of time that the car is held for evidentiary purposes only upon the following conditions:

- (1) If the owner is not arrested with any crime arising out of the alleged criminal activity resulting in the impoundment; or
- (2) If the vehicle is returned pursuant to the provisions of G.S. 90-112.1;

(3) If the owner is arrested, only if the charge is dismissal or there is a finding of no probable cause in district court.

(Code 1961, § 20-178)

Sec. 24-236 Electronic Reporting of Tow Information

(a) The City shall, consistent with state and local law, prescribe a form or other method for the electronic reporting of all non-consent tows in order to facilitate and expedite the recovery of a vehicle from a vehicle storage facility, as defined in this ordinance.

(b) The licensee shall provide to the City, within a reasonable time period, but no later than sixty (60) minutes, all necessary information required to assist the City in notifying the registered owner regarding the towing and release of their vehicle. This information includes, but is not limited to, the following:

- (1) the name and address of the registered owner of the vehicle.
- (2) the location of the stored vehicle;
- (3) a description of the stored vehicle, including the color, make, and model; and
- (4) motor vehicle registration information.

If applicable, the licensee shall also provide the following:

- (1) the owner's driver's license/identification number;
- (2) the date the vehicle was released from custody; and
- (3) the identity of the individual to whom the vehicle was released, to include the name, address and driver's license/identification number if different from that of the registered owner.

Sec. 24-237. Fees.

The city council, from time to time, upon the recommendation of the wrecker inspector, after having consulted with the licensees, shall establish a table of maximum fees and costs that may be charged by licensees under the provisions of this article, and establish any administrative fees to be charged per tow for the costs incurred in administering the provisions of this article, including the assessment of an administrative fee for all non-consent tows initiated under this ordinance.

(Code 1961, § 20-179)

Sec. 24-238. Other regulations.

The wrecker inspector, subject to approval by the city manager, shall establish and cause the enforcement of reasonable rules and regulations for licensees as from time to time he deems appropriate for the safety, well-being, and protection of citizens

within his jurisdiction and their property. These rules and regulations, as approved by the city manager from time to time, shall be incorporated in this section by reference. A copy of these rules and regulations shall be available for inspection in the office of the wrecker inspector at all times.

(Code 1961, § 20-180; Ord. No. S2001-004, § 4, 2-5-2001)

Sec. 24-239. Solicitation of business.

(a) It shall be unlawful for the operator of any wrecker or person acting on behalf of any wrecker or towing service, whether that vehicle or towing service is licensed under the provisions of this article or not, to stop or approach within 1,500 feet of a scene of an accident or disabled vehicle either for the purpose of soliciting an engagement for towing service, either directly or indirectly, or to contact the owner/operator or legal possessor of a disabled or wrecked vehicle, either directly or indirectly, or to solicit by phone, for the purpose of soliciting business or to furnish any towing service, unless the wrecker operator has been summoned to such scene by the owner/operator or legal possessor of a disabled or wrecked vehicle or has been requested to perform such service at the request of a law enforcement officer or agency pursuant to that agency's procedures. For purposes of this section, unlawful solicitation shall include the distributing of business cards, tokens or items of any kind bearing the name of a wrecker or towing firm within 1,500 feet of a scene of an accident or disabled vehicle by a licensee not summoned to such scene as provided in this section.

(b) It shall be unlawful for a city, county or state employee to solicit for any towing or wrecker service. For purposes of this section, unlawful solicitation shall include the distributing of business cards, tokens or items of any kind bearing the name of a wrecker or towing firm at anytime.

(Code 1961, § 20-181; Ord. No. S2001-004, § 5, 2-5-2001)

Sec. 24-240. Suspension or revocation of license.

(a) The following shall be grounds for suspension or revocation of a license issued under this article:

(1) The license was secured by fraud or by the concealment of a material fact by the licensee and such fact, if known, would have caused a refusal to issue a license;

(2) The licensee, or any employee, representative or agent of the licensee, is charged with any criminal offense as defined by Chapters 14 or 90 of the North Carolina General Statutes, or the offense of driving under the influence of an intoxicating liquor or drug.

(3) The licensee failed to procure insurance as provided in Sections 24-228 and 24-229.

(4) The licensee has violated any of the requirements of the regulations established by the wrecker inspector under this article;

- (5) Past services rendered by any licensee are shown to be detrimental to the public health, safety, and welfare, including overcharging of wrecker fees or false charging of items done by the wrecker business;
- (6) The licensee paid in the form of a gratuity any third person for information as to the location of the accident;
- (7) The licensee has violated the fee schedule by overcharge or false charges;
- (8) Failure to operate the wreckers specified in such a manner as to serve the public adequately and efficiently;
- (9) Failure to maintain recovery equipment, to include all vehicles used in towing, in good condition;
- (10) Failure to pay the city privilege license fee imposed upon licensees;
- (11) Failure to report accidents while towing city rotation call vehicles or to furnish such other records and reports as may be required by this chapter and/or the wrecker inspector;
- (12) Failure to pay civil penalties issued pursuant to this ordinance;
- (13) Failure to comply with any of the provisions of this chapter, ordinance or state laws relating to the operation of wreckers; and
- (14) Failure to comply with the reporting requirements of this ordinance, as may be periodically modified.

(b) If the wrecker inspector determines that any of the above violations have occurred, he shall have the authority to revoke or suspend a license as follows:

- (1) For violation of subsection (a)(1) through (3) of this section, revocation;
- (2) For a first time violation of subsections (a)(4) through (14) of this section, suspension up to 30 days;
- (3) For a second violation of subsections (a)(4) through (14) of this section, within a period of two years from the date of the first suspension, suspension up to 60 days; and
- (4) For a third violation of subsections (a)(4) through (14) of this section, within a period of two years from the date of the first violation, revocation.

(c) Any licensee who has his license revoked shall be eligible to apply for a new license one year from the date of the revocation. For purposes of this section, the date of suspension or date of revocation shall be the date of the notification by the wrecker inspector pursuant to section 24-240, or if an appeal is made, the date of the final action by the wrecker review board.

(Code 1961, § 20-182)

Sec. 24-241. Notification of suspension or revocation by wrecker inspector.

Such revocation or suspension shall be in writing and notify the licensee of the following:

- (1) The nature of the violation;
- (2) The wrecker inspector's recommendation as to whether the licensee should remain on the rotation wrecker list, should be suspended, or its license revoked;
- (3) That the licensee has a right to appeal such action to the wrecker review board.

(Code 1961, § 20-183)

Sec. 24-242. Wrecker review board.

There is hereby established a wrecker review board whose function is to hear appeals from any decision of the wrecker inspector pursuant to this article. The board shall be composed of a chairman, two individuals selected by the licensees, and two individuals appointed by the chief of police. The chairman shall be selected by the city council, and shall be a disinterested person who is not a licensee, wrecker owner or operator, or a city employee. Two members of the wrecker review board shall be selected by the licensees by means of a vote of the licensees. The chief of police shall appoint two members of the police department who hold the rank of sergeant or higher to the wrecker review board. All members shall serve for a term of two years, and no member shall serve more than two consecutive terms. The wrecker inspector shall serve as a nonvoting advisor and to bring complaints to the wrecker review board.

The wrecker review board will meet on a quarterly basis irrespective of whether they receive any notices of appeals. All meetings, to include appeal hearings, will be governed by North Carolina's open meeting laws.

(Code 1961, § 20-184)

Cross references: Administration, ch. 2.

Sec. 24-243. Appeal to the wrecker review board.

Whenever any provision of this article shall provide for an appeal of a decision of the wrecker inspector to the wrecker review board, the following procedure shall be followed:

- (1) The appellant shall give written notice of appeal to the city clerk within ten days of receiving the notice of the action he is appealing;
- (2) The wrecker review board shall hold a hearing on the appeal within 30 days of receipt of the written notice of appeal;
- (3) The written notice of appeal shall state whether or not the appellant wants an open or closed hearing before the wrecker review board. In the event of the failure to make such a request, such hearing shall be open.

(Code 1961, § 20-185)

Sec. 24-244. Action pending appeal; lapse of time; waiver.

(a) Whenever a provision of this article states a specific time within which an appeal must be taken, and regardless of the level of authority from which the appeal may be taken, if the appeal is not taken within the time prescribed, then the action of the wrecker inspector from which the appeal may have been taken is deemed to be final.

(b) The action of the wrecker inspector suspending or revoking the rights granted under the authority of this article shall be effective upon receipt of notice by the licensee; provided, that if the licensee files a timely appeal, then any right under this article heretofore existing shall continue in effect during the pendency of any appeal or 30 days, whichever is sooner.

(c) Any hearing may be continued upon 48 hours' written notice prior to the date of the hearing; provided, that if the new date for the hearing is more than 30 days from the date of the original notice of appeal, then the rights of the appellant pursuant to subsection (b) of this section may only be extended upon a showing of good cause.

(Code 1961, § 20-186)

Sec. 24-245. Hearing; action of wrecker review board.

(a) The purpose of the hearing before the wrecker review board shall be to determine whether or not the action of the wrecker inspector in suspending or revoking the rights and privileges of the appellant was in the best interests of the public health, safety, and welfare of the city. The appellant shall be permitted to present any evidence relevant to the subject matter of the appeal. The hearing shall be administrative in nature, and the action of the wrecker review board shall be final.

(b) If the action of the wrecker review board is to affirm the action of the wrecker inspector, then the effective date of the action shall be the date of the hearing. Any period of actual suspension as the result of a continuance prior to the hearing shall be counted toward any period of suspension approved by the wrecker review board.

(Code 1961, § 20-187)

Sec. 24-246. Hearing procedures.

Any hearing before the wrecker review board shall use the following procedures:

- (1) The hearing shall be open, unless specifically requested by the appellant prior to the hearing;

- (2) The appellant shall be entitled to make any statements either by an attorney or someone of his own choosing;
- (3) The appellant shall be entitled to make any statements or present any witnesses on his behalf that he desires;
- (4) The hearing shall be administrative in nature, there shall be a right of cross examination;
- (5) The appellant shall be entitled to transcribe the proceedings at his own cost.

(Code 1961, § 20-188)

Sec. 24-247. Applicability to previous licensees; noncompliance.

Whenever this article is amended from time to time by the city council and such amendments shall render any current approved licensee in noncompliance with this article as amended, such noncomplying licensee shall have a period of one year from the effective date of the amendment of the article within which to comply.

(Code 1961, § 20-189)

Sec. 24-248. Persons prohibited from holding a license.

No city council member, or employee directly involved with the administration of this article shall be permitted to hold a license under the terms of this article.

(Code 1961, § 20-190)

Sec. 24-249. Enforcement.

(a) A violation of section 24-238, solicitation of business, by a licensee, shall submit the violator to a civil penalty in the nature of a debt in the sum of \$3,000.00 for each large rotation size tow and \$500.00 for each automobile rotation size tow. The civil penalty shall be imposed by a citation served personally or by registered mail to the violator by the wrecker inspector.

(b) Any violation of this article, other than section 24-238 by a licensee, shall submit the violator to a civil penalty in an amount in accordance with the fee schedule as adopted by the city council, as may be periodically modified. In addition, if a wrecker or towing service is in violation more than three times in one year for a violation of this article, the wrecker or towing service shall also be subject to removal from the rotation list for a period of one year. For purposes of removal and/or revocation, the violations can arise from the same incident, occur simultaneously and during the same incident.

(c) If a civil penalty issued under this section is not paid as set forth in the citation within thirty (30) days of receipt thereof, failure to pay shall result in the City instituting collection procedures to collect the debt. The licensee will be suspended from all City rotation lists until the civil penalty is satisfied.

(Code 1961, § 20-191; Ord. No. S2001-004, § 6, 2-5-2001)

Secs. 24-249--24-270. Reserve

CITY COUNCIL ACTION MEMO

TO: Mayor and Members of City Council
FROM: Steven K. Blanchard, CEO/General Manager
DATE: September 14, 2009
RE: **PWC-Bid Recommendation - Annexation, Phase V, Project 2, Area 6 "South LaGrange"**

THE QUESTION:

The Public Works Commission of the City of Fayetteville requests Council approval to award contract for Annexation, Phase V, Project 2, Area 6 "South LaGrange" to State Utility Contractors, Monroe, North Carolina, the lowest responsive, responsible bidder.

RELATIONSHIP TO STRATEGIC PLAN:

Quality Utility Services.

BACKGROUND:

The Public Works Commission, during their meeting of August 26, 2009 approved to award contract for Annexation, Phase V, Project 2, Area 6 "South LaGrange" to State Utility Contractors, Monroe, NC, the lowest responsive, responsible bidder in the total amount of \$1,310,744.93 and forward to City Council for approval. Bids were received June 30, 2009 as follows:

<u>Bidders</u>	<u>Total Cost</u>
State Utility Contractors, Monroe, NC	\$1,310,744.93
Triangle Grading & Paving, Burlington, NC	\$1,392,982.00
ES&J Enterprises, Autryville, NC	\$1,429,945.37
Utilities Plus, Linden, NC	\$1,486,892.91
Hendrix-Barnhill, Smithfield, NC	\$1,526,127.31
Billy Bill Grading, Fayetteville, NC	\$1,666,129.00
T.A. Loving Co., Goldsboro, NC	\$1,725,441.00
R.H. Moore Co., Murrells Inlet, SC	\$1,729,269.00

ISSUES:

- Bids were solicited from twelve (12) contractors with nine (9) contractors responding.
- Bids advertised in the Fayetteville Observer.
- State Utility Contractors intends to utilize DBE/MWBE subcontractors for approximately 2% of the work on this project.

OPTIONS:

N/A

RECOMMENDED ACTION:

Award contract to State Utility Contractors, the lowest responsive, responsible bidder.

ATTACHMENTS:

Bid Recommendation
Bid History

PUBLIC WORKS COMMISSION
ACTION REQUEST FORM

TO: Steve Blanchard, CEO/General Manager DATE: August 4, 2009

FROM: Gloria Wrench, Purchasing Manager

ACTION REQUESTED: Award contract for Annexation Phase V – Project 2, Area 6 “South” –
Lagrange

BID/PROJECT NAME: Annexation Phase V – Project 2, Area 6 “South” Lagrange

BID DATE: June 30, 2009 DEPARTMENT: Water Resources Engineering

BIDDERS	TOTAL COST
<u>State Utility Contractors, Monroe, NC</u>	<u>\$1,310,744.93</u>
<u>Triangle Grading & Paving, Burlington, NC</u>	<u>\$1,392,982.00</u>
<u>ES&J Enterprises, Autryville, NC</u>	<u>\$1,429,945.37</u>
<u>Utilities Plus, Linden, NC</u>	<u>\$1,486,892.91</u>
<u>Hendrix-Barnhill, Smithfield, NC</u>	<u>\$1,526,127.31</u>
<u>Billy Bill Grading, Fayetteville, NC</u>	<u>\$1,666,129.00</u>
<u>T.A. Loving Co., Goldsboro, NC</u>	<u>\$1,725,441.00</u>
<u>R.H. Moore Co., Murrells Inlet, SC</u>	<u>\$1,729,269.00</u>

AWARD RECOMMENDED TO: State Utility Contractors, Monroe, NC

BASIS OF AWARD: Lowest responsive, responsible bidder

AWARD RECOMMENDED BY: Joe Glass, Raymond Hayes and Gloria Wrench

COMMENTS: Plans and specifications were requested by twelve (12) contractors with nine (9) contractors responding. Step Construction, LaGrange, NC, submitted a bid, however, they formally asked that their bid be withdrawn due to an error in the pricing for permanent pavement patch and lift station equipment and installation. The request by Step was submitted in accordance with the provisions outlined in G.S. 143-129.1 and was therefore granted without penalty. The lowest responsive, responsible bidder is recommended.

ACTION BY COMMISSION

APPROVED _____ REJECTED _____
DATE _____

ACTION BY COUNCIL

APPROVED _____ REJECTED _____
DATE _____

BID HISTORY

ANNEXATION PHASE V – PROJECT 2, AREA 6 “SOUTH” - LAGRANGE

BID DATE: JUNE 30, 2009

Consulting Engineer

Moorman, Kizer & Reitzel, Inc.

Advertisement

1. The Fayetteville Observer, Fayetteville, NC 06/12/09

List of Organizations Notified of Bid

1. NAACP Fayetteville Branch, Fayetteville, NC
2. NAWIC, Fayetteville, NC
3. N.C. Institute of Minority Economic Development, Durham, NC
4. CRIC, Fayetteville, NC
5. Fayetteville Business & Professional League, Fayetteville, NC
6. SBTDC, Fayetteville, NC
7. FTCC Small Business Center, Fayetteville, NC
8. The Women’s Center of Fayetteville, Fayetteville, NC
9. Fayetteville Area Chamber of Commerce, Fayetteville, NC
10. Carolinas AGC, Fayetteville, Raleigh & Charlotte, NC
11. F.W. Dodge, Morrisville, NC
12. Hispanic Contractors Association, Raleigh, NC

List of Contractors Requesting Plans and Specifications

1. ES&J Enterprises, Autryville, NC
2. R.H. Moore, Murrells Inlet, SC
3. Autry Grading, Hope Mills, NC
4. Utilities Plus, Linden, NC
5. State Utility Contractors, Monroe, NC
6. Triangle Grading & Paving, Burlington, NC
7. Billy Bill Grading, Fayetteville, NC
8. Step Construction, LaGrange, NC
9. Sanford Contractors, Sanford, NC
10. T.A. Loving, Goldsboro, NC
11. Hendrix-Barnhill, Smithfield, NC
12. Rock Grading & Paving, Florence, SC

DBE/MWBE Participation

State Utility Contractors intends to utilize DBE/MWBE subcontractors for approximately 2% of the work on this project. Staff reviewed State Utility’s good faith efforts to ensure compliance with PWC and state requirements, and has determined that State Utility did make a “good faith effort” to solicit participation from DBE, minority, and women-owned firms.

CITY COUNCIL ACTION MEMO

TO: Mayor and Members City of Council
FROM: Steven K. Blanchard, CEO/General Manager
DATE: September 14, 2009
RE: **PWC-Bid Recommendation - Annexation, Phase V, Project 2, Area 7
"Summerhill/Roundtree"**

THE QUESTION:

The Public Works Commission of the City of Fayetteville requests Council approval to award contract for Annexation, Phase V, Project 2, Area 7 "Summerhill/Roundtree" ES&J Enterprises, Inc. Autryville, North Carolina, the lowest responsive, responsible bidder.

RELATIONSHIP TO STRATEGIC PLAN:

Quality utility services

BACKGROUND:

The Public Works Commission, during their meeting of August 26, 2009 approved to award contract for Annexation, Phase V, Project 2, Area 7 "Summerhill/Roundtree" to ES&J Enterprises, Inc., Autryville, NC, the lowest responsive, responsible bidder in the total amount of \$1,973,196.70 and forward to City Council for approval.

Bids were received July 2, 2009 as follows:

<u>Bidders</u>	<u>Total Cost</u>
ES&J Enterprises, Inc., Autryville, NC	\$1,973,196.70
State Utility Contractors, Monroe, NC	\$2,050,249.80
Hendrix-Barnhill, Smithfield, NC	\$2,102,052.61
Billy Bill Grading, Fayetteville, NC	\$2,120,247.00
T.A. Loving, Goldsboro, NC	\$2,583,414.00
Triangle Grading & Paving	\$1,856,552.00

ISSUES:

- Bids were solicited from twelve (12) contractors with six (6) contractors responding.
- Bids advertised in the Fayetteville Observer.
- ES&J Enterprises intends to utilize DBE/MWBE subcontractors for approximately 2% of the work on this project.
- ES&J Enterprises is a certified DBE through the State of North Carolina's Unified Certificate Program.
- ES&J Enterprises will self-perform the majority of the work on this project.

OPTIONS:

N/A

RECOMMENDED ACTION:

Award contract to ES&J Enterprises, Inc. the lowest responsive, responsible bidder.

ATTACHMENTS:

Bid Recommendation
Bid History

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**PUBLIC WORKS COMMISSION
ACTION REQUEST FORM**

TO: Steve Blanchard, CEO/General Manager DATE: August 4, 2009

FROM: Gloria Wrench, Purchasing Manager

ACTION REQUESTED: Award contract for Annexation Phase V – Project 2, Area 7 – Summerhill/Roundtree

BID/PROJECT NAME: Annexation Phase V – Project 2, Area 7 – Summerhill/Roundtree

BID DATE: July 2, 2009 DEPARTMENT: Water Resources Engineering

BIDDERS	TOTAL COST
<u>ES&J Enterprises, Inc., Autryville, NC</u>	<u>\$1,973,196.70</u>
<u>State Utility Contractors, Monroe, NC</u>	<u>\$2,050,249.80</u>
<u>Hendrix-Barnhill, Smithfield, NC</u>	<u>\$2,102,052.61</u>
<u>Billy Bill Grading, Fayetteville, NC</u>	<u>\$2,120,247.00</u>
<u>T.A. Loving, Goldsboro, NC</u>	<u>\$2,583,414.00</u>
<u>*Triangle Grading & Paving, (see comments below)</u>	<u>\$1,856,552.00</u>

AWARD RECOMMENDED TO: ES&J Enterprises, Inc., Autryville, NC

BASIS OF AWARD: Lowest responsive, responsible bidder

AWARD RECOMMENDED BY: Joe Glass, Raymond Hayes, and Gloria Wrench

COMMENTS: Plans and specifications were requested by twelve (12) contractors with six (6) contractors responding. Staff is recommending that Triangle Grading & Paving be rejected as the lowest responsive, responsible bidder based upon the Commission's past experience with Triangle, as well as other information obtained during the bid process. Some, but not all of this information and experience includes: late or delayed performance in completing the Arran Lakes East and Arran Lakes West Phase V projects; customer complaints associated with performance and the failure to promptly address citizen concerns and complaints; NCDENR Notices of Violations issued to Triangle for sedimentation issues; reluctance and/or failure to comply with terms and conditions of their contract; traffic control issues; concerns about safety issues; failure to effectively communicate with and coordinate with responsible subcontractors, to include issues of prompt payment of subcontractors and the coordination of materials, equipment and supplies for use by subcontractors; and the reluctance on the part of references given by Triangle to make positive recommendations for work performed for other entities. Although this is not an exhaustive list, Staff believes it is adequate to communicate the experiences and information that underlie the recommendation stated above. Staff further recommends that award be made to ES&J Enterprises, Inc. as the lowest responsive, responsible bidder.

ACTION BY COMMISSION

APPROVED _____ REJECTED _____
DATE _____

ACTION BY COUNCIL

APPROVED _____ REJECTED _____
DATE _____

BID HISTORY

ANNEXATION PHASE V – PROJECT 2, AREA 7 – SUMMERHILL/ROUNDTREE BID DATE: JULY 2, 2009

Consulting Engineer

McKim & Creed, PA

Advertisement

1. The Fayetteville Observer, Fayetteville, NC 06/12/09

List of Organizations Notified of Bid

1. NAACP Fayetteville Branch, Fayetteville, NC
2. NAWIC, Fayetteville, NC
3. N.C. Institute of Minority Economic Development, Durham, NC
4. CRIC, Fayetteville, NC
5. Fayetteville Business & Professional League, Fayetteville, NC
6. SBTDC, Fayetteville, NC
7. FTCC Small Business Center, Fayetteville, NC
8. The Women's Center of Fayetteville, Fayetteville, NC
9. Fayetteville Area Chamber of Commerce, Fayetteville, NC
10. Carolinas AGC, Fayetteville, Raleigh & Charlotte, NC
11. F.W. Dodge, Morrisville, NC
12. Hispanic Contractors Association, Raleigh, NC

List of Contractors Requesting Plans and Specifications

1. ES&J Enterprises, Autryville, NC
2. Triangle Grading & Paving, Inc., Burlington, NC
3. Billy Bill Grading, Fayetteville, NC
4. State Utility Contractors, Inc., Monroe, NC
5. Hendrix-Barnhill, Smithfield, NC
6. Ellington Contractors, Wake Forest, NC
7. Autry Grading, Hope Mills, NC
8. T.A. Loving, Goldsboro, NC
9. Sanford Contractors, Sanford, NC
10. Blackmon Contracting, Smithfield, NC
11. Mainline Contracting, Durham, NC
12. Rock Grading & Paving, Florence, SC

DBE/MWBE Participation

ES&J Enterprises intends to utilize DBE/MWBE subcontractors for approximately 2% of the work on this project. In addition, ES&J Enterprises is a certified DBE through the State of North Carolina's Unified Certification Program. ES&J Enterprise will self-perform the majority of work on this project.

CITY COUNCIL ACTION MEMO

TO: Mayor and Members of City Council
FROM: B.E. Nichols, Fire Chief
DATE: September 14, 2009
RE: **Fire-Transfer Ownership of 1990 GMC Top Kick Service Unit to Grays Creek Volunteer Fire Dept., Station #24**

THE QUESTION:

The Grays Creek Volunteer Fire Department has requested a transfer of FFD surplus unit 1990 GMC Top Kick Service Unit. As a part coordination of services, the unit will participate in a county-wide emergency air and cascade re-supply rotation schedule and GCVFD and the CC Fire Chief's Association will assume full responsibility for maintenance of the unit.

RELATIONSHIP TO STRATEGIC PLAN:

Help to provide livable neighborhoods, help to create a great place to live, and ensuring a more efficient City government and cost-effective service delivery.

The apparatus being considered for donation is a 1990 GMC Top Kick Service Unit that has met its useful life with the City of Fayetteville Fire Department after 19+ years of service.

Provide apparatus with air-filling station to the Grays Creek Fire Department (GCVFD). The GCVFD provides services to areas to the southeast of Fayetteville boundaries. It is envisioned that the City of Fayetteville provide the surplus apparatus so that the included air unit can continue to be utilized in the county-wide emergency air and cascade re-supply rotation schedule.

BACKGROUND:

The apparatus is a surplus 19 year-old unit. The FFD has been using the apparatus as a air-unit that is included in a county-wide rotation. The unit was previously owned by the Lafayette Village Volunteer Fire Department before being acquired by FFD. The air-unit's air cascade system was installed on the apparatus by the Cumberland County Chiefs Association. Although the vehicle is 19+ years old, the air unit is still in adequate condition to serve the county. Under the FFD's responsibility, the unit was included in the rotation of air units within Cumberland County every two months and the city was responsible for maintenance of the apparatus. The unit will better serve Grays Creek Volunteer Fire Department and the surrounding area while housed by GCVFD.

ISSUES:

No current identified issues affecting this recommendation.

OPTIONS:

- Approve request for donation of the 1990 GMC Top Kick Service Unit to the Grays Creek Volunteer Fire Department.
- Disapprove the donation of the 1990 GMC Top Kick Service Unit to the Grays Creek Volunteer Fire Department.

RECOMMENDED ACTION:

Approve request for donation the 1990 GMC Top Kick Service Unit to the Grays Creek Volunteer Fire Department.

ATTACHMENTS:

Resoultion to donate 1990 Top Kick Service Unit
Request for 1990 Top Kick Service Unit

A RESOLUTION AUTHORIZING THE CONVEYANCE OF PERSONAL PROPERTY ITEMS TO FIRE DEPARTMENTS/GOVERNMENTAL AGENCIES.

WHEREAS, the City of Fayetteville ("City") has removed its 1990 GMC Top Kick Service Unit apparatus from service;

WHEREAS, a volunteer unit is in need of said property and the Fayetteville Fire Department agreed to donate the old unit in consideration of maintaining and keeping the included air supply cascade system in service;

WHEREAS, North Carolina General Statute 160A-274 authorizes the sale of personal property to another governmental unit, with or without consideration, upon terms and conditions as the governing body deems wise and;

WHEREAS, the Fire Chief in consultation with the City Manager has determined these units to be surplus to the needs of the City;

NOW, THEREFORE, be it resolved by the City Council of the City of Fayetteville:

1. That the Fire Chief is hereby authorized to execute any documents necessary to facilitate the donation of the above mentioned property, described as the 1990 Top Kick Service Unit.
2. That the property be donated to Grays Creek Volunteer Fire Department and governmental agencies as determined by the Fire Chief with the explicit understanding that none of the equipment is warranted to be in good condition.
3. Receiving departments and governmental agencies to sign a waiver releasing the city from any claims arising from the use of said equipment.
4. A complete accounting of all donations is to be maintained.

ADOPTED this the _____ day of September, 2009

Dale Iman, Mayor

ATTEST: (SEAL)

CITY CLERK

**GRAY'S CREEK VOLUNTEER FIRE DEPARTMENT
TWENTY-FOUR, INC.
2661 SAND HILL ROAD
FAYETTEVILLE, NC 28306
910-483-1816 fax 910-483-7234**

July 15, 2009

Fire Chief Benny E. Nichols
Fayetteville Fire Department & Emergency Management
433 Hay Street
Fayetteville, North Carolina 28301

Dear Chief Nichols:

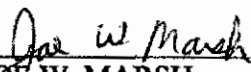
On Thursday July 9, 2009 Fire Chief Freddy Johnson Sr., President of the Cumberland County Fire Chief's Association inquired with our department about the possibility of assuming possession of a surplus 1990 GMC Top Kick Service Unit (SR17)VIN# 1GDM7D1YXLV508472, City asset # 2005-0004.

As part of the coordination and acceptance process Chief Johnson specifically requested that the unit be housed inside, participate in the county-wide emergency air and cascade re-supply rotation schedule and assume full responsibility for the unit with the exception of the Air Compressor System which has been and will continue to be maintained by the Cumberland County Fire Chief's Association.

Our department's Board of Directors have approved acceptance of the surplus unit and concur with the before mentioned conditions. Please accept this letter as our official request to acquire the stated surplus property in accordance with City of Fayetteville's surplus disposal policy.

On behalf of the Grays Creek Fire Department Station # 24, we want to take this opportunity to thank you, the Fayetteville Fire Department and the City of Fayetteville for offering this unit to our department and keeping the unit in service for continued county-wide use.

For additional questions please don't hesitate to contact me at 910-483-1816.



JOE W. MARSH
Fire Chief



ALBERT E. TOLAR
President Board of Directors

CC:
President – CCFCA
Fire Commissioner

CITY COUNCIL ACTION MEMO

TO: Mayor and Members of City Council
FROM: Council Member Bobby Hurst - District 5
DATE: September 14, 2009
RE: **APPOINTMENT COMMITTEE-PRESENTATION OF APPOINTMENT COMMITTEE
RECOMMENDATIONS FOR BOARD/COMMISSION APPOINTMENTS**

THE QUESTION:

Do the attached recommendations from the City Council's Appointment Committee meet the City Council's approval?

RELATIONSHIP TO STRATEGIC PLAN:

- Partnership of Citizens - Citizens Volunteering to help the City
- Greater Community Unity - Pride of Fayetteville
- Diverse Culture and Rich Heritage - Diverse people working together with a single vision and common goals

BACKGROUND:

The Appointment Committee met on Thursday, August 20, 2009 to review applications for appointments to boards and commissions. It is from that meeting that the Appointment Committee provides the attached recommendations for appointments to the City of Fayetteville boards and commissions. Consistent with the City Council's wishes, the Appointment Committee's recommendations for appointments are indicated on the attachment.

ISSUES:

NA

OPTIONS:

1. Approve Appointment Committee recommendations to fill the board and commission vacancies as indicated on the attachment.
2. Approve Appointment Committee recommendations to fill some board and commission vacancies and provide further direction.
3. Do not approve Appointment Committee recommendations to fill the board and commission vacancies and provide further direction.

RECOMMENDED ACTION:

Approve Appointment Committee recommendations for board and commission appointments.

ATTACHMENTS:

Appointment Committee Recommendations

FAYETTEVILLE CITY COUNCIL APPOINTMENT COMMITTEE RECOMMENDATIONS

September 2009

BOARDS/COMMISSIONS		RECOMMENDATION	TERM
1.	Airport Commission ❖ 3 Reappointments	Dudley Miller	2 nd
		Roy Goforth	2 nd
		Ralph Hamilton	2 nd
2.	Board of Adjustment ❖ 3 Reappointments ❖ 2 Appointments	Colleen Astrike	2 nd
		Dennis G. Gould	2 nd
		Barbara Spigner	2 nd
		Bruce Arnold	1 st
		Williams Jenkins	1 st
3.	Board of Appeals on Dwellings and Buildings ❖ 3 Regular Appointments	Edward David	1 st
		Ronald Newman	1 st
		Maxine McNeil	1 st
4.	Fair Housing Board ❖ 1 Appointment	Pollie M. Washington	1 st
5.	Fayetteville- Cumberland Human Relations Commission ❖ 4 Appointment ❖ 2 fill-in Appointments	Millind Kumar Dongre	Fill-in
		Robin Greene	Fill-in
		Cindy Lee Harrington	1 st
		Jane Jean-Bernard	1 st
		Marvin Price Jr.	1 st
		Shannon Shurko	1 st
6.	Fayetteville- Cumberland Parks and Recreation Advisory Commission ❖ 1 Appointment	Steven E. Rogers	1 st
7.	Fayetteville Finance Corporation ❖ 4 Reappointments (reoccurring)	William Brooks	
		Dale Iman	
		Keith Love	
		Lisa Smith	
8.	Fayetteville Redevelopment Commission ❖ 1 Appointment	Brook Lynn Browning	1 st

BOARDS/COMMISSIONS		RECOMMENDATION	TERM
9. Fayetteville Planning Commission ❖ 2 Reappointments ❖ 2 Appointments ❖ 1 Alternate Appointment	Charles H. Astrike	2 nd	
	Mark Ledger	2 nd	
	Sarah Bialeschki	1 st	
	Ronald Michael	1 st	
	Bill J. Snuggs	Alternate	
10. Fayetteville Zoning Commission ❖ 2 Reappointments ❖ 3 Appointments	John Crawley	2 nd	
	Peter A. Paoni	2 nd	
	Martin Hendrix	1 st	
	Marshall Isler	1 st	
	Stephen Coe Mannell Jr.	1 st	
11. Historic Resources Commission ❖ 1 Category 6 Appointment ❖ 1 Category 3 Appointment	Catherine M. Mansfield	1 st	
	Neil Grant	1 st	
12. Joint City & County Appearance Commission ❖ 3 Appointments	Kamina Fitzgerald	1 st	
	George M. Dudley	1 st	
	Ben Anstead	1 st	
13. Joint Fayetteville – Cumberland County Senior Citizens Advisory Commission ❖ 2 Reappointments ❖ 4 Appointments	Catherine B. Van Sickle	2 nd	
	Arnold Williams	2 nd	
	Barbara Jennings	1 st	
	John H. Jester	1 st	
	Lynn Legatski	1 st	
	Ronald Newman	1 st	
14. Public Works Commission ❖ 1 Reappointment	Wilson A. Lacy	3 rd	
15. Public Works Commission Supplement Employees' Retirement Plan Board ❖ 1 Appointment	A. Johnson Chestnutt	1 st	

BOARDS/COMMISSIONS	RECOMMENDATION	TERM
16. Stormwater Advisory Board ❖ 5 Appointments	Charles A. Donnell	1 st (3 yrs)
	Don Stewart	1 st (3 yrs)
	Carlton G. Mercer	1 st (3 yrs)
	Daniel Harrington	1 st (1 yr)
	John R. Mattox	1 st (1 yr)
17. Taxicab Review Board ❖ 2 Reappointments ❖ 1 Alternate Appointment	Paul Burnette	2 nd
	Victor Jay Crisco	2 nd
	Joseph A. Robinson	Alternate
18. Transit Advisory Committee ❖ 2 Appointments	Michael Evans	1 st
	Crystal Black- DSS Representative	1 st

CITY COUNCIL ACTION MEMO

TO: Mayor and Members of City Council
FROM: Dale Iman, City Manager
DATE: September 14, 2009
RE: **CITY MANAGER-CITY OF FAYETTEVILLE: STATUS REPORT OF ECONOMIC INDICATORS**

THE QUESTION:

How do the economic indicators of Fayetteville compare with state and national statistics?

RELATIONSHIP TO STRATEGIC PLAN:

- Sustainable Community
- Growing City, Livable Neighborhoods,
- Great Place to Live Greater Tax Base Diversity - Strong Local Economy

BACKGROUND:

The City and Fayetteville PWC recently made a presentation to the bond rating agencies (Standard & Poors and Moody's) in anticipation of a significant bond issuance. A key portion of the presentation included a review of economic data which revealed a strong local economy exists within the City of Fayetteville. A presentation of this economic data will be given to the City Council as part of this agenda item.

ISSUES:

The key economic indicators reveal that the City of Fayetteville is performing better than the State of North Carolina and the nation.

OPTIONS:

N/A

RECOMMENDED ACTION:

For information only.

CITY COUNCIL ACTION MEMO

TO: Mayor and Members of City Council
FROM: Lisa Smith, Chief Financial Officer
DATE: September 14, 2009
RE: **FINANCE-BOND ORDER AUTHORIZING AND APPROVING THE ISSUANCE AND SALE OF NOT TO EXCEED \$145,000,000 PUBLIC WORKS COMMISSION REVENUE REFUNDING BONDS**

THE QUESTION:

The Public Works Commission requests Council adopt a bond order pertaining to the issuance of revenue refunding bonds.

RELATIONSHIP TO STRATEGIC PLAN:

Most Financially Sound Utility, Quality Utility Services

BACKGROUND:

- The Public Works Commission (PWC), during their meeting on September 9, 2009, considered and adopted Resolution PWC 2009.14 refunding the variable rate 2003 and 2003A bonds.
- The PWC resolution approves and agrees to the terms of bond order authorizing the issuance of fixed rate Public Works Commission Revenue Refunding Bonds, Series 2009A in an amount not to exceed \$145,000,000.
- As stated in their resolution, the PWC requests Council's adoption of the attached bond order and taking certain other actions in connection with the bonds.
- Consistent with previous instructions, the Bond Purchase Agreement and Preliminary Official Statement referenced in the bond order will be available in the City Clerk's office for Council review.

ISSUES:

None.

OPTIONS:

If the bond market is not within the identified savings/dissavings range on the date of sale, PWC has the option of pulling the bonds and marketing them at a later date or pursuing the issuance of variable rate bonds.

RECOMMENDED ACTION:

Adopt the bond order authorizing and approving the issuance and sale of not to exceed \$145,000,000 Public Works Commission Revenue Refunding Bonds, Series 2009A.

ATTACHMENTS:

Resolution Approved by PWC on 9 9 09
Proceedings for the PWC Revenue Bond Matters
Refunding Revenue Bond Order

[NOTE: These proceedings to be used if all of the bonds (refunding and new money) are issued as fixed rate bonds.]

The Public Works Commission of the City of Fayetteville, North Carolina (the "PWC") held a regular meeting at 955 Old Wilmington Road in Fayetteville, North Carolina, the regular place of meeting, at 8:30 a.m. on September 9, 2009.

Present: Chairman Wilson A. Lacy, presiding, and Commissioners

Absent: Commissioners

Also Present: _____

* * * * *

J. Dwight Miller, CFO introduced the following resolution the title of which was read and copies of which had been previously distributed to each Commissioner:

Resolution No. PWC2009.14

RESOLUTION APPROVING AND AGREEING TO THE TERMS OF BOND ORDERS AUTHORIZING THE ISSUANCE OF PUBLIC WORKS COMMISSION REVENUE REFUNDING BONDS, SERIES 2009A AND PUBLIC WORKS COMMISSION REVENUE BONDS, SERIES 2009B BY THE CITY OF FAYETTEVILLE, NORTH CAROLINA, REQUESTING THAT THE CITY COUNCIL OF SAID CITY ADOPT SUCH BOND ORDERS AND TAKING CERTAIN OTHER ACTIONS IN CONNECTION WITH SUCH BONDS

WHEREAS, pursuant to a bond order adopted by the City Council of the City of Fayetteville, North Carolina (the "City") on November 5, 1990 (the "Original Bond Order"), the City has heretofore issued its \$63,008,898.20 Public Works Commission Revenue Bonds, Series 1990; and

WHEREAS, pursuant to various supplemental bond orders adopted by the City Council of the City on December 7, 1992, October 25, 1993, November 17, 1997, January 13, 2003, August 25, 2003 and January 14, 2008 (the "Amendatory Orders" and, together with the Original Bond Order, the "Bond Order"), the City amended certain provisions of the Original Bond Order; and

WHEREAS, there is currently outstanding under the Bond Order \$155,045,000 of Bonds (as defined in the Bond Order); and

WHEREAS, the City has determined to issue its Public Works Commission Revenue Refunding Bonds, Series 2009A (the "Series 2009A Bonds") and its Public Works Commission Revenue Bonds, Series 2009B (the "Series 2009B Bonds" and, together with the Series 2009A Bonds, the "Series 2009 Bonds") in an aggregate principal amount not exceeding \$190,000,000 for the purpose of providing funds, together with any other available funds, to (a) pay the costs of the various improvements to the water and sanitary sewer system of the City (the "Project"), (b) refund all the City's outstanding Public Works Commission Revenue Refunding Bonds, Series 2003 and Public Works Commission Revenue and Revenue Refunding Bonds, Series 2003A (collectively, the "Bonds to be Refunded"), (c) finance the cost of terminating the interest rate swap agreements heretofore entered into by the City in connection with the Bonds to be Refunded, (d) fund any necessary debt service reserve funds for the Series 2009 Bonds and (e) pay certain fees and expenses relating to the sale and issuance of the Series 2009 Bonds; and

WHEREAS, in connection with the issuance and sale of the Series 2009 Bonds, the staff of the PWC has presented to the PWC at this meeting proposed forms of the following documents:

(a) Bond Order to be adopted by the City Council of the City on September 14, 2009 (the "Series 2009A Bond Order"), authorizing the issuance and sale of the Series 2009A Bonds and amending the Original Bond Order in certain respects, together with the form of the Series 2009A Bonds attached as Exhibit A thereto;

(b) Bond Order to be adopted by the City Council of the City on September 14, 2009 (the "Series 2009B Bond Order" and, together with the Series 2009A Bond Order, the "Series 2009 Bond Orders"), authorizing the issuance and sale of the Series 2009B Bonds, together with the form of the Series 2009B Bonds attached as Exhibit B thereto;

(c) Bond Purchase Agreement, to be dated as of the date of delivery thereof (the "Bond Purchase Agreement"), between Wachovia Bank, National Association, as representative of the underwriters of the Series 2009 Bonds (the "Underwriters"), and the Local Government Commission (the "LGC"), and approved by the City and the PWC; and

(d) Preliminary Official Statement, to be dated as of the date of delivery thereof (the "Preliminary Official Statement"), relating to the offering and sale of the Series 2009 Bonds; and

WHEREAS, the Series 2009 Bonds will be issued and secured pursuant to the Bond Order and the Series 2009 Bond Orders; and

WHEREAS, the City Council of the City is desirous of receiving the PWC's concurrence and agreement with the terms and provisions of the Bond Order and the Series 2009 Bond Orders; and

WHEREAS, the PWC is in agreement with such terms and provisions; and

WHEREAS, it is necessary for the PWC to authorize and approve certain other actions in connection with the issuance and sale of the Series 2009 Bonds by the City;

NOW, THEREFORE, BE IT RESOLVED, by the Public Works Commission of the City of Fayetteville, North Carolina as follows:

1. The Series 2009 Bond Orders, including the Series 2009A Bonds and the Series 2009B Bonds, are hereby approved in substantially the forms presented at this meeting, together with such further supplements, modifications, amendments and changes as the officers of the PWC, with the advice of counsel, may approve, such approval to be evidenced by the execution of the Bond Purchase Agreement by the PWC.

2. The PWC hereby approves the action of the LGC in awarding the Series 2009 Bonds to the Underwriters, subject to the approval of such award by the City. The PWC hereby approves the Bond Purchase Agreement in substantially the form presented at this meeting and the Chairman, General Manager and the Chief Financial Officer of the PWC are each hereby authorized to execute and deliver the Bond Purchase Agreement on behalf of PWC in substantially the form so presented, together with such changes, modifications, insertions and deletions, as any of them, with the advice of counsel, may deem necessary and appropriate, such execution and delivery to be conclusive evidence of the approval and authorization thereof by the PWC.

3. The PWC hereby approves the use and distribution of the Preliminary Official Statement in substantially the form presented at this meeting in connection with the offering and sale of the Series 2009 Bonds. A final Official Statement, in substantially the form of the Preliminary Official Statement, together with such changes as are necessary to reflect certain pricing and other terms relating to the Series 2009 Bonds, is hereby approved, and the Chairman, the General Manager and the Chief Financial Officer of the PWC are each hereby authorized to execute and deliver the final Official Statement in substantially the form of the Preliminary Official Statement, together with such changes, modifications, insertions and deletions, as any of them, with the advice of counsel, may deem necessary and appropriate, such execution and delivery to be conclusive evidence of the approval and authorization thereof by the PWC.

4. The officers and employees of the PWC are authorized and directed (without limitation, except as may be expressly set forth herein and in the Bond Order or the Series 2009 Bond Orders) to take such action and to execute and deliver such documents, certificates, undertakings and agreements or other instruments as any of them, with the advice of counsel, may deem necessary or appropriate to effect the transactions contemplated by the Bond Order, the Series 2009 Bond Orders, the Bond Purchase Agreement and the Official Statement.

5. The PWC agrees to fulfill all of its obligations under the Bond Order and, upon their adoption by the City Council of the City, the Series 2009 Bond Orders, and the PWC concurs with all of the terms and provisions thereof, including, but not limited to:

(a) the form of the Series 2009 Bonds;

(b) the interest rates borne by the Series 2009 Bonds (provided such rates are within the parameters provided for in Section 2.04 of the respective Series 2009 Bond Orders);

(c) the mechanisms and procedures for securing the Series 2009 Bonds;

(d) the mechanisms and procedures for the payment of the principal of, premium, if any, and the interest on the Series 2009 Bonds;

(e) the pledge of the Net Revenues (as defined in the Bond Order) granted by the Bond Order, as supplemented by the Series 2009 Bond Orders;

(f) the mechanisms and procedures for disbursement of the proceeds of the Series 2009 Bonds;

(g) the procedures for amending and supplementing the Series 2009 Bond Orders;

(h) the undertaking of all obligations of the City under the Series 2009 Bond Orders by the PWC and the compliance with the terms and conditions of the City under the Bond Order and the Series 2009 Bond Orders by the PWC; and

(i) all other matters in the Series 2009 Bond Orders with respect to the Series 2009 Bonds.

6. The City Council of the City is hereby requested to adopt the Series 2009 Bond Orders in substantially the forms of the drafts presented to the PWC at this meeting.

7. This resolution shall take effect immediately upon its passage.

Upon motion of Commissioner _____, seconded by Commissioner _____, the foregoing resolution entitled "RESOLUTION APPROVING AND AGREEING TO THE TERMS OF BOND ORDERS AUTHORIZING THE ISSUANCE OF PUBLIC WORKS COMMISSION REVENUE REFUNDING BONDS, SERIES 2009A AND PUBLIC WORKS COMMISSION REVENUE BONDS, SERIES 2009B BY THE CITY OF FAYETTEVILLE, NORTH CAROLINA, REQUESTING THAT THE CITY COUNCIL OF SAID CITY ADOPT SUCH BOND ORDERS AND TAKING CERTAIN OTHER ACTIONS IN CONNECTION WITH SUCH BONDS" was passed by the following vote:

Ayes: _____

Noes: _____

* * * * *

I, Luis J. Olivera, Secretary of the Public Works Commission of the City of Fayetteville, North Carolina, DO HEREBY CERTIFY that the foregoing is a true and accurate copy of so much of the proceedings of said Public Works Commission at a regular meeting held on September 9, 2009, as relates in any way to the adoption of the foregoing resolution and that said proceedings are recorded in minute books of said Public Works Commission.

I DO HEREBY FURTHER CERTIFY that proper notice of such regular meeting was given as required by North Carolina law.

WITNESS my hand and the official seal of said Public Works Commission this 9th day of September, 2009.

Secretary

[SEAL]

[NOTE: These proceedings to be used if all of the bonds (refunding and new money) are issued as fixed rate bonds.]

The City Council of the City of Fayetteville, North Carolina (the "City") held a regular meeting in the City Council Chambers in City Hall located at 433 Hay Street in Fayetteville, North Carolina, the regular place of meeting, at 7:00 p.m. on September 14, 2009.

Present: Mayor Anthony G. Chavonne, presiding, and Council Members

Absent: Council Members

Also Present: _____

* * * * *

_____ introduced the following order, a copy of which had been previously distributed to each Council Member, and the title of which was read:

BOND ORDER AUTHORIZING AND APPROVING THE ISSUANCE AND SALE UNDER THE PROVISIONS OF THE STATE AND LOCAL GOVERNMENT REVENUE BOND ACT, AS AMENDED, OF NOT TO EXCEED \$145,000,000 AGGREGATE PRINCIPAL AMOUNT OF THE CITY OF FAYETTEVILLE, NORTH CAROLINA PUBLIC WORKS COMMISSION REVENUE REFUNDING BONDS, SERIES 2009A TO REFUND ALL OF THE CITY'S OUTSTANDING PUBLIC WORKS COMMISSION REVENUE REFUNDING BONDS, SERIES 2003 AND PUBLIC WORKS COMMISSION REVENUE AND REVENUE REFUNDING BONDS, SERIES 2003A AND DIRECTING THE AUTHENTICATION AND DELIVERY OF THE SERIES 2009A BONDS TO THE UNDERWRITERS

Upon motion of Council Member _____, seconded by Council Member _____, the foregoing order was passed by the following vote:

Ayes: _____

Noes: _____

Thereupon, _____ introduced the following order, a copy of which had been previously distributed to each Council Member, and the title of which was read:

BOND ORDER AUTHORIZING AND APPROVING THE ISSUANCE AND SALE UNDER THE PROVISIONS OF THE STATE AND LOCAL GOVERNMENT REVENUE BOND ACT, AS AMENDED, OF NOT TO EXCEED \$45,000,000 AGGREGATE PRINCIPAL AMOUNT OF THE CITY OF FAYETTEVILLE, NORTH CAROLINA, PUBLIC WORKS COMMISSION REVENUE BONDS, SERIES 2009B TO PROVIDE FUNDS FOR VARIOUS WATER AND SEWER CAPITAL IMPROVEMENTS AND DIRECTING THE AUTHENTICATION AND DELIVERY OF THE SERIES 2009B BONDS TO THE UNDERWRITERS

Upon motion of Council Member _____, seconded by Council Member _____, the foregoing order was passed by the following vote:

Ayes: _____

Noes: _____

* * * * *

I, Rita Perry, City Clerk of the City of Fayetteville, North Carolina, DO HEREBY CERTIFY that the foregoing is a true and accurate copy of so much of the proceedings of City Council of said City at a regular meeting held on September 14, 2009, as relates in any way to the adoption of the foregoing bond orders and that said proceedings are recorded in minute books of said City Council.

I DO HEREBY FURTHER CERTIFY that proper notice of such regular meeting was given as required by North Carolina law.

WITNESS my hand and the official seal of the City this 14th day of September, 2009.

City Clerk

[SEAL]

CITY OF FAYETTEVILLE, NORTH CAROLINA

BOND ORDER

Adopted September 14, 2009

Authorizing and Securing

CITY OF FAYETTEVILLE, NORTH CAROLINA
PUBLIC WORKS COMMISSION REVENUE REFUNDING BONDS
SERIES 2009A

BOND ORDER AUTHORIZING AND APPROVING THE ISSUANCE AND SALE UNDER THE PROVISIONS OF THE STATE AND LOCAL GOVERNMENT REVENUE BOND ACT, AS AMENDED, OF NOT TO EXCEED \$145,000,000 AGGREGATE PRINCIPAL AMOUNT OF THE CITY OF FAYETTEVILLE, NORTH CAROLINA PUBLIC WORKS COMMISSION REVENUE REFUNDING BONDS, SERIES 2009A TO REFUND ALL OF THE CITY'S OUTSTANDING PUBLIC WORKS COMMISSION REVENUE REFUNDING BONDS, SERIES 2003 AND PUBLIC WORKS COMMISSION REVENUE AND REVENUE REFUNDING BONDS, SERIES 2003A AND DIRECTING THE AUTHENTICATION AND DELIVERY OF THE SERIES 2009A BONDS TO THE UNDERWRITERS

WHEREAS, the City of Fayetteville, North Carolina (the "Issuer"), acting by and through its City Council (the "City Council"), is authorized by The State and Local Government Revenue Bond Act of North Carolina, Article 5 of Chapter 159 of the North Carolina General Statutes, as amended (the "Act"), and particularly Sections 159-83(a)(5) and 159-81(3)(a), (b) and (c) thereof, to issue revenue bonds for the purpose of financing the cost of acquisition, construction, reconstruction, enlargement, equipping, extension, betterment or improvement of water systems and facilities, sewage disposal systems and facilities and electric systems and facilities and to refund revenue bonds issued for such purposes; and

WHEREAS, the Public Works Commission (the "Commission") of the Issuer was created pursuant to Chapter VI of the City Charter of the Issuer as an independently operated utility for the purpose of supervising and managing all facilities or projects owned or used by the issuer for the generation, transmission and distribution of electric power and energy for lighting, heating and power, and all additions, extensions and improvements which may at any time be constructed or acquired (the "Electric System"), of the Issuer, and for the purpose of supervising and managing all facilities or projects owned or used by the Issuer for the production, collection, treatment, transmission and distribution of water and the collection, transmission, treatment and disposal of sewage, and all additions, extensions and improvements which may at any time be constructed or acquired (the "Water and Sewer System," and, together with the Electric System, the "System"), of the Issuer; and

WHEREAS, the Commission is the designated agent of the Issuer to operate the System for the purposes of providing electric, water and sewer service to the general public within the Issuer and in surrounding geographic areas; and

WHEREAS, pursuant to a bond order adopted by the City Council of the Issuer on November 5, 1990 (the "Original Bond Order"), the Issuer has heretofore issued its \$63,008,898.20 Public Works Commission Revenue Bonds, Series 1990; and

WHEREAS, pursuant to various supplemental bond orders adopted by the City Council of the Issuer on December 7, 1992, October 25, 1993, November 17, 1997, January 13, 2003, August 25, 2003 and January 14, 2008 (the "Amendatory Orders" and, together with the Original Bond Order, the "Bond Order"), the Issuer amended certain provisions of the Original Bond Order; and

WHEREAS, there is currently outstanding under the Bond Order, \$155,045,000 of Bonds (as defined in the Bond Order); and

WHEREAS, pursuant to a bond order adopted by the City Council on January 13, 2004, the Issuer has heretofore issued its Public Works Commission Revenue Refunding Bonds, Series 2003 in the aggregate principal amount of \$78,280,000 (the "Series 2003 Bonds") for the purpose of providing funds, together with other available funds, to refund certain revenue bonds issued under the Bond Order;

WHEREAS, pursuant to a bond order adopted by the City Council on August 25, 2003, the Issuer has heretofore issued its Public Works Commission Revenue and Revenue Refunding Bonds, Series 2003A in the aggregate principal amount of \$55,150,000 (the "Series 2003A Bonds") for the purpose of providing funds, together with other available funds, to refund certain revenue bonds issued under the Bond Order and to pay the cost of certain capital improvements to the System; and

WHEREAS, there are currently outstanding \$72,140,000 Series 2003 Bonds and \$53,650,000 Series 2003A Bonds; and

WHEREAS, the Issuer has determined that it is in its best interest to refund all of the outstanding Series 2003 Bonds and Series 2003A Bonds (collectively, the "Refunded Bonds"); and

WHEREAS, the Issuer has determined to issue its Public Works Commission Revenue Refunding Bonds, Series 2009A (the "Series 2009A Bonds") in an aggregate principal amount not to exceed \$145,000,000 for the purpose of providing funds, together with any other available funds, to (a) refund the Refunded Bonds, (b) pay the cost of terminating the interest rate swap agreements entered into by the City in connection with the Refunded Bonds and (c) pay certain fees and expenses relating to the sale and issuance of the Series 2009A Bonds; and

WHEREAS, the North Carolina Local Government Commission (the "LGC") has approved the application of the Issuer for the issuance of the Series 2009A Bonds pursuant to Section 159-86 of the Act and, pursuant to the request of the Issuer, has approved the sale of the Series 2009A Bonds at private sale without advertisement as required by Section 159-123 of the North Carolina General Statutes; and

WHEREAS, the Commission adopted a resolution on September 9, 2009, requesting that the Issuer adopt this Series 2009A Bond Order and such resolution specifies the Commission's agreement to fulfill all of its obligations hereunder and its concurrence with all the terms and provisions hereof; and

WHEREAS, the Issuer has determined that the form of the Series 2009A Bonds shall be substantially in the form set forth in the Exhibit A attached hereto and made a part hereof, with such variations and omissions as are required or permitted by the Bond Order and this Series 2009A Bond Order; and

WHEREAS, under the Constitution and laws of the State of North Carolina, including the Act, the Issuer is authorized to adopt this Series 2009A Bond Order, to issue the Series 2009A

Bonds as hereinafter provided for the purposes hereinbefore stated, and to do or cause to be done all the acts and things herein provided or required to be done as hereinafter covenanted;

NOW, THEREFORE, BE IT ORDERED by the City Council of the City of Fayetteville, North Carolina as follows:

ARTICLE I
DEFINITIONS

Section 1.01. Meaning of Words and Terms. Unless otherwise required by the context, capitalized words and terms used herein which are defined in the Bond Order shall have the meanings assigned to them therein, and the following words and terms shall have the following meanings:

“Bond Year” means, with respect to the Series 2009A Bonds, the period beginning the first day of March of each year and ending on the last day of February of the following year.

“Interest Payment Date” means March 1 and September 1 of each year, beginning March 1, 2010.

“Record Date” means, with respect to the Series 2009A Bonds, the 15th day of the month (whether or not a Business Day) preceding each Interest Payment Date.

“Refunded Bonds” has the meaning given to such term in the preambles of this Series 2009A Bond Order.

“Securities Depository” means The Depository Trust Company, New York, New York, or any other recognized securities depository selected by the Issuer, which maintains a book-entry only system in respect of the Series 2009A Bonds, and shall include any substitute for or successor to the securities depository initially acting as Securities Depository.

“Securities Depository Nominee” means, as to any Securities Depository, such Securities Depository or the nominee of such Securities Depository in whose name there shall be registered on the registration books maintained by the Trustee for the Series 2009A Bonds.

“Serial Bonds” means, in respect of the Series 2009A Bonds, the Series 2009A Bonds so designated in the certificate of the Chief Financial Officer of the Issuer required by Section 2.04.

“Series Certificate” has the meaning set forth in Section 2.04.

“Series 2009A Bond Order” means this Series 2009A Bond Order, including any amendments or supplements hereto.

“Series 2009A Costs of Issuance Account” means the account created and so designated by Section 4.01 of this Series 2009A Bond Order.

“Series 2009A Subaccount of the Interest Account” means the subaccount created and so designated by Section 5.01 of this Series 2009A Bond Order.

“Series 2009A Subaccount of the Principal Account” means the subaccount created and so designated by Section 5.01 of this Series 2009A Bond Order.

“Sinking Fund Requirement” means, with respect to the Term Bonds and for any Bond Year, the principal amount fixed or computed for retirement by purchase or redemption on March 1 of the following Bond Year.

The Sinking Fund Requirements for the Term Bonds shall be initially the respective principal amounts of such Term Bonds to be redeemed or otherwise retired on March 1 of the following Bond Year as set forth in the certificate of the Chief Financial Officer of the Issuer required by Section 2.04.

On or before the 60th day next preceding any March 1 on which Term Bonds are to be retired pursuant to the Sinking Fund Requirement, the Issuer may deliver to the Trustee for cancellation Term Bonds required to be redeemed on such March 1 in any aggregate principal amount desired and receive a credit against amounts required to be transferred from the Series 2009A Subaccount of the Principal Account on account of such Term Bonds in the amount of 100% of the principal amount of any such Term Bonds so purchased. Any principal amount of Term Bonds delivered to the Trustee for cancellation and cancelled in excess of the principal amount required to be redeemed on such March 1 shall be credited against and reduce the principal amount of future Sinking Fund Requirements in such manner as shall be specified in an Officer’s Certificate filed with the Trustee.

It shall be the duty of the Trustee, on or before the March 15 of each Bond Year, to confirm, as necessary, the Sinking Fund Requirement for such Bond Year and all subsequent Bond Years for the Term Bonds. The Sinking Fund Requirement for such Bond Year as so confirmed shall continue to be applicable during the balance of such Bond Year, and no adjustment shall be made therein by reason of Term Bonds purchased or redeemed or called for redemption during such Bond Year.

If any Term Bonds of the same maturity are paid or optionally redeemed by or on behalf of the Issuer, the Trustee shall reduce future Sinking Fund Requirements therefor in such manner as shall be specified in an Officer’s Certificate filed with Trustee.

“Term Bonds” means the Series 2009A Bonds so designated in the certificate of the Chief Financial Officer of the Issuer required under Section 2.04.

“Underwriters” means the underwriters named in the Bond Purchase Agreement for the Series 2009A Bonds, to be dated the date of delivery thereof, between the Underwriters and the LGC, and approved by the Issuer and the Commission.

Section 1.02. Rules of Construction. Words of the masculine gender shall be deemed and construed to include correlative words of the feminine and neuter genders. Unless the context shall otherwise indicate, words used herein shall include the plural as well as the singular number, and the word “person” shall mean any individual, corporation, partnership, joint venture, association, joint stock company, trust, unincorporated organization or government or any agency or political subdivision thereof. References herein to particular articles or sections are references to articles or sections of this Series 2009A Bond Order unless some other reference is indicated.

ARTICLE II

AUTHORIZATION, FORM, ISSUANCE AND DELIVERY OF SERIES 2009A BONDS

Section 2.01. Authorization of Series 2009A Bonds. For the purpose of providing funds, together with any other available funds, to (a) refund all of the Refunded Bonds, (b) pay the cost of terminating the interest rate swap agreements entered into by the City in connection with the Refunded Bonds and (c) pay certain fees and expenses relating to the sale and issuance of the Series 2009A Bonds, there shall be issued, under and pursuant to the Constitution and laws of the State of North Carolina, including the Act, the Bond Order and this Series 2009A Bond Order, the Series 2009A Bonds in the amounts and subject to the conditions herein provided.

Section 2.02. Form of Series 2009A Bonds Generally. The definitive Series 2009A Bonds are issuable in fully registered form in denominations of \$5,000 or any integral multiple thereof, shall be lettered "R-" and shall be numbered from 1 consecutively upward. The definitive Series 2009A Bonds issued under the provisions of Section 2.04 shall be substantially in the form set forth in Exhibit A, with such appropriate variations, omissions and insertions as are permitted or required by the Bond Order and this Series 2009A Bond Order.

Section 2.03. Details of Series 2009A Bonds. The Series 2009A Bonds shall be dated as of the date of delivery thereof, shall bear interest (computed on the basis of a 360-day year consisting of twelve 30-day months) until their payment, such interest to the maturity thereof being payable semiannually on each Interest Payment Date, and shall be stated to mature on March 1 (subject to the right of prior redemption), all as hereinafter provided.

Each Series 2009A Bond shall bear interest from the Interest Payment Date next preceding the date on which it is authenticated unless it is (a) authenticated upon an Interest Payment Date, in which event it shall bear interest from such Interest Payment Date, or (b) authenticated prior to the first Interest Payment Date, in which event it shall bear interest from its date; provided, however, that if at the time of authentication of any Series 2009A Bond interest is in default, such Series 2009A Bond shall bear interest from the date to which interest has been paid.

The principal of and premium, if any, on the Series 2009A Bonds shall be payable in lawful money of the United States of America at the designated corporate trust office of the Trustee, or its successor in trust. Payment of interest on the Series 2009A Bonds shall be made to the Owner thereof as of the applicable Record Date by check mailed by the Trustee to such Owner at its address as it appears on the registration books maintained by the Trustee, or, in the case of an Owner of at least \$1,000,000 in aggregate principal amount of the Series 2009A Bonds, by bank wire transfer to an account maintained by such Owner in the United States of America and designated in written instructions by such Owner to the Trustee.

The Series 2009A Bonds shall be issued by means of a book-entry system with no physical distribution of bond certificates to be made except as hereinafter provided. One bond certificate with respect to each date on which the Series 2009A Bonds are stated to mature, in the aggregate principal amount of the Series 2009A Bonds stated to mature on such date and

registered in the name of Cede & Co., as nominee of The Depository Trust Company, New York, New York (“DTC”), will be issued and required to be deposited with DTC (or its designee) and immobilized in its custody. The book-entry system will evidence ownership of the Series 2009A Bonds in the principal amount of \$5,000 or any whole multiple thereof, with transfers of ownership effected on the records of DTC and its participants pursuant to rules and procedures established by DTC and its participants. The principal of and interest on the Series 2009A Bonds shall be payable to Cede & Co. or any other person appearing on the registration books for the Series 2009A Bonds as the registered owner of such Series 2009A Bonds or its registered assigns or legal representatives. Transfer of principal and interest payments to participants of DTC will be the responsibility of DTC, and transfer of principal and interest payments to beneficial owners of the Series 2009A Bonds by participants of DTC will be the responsibility of such participants and other nominees of such beneficial owners. The Issuer, the Commission and the Trustee will not be responsible or liable for such transfers of payments or for maintaining, supervising or reviewing records maintained by DTC, its participants or persons acting through such participants.

In the event that (a) DTC determines not to continue to act as Securities Depository for the Series 2009A Bonds or (b) the Issuer determines that continuation of the book-entry system of evidence and transfer of ownership of the Series 2009A Bonds would adversely affect the interests of the beneficial owners of the Series 2009A Bonds, the Issuer will discontinue the book-entry system with DTC. If the Issuer identifies another qualified Securities Depository to replace DTC, the Issuer will make arrangements with DTC and such other Securities Depository to effect such replacement and deliver replacement bonds registered in the name of such other Securities Depository or its Securities Depository Nominee in exchange for the outstanding Series 2009A Bonds, and the references to DTC or Cede & Co. in this Series 2009A Bond Order shall thereupon be deemed to mean such other Securities Depository or its Securities Depository Nominee. If the Issuer fails to identify another qualified Securities Depository to replace DTC, the Issuer will deliver replacement bonds in the form of fully registered certificates in the denomination of \$5,000 or any whole multiple thereof in exchange for the outstanding Series 2009A Bonds as required by DTC and others.

Section 2.04. Issuance and Delivery of Series 2009A Bonds. There shall be issued under and secured by the Bond Order and this Series 2009A Bond Order the Series 2009A Bonds in an aggregate principal amount not to exceed One Hundred and Forty-Five Million Dollars (\$145,000,000) for the purposes set forth in Section 2.01.

The Series 2009A Bonds shall be stated to mature on March 1, in such years and amounts; shall bear interest at such rate or rates, shall have such Sinking Fund Requirements and shall have such optional redemption provisions as shall be set forth in a certificate of the Chief Financial Officer of the Issuer filed with the Trustee on the date of delivery of the Series 2009A Bonds (the “Series Certificate”); provided, however, that the final maturity of the Series 2009A Bonds shall not be later than March 1, 2024, the true interest cost shall not exceed 4.25% per annum, the effective interest cost shall not exceed 5.55% per annum, and the Series 2009A Bonds shall be subject to optional redemption starting no later than ten and one-half (10½) years from their date at a redemption price or prices not to exceed 102% of their face amount plus accrued interest to the date of redemption.

The Series 2009A Bonds shall be executed substantially in the form and in the manner hereinabove set forth and shall be deposited with the Trustee for authentication, but before the Series 2009A Bonds shall be delivered by the Trustee, there shall be filed with the Trustee the following:

(a) copies, duly certified by the City Clerk of the Issuer to be true and correct copies, of the Bond Order and this Series 2009A Bond Order;

(b) an executed copy of the Series Certificate;

(c) an Officer's Certificate evidencing compliance with Section 211 of the Bond Order;
and

(d) such additional resolutions, certificates, documents, and opinions as shall be required by the Trustee.

When the items mentioned in subparagraphs (a) to (d), inclusive, of the immediately preceding paragraph shall have been filed with the Trustee and when the Series 2009A Bonds shall have been executed and authenticated as required by the Bond Order and this Series 2009A Bond Order, the Trustee shall deliver the Series 2009A Bonds at one time to the State Treasurer for redelivery to or upon the order of the Underwriters, but only upon payment to the Trustee of the purchase price of the Series 2009A Bonds.

The proceeds of the Series 2009A Bonds shall be applied by the Trustee, simultaneously with the delivery of the Series 2009A Bonds, as provided in the Series Certificate.

ARTICLE III

REDEMPTION OF SERIES 2009A BONDS

Section 3.01. Terms of Redemption. The Series 2009A Bonds shall not be subject to prior redemption except as provided in this Article III and in Article III of the Bond Order.

(a) The Series 2009A Bonds shall be subject to redemption, at the option of the Issuer, at such times and at such redemption prices as shall be set forth in the Series Certificate.

(b) The Term Bonds are required to be redeemed to the extent of any Sinking Fund Requirement therefor on March 1 immediately following each Bond Year in which there is a Sinking Fund Requirement, at a redemption price equal to 100% of the principal amount of the Term Bonds to be redeemed, plus accrued interest to the redemption date.

Section 3.02. Selection of Series 2009A Bonds to Be Redeemed. The Series 2009A Bonds shall be redeemed only in whole multiples of \$5,000. If less than all the Series 2009A Bonds are called for redemption, the Series 2009A Bonds to be so redeemed shall be called for redemption in the manner set forth in an Officer's Certificate filed with the Trustee.

If less than all of the Series 2009A Bonds of any one maturity are to be called for redemption, the Trustee shall select the Series 2009A Bonds to be redeemed by lot, each \$5,000 portion of principal being counted as one Series 2009A Bond for this purpose; provided, however, that so long as the only Owner of the Series 2009A Bonds is a Securities Depository Nominee, such selection shall be made by the Securities Depository.

Section 3.04. Notice of Redemption. (a) Notwithstanding and in lieu of the provisions of Section 304 of the Bond Order, at least thirty (30) days but not more than sixty (60) days prior to the redemption date of any Series 2009A Bonds to be redeemed, whether such redemption be in whole or in part, the Trustee shall cause a notice of any such redemption signed to be mailed, first class, postage prepaid, to all Owners of Series 2009A Bonds to be redeemed in whole or in part; provided, however, that notice to any Securities Depository shall be sent in the manner prescribed by such Securities Depository; and provided further that failure to mail any such notice to any Owner or any defect in such notice shall not affect the validity of the proceedings for such redemption as to the Series 2009A Bonds of any other Owner to whom notice was properly given. The Trustee shall also give such notice of redemption, by certified or registered mail, to the Municipal Securities Rulemaking Board and at least two national information services which disseminate redemption information, but failure to mail such notice or any defect therein shall not affect the validity of any proceedings for the redemption of any Series 2009A Bonds.

(b) Each such notice shall set forth the designation, date and Series of the Series 2009A Bonds, the CUSIP numbers of the Series 2009A Bonds to be redeemed, the date fixed for redemption, the Redemption Price to be paid, the address and phone number of the Trustee and Trustee, the date of the redemption notice, the maturities of the Series 2009A Bonds to be redeemed and, if less than all of the Series 2009A Bonds of any one maturity shall be called for redemption, the distinctive numbers and letters, if any, of such Series 2009A Bonds to be redeemed and, in the case of Series 2009A Bonds to be redeemed in part only, the portion of the

principal amount thereof to be redeemed. If any Series 2009A Bond is to be redeemed in part only, the notice of redemption shall state also that on or after the redemption date, upon surrender of such Series 2009A Bond, a new Series 2009A Bond in principal amount equal to the unredeemed portion of such Series 2009A Bond will be issued.

(c) Not less than thirty-five (35) days prior to the redemption date, notice of such redemption shall be given by first class mail, postage prepaid, to the Local Government Commission. The failure to give such notice to the Local Government Commission nor any defect therein, shall affect the sufficiency of the proceedings for redemption.

(d) Any notice of redemption, except a notice of redemption in respect of a Sinking Fund Requirement, may state that the redemption to be effected is conditioned upon the receipt by the Trustee on or prior to the redemption date of moneys sufficient to pay the principal of and interest on the Series 2009A Bonds to be redeemed and that if such moneys are not so received such notice shall be of no force or effect and such Series 2009A Bonds shall not be required to be redeemed. In the event that such notice contains such a condition and moneys sufficient to pay the principal of and interest on such Series 2009A Bonds are not received by the Trustee on or prior to the redemption date, the redemption shall not be made, and the Trustee shall within a reasonable time thereafter give notice, in the manner in which the notice of redemption was given, that such moneys were not so received.

ARTICLE IV

SERIES 2009A COSTS OF ISSUANCE ACCOUNT

Section 4.01. Establishment of Series 2009A Costs of Issuance Account. There is hereby established with the Trustee a special account to be known as the "City of Fayetteville, North Carolina PWC Series 2009A Costs of Issuance Account." The Trustee shall make the deposit to the Series 2009A Costs of Issuance Account required by the Series Certificate.

The moneys in the Series 2009A Costs of Issuance Account shall be held by the Trustee in trust and, subject to the provisions of Section 4.02 hereof, shall be applied to the payment of the costs of issuance of the Series 2009A Bonds and, pending such application, shall be subject to a lien and charge in favor of the Owners of the Series 2009A Bonds and for the further security of such Owners until paid out or transferred as provided in this Article IV.

Section 4.03. Disposition of Series 2009A Costs of Issuance Account. Payment or provision for payment of all costs of issuance of the Series 2009A Bonds shall be evidenced through the filing by the City with the Trustee of a requisition or requisitions in substantially the form of Exhibit B attached hereto. Any moneys remaining in the Series 2009A Costs of Issuance Account on March 1, 2010 shall be transferred to the Series 2009A Subaccount of the Principal Account or the Series 2009A Subaccount of the Principal Account and applied to pay a portion of the redemption price of the Series 2009A Bonds subject to mandatory sinking fund redemption on such date.

ARTICLE V

REVENUES AND FUNDS

Section 5.01. Establishment of Account and Subaccounts. There are hereby established the following account and subaccounts:

- (a) Series 2009A Subaccount of the Interest Account; and
- (b) Series 2009A Subaccount of the Principal Account.

Such subaccounts shall be established with and held in trust by the Trustee pursuant to the Bond Order and this Series 2009A Bond Order for the benefit of the Owners of the Series 2009A Bonds.

Section 5.02. Deposits to Bond Fund Subaccounts. Moneys shall be deposited to the credit of the Series 2009A Subaccount of the Interest Account and the Series 2009A Subaccount of the Principal Account at the times and in the amounts required by Section 5.03 and Sections 602 and 603 of the Bond Order.

Section 5.03. Funds Received. The Issuer shall deposit, or cause to be deposited, with the Trustee, the following amounts, for application in the following order, subject to credits as hereinafter provided:

- (a) into the Series 2009A Subaccount of the Interest Account on the 25th day of the month immediately preceding each Interest Payment Date, the amount required to pay the interest due on the Series 2009A Bonds on such Interest Payment Date; and
- (b) into the Series 2009A Subaccount of the Principal Account, on the 25th day of the month immediately preceding each March 1, the amount required to pay the principal of all Serial Bonds coming due on such March 1 or the amount required to retire the Term Bonds to be called by mandatory sinking fund redemption or to be paid at maturity on such March 1 in accordance with the Sinking Fund Requirements therefor.

To the extent that investment earnings are credited to the Series 2009A Subaccount of the Interest Account or the Series 2009A Subaccount of the Principal Account or amounts are credited thereto as a result of the application of the proceeds of the Series 2009A Bonds, a transfer of investment earnings on any other fund or account held by the Trustee, a transfer of amounts in the Series 2009A Project Account or otherwise, required deposits to such subaccounts shall be reduced by the amount so credited.

Section 5.04. Application of Money in the Series 2009A Subaccount of the Interest Account. Not later than 10:00 A.M. on each Interest Payment Date or date for the payment of defaulted interest or date upon which Series 2009A Bonds are to be redeemed, the Trustee shall withdraw from the Series 2009A Subaccount of the Interest Account and remit to each Owner the amount required for paying interest on such Series 2009A Bonds when due and payable.

In the event the balance in the Series 2009A Subaccount of the Interest Account on the 25th day of each February or August is insufficient for the payment of interest becoming due on the Bonds on the next ensuing Interest Payment Date, the Trustee shall notify the Issuer of the amount of such deficiency. Upon notification, the Issuer shall immediately transfer, or cause to be transferred, to the Trustee an amount sufficient to cure the same.

Section 5.05. Application of Money in the Series 2009A Subaccount of the Principal Account. Not later than 10:00 A.M. on each March 1, commencing in the year of the first principal payment on the Series 2009A Bonds, the Trustee shall withdraw from the Series 2009A Subaccount of the Principal Account and set aside the amount necessary to pay the principal of all Series 2009A Bonds due on such March 1.

In the event the balance in the Series 2009A Subaccount of the Principal Account on the fifth Business Day next preceding any principal payment date is insufficient to pay principal becoming due on such principal payment date, the Trustee shall notify the Issuer of the amount of the deficiency. Upon notification, the Issuer shall immediately transfer, or cause to be transferred, to the Trustee an amount sufficient to cure the same.

Section 5.06. Security for the Series 2009A Bonds. In addition to the security for the Series 2009A Bonds granted by the Issuer pursuant to the Bond Order, the Issuer hereby grants to the Owners of the Series 2009A Bonds and to the Trustee, on behalf of such Owners, a pledge of the money and securities in any and all of the accounts and subaccounts established under this Series 2009A Bond Order.

Section 5.07. Tax Covenant. The Issuer covenants to do and perform all acts and things permitted by law in order to assure that interest paid on the Series 2009A Bonds which was excludable from the gross income of their Owners for federal income taxes on the date of their issuance shall continue to be so excludable.

ARTICLE VI

INVESTMENTS

Section 6.01. Investment of Money. All money held by the Trustee in any account or subaccount created by this Series 2009A Bond Order shall be invested in accordance with the provisions of Section 701 of the Bond Order.

ARTICLE VII

DEFAULTS

Section 7.01. Defaults. All Defaults set forth in Section 901 of the Bond Order shall be Defaults under this Series 2009A Bond Order.

ARTICLE VIII

THE TRUSTEE

Section 8.01. Acceptance of Duties by Trustee. The Trustee shall signify its acceptance the duties and obligations and the trusts imposed upon it by this Series 2009A Bond Order by execution of the Certificate of Authentication on the Series 2009A Bonds.

ARTICLE IX

SUPPLEMENTAL BOND ORDERS

Section 9.01. Procedure for Adoption of Supplemental Bond Orders. The Issuer may, from time to time and at any time, adopt such orders amending and supplementing the provisions of this Series 2009A Bond Order in the same manner is provided in Sections 1101 and 1102 of the Bond Order for the adoption of supplemental bond orders, and the provisions of said Sections 1101 and 1102 are hereby incorporated herein and made applicable hereto in the same manner as if herein set forth; provided, however, that to the extent any amendment or supplement to this Series 2009A Bond Order relates solely to the Series 2009A Bonds, and affects only the Owners of the Series 2009A Bonds, the provisions of Section 1102 of the Bond Order requiring the consent of the Owners of all Outstanding Bonds shall be read as referring only the Owners of the Outstanding Series 2009A Bonds.

Section 9.02. Supplements and Amendments to Original Bond Order. Pursuant to Section 1102 of the Original Bond Order, subject to the prior written consent of the Owners of not less than two-thirds (2/3) in aggregate principal amount of the Outstanding Bonds (which consent may be evidenced by the bond insurer for such Outstanding Bonds as permitted by the respective supplemental bond orders relating to such Outstanding Bonds) and subject to the consent of the respective bond insurer for any of the Outstanding Bonds, the Original Bond Order is hereby supplemented and amended in the following manner:

(a) The third paragraph next succeeding "GRANTING CLAUSE THIRD" in the preambles of the Original Bond Order is amended to read as follows:

IN TRUST NEVERTHELESS, upon the terms and trusts herein set forth for the equal and proportionate benefit, security and protection of all present and future holders of the Bonds, from time to time, issued under and secured by this Bond Order or any supplement hereto and for the providers of any Credit Facility (hereinafter defined) securing Bonds, without privilege, priority or distinction as to the lien or otherwise of any of the Bonds or reimbursement obligation under any Credit Facility over any of the other Bonds or reimbursement obligation under any Credit Facility, except in the case of funds held hereunder solely for the benefit of holders of a particular series of Bonds (or the provider of any Credit Facility securing such Bonds);

(b) The following definition is added to Section 101 of the Original Bond Order:

"Credit Facility Obligations" means any repayment obligations to the provider of any Credit Facility securing Bonds to reimburse such provider for amounts drawn or advanced under the Credit Facility to pay the principal or purchase price of, premium, if any, and interest on the Bonds, together with interest thereon, as specified in the reimbursement agreement, standby bond purchase agreement or any similar type document related to such Credit Facility; provided, however, that such any payment obligations to reimburse the provider of a Credit Facility for moneys drawn to purchase, but not pay and retire, Bonds

shall constitute a Credit Facility Obligation only to the extent such payments are in excess of any scheduled payments of principal and interest required to be made on the Bonds so purchased.

(c) The definition of “Reserve Fund Requirement” in Section 101 of the Original Bond Order is amended to read as follows:

“Reserve Fund Requirement” means, with respect to the Series 1997 Bonds, the Series 1999 Bonds, the Series 2001 Bonds, the Series 2003 Bonds and the Series 2003A Bonds, the least of (A) one hundred percent (100%) of Maximum Annual Debt Service with respect to such series of Bonds for the then current or any succeeding Bond Year, (B) one hundred twenty-five percent (125%) of Average Annual Debt Service and (C) ten percent (10%) of the stated principal amount of such series of Bonds; provided, however, that if such series of Bonds has original issue discount or premium that exceeds two percent (2%) of the stated redemption price at maturity plus any original issue premium attributable exclusively to underwriters’ compensation, the initial offering prices to the public shall be used in lieu of the stated principal amount for purposes of the ten percent (10%) limitation. “Reserve Fund Requirement” means, with respect to any other series of Additional Bonds, the amount, if any, required to be placed or maintained in an account of the Reserve Fund for such series of Additional Bonds as may be set forth in the supplemental bond order authorizing such series of Additional Bonds and creating such account. Pursuant to Section 605, any Reserve Fund Requirement may be met by permitted forms of credit enhancement.

(d) The first paragraph of the definition of “Subordinated Indebtedness” in Section 101 of the Original Bond Order is amended to read as follows:

“Subordinated Indebtedness” means all obligations or debt instruments issued or incurred by the Issuer in respect of the System which are secured by and from Net Revenues other than the Bonds, Credit Facility Obligations and GO System Bonds. The terms of any Subordinated Indebtedness shall provide that it shall be junior, inferior and subordinate in all respects to the Bonds, Credit Facility Obligations and GO System Bonds as to the lien on and source and security for payment from the Revenues and in all other respects as provided in Section 506. Subordinated Indebtedness shall not include any obligations issued to finance Special Facilities.

(e) Section 507(c) of the Original Bond Order is amended to read as follows:

(c) with respect to any Credit Facility, (i) to the extent that such Credit Facility has not been used or drawn upon, the principal and interest relating to such Credit Facility shall not be included in the Debt Service Requirement and (ii) to the extent that such Credit Facility has been used or drawn upon, the debt service requirements with respect to the Credit Facility Obligations shall be

included in the Debt Service Requirement in the same manner as the Debt Service Requirement for Bonds; and

(f) Section 602(b)(2) and (3) of the Original Bond Order is amended to read as follows:

(2) (A) With respect to the Series 1995A Bonds, to the Interest Account on or before the fifteenth calendar day of each month, an amount equal to one-sixth the amount of interest due on the Series 1995A Bonds on the next succeeding Interest Payment Date, or such lesser amount that, together with amounts already on deposit in the Interest Account and set aside for payment of the Series 1995A Bonds, will be sufficient to pay interest on the Series 1995A Bonds to become due on such Interest Payment Date; (B) with respect to any other series of Bonds, to the Interest Account on such dates and in such amounts as shall be specified in the supplemental bond order authorizing such series of Bonds, the amounts required to pay the interest on such Bonds on the next Interest Payment Date, (C) to the provider of any Credit Facility securing Bonds, the amounts necessary to pay any interest due and payable with respect to any Credit Facility Obligations as specified in the documents providing for such Credit Facility; and (D) to the person or entity entitled thereto the amount of any Derivative Agreement Scheduled Payments and required by a Derivative Agreement to be paid by the Issuer on a parity basis; provided, however, that if there shall not be sufficient Net Revenues to satisfy all such deposits and payments, such deposits and payments shall be made ratably according to the amount so required to be deposited or paid;

(3) (A) With respect to the Series 1995A Bonds, to the Principal Account on or before the fifteenth calendar day of each month, an amount equal to one-twelfth the amount of principal due on the Series 1995A Bonds on the next Principal Payment Date or such lesser amount that, together with amounts already on deposit in the Principal Account, will be sufficient to pay principal of the Series 1995A Bonds to become due on such Principal Payment Date; (B) with respect to any other series of Bonds, to the Principal Account on such dates and in such amounts as shall be specified in the supplemental bond order authorizing such series of Bonds, the amounts required to pay the principal of such Bonds on the next Principal Payment Date and (C) to the provider of any Credit Facility securing Bonds, the amounts necessary to pay any principal due and payable with respect to any Credit Facility Obligations as specified in the documents providing for such Credit Facility; provided, however, that if there shall not be sufficient Net Revenues to satisfy all such deposits, such deposits shall be made ratably according to the amount so required to be deposited;

(h) Section 602(e) of the Original Bond Order is amended to read as follows:

(e) In the event that the Trustee shall hold the General Fund and the Revenues pursuant to Section 902 upon the occurrence and continuance of a Default, the Issuer shall provide to the Trustee a certified or otherwise authentic copy of each Derivative Agreement entered into by the Issuer and the documentation relating to the payment of any Credit Facility Obligations, and

shall otherwise provide the Trustee with such information and documents as the Trustee shall request to assure that the Trustee is advised of the payments to be made pursuant to this Section.

(i) Section 605(a) of the Original Bond Order is amended to read as follows:

(a) The supplemental bond order authorizing any series of Additional Bonds may provide for the funding of a separate account in the Reserve Fund which will secure only such series of Additional Bonds or may provide that such series of Additional Bonds will not be secured by the Reserve Fund. If an account of the Reserve Fund is funded for a particular series of Additional Bonds, the supplemental bond order authorizing such series of Additional Bonds shall specify the Reserve Fund Requirement for such series of Additional Bonds and the manner of funding such account of the Reserve Fund. The Trustee shall use amounts in the related account of the Reserve Fund in an account to make transfers to the Principal Account to the extent necessary to pay the principal of (whether at maturity, upon redemption or by acceleration) and to the Interest Account to the extent necessary to pay the interest on the related series of Bonds as the same become due whenever monthly payments by the Commission or transfers to the Bond Fund from other funds established hereby (except for moneys held for the payment of Bonds that have been called for redemption and not then presented for payment), are insufficient therefor. In the event the balance in any account of the Reserve Fund shall exceed the Reserve Fund Requirement for the related series of Bonds (such valuations to be made at least annually at market value), any excess may be transferred to the Interest Account to pay interest on such series of Bonds. In the event the balance in any account of the Reserve Fund shall not equal the Reserve Fund Requirement for that particular series of Bonds, the Trustee shall send notice of such deficit and its cause to the Issuer and the Commission which shall make, or cause to be made, payments over the next 48 months adequate to restore such account of the Reserve Fund to the Reserve Fund Requirement for such series of Bonds (with each such payment in an amount equal to one-twelfth of 25% of the amount of the deficiency); provided if such deficiency is a result of valuation computations, it shall be remedied within 12 months.

(j) Section 610 of the Original Bond Order is amended to read as follows:

Section 610. Repayment to the Issuer from the Bond Fund or the Reserve Fund. Any amounts remaining in the Bond Fund, the Reserve Fund, or any other fund or account created hereunder after payment in full of the principal of, premium, if any, and interest on the Bonds, the fees, charges and expenses of the Trustee and all other amounts required to be paid hereunder, including any amounts payable to the provider of any Credit Facility securing the Bonds, shall be paid immediately to the Issuer.

(k) The first paragraph of Section 802 of the Original Bond Order is amended to read as follows:

Section 802. Defeasance of Bonds. Any Bond or obligation of System Indebtedness shall be deemed to be paid within the meaning of this Article and for all purposes of this Bond Order when, (a) payment of the principal of and premium, if any, on such Bond or obligation of System Indebtedness, plus interest thereon to the due date thereof (whether such due date is by reason of maturity or upon redemption as provided herein) either (1) shall have been made or caused to be made in accordance with the terms thereof, or (2) shall have been provided for by irrevocably depositing with the Trustee, in trust and irrevocably set aside exclusively for such payment, (i) moneys sufficient to make such payment or (ii) Defeasance Obligations maturing as to principal and interest in such amounts and at such times as will insure the availability of sufficient moneys to make such payment, with such sufficiency confirmed by a verification report of a verification agent acceptable to the Issuer and the Trustee, and (b) all necessary and proper fees, compensation and expenses of the Trustee, the Bond Insurer, the provider of any Credit Facility (including all Credit Facility Obligations) and the Issuer pertaining to the Bonds or obligation of System Indebtedness with respect to which such deposit is made shall have been paid or the payment thereof provided for to the satisfaction of the Trustee. At such time as a Bond or obligation of System Indebtedness shall be deemed to be paid hereunder, as aforesaid, such Bond or obligation of System Indebtedness shall no longer be secured by or entitled to the benefits of this Bond Order, except for the purposes of any such payment from such moneys or Defeasance Obligations.

(l) The first paragraph of Section 907 of the Original Bond Order is amended to read as follows:

Section 907. Application of Moneys. Subject to the provisions of Section 915, all moneys received by the Trustee pursuant to any right given or action taken under the provisions of this Article shall, after payment of the costs and expenses of the proceedings resulting in the collection of such moneys and of the expenses, liabilities and advances incurred or made by the Trustee, be deposited in the Bond Fund and applied as follows:

(m) The following Section 915 is added to the end of Article IX of the Original Bond Order:

Section 915. Allocations for Credit Facility Obligations and Derivative Agreement Scheduled Payments Payable on a Parity Basis. Notwithstanding any provision of this Bond Order, including any supplement bond order, any documentation providing for a Credit Facility or any Derivative Agreement to the contrary, if at any time there are Bonds Outstanding under the terms hereof and there is also Credit Facility Obligations outstanding under the terms of one or more Credit Facility or any Derivative Agreements in effect providing for Derivative Agreement Scheduled Payments to be paid by the Issuer on a parity basis and either (a) an Event of Default has occurred and the Trustee is holding the General Fund and receiving Revenues on a daily basis pursuant to Section 902 or (b) an Event of Default has occurred hereunder and the Trustee is required to

apply funds in its possession in accordance with Section 907, then all such Revenues or other funds to be distributed under the terms hereof shall be allocated among, and distributed by the Trustee, as follows: (i) to the Owners of Bonds in the proportion that the principal amount of all Bonds then Outstanding bears to the aggregate principal amount of all Bonds then Outstanding, the principal amount of all Credit Facility Obligations then outstanding and the amount of Derivative Agreement Scheduled Payments then due and payable, (ii) to the provider of each Credit Facility (or to the trustee or any other party on behalf of the provider of such Credit Facility as shall be specified to the Trustee) in the proportion that the principal amount of Credit Facility Obligations then outstanding with respect to each such Credit Facility bears to the aggregate principal amount of all Bonds then Outstanding, the principal amount of all Credit Facility Obligations then outstanding and the amount of Derivative Agreement Scheduled Payments then due and payable and (iii) to each counterparty under a Derivative Agreement providing for Derivative Agreement Scheduled Payments on a parity basis in the proportion that such Derivative Agreement Scheduled Payments then due and payable bear to the aggregate principal amount of all Bonds then Outstanding, the principal amount of all Credit Facility Obligations then outstanding and the amount of Derivative Agreement Scheduled Payments then due and payable, unless such an allocation and distribution has been made prior to the receipt by the Trustee of such Revenues or other funds; provided, however, that moneys maintained in funds, accounts, and subaccounts established for a particular series of Bonds which are pledged solely for the payment of that particular Series of Bonds shall not be subject to such allocation and shall instead be applied as provided in the applicable supplemental bond order authorizing such series of Bonds.

ARTICLE X

CONTINUING DISCLOSURE

Section 10.01. Continuing Disclosure. The Issuer and the Commission hereby undertake, for the benefit of the beneficial owners of the Series 2009A Bonds, to provide:

(a) by not later than seven months from the end of each Fiscal Year, commencing with the Fiscal Year ended June 30, 2009, to the Municipal Securities Rulemaking Board ("MSRB"), audited financial statements of the Commission for such 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 of the Commission are not available by seven months from the end of such Fiscal Year, unaudited financial statements of the Commission for such Fiscal Year to be replaced subsequently by audited financial statements of the Commission to be delivered within fifteen (15) days after such audited financial statements become available for distribution;

(b) by not later than seven months from the end of each Fiscal Year, commencing with the Fiscal Year ending June 30, 2010, to the MSRB, (i) 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 following headings in the Official Statement, to be dated as of the date of delivery thereof, relating to the Series 2009A Bonds (the "Official Statement"), to the extent that such items are not included in the financial statements referred to in (a) above:

- (1) "HISTORICAL OPERATING RESULTS";
- (2) "FAYETTEVILLE PUBLIC WORKS COMMISSION – The Electric System – Electric System Requirements and –Electric System Customers and Sales" (tables and largest customer information therein);
- (3) "FAYETTEVILLE PUBLIC WORKS COMMISSION – The Electric System – Electric Rates and Bills" (rate tables therein);
- (4) "FAYETTEVILLE PUBLIC WORKS COMMISSION – The Water System – Water System Requirements and –Water System Customers and Sales" (tables and largest customer information therein);
- (5) "FAYETTEVILLE PUBLIC WORKS COMMISSION – The Water System – Water Rates" (rate tables therein);
- (6) "FAYETTEVILLE PUBLIC WORKS COMMISSION – The Wastewater System – Wastewater System Requirements and –Wastewater Customers and Sales" (tables and largest customer information therein); and
- (7) "FAYETTEVILLE PUBLIC WORKS COMMISSION – The Wastewater System – Wastewater Rates" (rate tables therein);

(c) in a timely manner, to the MSRB, notice of any of the following events with respect to the Series 2009A Bonds, if material:

- (1) principal and interest payment delinquencies;
- (2) non-payment related defaults;
- (3) unscheduled draws on debt service reserves reflecting financial difficulties;
- (4) unscheduled draws on credit enhancements reflecting financial difficulties;
- (5) substitution of credit or liquidity providers, or their failure to perform;
- (6) adverse tax opinions or events affecting the tax-exempt status of the Series 2009A Bonds;
- (7) modification to the rights of the beneficial owners of the Series 2009A Bonds;
- (8) bond calls, other than calls for mandatory sinking fund redemption;
- (9) defeasances;
- (10) release, substitution or sale of any property securing repayment of the Series 2009A Bonds; and
- (11) rating changes; and

(d) in a timely manner, to the MSRB, notice of a failure of the Issuer or the Commission to provide required annual financial information described in (a) or (b) above on or before the date specified.

All information provided to the MSRB as described in this Section shall be provided in an electronic format as prescribed by the MSRB and accompanied by identifying information as prescribed by the MSRB.

The Issuer and the Commission may also discharge the undertaking described above by transmitting such information in any other manner subsequently authorized or required by the U.S. Securities and Exchange Commission in lieu of the manner described above.

If the Issuer or the Commission fails to comply with the undertaking described above, the Trustee or any beneficial owner of the Series 2009A Bonds may take action to protect and enforce the rights of all beneficial owners with respect to such undertaking, including an action for specific performance; provided, however, that failure to comply with such undertaking shall not be a Default under the Bond Order or this Series 2009A Bond Order and shall not result in any acceleration of the Series 2009A Bonds. All actions shall be instituted, had and maintained in the manner provided in this paragraph for the benefit of all beneficial owners of the Series 2009A Bonds.

The Issuer and the Commission reserve the right to modify from time to time the information to be provided to the extent necessary or appropriate in the judgment of the Issuer and the Commission, provided that:

(a) 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 Issuer or the Commission;

(b) the information to be provided, as modified, would have complied with the requirements of Rule 15c2-12 issued under the Securities Exchange Act of 1934 ("Rule 15c2-12") as of the date of the Official Statement, after taking into account any amendments or interpretations of Rule 15c2-12, as well as any changes in circumstances; and

(c) any such modification does not materially impair the interests of the Owners of the Series 2009A Bonds, as determined by the Trustee or bond counsel to the Issuer and the Commission, or by approving vote of the Owners of a majority in principal amount of the Series 2009A Bonds then Outstanding pursuant to the terms of the Bond Order and this Series 2009A Bond Order at the time of the amendment.

In the event that the Issuer and the Commission make such a modification, the annual financial information containing the modified operating data or financial information shall 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.

The provisions of this Section shall terminate upon payment, or provision having been made for payment in a manner consistent with Rule 15c2-12, in full of the principal of and interest on all of the Series 2009A Bonds.

ARTICLE XI

MISCELLANEOUS PROVISIONS

Section 11.01. Trustee, Issuer, Commission and Owners Alone Have Rights Under Series 2009A Bond Order. Except, as herein otherwise expressly provided, nothing in this Series 2009A Bond Order, express or implied, is intended or shall be construed to confer upon any person, firm or corporation other than the Trustee, the Issuer, the Commission and the Owners, any right, remedy or claim, legal or equitable, under or by reason of this Series 2009A Bond Order or any provision hereof, this Series 2009A Bond Order and all its provisions being intended to be and being for the sole and exclusive benefit of the Trustee, the Issuer, the Commission and the Owners.

Section 11.02. Effect of Partial Invalidity. In case any one or more of the provisions of this Series 2009A Bond Order or the Series 2009A Bonds shall for any reason be held to be illegal or invalid, such illegality or invalidity shall not affect any other provisions of this Series 2009A Bond Order or the Series 2009A Bonds, but this Series 2009A Bond Order and the Series 2009A Bonds shall be construed and enforced as if such illegal or invalid provisions had not been contained therein. In case any covenant, stipulation, obligation or agreement contained in the Series 2009A Bonds or this Series 2009A Bond Order shall for any reason be held to be in violation of any law, then such covenant, stipulation, obligation or agreement shall be deemed to be the covenant, stipulation, obligation or agreement of the Issuer to the fullest extent permitted by law.

Section 11.03. Effect of Covenants. All covenants, stipulations, obligations and agreements of the Issuer contained in this Series 2009A Bond Order shall be deemed to be covenants, stipulations, obligations and agreements of the Issuer to the fullest extent permitted by the Constitution and laws of the State. This Series 2009A Bond Order is adopted with the intent that the laws of the State shall govern its construction.

Section 11.04. Dealing in Bonds. The Trustee and its directors, officers, employees or agents, and any officer, employee or agent of the Issuer or the Commission, may in good faith, buy, sell, own, hold and deal in any Series 2009A Bonds issued under the provisions of this Series 2009A Bond Order and may join in any action which any Owner may be entitled to take with like effect as if the Trustee were not a Trustee or as if such officer, employee or agent of the Issuer or the Commission did not serve in such capacity.

Section 11.05. Headings. Any heading preceding the text of the several articles hereof, and any table of contents or marginal notes appended to copies hereof, shall be solely for convenience of reference and shall not constitute a part of this Series 2009A Bond Order, nor shall they affect its meaning, construction or effect.

Section 11.06. Further Authority. The officers, attorneys, engineers and other agents or employees of the Issuer and the Commission, their attorneys, officers, agents and employees, are hereby authorized to do all acts and things required of them by this Series 2009A Bond Order for the full, punctual and complete performance of all of the terms, covenants and agreements contained in the Series 2009A Bonds and this Series 2009A Bond Order.

Section 11.07. Approval of Award of Series 2009A Bonds by LGC; Authorization to Execute Bond Purchase Agreement; Approval of Preliminary Official Statement and Official Statement and Authorization to Execute and Deliver Official Statement. (a) The Issuer hereby approves the action of the LGC in awarding the Series 2009A Bonds to the Underwriters; provided, however, that the compensation of the Underwriters, including counsel to the Underwriters, shall not exceed 1.00% of the aggregate principal amount of the Series 2009A Bonds.

(b) The Issuer hereby approves the Bond Purchase Agreement for the Series 2009A Bonds, in substantially the form presented at this meeting, and the Mayor, the City Manager and the Chief Financial Officer are each hereby authorized to execute and deliver the Bond Purchase Agreement in substantially the form so presented, together with such changes, modifications, insertions and deletions, as any of them, with the advice of counsel, may deem necessary and appropriate, such execution and delivery to be conclusive evidence of the approval and authorization thereof by the Issuer.

(c) The Issuer hereby approves the use and distribution of the Preliminary Official Statement in substantially the form presented at this meeting in connection with the offering and sale of the Series 2009A Bonds. A final Official Statement, in substantially the form of the Preliminary Official Statement, together with such changes as are necessary to reflect certain pricing and other terms relating to the Series 2009A Bonds, is hereby approved, and the Mayor, the City Manager and the Chief Financial Officer are each hereby authorized to execute and deliver the final Official Statement in substantially the form of the Preliminary Official Statement, together with such changes, modifications, insertions and deletions, as any of them, with the advice of counsel, may deem necessary and appropriate, such execution and delivery to be conclusive evidence of the approval and authorization thereof by the Issuer.

(d) The officers and employees of the Issuer are authorized and directed (without limitation, except as may be expressly set forth herein and in the Bond Order) to take such action and to execute and deliver such documents, certificates, undertakings and agreements or other instruments as any of them, with the advice of counsel, may deem necessary or appropriate to effect the transactions contemplated by this Series 2009A Bond Order, the Bond Purchase Agreement and the Official Statement.

Section 11.08. Series 2009A Bond Order Effective. This Series 2009A Bond Order shall take effect immediately upon its adoption.

[Form of Series 2009A Bonds]

United States of America
 State of North Carolina
 County of Cumberland

CITY OF FAYETTEVILLE
 PUBLIC WORKS COMMISSION REVENUE REFUNDING BOND
 SERIES 2009A

No. R-__ \$ _____

INTEREST RATE

MATURITY DATE

CUSIP

%

March 1, ____

The City of Fayetteville, North Carolina (the "Issuer"), a municipal corporation, for value received, hereby promises to pay, but solely from the sources and in the manner hereinafter provided, to CEDE & CO., or registered assigns or legal representative, on the maturity date set forth above (or earlier as hereinafter referred to), upon the presentation and surrender hereof at the principal corporate trust office of The Bank of New York Mellon Trust Company, N.A. (the "Trustee"), the principal sum set forth above. The Issuer also promises to pay, but solely from said sources, interest on this bond (calculated on the basis of a 360-day year consisting of twelve 30-day months) from the interest payment date next preceding the date on which it is authenticated, unless it is authenticated on an interest payment date, in which event it shall bear interest from such interest payment date, or it is authenticated prior to March 1, 2010, in which event it shall bear interest from its date, payable on March 1 and September 1 of each year, beginning March 1, 2010, at the rate per annum set forth above until the principal sum hereof is paid. The interest so payable and punctually paid or duly provided for on any interest payment date will be paid to the person in whose name this bond is registered at the close of business on the Record Date for such interest, which shall be the 15th day (whether or not a business day) of the calendar month next preceding such interest payment date. Any such interest not so punctually paid or duly provided for shall forthwith cease to be payable to the registered owner on such Record Date, and may be paid to the person in whose name this bond is registered at the close of business on a special record date for the payment of such defaulted interest to be fixed by the Trustee, notice whereof being given to the registered owners not less than ten (10) days prior to such special record date, or may be paid at any time in any other lawful manner not inconsistent with the requirements of any securities exchange on which the Series 2009A Bonds (hereinafter defined) may be listed and upon such notice as may be required by such exchange, or as more fully provided in the Bond Order (hereinafter defined). Such payment of interest shall be made by check mailed by the Trustee to the registered owner at his address as it appears on the bond registration books maintained by the Trustee, or, in the case of a registered owner of at least \$1,000,000 in aggregate principal amount of the Series 2009A Bonds, by bank wire transfer to a bank account maintained by such registered owner in the United States of America and designated in written instructions to the Trustee, or in such other manner as may be

permitted by the Bond Order. All such payments shall be made in such coin or currency of the United States of America as at the time of payment is legal tender for payment of public and private debts.

This bond is one of a duly authorized series of Revenue Refunding Bonds of the Issuer designated "Public Works Commission Revenue Refunding Bonds, Series 2009A" (the "Series 2009A Bonds"), issued pursuant to The State and Local Government Revenue Bond Act, as amended, a Bond Order duly adopted by the City Council of the Issuer on November 5, 1990, as supplemented and amended (the "Original Bond Order"), and a Bond Order duly adopted by the City Council of the Issuer on September 14, 2009 (the "Series 2009A Bond Order" and, together with the Original Bond Order, the "Bond Order") for the purpose of providing funds, together with any other available funds, to (a) refund the Refunded Bonds (as defined in the Series 2009A Bond Order), (b) pay the cost of terminating the interest rate swap agreements entered into by the City in connection with the Refunded Bonds and (c) pay certain fees and expenses relating to the sale and issuance of the Series 2009A Bonds.

The Series 2009A Bonds are being issued by means of a book-entry system with no physical distribution of bond certificates to be made except as provided in the Series 2009A Bond Order. One bond certificate with respect to each date on which the Series 2009A Bonds are stated to mature, in the aggregate principal amount of the Series 2009A Bonds stated to mature on such date and registered in the name of Cede & Co., as nominee of The Depository Trust Company, New York, New York ("DTC"), is being issued and required to be deposited with DTC (or its designee) and immobilized in its custody. The book-entry system will evidence ownership of the Series 2009A Bonds in the principal amount of \$5,000 or any whole multiple thereof, with transfers of ownership effected on the records of DTC and its participants pursuant to rules and procedures established by DTC and its participants. Transfer of principal and interest payments to beneficial owners of the Series 2009A Bonds by participants of DTC will be the responsibility of such participants and other nominees of such beneficial owners. The Issuer or the Trustee will not be responsible or liable for such transfers of payments or for maintaining, supervising or reviewing the records maintained by DTC, its participants or persons acting through such participants. While Cede & Co. is the registered owner of this bond, notwithstanding the provisions hereinabove contained, payments of principal of and interest on this bond shall be made in accordance with the existing arrangements among the Issuer, the Trustee and DTC.

This bond is a limited obligation of the Issuer and is secured *pari passu* with the Issuer's outstanding Bonds and any Additional Bonds (both as defined in the Bond Order) by a pledge of, and the principal of, the premium, if any, and interest on this Series 2009A Bond are payable solely from, the Net Revenues. This bond is also secured by the money and securities in the funds and accounts held by the Trustee under the Series 2009A Bond Order and the income from the investment thereof. Except as hereinabove described, this bond is not secured by a lien on any property or assets of the Issuer or the Public Works Commission of the City of Fayetteville, and this bond does not constitute a debt of the Issuer for which the faith and credit and taxing power of the Issuer are pledged, and the issuance of this Series 2009A Bond will not directly or indirectly or contingently obligate the Issuer to levy any tax or pledge any form of taxation for the payment hereof.

Reference is made to the Bond Order for a more complete statement of the provisions thereof and of the rights of the Issuer, the Trustee and the registered owners of the Series 2009A Bonds. Copies of the Bond Order will be available for inspection by any registered owner of the Bonds at all reasonable times at the designated corporate trust office of the Trustee. By the purchase and acceptance of this bond, the registered owner hereof signifies assent to all of the provisions of the Bond Order. All capitalized words and terms used herein and not otherwise defined have the meanings given such words and terms in the Bond Order.

This bond is issued and the Bond Order was adopted under and pursuant to the Constitution and laws of the State of North Carolina, in particular The State and Local Government Revenue Bond Act, being Article 5 of Chapter 159 of the General Statutes of North Carolina, as amended.

The Original Bond Order provides for the creation of a special fund designated "City of Fayetteville, North Carolina PWC Revenue Bonds, Bond Fund" (the "Bond Fund"). Pursuant to the Series 2009A Bond Order, special subaccounts have been created within the various accounts of the Bond Fund with respect to the Series 2009A Bonds (the "Subaccounts"), which Subaccounts are pledged and charged with the payment of the principal of and the interest on the Series 2009A Bonds. The Series 2009A Bond Order provides for the deposit of Net Revenues to the credit of the Subaccounts to the extent and in the manner provided in the Bond Order.

The Bond Order provides for the issuance from time to time under the conditions, limitations and restrictions therein set forth of Additional Bonds secured *pari passu* with the Issuer's outstanding Bonds as to the pledge of Net Revenues in the manner provided in the Bond Order.

The Series 2009A Bonds are issuable in fully registered form in denominations of \$5,000 or any integral multiple thereof. This bond is transferable by the registered owner hereof in person or by his attorney duly authorized in writing at the designated corporate trust office of the Trustee, but only in the manner, subject to the limitations and upon payment of the charges provided in the Bond Order, and upon surrender and cancellation of this bond. Upon such transfer, a new Series 2009A Bond or Bonds, registered in the name of the transferee, of authorized denominations, in an aggregate principal amount equal to the principal amount of this bond, of the same maturity and bearing interest at the same rate will be issued to the transferee in exchange therefor.

The Series 2009A Bonds maturing prior to March 1, 20__ are not subject to redemption prior to their maturity. The Series 2009A Bonds maturing on or after March 1, 20__ are subject to redemption prior to their respective maturities, at the option of the Issuer, from any moneys that may be available for such purpose, either in whole or in part on any date on or after March 1, 20__, at a redemption price equal to 100% of the principal amount of Series 2009A Bonds to be redeemed, plus accrued interest to the redemption date.

The Term Bonds (as defined in the Series 2009A Bond Order) maturing on March 1, 20__ are subject to mandatory redemption in part beginning on March 1, 20__ and on each March 1 thereafter until the maturity thereof, in the amounts set forth in the Series 2009A Bond Order as the Sinking Fund Requirements therefor, at a redemption price equal to 100% of the

principal amount of the Series 2009A Bonds to be redeemed, plus accrued interest to the redemption date.

At least thirty (30) days but not more than sixty (60) days prior to the redemption date of any Series 2009A Bonds to be redeemed, whether such redemption is in whole or in part, the Trustee shall cause a notice of any such redemption signed by the Trustee to be mailed, first class, postage prepaid, to all registered owners of Series 2009A Bonds to be redeemed in whole or in part, provided that failure to mail any such notice to any registered owner or any defect in such notice shall not affect the validity of the proceedings for such redemption as to the Series 2009A Bonds of any other registered owner to whom such notice is properly given.

On the date designated for redemption, notice having been given as aforesaid, the Series 2009A Bonds or portions thereof so called for redemption shall become due and payable at the redemption price provided for the redemption of such Series 2009A Bonds or such portions thereof on such date plus accrued interest to such date.

If less than all of the Series 2009A Bonds are to be called for redemption, the Series 2009A Bonds to be so redeemed shall be called for redemption in the manner that the Issuer shall determine as set forth in an Officer's Certificate filed with the Trustee. If less than all the Series 2009A Bonds of any one maturity are called for redemption, the Trustee shall select the Series 2009A Bonds to be redeemed by lot, each \$5,000 portion of principal being counted as one Series 2009A Bond for this purpose; provided, however, that so long as the only registered owner of the Series 2009A Bonds is Cede & Co., such selection shall be made by DTC.

Any notice of redemption, except a notice of redemption in respect of a Sinking Fund Requirement, may state that the redemption to be effected is conditioned upon the receipt by the Trustee on or prior to the redemption date of moneys sufficient to pay the principal of and interest on the Series 2009A Bonds to be redeemed and that if such moneys are not so received such notice shall be of no force or effect and such Bonds shall not be required to be redeemed. In the event that such notice contains such a condition and moneys sufficient to pay the principal of and interest on such Series 2009A Bonds are not received by the Trustee on or prior to the redemption date, the redemption shall not be made, and the Trustee shall within a reasonable time thereafter give notice, in the manner in which the notice of redemption was given, that such moneys were not so received.

The registered owner of this bond shall have no right to enforce the provisions of the Bond Order, or to institute action to enforce the covenants therein, or to take any action with respect to any default under the Bond Order, or to institute, appear in or defend any suit or other proceeding with respect thereto, except as provided in the Bond Order.

Upon the occurrence of certain events, and on the conditions, in the manner and with the effect set forth in the Bond Order, the principal of all Bonds, including the Series 2009A Bonds, then outstanding under the Bond Order may become or may be declared due and payable before the stated maturities thereof, together with the interest accrued thereon.

Modifications or amendments to the Bond Order or any order supplemental thereto may be made only to the extent and in the circumstances permitted by the Bond Order.

This bond, notwithstanding the provisions for registration and transfer stated herein and contained in the Bond Order, at all times shall be and shall be understood to be an investment security within the meaning of and for all the purposes of Article 8 of the Uniform Commercial Code of North Carolina.

This bond is issued with the intent that the laws of the State of North Carolina shall govern its construction.

All acts, conditions and things required to happen, exist and be performed precedent to and in the issuance of this Series 2009A Bond and the adoption of the Original Bond Order and the Series 2009A Bond Order have happened, exist and have been performed as so required.

Neither the members of the City Council of the Issuer or its officers or employees nor any member, officer or employee of its Public Works Commission is liable personally hereon or subject to any personal liability or accountability by reason of the issuance or execution hereof.

This bond shall not be valid or become obligatory for any purpose or be entitled to any benefit or security under the Bond Order until it shall have been authenticated by the execution by the Trustee of the certificate of authentication endorsed hereon.

IN WITNESS WHEREOF, the City of Fayetteville, North Carolina, by resolution duly passed by its City Council, has caused this bond to be manually signed by the Mayor and the City Clerk and its corporate seal to be impressed hereon, all as of the ___ day of October, 2009.

Mayor

[SEAL]

City Clerk

CERTIFICATE OF LOCAL GOVERNMENT COMMISSION

The issuance of the within bond has been approved under the provisions of The State and Local Government Revenue Bond Act.

Secretary, Local Government Commission

CERTIFICATE OF AUTHENTICATION

This bond is a Bond of the Series designated therein and issued under the provisions of the within mentioned Bond Order.

THE BANK OF NEW YORK MELLON TRUST COMPANY, N.A., as Trustee

By: _____
Authorized Signatory

Date of authentication: _____

ASSIGNMENT

FOR VALUE RECEIVED the undersigned hereby sells, assigns and transfers unto _____

PLEASE INSERT SOCIAL SECURITY NUMBER
OR OTHER IDENTIFYING NUMBER OF ASSIGNEE

PLEASE PRINT OR TYPEWRITE NAME AND ADDRESS OF TRANSFEREE

the within bond and all right thereunder, and hereby irrevocably constitutes and appoints _____, attorney, to transfer the within bond on the books kept for registration thereof, with full power of substitution in the premises.

Dated: _____

In the presence of:

NOTICE: Signature must be guaranteed by an institution which is a participant in the Securities Transfer Agent Medallion Program (STAMP) or similar program.

The signature to this assignment must correspond with the name as it appears upon the face of the within bond in every particular, without alteration or enlargement or any change whatever.

REQUISITION NO. _____

REQUISITION

The Bank of New York Mellon Trust Company, N.A.
10161 Centurion Parkway
Jacksonville, Florida 32256
Attention: Corporate Trust Department

Re: Disbursement from the Series 2009A Cost of Issuance Account pursuant to Series 2009A Bond Order adopted on September 14, 2009 (the "Bond Order") by the City Council of the City of Fayetteville, North Carolina (the "Issuer")

1. The Issuer hereby requests payment in the amount of \$_____ to be paid to _____ [by wire transfer][by check]. Delivery instructions are as follows:

2. The purpose for which the obligation to be paid was incurred was for _____
Said costs constitutes a cost of issuance for the Series 2009A Bonds within the meaning of the Bond Order.

3. The obligation set forth above has been incurred by the Issuer, is presently due and payable, and is a proper charge against the Series 2009A Cost of Issuance Account that has not been paid.

4. No notice of any lien, right to lien or attachment upon, or claim affecting the right of any such person to receive payment of, the amount stated in this Requisition has been filed or attached.

5. This Requisition does not contain any item representing payment on account of any retainage to which the Issuer is entitled as of the date of this Requisition.

Very truly yours,

Commission Representative

CITY COUNCIL ACTION MEMO

TO: Mayor and Members of City Council
FROM: Lisa Smith, Chief Financial Officer
DATE: September 14, 2009
RE: **FINANCE-BOND ORDER AUTHORIZING AND APPROVING THE ISSUANCE AND SALE OF NOT TO EXCEED \$45,000,000 PUBLIC WORKS COMMISSION REVENUE BONDS**

THE QUESTION:

The Public Works Commission requests Council adopt a bond order pertaining to the issuance of revenue bonds for utility system projects.

RELATIONSHIP TO STRATEGIC PLAN:

Most Financially Sound Utility, Quality Utility Services

BACKGROUND:

- The Public Works Commission (PWC), during their meeting on September 9, 2009, considered and adopted Resolution PWC 2009.14 which includes the issuance of "new money" revenue bonds for various utility system projects including the sewer system extensions in certain annexed areas of the City.
- The PWC resolution approves and agrees to the terms of bond order authorizing the issuance of fixed rate Public Works Commission Revenue Bonds, Series 2009B in an amount not to exceed \$45,000,000.
- As stated in their resolution, the PWC requests Council's adoption of the attached bond order and taking certain other actions in connection with the bonds.
- Consistent with previous instructions, the Bond Purchase Agreement and Preliminary Official Statement referenced in the bond order will be available in the City Clerk's office for Council review.

ISSUES:

None.

OPTIONS:

- Approve the issuance of the bonds.
- Do not approve the issuance of the bonds.

RECOMMENDED ACTION:

Adopt the bond order authorizing and approving the issuance and sale of not to exceed \$45,000,000 Public Works Commission Revenue Bonds, Series 2009B.

ATTACHMENTS:

Resolution approved by PWC on 9 9 09
City Council Proceedings for PWC Revenue Bond Matters
Fixed Rate New Money Bond Order

[NOTE: These proceedings to be used if all of the bonds (refunding and new money) are issued as fixed rate bonds.]

The Public Works Commission of the City of Fayetteville, North Carolina (the "PWC") held a regular meeting at 955 Old Wilmington Road in Fayetteville, North Carolina, the regular place of meeting, at 8:30 a.m. on September 9, 2009.

Present: Chairman Wilson A. Lacy, presiding, and Commissioners

Absent: Commissioners

Also Present: _____

* * * * *

J. Dwight Miller, CFO introduced the following resolution the title of which was read and copies of which had been previously distributed to each Commissioner:

Resolution No. PWC2009.14

RESOLUTION APPROVING AND AGREEING TO THE TERMS OF BOND ORDERS AUTHORIZING THE ISSUANCE OF PUBLIC WORKS COMMISSION REVENUE REFUNDING BONDS, SERIES 2009A AND PUBLIC WORKS COMMISSION REVENUE BONDS, SERIES 2009B BY THE CITY OF FAYETTEVILLE, NORTH CAROLINA, REQUESTING THAT THE CITY COUNCIL OF SAID CITY ADOPT SUCH BOND ORDERS AND TAKING CERTAIN OTHER ACTIONS IN CONNECTION WITH SUCH BONDS

WHEREAS, pursuant to a bond order adopted by the City Council of the City of Fayetteville, North Carolina (the "City") on November 5, 1990 (the "Original Bond Order"), the City has heretofore issued its \$63,008,898.20 Public Works Commission Revenue Bonds, Series 1990; and

WHEREAS, pursuant to various supplemental bond orders adopted by the City Council of the City on December 7, 1992, October 25, 1993, November 17, 1997, January 13, 2003, August 25, 2003 and January 14, 2008 (the "Amendatory Orders" and, together with the Original Bond Order, the "Bond Order"), the City amended certain provisions of the Original Bond Order; and

WHEREAS, there is currently outstanding under the Bond Order \$155,045,000 of Bonds (as defined in the Bond Order); and

WHEREAS, the City has determined to issue its Public Works Commission Revenue Refunding Bonds, Series 2009A (the "Series 2009A Bonds") and its Public Works Commission Revenue Bonds, Series 2009B (the "Series 2009B Bonds" and, together with the Series 2009A Bonds, the "Series 2009 Bonds") in an aggregate principal amount not exceeding \$190,000,000 for the purpose of providing funds, together with any other available funds, to (a) pay the costs of the various improvements to the water and sanitary sewer system of the City (the "Project"), (b) refund all the City's outstanding Public Works Commission Revenue Refunding Bonds, Series 2003 and Public Works Commission Revenue and Revenue Refunding Bonds, Series 2003A (collectively, the "Bonds to be Refunded"), (c) finance the cost of terminating the interest rate swap agreements heretofore entered into by the City in connection with the Bonds to be Refunded, (d) fund any necessary debt service reserve funds for the Series 2009 Bonds and (e) pay certain fees and expenses relating to the sale and issuance of the Series 2009 Bonds; and

WHEREAS, in connection with the issuance and sale of the Series 2009 Bonds, the staff of the PWC has presented to the PWC at this meeting proposed forms of the following documents:

(a) Bond Order to be adopted by the City Council of the City on September 14, 2009 (the "Series 2009A Bond Order"), authorizing the issuance and sale of the Series 2009A Bonds and amending the Original Bond Order in certain respects, together with the form of the Series 2009A Bonds attached as Exhibit A thereto;

(b) Bond Order to be adopted by the City Council of the City on September 14, 2009 (the "Series 2009B Bond Order" and, together with the Series 2009A Bond Order, the "Series 2009 Bond Orders"), authorizing the issuance and sale of the Series 2009B Bonds, together with the form of the Series 2009B Bonds attached as Exhibit B thereto;

(c) Bond Purchase Agreement, to be dated as of the date of delivery thereof (the "Bond Purchase Agreement"), between Wachovia Bank, National Association, as representative of the underwriters of the Series 2009 Bonds (the "Underwriters"), and the Local Government Commission (the "LGC"), and approved by the City and the PWC; and

(d) Preliminary Official Statement, to be dated as of the date of delivery thereof (the "Preliminary Official Statement"), relating to the offering and sale of the Series 2009 Bonds; and

WHEREAS, the Series 2009 Bonds will be issued and secured pursuant to the Bond Order and the Series 2009 Bond Orders; and

WHEREAS, the City Council of the City is desirous of receiving the PWC's concurrence and agreement with the terms and provisions of the Bond Order and the Series 2009 Bond Orders; and

WHEREAS, the PWC is in agreement with such terms and provisions; and

WHEREAS, it is necessary for the PWC to authorize and approve certain other actions in connection with the issuance and sale of the Series 2009 Bonds by the City;

NOW, THEREFORE, BE IT RESOLVED, by the Public Works Commission of the City of Fayetteville, North Carolina as follows:

1. The Series 2009 Bond Orders, including the Series 2009A Bonds and the Series 2009B Bonds, are hereby approved in substantially the forms presented at this meeting, together with such further supplements, modifications, amendments and changes as the officers of the PWC, with the advice of counsel, may approve, such approval to be evidenced by the execution of the Bond Purchase Agreement by the PWC.

2. The PWC hereby approves the action of the LGC in awarding the Series 2009 Bonds to the Underwriters, subject to the approval of such award by the City. The PWC hereby approves the Bond Purchase Agreement in substantially the form presented at this meeting and the Chairman, General Manager and the Chief Financial Officer of the PWC are each hereby authorized to execute and deliver the Bond Purchase Agreement on behalf of PWC in substantially the form so presented, together with such changes, modifications, insertions and deletions, as any of them, with the advice of counsel, may deem necessary and appropriate, such execution and delivery to be conclusive evidence of the approval and authorization thereof by the PWC.

3. The PWC hereby approves the use and distribution of the Preliminary Official Statement in substantially the form presented at this meeting in connection with the offering and sale of the Series 2009 Bonds. A final Official Statement, in substantially the form of the Preliminary Official Statement, together with such changes as are necessary to reflect certain pricing and other terms relating to the Series 2009 Bonds, is hereby approved, and the Chairman, the General Manager and the Chief Financial Officer of the PWC are each hereby authorized to execute and deliver the final Official Statement in substantially the form of the Preliminary Official Statement, together with such changes, modifications, insertions and deletions, as any of them, with the advice of counsel, may deem necessary and appropriate, such execution and delivery to be conclusive evidence of the approval and authorization thereof by the PWC.

4. The officers and employees of the PWC are authorized and directed (without limitation, except as may be expressly set forth herein and in the Bond Order or the Series 2009 Bond Orders) to take such action and to execute and deliver such documents, certificates, undertakings and agreements or other instruments as any of them, with the advice of counsel, may deem necessary or appropriate to effect the transactions contemplated by the Bond Order, the Series 2009 Bond Orders, the Bond Purchase Agreement and the Official Statement.

5. The PWC agrees to fulfill all of its obligations under the Bond Order and, upon their adoption by the City Council of the City, the Series 2009 Bond Orders, and the PWC concurs with all of the terms and provisions thereof, including, but not limited to:

(a) the form of the Series 2009 Bonds;

(b) the interest rates borne by the Series 2009 Bonds (provided such rates are within the parameters provided for in Section 2.04 of the respective Series 2009 Bond Orders);

(c) the mechanisms and procedures for securing the Series 2009 Bonds;

(d) the mechanisms and procedures for the payment of the principal of, premium, if any, and the interest on the Series 2009 Bonds;

(e) the pledge of the Net Revenues (as defined in the Bond Order) granted by the Bond Order, as supplemented by the Series 2009 Bond Orders;

(f) the mechanisms and procedures for disbursement of the proceeds of the Series 2009 Bonds;

(g) the procedures for amending and supplementing the Series 2009 Bond Orders;

(h) the undertaking of all obligations of the City under the Series 2009 Bond Orders by the PWC and the compliance with the terms and conditions of the City under the Bond Order and the Series 2009 Bond Orders by the PWC; and

(i) all other matters in the Series 2009 Bond Orders with respect to the Series 2009 Bonds.

6. The City Council of the City is hereby requested to adopt the Series 2009 Bond Orders in substantially the forms of the drafts presented to the PWC at this meeting.

7. This resolution shall take effect immediately upon its passage.

Upon motion of Commissioner _____, seconded by Commissioner _____, the foregoing resolution entitled "RESOLUTION APPROVING AND AGREEING TO THE TERMS OF BOND ORDERS AUTHORIZING THE ISSUANCE OF PUBLIC WORKS COMMISSION REVENUE REFUNDING BONDS, SERIES 2009A AND PUBLIC WORKS COMMISSION REVENUE BONDS, SERIES 2009B BY THE CITY OF FAYETTEVILLE, NORTH CAROLINA, REQUESTING THAT THE CITY COUNCIL OF SAID CITY ADOPT SUCH BOND ORDERS AND TAKING CERTAIN OTHER ACTIONS IN CONNECTION WITH SUCH BONDS" was passed by the following vote:

Ayes: _____

Noes: _____

* * * * *

I, Luis J. Olivera, Secretary of the Public Works Commission of the City of Fayetteville, North Carolina, DO HEREBY CERTIFY that the foregoing is a true and accurate copy of so much of the proceedings of said Public Works Commission at a regular meeting held on September 9, 2009, as relates in any way to the adoption of the foregoing resolution and that said proceedings are recorded in minute books of said Public Works Commission.

I DO HEREBY FURTHER CERTIFY that proper notice of such regular meeting was given as required by North Carolina law.

WITNESS my hand and the official seal of said Public Works Commission this 9th day of September, 2009.

Secretary

[SEAL]

[NOTE: These proceedings to be used if all of the bonds (refunding and new money) are issued as fixed rate bonds.]

The City Council of the City of Fayetteville, North Carolina (the "City") held a regular meeting in the City Council Chambers in City Hall located at 433 Hay Street in Fayetteville, North Carolina, the regular place of meeting, at 7:00 p.m. on September 14, 2009.

Present: Mayor Anthony G. Chavonne, presiding, and Council Members

Absent: Council Members

Also Present: _____

* * * * *

_____ introduced the following order, a copy of which had been previously distributed to each Council Member, and the title of which was read:

BOND ORDER AUTHORIZING AND APPROVING THE ISSUANCE AND SALE UNDER THE PROVISIONS OF THE STATE AND LOCAL GOVERNMENT REVENUE BOND ACT, AS AMENDED, OF NOT TO EXCEED \$145,000,000 AGGREGATE PRINCIPAL AMOUNT OF THE CITY OF FAYETTEVILLE, NORTH CAROLINA PUBLIC WORKS COMMISSION REVENUE REFUNDING BONDS, SERIES 2009A TO REFUND ALL OF THE CITY'S OUTSTANDING PUBLIC WORKS COMMISSION REVENUE REFUNDING BONDS, SERIES 2003 AND PUBLIC WORKS COMMISSION REVENUE AND REVENUE REFUNDING BONDS, SERIES 2003A AND DIRECTING THE AUTHENTICATION AND DELIVERY OF THE SERIES 2009A BONDS TO THE UNDERWRITERS

Upon motion of Council Member _____, seconded by Council Member _____, the foregoing order was passed by the following vote:

Ayes: _____

Noes: _____

Thereupon, _____ introduced the following order, a copy of which had been previously distributed to each Council Member, and the title of which was read:

BOND ORDER AUTHORIZING AND APPROVING THE ISSUANCE AND SALE UNDER THE PROVISIONS OF THE STATE AND LOCAL GOVERNMENT REVENUE BOND ACT, AS AMENDED, OF NOT TO EXCEED \$45,000,000 AGGREGATE PRINCIPAL AMOUNT OF THE CITY OF FAYETTEVILLE, NORTH CAROLINA, PUBLIC WORKS COMMISSION REVENUE BONDS, SERIES 2009B TO PROVIDE FUNDS FOR VARIOUS WATER AND SEWER CAPITAL IMPROVEMENTS AND DIRECTING THE AUTHENTICATION AND DELIVERY OF THE SERIES 2009B BONDS TO THE UNDERWRITERS

Upon motion of Council Member _____, seconded by Council Member _____, the foregoing order was passed by the following vote:

Ayes: _____

Noes: _____

* * * * *

I, Rita Perry, City Clerk of the City of Fayetteville, North Carolina, DO HEREBY CERTIFY that the foregoing is a true and accurate copy of so much of the proceedings of City Council of said City at a regular meeting held on September 14, 2009, as relates in any way to the adoption of the foregoing bond orders and that said proceedings are recorded in minute books of said City Council.

I DO HEREBY FURTHER CERTIFY that proper notice of such regular meeting was given as required by North Carolina law.

WITNESS my hand and the official seal of the City this 14th day of September, 2009.

City Clerk

[SEAL]

CITY OF FAYETTEVILLE, NORTH CAROLINA

BOND ORDER

Adopted September 14, 2009

Authorizing and Securing

CITY OF FAYETTEVILLE, NORTH CAROLINA
PUBLIC WORKS COMMISSION REVENUE BONDS
SERIES 2009B

BOND ORDER AUTHORIZING AND APPROVING THE ISSUANCE AND SALE UNDER THE PROVISIONS OF THE STATE AND LOCAL GOVERNMENT REVENUE BOND ACT, AS AMENDED, OF NOT TO EXCEED \$45,000,000 AGGREGATE PRINCIPAL AMOUNT OF THE CITY OF FAYETTEVILLE, NORTH CAROLINA, PUBLIC WORKS COMMISSION REVENUE BONDS, SERIES 2009B TO PROVIDE FUNDS FOR VARIOUS WATER AND SEWER CAPITAL IMPROVEMENTS AND DIRECTING THE AUTHENTICATION AND DELIVERY OF THE SERIES 2009B BONDS TO THE UNDERWRITERS

WHEREAS, the City of Fayetteville, North Carolina (the "Issuer"), acting by and through its City Council (the "City Council"), is authorized by The State and Local Government Revenue Bond Act of North Carolina, Article 5 of Chapter 159 of the North Carolina General Statutes, as amended (the "Act"), and particularly Sections 159-83(a)(5) and 159-81(3)(a), (b) and (c) thereof, to issue revenue bonds for the purpose of financing the cost of acquisition, construction, reconstruction, enlargement, equipping, extension, betterment or improvement of water systems and facilities, sewage disposal systems and facilities and electric systems and facilities and to refund revenue bonds issued for such purposes; and

WHEREAS, the Public Works Commission (the "Commission") of the Issuer was created pursuant to Chapter VI of the City Charter of the Issuer as an independently operated utility for the purpose of supervising and managing all facilities or projects owned or used by the issuer for the generation, transmission and distribution of electric power and energy for lighting, heating and power, and all additions, extensions and improvements which may at any time be constructed or acquired (the "Electric System"), of the Issuer, and for the purpose of supervising and managing all facilities or projects owned or used by the Issuer for the production, collection, treatment, transmission and distribution of water and the collection, transmission, treatment and disposal of sewage, and all additions, extensions and improvements which may at any time be constructed or acquired (the "Water and Sewer System," and, together with the Electric System, the "System"), of the Issuer; and

WHEREAS, the Commission is the designated agent of the Issuer to operate the System for the purposes of providing electric, water and sewer service to the general public within the Issuer and in surrounding geographic areas; and

WHEREAS, pursuant to a bond order adopted by the City Council of the Issuer on November 5, 1990 (the "Original Bond Order"), the Issuer has heretofore issued its \$63,008,898.20 Public Works Commission Revenue Bonds, Series 1990; and

WHEREAS, pursuant to various supplemental bond orders adopted by the City Council of the Issuer on December 7, 1992, October 25, 1993, November 17, 1997, January 13, 2003, August 25, 2003 and January 14, 2008 (the "Amendatory Orders" and, together with the Original Bond Order, the "Bond Order"), the Issuer amended certain provisions of the Original Bond Order; and

WHEREAS, there is currently outstanding under the Bond Order, \$155,045,000 of Bonds (as defined in the Bond Order); and

WHEREAS, the Issuer has determined to finance the cost of certain improvements to the Water and Sewer System as more fully described in Exhibit A attached hereto and made a part hereof (the "Series 2009 Project"); and

WHEREAS, the Issuer has determined to issue its Public Works Commission Revenue Bonds, Series 2009B (the "Series 2009B Bonds") in an aggregate principal amount not to exceed \$45,000,000 for the purpose of providing funds, together with any other available funds, to (a) pay the costs of the Series 2009 Project and (b) pay certain fees and expenses relating to the sale and issuance of the Series 2009B Bonds; and

WHEREAS, the North Carolina Local Government Commission (the "LGC") has approved the application of the Issuer for the issuance of the Series 2009B Bonds pursuant to Section 159-86 of the Act and, pursuant to the request of the Issuer, has approved the sale of the Series 2009B Bonds at private sale without advertisement as required by Section 159-123 of the North Carolina General Statutes; and

WHEREAS, the Commission adopted a resolution on September 9, 2009 requesting that the Issuer adopt this Series 2009B Bond Order and such resolution specifies the Commission's agreement to fulfill all of its obligations hereunder and its concurrence with all the terms and provisions hereof; and

WHEREAS, the Issuer has determined that the form of the Series 2009B Bonds shall be substantially in the form set forth in the Exhibit B attached hereto and made a part hereof, with such variations and omissions as are required or permitted by the Bond Order and this Series 2009B Bond Order; and

WHEREAS, under the Constitution and laws of the State of North Carolina, including the Act, the Issuer is authorized to adopt this Series 2009B Bond Order, to issue the Series 2009B Bonds as hereinafter provided for the purposes hereinbefore stated, and to do or cause to be done all the acts and things herein provided or required to be done as hereinafter covenanted;

NOW, THEREFORE, BE IT ORDERED by the City Council of the City of Fayetteville, North Carolina as follows:

ARTICLE I

DEFINITIONS

Section 1.01. Meaning of Words and Terms. Unless otherwise required by the context, capitalized words and terms used herein which are defined in the Bond Order shall have the meanings assigned to them therein, and the following words and terms shall have the following meanings:

“Bond Year” means, with respect to the Series 2009B Bonds, the period beginning the first day of March of each year and ending on the last day of February of the following year.

“Interest Payment Date” means March 1 and September 1 of each year, beginning March 1, 2010.

“Record Date” means, with respect to the Series 2009B Bonds, the 15th day of the month (whether or not a Business Day) preceding each Interest Payment Date.

“Securities Depository” means The Depository Trust Company, New York, New York, or any other recognized securities depository selected by the Issuer, which maintains a book-entry only system in respect of the Series 2009B Bonds, and shall include any substitute for or successor to the securities depository initially acting as Securities Depository.

“Securities Depository Nominee” means, as to any Securities Depository, such Securities Depository or the nominee of such Securities Depository in whose name there shall be registered on the registration books maintained by the Trustee for the Series 2009B Bonds.

“Serial Bonds” means, in respect of the Series 2009B Bonds, the Series 2009B Bonds so designated in the certificate of the Chief Financial Officer of the Issuer required by Section 2.04.

“Series Certificate” has the meaning set forth in Section 2.04.

“Series 2009B Bond Order” means this Series 2009B Bond Order, including any amendments or supplements hereto.

“Series 2009B Project Account” means the account created and so designated by Section 4.01 of this Series 2009B Bond Order.

“Series 2009B Subaccount of the Interest Account” means the subaccount created and so designated by Section 5.01 of this Series 2009B Bond Order.

“Series 2009B Subaccount of the Principal Account” means the subaccount created and so designated by Section 5.01 of this Series 2009B Bond Order.

“Sinking Fund Requirement” means, with respect to the Term Bonds and for any Bond Year, the principal amount fixed or computed for retirement by purchase or redemption on March 1 of the following Bond Year.

The Sinking Fund Requirements for the Term Bonds shall be initially the respective principal amounts of such Term Bonds to be redeemed or otherwise retired on March 1 of the following Bond Year as set forth in the certificate of the Chief Financial Officer of the Issuer required by Section 2.04.

On or before the 60th day next preceding any March 1 on which Term Bonds are to be retired pursuant to the Sinking Fund Requirement, the Issuer may deliver to the Trustee for cancellation Term Bonds required to be redeemed on such March 1 in any aggregate principal amount desired and receive a credit against amounts required to be transferred from the Series 2009B Subaccount of the Principal Account on account of such Term Bonds in the amount of 100% of the principal amount of any such Term Bonds so purchased. Any principal amount of Term Bonds delivered to the Trustee for cancellation and cancelled in excess of the principal amount required to be redeemed on such March 1 shall be credited against and reduce the principal amount of future Sinking Fund Requirements in such manner as shall be specified in an Officer's Certificate filed with the Trustee.

It shall be the duty of the Trustee, on or before the March 15 of each Bond Year, to confirm, as necessary, the Sinking Fund Requirement for such Bond Year and all subsequent Bond Years for the Term Bonds. The Sinking Fund Requirement for such Bond Year as so confirmed shall continue to be applicable during the balance of such Bond Year, and no adjustment shall be made therein by reason of Term Bonds purchased or redeemed or called for redemption during such Bond Year.

If any Term Bonds of the same maturity are paid or optionally redeemed by or on behalf of the Issuer, the Trustee shall reduce future Sinking Fund Requirements therefor in such manner as shall be specified in an Officer's Certificate filed with Trustee.

"Term Bonds" means the Series 2009B Bonds so designated in the certificate of the Chief Financial Officer of the Issuer required under Section 2.04.

"Underwriters" means the underwriters named in the Bond Purchase Agreement for the Series 2009B Bonds, to be dated the date of delivery thereof, between the Underwriters and the LGC, and approved by the Issuer and the Commission.

Section 1.02. Rules of Construction. Words of the masculine gender shall be deemed and construed to include correlative words of the feminine and neuter genders. Unless the context shall otherwise indicate, words used herein shall include the plural as well as the singular number, and the word "person" shall mean any individual, corporation, partnership, joint venture, association, joint stock company, trust, unincorporated organization or government or any agency or political subdivision thereof. References herein to particular articles or sections are references to articles or sections of this Series 2009B Bond Order unless some other reference is indicated.

ARTICLE II

AUTHORIZATION, FORM, ISSUANCE AND DELIVERY OF SERIES 2009B BONDS

Section 2.01. Authorization of Series 2009B Bonds. For the purpose of providing funds, together with any other available funds, to (a) pay the costs of the Series 2009 Project and (b) pay certain fees and expenses relating to the sale and issuance of the Series 2009B Bonds, there shall be issued, under and pursuant to the Constitution and laws of the State of North Carolina, including the Act, the Bond Order, and this Series 2009B Bond Order, the Series 2009B Bonds in the amounts and subject to the conditions herein provided.

Section 2.02. Form of Series 2009B Bonds Generally. The definitive Series 2009B Bonds are issuable in fully registered form in denominations of \$5,000 or any integral multiple thereof, shall be lettered "R-" and shall be numbered from 1 consecutively upward. The definitive Series 2009B Bonds issued under the provisions of Section 2.04 shall be substantially in the form set forth in Exhibit B, with such appropriate variations, omissions and insertions as are permitted or required by the Bond Order and this Series 2009B Bond Order.

Section 2.03. Details of Series 2009B Bonds. The Series 2009B Bonds shall be dated as of the date of delivery thereof, shall bear interest (computed on the basis of a 360-day year consisting of twelve 30-day months) until their payment, such interest to the maturity thereof being payable semiannually on each Interest Payment Date, and shall be stated to mature on March 1 (subject to the right of prior redemption), all as hereinafter provided.

Each Series 2009B Bond shall bear interest from the Interest Payment Date next preceding the date on which it is authenticated unless it is (a) authenticated upon an Interest Payment Date, in which event it shall bear interest from such Interest Payment Date, or (b) authenticated prior to the first Interest Payment Date, in which event it shall bear interest from its date; provided, however, that if at the time of authentication of any Series 2009B Bond interest is in default, such Series 2009B Bond shall bear interest from the date to which interest has been paid.

The principal of and premium, if any, on the Series 2009B Bonds shall be payable in lawful money of the United States of America at the designated corporate trust office of the Trustee, or its successor in trust. Payment of interest on the Series 2009B Bonds shall be made to the Owner thereof as of the applicable Record Date by check mailed by the Trustee to such Owner at its address as it appears on the registration books maintained by the Trustee, or, in the case of an Owner of at least \$1,000,000 in aggregate principal amount of the Series 2009B Bonds, by bank wire transfer to an account maintained by such Owner in the United States of America and designated in written instructions by such Owner to the Trustee.

The Series 2009B Bonds shall be issued by means of a book-entry system with no physical distribution of bond certificates to be made except as hereinafter provided. One bond certificate with respect to each date on which the Series 2009B Bonds are stated to mature, in the aggregate principal amount of the Series 2009B Bonds stated to mature on such date and registered in the name of Cede & Co., as nominee of The Depository Trust Company, New York,

New York ("DTC"), will be issued and required to be deposited with DTC (or its designee) and immobilized in its custody. The book-entry system will evidence ownership of the Series 2009B Bonds in the principal amount of \$5,000 or any whole multiple thereof, with transfers of ownership effected on the records of DTC and its participants pursuant to rules and procedures established by DTC and its participants. The principal of and interest on the Series 2009B Bonds shall be payable to Cede & Co. or any other person appearing on the registration books for the Series 2009B Bonds as the registered owner of such Series 2009B Bonds or its registered assigns or legal representatives. Transfer of principal and interest payments to participants of DTC will be the responsibility of DTC, and transfer of principal and interest payments to beneficial owners of the Series 2009B Bonds by participants of DTC will be the responsibility of such participants and other nominees of such beneficial owners. The Issuer, the Commission and the Trustee will not be responsible or liable for such transfers of payments or for maintaining, supervising or reviewing records maintained by DTC, its participants or persons acting through such participants.

In the event that (a) DTC determines not to continue to act as Securities Depository for the Series 2009B Bonds or (b) the Issuer determines that continuation of the book-entry system of evidence and transfer of ownership of the Series 2009B Bonds would adversely affect the interests of the beneficial owners of the Series 2009B Bonds, the Issuer will discontinue the book-entry system with DTC. If the Issuer identifies another qualified Securities Depository to replace DTC, the Issuer will make arrangements with DTC and such other Securities Depository to effect such replacement and deliver replacement bonds registered in the name of such other Securities Depository or its Securities Depository Nominee in exchange for the outstanding Series 2009B Bonds, and the references to DTC or Cede & Co. in this Series 2009B Bond Order shall thereupon be deemed to mean such other Securities Depository or its Securities Depository Nominee. If the Issuer fails to identify another qualified Securities Depository to replace DTC, the Issuer will deliver replacement bonds in the form of fully registered certificates in the denomination of \$5,000 or any whole multiple thereof in exchange for the outstanding Series 2009B Bonds as required by DTC and others.

Section 2.04. Issuance and Delivery of Series 2009B Bonds. There shall be issued under and secured by the Bond Order and this Series 2009B Bond Order the Series 2009B Bonds in an aggregate principal amount not to exceed Forty-Five Million Dollars (\$45,000,000) for the purposes set forth in Section 2.01.

The Series 2009B Bonds shall be stated to mature on March 1, in such years and amounts; shall bear interest at such rate or rates, shall have such Sinking Fund Requirements and shall have such optional redemption provisions as shall be set forth in a certificate of the Chief Financial Officer of the Issuer filed with the Trustee on the date of delivery of the Series 2009B Bonds (the "Series Certificate"); provided, however, that the final maturity of the Series 2009B Bonds shall not be later than March 1, 2035, the true interest cost shall not exceed 5.55% per annum, the effective interest cost shall not exceed 5.60% per annum, and the Series 2009B Bonds shall be subject to optional redemption starting no later than ten and one-half (10½) years from their date at a redemption price or prices not to exceed 102% of their face amount plus accrued interest to the date of redemption.

The Series 2009B Bonds shall be executed substantially in the form and in the manner hereinabove set forth and shall be deposited with the Trustee for authentication, but before the Series 2009B Bonds shall be delivered by the Trustee, there shall be filed with the Trustee the following:

(a) copies, duly certified by the City Clerk of the Issuer to be true and correct copies, of the Bond Order and this Series 2009B Bond Order;

(b) an executed copy of the Series Certificate;

(c) an Officer's Certificate evidencing compliance with Section 211 of the Bond Order;
and

(d) such additional resolutions, certificates, documents, and opinions as shall be required by the Trustee.

When the items mentioned in subparagraphs (a) to (d), inclusive, of the immediately preceding paragraph shall have been filed with the Trustee and when the Series 2009B Bonds shall have been executed and authenticated as required by the Bond Order and this Series 2009B Bond Order, the Trustee shall deliver the Series 2009B Bonds at one time to the State Treasurer for redelivery to or upon the order of the Underwriters, but only upon payment to the Trustee of the purchase price of the Series 2009B Bonds.

The proceeds of the Series 2009B Bonds shall be applied by the Trustee, simultaneously with the delivery of the Series 2009B Bonds, as provided in the Series Certificate.

ARTICLE III

REDEMPTION OF SERIES 2009B BONDS

Section 3.01. Terms of Redemption. The Series 2009B Bonds shall not be subject to prior redemption except as provided in this Article III and in Article III of the Bond Order.

(a) The Series 2009B Bonds shall be subject to redemption, at the option of the Issuer, at such times and at such redemption prices as shall be set forth in the Series Certificate.

(b) The Term Bonds are required to be redeemed to the extent of any Sinking Fund Requirement therefor on March 1 immediately following each Bond Year in which there is a Sinking Fund Requirement, at a redemption price equal to 100% of the principal amount of the Term Bonds to be redeemed, plus accrued interest to the redemption date.

Section 3.02. Selection of Series 2009B Bonds to Be Redeemed. The Series 2009B Bonds shall be redeemed only in whole multiples of \$5,000. If less than all the Series 2009B Bonds are called for redemption, the Series 2009B Bonds to be so redeemed shall be called for redemption in the manner set forth in an Officer's Certificate filed with the Trustee.

If less than all of the Series 2009B Bonds of any one maturity are to be called for redemption, the Trustee shall select the Series 2009B Bonds to be redeemed by lot, each \$5,000 portion of principal being counted as one Series 2009B Bond for this purpose; provided, however, that so long as the only Owner of the Series 2009B Bonds is a Securities Depository Nominee, such selection shall be made by the Securities Depository.

Section 3.04. Notice of Redemption. (a) Notwithstanding and in lieu of the provisions of Section 304 of the Bond Order, at least thirty (30) days but not more than sixty (60) days prior to the redemption date of any Series 2009B Bonds to be redeemed, whether such redemption be in whole or in part, the Trustee shall cause a notice of any such redemption signed to be mailed, first class, postage prepaid, to all Owners of Series 2009B Bonds to be redeemed in whole or in part; provided, however, that notice to any Securities Depository shall be sent in the manner prescribed by such Securities Depository; and provided further that failure to mail any such notice to any Owner or any defect in such notice shall not affect the validity of the proceedings for such redemption as to the Series 2009B Bonds of any other Owner to whom notice was properly given. The Trustee shall also give such notice of redemption, by certified or registered mail, to the Municipal Securities Rulemaking Board and at least two national information services which disseminate redemption information, but failure to mail such notice or any defect therein shall not affect the validity of any proceedings for the redemption of any Series 2009B Bonds.

(b) Each such notice shall set forth the designation, date and Series of the Series 2009B Bonds, the CUSIP numbers of the Series 2009B Bonds to be redeemed, the date fixed for redemption, the Redemption Price to be paid, the address and phone number of the Trustee and Trustee, the date of the redemption notice, the maturities of the Series 2009B Bonds to be redeemed and, if less than all of the Series 2009B Bonds of any one maturity shall be called for redemption, the distinctive numbers and letters, if any, of such Series 2009B Bonds to be redeemed and, in the case of Series 2009B Bonds to be redeemed in part only, the portion of the

principal amount thereof to be redeemed. If any Series 2009B Bond is to be redeemed in part only, the notice of redemption shall state also that on or after the redemption date, upon surrender of such Series 2009B Bond, a new Series 2009B Bond in principal amount equal to the unredeemed portion of such Series 2009B Bond will be issued.

(c) Not less than thirty-five (35) days prior to the redemption date, notice of such redemption shall be given by first class mail, postage prepaid, to the Local Government Commission. The failure to give such notice to the Local Government Commission nor any defect therein, shall affect the sufficiency of the proceedings for redemption.

(d) Any notice of redemption, except a notice of redemption in respect of a Sinking Fund Requirement, may state that the redemption to be effected is conditioned upon the receipt by the Trustee on or prior to the redemption date of moneys sufficient to pay the principal of and interest on the Series 2009B Bonds to be redeemed and that if such moneys are not so received such notice shall be of no force or effect and such Series 2009B Bonds shall not be required to be redeemed. In the event that such notice contains such a condition and moneys sufficient to pay the principal of and interest on such Series 2009B Bonds are not received by the Trustee on or prior to the redemption date, the redemption shall not be made, and the Trustee shall within a reasonable time thereafter give notice, in the manner in which the notice of redemption was given, that such moneys were not so received.

ARTICLE IV

SERIES 2009B PROJECT ACCOUNT

Section 4.01. Establishment of Series 2009B Project Account. There is hereby established with the Trustee a special account within the Construction Fund designated "City of Fayetteville, North Carolina PWC Series 2009B Project Account". The Trustee shall make the deposit to the Series 2009B Project Account required by the Series Certificate.

The moneys in the Series 2009B Project Account shall be held by the Trustee in trust and, subject to the provisions of Section 4.02, shall be applied to the payment of the Costs of the Project relating to Series 2009 Project and the fees and expenses incurred in connection with the sale and issuance of the Series 2009B Bonds and, pending such application, shall be subject to a lien and charge in favor of the Owners of the Series 2009B Bonds and for the further security of such Owners until paid out or transferred as provided in this Article.

Section 4.02. Payments from Series 2009B Project Account. Payment of the Costs of the Project relating to Series 2009 Project shall be made from the Series 2009B Project Account in the manner provided, and subject to the provisions and restrictions set forth, in Section 604 of the Bond Order, and the Issuer shall not cause or agree to permit to be paid from the Series 2009B Project Account any sums except in accordance with such provisions and restrictions.

ARTICLE V
REVENUES AND FUNDS

Section 5.01. Establishment of Account and Subaccounts. There are hereby established the following account and subaccounts:

- (a) Series 2009B Subaccount of the Interest Account; and
- (b) Series 2009B Subaccount of the Principal Account.

Such subaccounts shall be established with and held in trust by the Trustee pursuant to the Bond Order and this Series 2009B Bond Order for the benefit of the Owners of the Series 2009B Bonds.

Section 5.02. Deposits to Bond Fund Subaccounts. Moneys shall be deposited to the credit of the Series 2009B Subaccount of the Interest Account and the Series 2009B Subaccount of the Principal Account at the times and in the amounts required by Section 5.03 and Sections 602 and 603 of the Bond Order.

Section 5.03. Funds Received. The Issuer shall deposit, or cause to be deposited, with the Trustee, the following amounts, for application in the following order, subject to credits as hereinafter provided:

- (a) into the Series 2009B Subaccount of the Interest Account on the 25th day of the month immediately preceding each Interest Payment Date, the amount required to pay the interest due on the Series 2009B Bonds on such Interest Payment Date; and
- (b) into the Series 2009B Subaccount of the Principal Account, on the 25th day of the month immediately preceding each March 1, the amount required to pay the principal of all Serial Bonds coming due on such March 1 or the amount required to retire the Term Bonds to be called by mandatory sinking fund redemption or to be paid at maturity on such March 1 in accordance with the Sinking Fund Requirements therefor.

To the extent that investment earnings are credited to the Series 2009B Subaccount of the Interest Account or the Series 2009B Subaccount of the Principal Account or amounts are credited thereto as a result of the application of the proceeds of the Series 2009B Bonds, a transfer of investment earnings on any other fund or account held by the Trustee, a transfer of amounts in the Series 2009B Project Account or otherwise, required deposits to such subaccounts shall be reduced by the amount so credited.

Section 5.04. Application of Money in the Series 2009B Subaccount of the Interest Account. Not later than 10:00 A.M. on each Interest Payment Date or date for the payment of defaulted interest or date upon which Series 2009B Bonds are to be redeemed, the Trustee shall withdraw from the Series 2009B Subaccount of the Interest Account and remit to each Owner the amount required for paying interest on such Series 2009B Bonds when due and payable.

In the event the balance in the Series 2009B Subaccount of the Interest Account on the 25th day of each February or August is insufficient for the payment of interest becoming due on the Bonds on the next ensuing Interest Payment Date, the Trustee shall notify the Issuer of the amount of such deficiency. Upon notification, the Issuer shall immediately transfer, or cause to be transferred, to the Trustee an amount sufficient to cure the same.

Section 5.05. Application of Money in the Series 2009B Subaccount of the Principal Account. Not later than 10:00 A.M. on each March 1, commencing in the year of the first principal payment on the Series 2009B Bonds, the Trustee shall withdraw from the Series 2009B Subaccount of the Principal Account and set aside the amount necessary to pay the principal of all Series 2009B Bonds due on such March 1.

In the event the balance in the Series 2009B Subaccount of the Principal Account on the fifth Business Day next preceding any principal payment date is insufficient to pay principal becoming due on such principal payment date, the Trustee shall notify the Issuer of the amount of the deficiency. Upon notification, the Issuer shall immediately transfer, or cause to be transferred, to the Trustee an amount sufficient to cure the same.

Section 5.06. Security for the Series 2009B Bonds. In addition to the security for the Series 2009B Bonds granted by the Issuer pursuant to the Bond Order, the Issuer hereby grants to the Owners of the Series 2009B Bonds and to the Trustee, on behalf of such Owners, a pledge of the money and securities in any and all of the accounts and subaccounts established under this Series 2009B Bond Order.

Section 5.07. Tax Covenant. The Issuer covenants to do and perform all acts and things permitted by law in order to assure that interest paid on the Series 2009B Bonds which was excludable from the gross income of their Owners for federal income taxes on the date of their issuance shall continue to be so excludable.

ARTICLE VI

INVESTMENTS

Section 6.01. Investment of Money. All money held by the Trustee in any account or subaccount created by this Series 2009B Bond Order shall be invested in accordance with the provisions of Section 701 of the Bond Order.

ARTICLE VII

DEFAULTS

Section 7.01. Defaults. All Defaults set forth in Section 901 of the Bond Order shall be Defaults under this Series 2009B Bond Order.

ARTICLE VIII

THE TRUSTEE

Section 8.01. Acceptance of Duties by Trustee. The Trustee shall signify its acceptance the duties and obligations and the trusts imposed upon it by this Series 2009B Bond Order by execution of the Certificate of Authentication on the Series 2009B Bonds.

ARTICLE IX

SUPPLEMENTAL BOND ORDERS

Section 9.01. Procedure for Adoption of Supplemental Bond Orders. The Issuer may, from time to time and at any time, adopt such orders amending and supplementing the provisions of this Series 2009B Bond Order in the same manner is provided in Sections 1101 and 1102 of the Bond Order for the adoption of supplemental bond orders, and the provisions of said Sections 1101 and 1102 are hereby incorporated herein and made applicable hereto in the same manner as if herein set forth; provided, however, that to the extent any amendment or supplement to this Series 2009B Bond Order relates solely to the Series 2009B Bonds, and affects only the Owners of the Series 2009B Bonds, the provisions of Section 1102 of the Bond Order requiring the consent of the Owners of all Outstanding Bonds shall be read as referring only the Owners of the Outstanding Series 2009B Bonds.

ARTICLE X

CONTINUING DISCLOSURE

Section 10.01. Continuing Disclosure. The Issuer and the Commission hereby undertake, for the benefit of the beneficial owners of the Series 2009B Bonds, to provide:

(a) by not later than seven months from the end of each Fiscal Year, commencing with the Fiscal Year ended June 30, 2009, to the Municipal Securities Rulemaking Board (“MSRB”), audited financial statements of the Commission for such 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 of the Commission are not available by seven months from the end of such Fiscal Year, unaudited financial statements of the Commission for such Fiscal Year to be replaced subsequently by audited financial statements of the Commission to be delivered within fifteen (15) days after such audited financial statements become available for distribution;

(b) by not later than seven months from the end of each Fiscal Year, commencing with the Fiscal Year ending June 30, 2010, to the MSRB, (i) 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 following headings in the Official Statement, to be dated as of the date of delivery thereof, relating to the Series 2009B Bonds (the “Official Statement”), to the extent that such items are not included in the financial statements referred to in (a) above:

- (1) “HISTORICAL OPERATING RESULTS”;
- (2) “FAYETTEVILLE PUBLIC WORKS COMMISSION – The Electric System – Electric System Requirements and –Electric System Customers and Sales” (tables and largest customer information therein);
- (3) “FAYETTEVILLE PUBLIC WORKS COMMISSION – The Electric System – Electric Rates and Bills” (rate tables therein);
- (4) “FAYETTEVILLE PUBLIC WORKS COMMISSION – The Water System – Water System Requirements and –Water System Customers and Sales” (tables and largest customer information therein);
- (5) “FAYETTEVILLE PUBLIC WORKS COMMISSION – The Water System – Water Rates” (rate tables therein);
- (6) “FAYETTEVILLE PUBLIC WORKS COMMISSION – The Wastewater System – Wastewater System Requirements and –Wastewater Customers and Sales” (tables and largest customer information therein); and
- (7) “FAYETTEVILLE PUBLIC WORKS COMMISSION – The Wastewater System – Wastewater Rates” (rate tables therein);

(c) in a timely manner, to the MSRB, notice of any of the following events with respect to the Series 2009B Bonds, if material:

- (1) principal and interest payment delinquencies;
- (2) non-payment related defaults;
- (3) unscheduled draws on debt service reserves reflecting financial difficulties;
- (4) unscheduled draws on credit enhancements reflecting financial difficulties;
- (5) substitution of credit or liquidity providers, or their failure to perform;
- (6) adverse tax opinions or events affecting the tax-exempt status of the Series 2009B Bonds;
- (7) modification to the rights of the beneficial owners of the Series 2009B Bonds;
- (8) bond calls, other than calls for mandatory sinking fund redemption;
- (9) defeasances;
- (10) release, substitution or sale of any property securing repayment of the Series 2009B Bonds; and
- (11) rating changes; and

(d) in a timely manner, to the MSRB, notice of a failure of the Issuer or the Commission to provide required annual financial information described in (a) or (b) above on or before the date specified.

All information provided to the MSRB as described in this Section shall be provided in an electronic format as prescribed by the MSRB and accompanied by identifying information as prescribed by the MSRB.

The Issuer and the Commission may also discharge the undertaking described above by transmitting such information in any other manner subsequently authorized or required by the U.S. Securities and Exchange Commission in lieu of the manner described above.

If the Issuer or the Commission fails to comply with the undertaking described above, the Trustee or any beneficial owner of the Series 2009B Bonds may take action to protect and enforce the rights of all beneficial owners with respect to such undertaking, including an action for specific performance; provided, however, that failure to comply with such undertaking shall not be a Default under the Bond Order or this Series 2009B Bond Order and shall not result in any acceleration of the Series 2009B Bonds. All actions shall be instituted, had and maintained in the manner provided in this paragraph for the benefit of all beneficial owners of the Series 2009B Bonds.

The Issuer and the Commission reserve the right to modify from time to time the information to be provided to the extent necessary or appropriate in the judgment of the Issuer and the Commission, provided that:

(a) 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 Issuer or the Commission;

(b) the information to be provided, as modified, would have complied with the requirements of Rule 15c2-12 issued under the Securities Exchange Act of 1934 ("Rule 15c2-12") as of the date of the Official Statement, after taking into account any amendments or interpretations of Rule 15c2-12, as well as any changes in circumstances; and

(c) any such modification does not materially impair the interests of the Owners of the Series 2009B Bonds, as determined by the Trustee or bond counsel to the Issuer and the Commission, or by approving vote of the Owners of a majority in principal amount of the Series 2009B Bonds then Outstanding pursuant to the terms of the Bond Order and this Series 2009B Bond Order at the time of the amendment.

In the event that the Issuer and the Commission make such a modification, the annual financial information containing the modified operating data or financial information shall 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.

The provisions of this Section shall terminate upon payment, or provision having been made for payment in a manner consistent with Rule 15c2-12, in full of the principal of and interest on all of the Series 2009B Bonds.

ARTICLE XI

MISCELLANEOUS PROVISIONS

Section 11.01. Trustee, Issuer, Commission and Owners Alone Have Rights Under Series 2009B Bond Order. Except, as herein otherwise expressly provided, nothing in this Series 2009B Bond Order, express or implied, is intended or shall be construed to confer upon any person, firm or corporation other than the Trustee, the Issuer, the Commission and the Owners, any right, remedy or claim, legal or equitable, under or by reason of this Series 2009B Bond Order or any provision hereof, this Series 2009B Bond Order and all its provisions being intended to be and being for the sole and exclusive benefit of the Trustee, the Issuer, the Commission and the Owners.

Section 11.02. Effect of Partial Invalidity. In case any one or more of the provisions of this Series 2009B Bond Order or the Series 2009B Bonds shall for any reason be held to be illegal or invalid, such illegality or invalidity shall not affect any other provisions of this Series 2009B Bond Order or the Series 2009B Bonds, but this Series 2009B Bond Order and the Series 2009B Bonds shall be construed and enforced as if such illegal or invalid provisions had not been contained therein. In case any covenant, stipulation, obligation or agreement contained in the Series 2009B Bonds or this Series 2009B Bond Order shall for any reason be held to be in violation of any law, then such covenant, stipulation, obligation or agreement shall be deemed to be the covenant, stipulation, obligation or agreement of the Issuer to the fullest extent permitted by law.

Section 11.03. Effect of Covenants. All covenants, stipulations, obligations and agreements of the Issuer contained in this Series 2009B Bond Order shall be deemed to be covenants, stipulations, obligations and agreements of the Issuer to the fullest extent permitted by the Constitution and laws of the State. This Series 2009B Bond Order is adopted with the intent that the laws of the State shall govern its construction.

Section 11.04. Dealing in Bonds. The Trustee and its directors, officers, employees or agents, and any officer, employee or agent of the Issuer or the Commission, may in good faith, buy, sell, own, hold and deal in any Series 2009B Bonds issued under the provisions of this Series 2009B Bond Order and may join in any action which any Owner may be entitled to take with like effect as if the Trustee were not a Trustee or as if such officer, employee or agent of the Issuer or the Commission did not serve in such capacity.

Section 11.05. Headings. Any heading preceding the text of the several articles hereof, and any table of contents or marginal notes appended to copies hereof, shall be solely for convenience of reference and shall not constitute a part of this Series 2009B Bond Order, nor shall they affect its meaning, construction or effect.

Section 11.06. Further Authority. The officers, attorneys, engineers and other agents or employees of the Issuer and the Commission, their attorneys, officers, agents and employees, are hereby authorized to do all acts and things required of them by this Series 2009B Bond Order for the full, punctual and complete performance of all of the terms, covenants and agreements contained in the Series 2009B Bonds and this Series 2009B Bond Order.

Section 11.07. Approval of Award of Series 2009B Bonds by LGC; Authorization to Execute Bond Purchase Agreement; Approval of Preliminary Official Statement and Official Statement and Authorization to Execute and Deliver Official Statement. (a) The Issuer hereby approves the action of the LGC in awarding the Series 2009B Bonds to the Underwriters; provided, however, that the compensation of the Underwriters, including counsel to the Underwriters, shall not exceed 1.00% of the aggregate principal amount of the Series 2009B Bonds.

(b) The Issuer hereby approves the Bond Purchase Agreement for the Series 2009B Bonds, in substantially the form presented at this meeting, and the Mayor, the City Manager and the Chief Financial Officer are each hereby authorized to execute and deliver the Bond Purchase Agreement in substantially the form so presented, together with such changes, modifications, insertions and deletions, as any of them, with the advice of counsel, may deem necessary and appropriate, such execution and delivery to be conclusive evidence of the approval and authorization thereof by the Issuer.

(c) The Issuer hereby approves the use and distribution of the Preliminary Official Statement in substantially the form presented at this meeting in connection with the offering and sale of the Series 2009B Bonds. A final Official Statement, in substantially the form of the Preliminary Official Statement, together with such changes as are necessary to reflect certain pricing and other terms relating to the Series 2009B Bonds, is hereby approved, and the Mayor, the City Manager and the Chief Financial Officer are each hereby authorized to execute and deliver the final Official Statement in substantially the form of the Preliminary Official Statement, together with such changes, modifications, insertions and deletions, as any of them, with the advice of counsel, may deem necessary and appropriate, such execution and delivery to be conclusive evidence of the approval and authorization thereof by the Issuer.

(d) The officers and employees of the Issuer are authorized and directed (without limitation, except as may be expressly set forth herein and in the Bond Order) to take such action and to execute and deliver such documents, certificates, undertakings and agreements or other instruments as any of them, with the advice of counsel, may deem necessary or appropriate to effect the transactions contemplated by this Series 2009B Bond Order, the Bond Purchase Agreement and the Official Statement.

Section 11.08. Series 2009B Bond Order Effective. This Series 2009B Bond Order shall take effect immediately upon its adoption.

DESCRIPTION OF SERIES 2009 PROJECT

The Series 2009 Project consists of the acquisition, construction and equipping of various improvements to the water and sanitary sewer facilities of the Issuer and the Commission, including, without limitation, the following:

- (a) extension of sewer mains and lines to various annexed areas of the Issuer;
- (b) extension, rehabilitation and replacement of water and sewer mains and lines;
- (c) sanitary sewer manhole rehabilitation;
- (d) dam, outfall and pump rehabilitation; and
- (e) boiler and telemetry unit replacement.

[Form of Series 2009B Bonds]

United States of America
 State of North Carolina
 County of Cumberland

CITY OF FAYETTEVILLE
 PUBLIC WORKS COMMISSION REVENUE BOND
 SERIES 2009B

No. R-__ \$ _____

INTEREST RATE

MATURITY DATE

CUSIP

%

March 1, ____

The City of Fayetteville, North Carolina (the "Issuer"), a municipal corporation, for value received, hereby promises to pay, but solely from the sources and in the manner hereinafter provided, to CEDE & CO., or registered assigns or legal representative, on the maturity date set forth above (or earlier as hereinafter referred to), upon the presentation and surrender hereof at the principal corporate trust office of The Bank of New York Mellon Trust Company, N.A. (the "Trustee"), the principal sum set forth above. The Issuer also promises to pay, but solely from said sources, interest on this bond (calculated on the basis of a 360-day year consisting of twelve 30-day months) from the interest payment date next preceding the date on which it is authenticated, unless it is authenticated on an interest payment date, in which event it shall bear interest from such interest payment date, or it is authenticated prior to March 1, 2010, in which event it shall bear interest from its date, payable on March 1 and September 1 of each year, beginning March 1, 2010, at the rate per annum set forth above until the principal sum hereof is paid. The interest so payable and punctually paid or duly provided for on any interest payment date will be paid to the person in whose name this bond is registered at the close of business on the Record Date for such interest, which shall be the 15th day (whether or not a business day) of the calendar month next preceding such interest payment date. Any such interest not so punctually paid or duly provided for shall forthwith cease to be payable to the registered owner on such Record Date, and may be paid to the person in whose name this bond is registered at the close of business on a special record date for the payment of such defaulted interest to be fixed by the Trustee, notice whereof being given to the registered owners not less than ten (10) days prior to such special record date, or may be paid at any time in any other lawful manner not inconsistent with the requirements of any securities exchange on which the Series 2009B Bonds (hereinafter defined) may be listed and upon such notice as may be required by such exchange, or as more fully provided in the Bond Order (hereinafter defined). Such payment of interest shall be made by check mailed by the Trustee to the registered owner at his address as it appears on the bond registration books maintained by the Trustee, or, in the case of a registered owner of at least \$1,000,000 in aggregate principal amount of the Series 2009B Bonds, by bank wire transfer to a bank account maintained by such registered owner in the United States of America and designated in written instructions to the Trustee, or in such other manner as may be

permitted by the Bond Order. All such payments shall be made in such coin or currency of the United States of America as at the time of payment is legal tender for payment of public and private debts.

This bond is one of a duly authorized series of revenue bonds of the Issuer designated "Public Works Commission Revenue Bonds, Series 2009B" (the "Series 2009B Bonds"), issued pursuant to The State and Local Government Revenue Bond Act, as amended, a Bond Order duly adopted by the City Council of the Issuer on November 5, 1990, as supplemented and amended (the "Original Bond Order"), and a Bond Order duly adopted by the City Council of the Issuer on September 14, 2009 (the "Series 2009B Bond Order" and, together with the Original Bond Order, the "Bond Order") for the purpose of providing funds, together with any other available funds, to (a) pay the costs of the Series 2009 Project (as defined in the Series 2009B Bond Order) and (b) pay certain fees and expenses relating to the sale and issuance of the Series 2009B Bonds.

The Series 2009B Bonds are being issued by means of a book-entry system with no physical distribution of bond certificates to be made except as provided in the Series 2009B Bond Order. One bond certificate with respect to each date on which the Series 2009B Bonds are stated to mature, in the aggregate principal amount of the Series 2009B Bonds stated to mature on such date and registered in the name of Cede & Co., as nominee of The Depository Trust Company, New York, New York ("DTC"), is being issued and required to be deposited with DTC (or its designee) and immobilized in its custody. The book-entry system will evidence ownership of the Series 2009B Bonds in the principal amount of \$5,000 or any whole multiple thereof, with transfers of ownership effected on the records of DTC and its participants pursuant to rules and procedures established by DTC and its participants. Transfer of principal and interest payments to beneficial owners of the Series 2009B Bonds by participants of DTC will be the responsibility of such participants and other nominees of such beneficial owners. The Issuer or the Trustee will not be responsible or liable for such transfers of payments or for maintaining, supervising or reviewing the records maintained by DTC, its participants or persons acting through such participants. While Cede & Co. is the registered owner of this bond, notwithstanding the provisions hereinabove contained, payments of principal of and interest on this bond shall be made in accordance with the existing arrangements among the Issuer, the Trustee and DTC.

This bond is a limited obligation of the Issuer and is secured *pari passu* with the Issuer's outstanding Bonds and any Additional Bonds (both as defined in the Bond Order) by a pledge of, and the principal of, the premium, if any, and interest on this Series 2009B Bond are payable solely from, the Net Revenues. This bond is also secured by the money and securities in the funds and accounts held by the Trustee under the Series 2009B Bond Order and the income from the investment thereof. Except as hereinabove described, this bond is not secured by a lien on any property or assets of the Issuer or the Public Works Commission of the City of Fayetteville, and this bond does not constitute a debt of the Issuer for which the faith and credit and taxing power of the Issuer are pledged, and the issuance of this Series 2009B Bond will not directly or indirectly or contingently obligate the Issuer to levy any tax or pledge any form of taxation for the payment hereof.

Reference is made to the Bond Order for a more complete statement of the provisions thereof and of the rights of the Issuer, the Trustee and the registered owners of the Series 2009B Bonds. Copies of the Bond Order will be available for inspection by any registered owner of the Bonds at all reasonable times at the designated corporate trust office of the Trustee. By the purchase and acceptance of this bond, the registered owner hereof signifies assent to all of the provisions of the Bond Order. All capitalized words and terms used herein and not otherwise defined have the meanings given such words and terms in the Bond Order.

This bond is issued and the Bond Order was adopted under and pursuant to the Constitution and laws of the State of North Carolina, in particular The State and Local Government Revenue Bond Act, being Article 5 of Chapter 159 of the General Statutes of North Carolina, as amended.

The Original Bond Order provides for the creation of a special fund designated "City of Fayetteville, North Carolina PWC Revenue Bonds, Bond Fund" (the "Bond Fund"). Pursuant to the Series 2009B Bond Order, special subaccounts have been created within the various accounts of the Bond Fund with respect to the Series 2009B Bonds (the "Subaccounts"), which Subaccounts are pledged and charged with the payment of the principal of and the interest on the Series 2009B Bonds. The Series 2009B Bond Order provides for the deposit of Net Revenues to the credit of the Subaccounts to the extent and in the manner provided in the Bond Order.

The Bond Order provides for the issuance from time to time under the conditions, limitations and restrictions therein set forth of Additional Bonds secured *pari passu* with the Issuer's outstanding Bonds as to the pledge of Net Revenues in the manner provided in the Bond Order.

The Series 2009B Bonds are issuable in fully registered form in denominations of \$5,000 or any integral multiple thereof. This bond is transferable by the registered owner hereof in person or by his attorney duly authorized in writing at the designated corporate trust office of the Trustee, but only in the manner, subject to the limitations and upon payment of the charges provided in the Bond Order, and upon surrender and cancellation of this bond. Upon such transfer, a new Series 2009B Bond or Bonds, registered in the name of the transferee, of authorized denominations, in an aggregate principal amount equal to the principal amount of this bond, of the same maturity and bearing interest at the same rate will be issued to the transferee in exchange therefor.

The Series 2009B Bonds maturing prior to March 1, 20__ are not subject to redemption prior to their maturity. The Series 2009B Bonds maturing on or after March 1, 20__ are subject to redemption prior to their respective maturities, at the option of the Issuer, from any moneys that may be available for such purpose, either in whole or in part on any date on or after March 1, 20__, at a redemption price equal to 100% of the principal amount of Series 2009B Bonds to be redeemed, plus accrued interest to the redemption date.

The Term Bonds (as defined in the Series 2009B Bond Order) maturing on March 1, 20__ are subject to mandatory redemption in part beginning on March 1, 20__ and on each March 1 thereafter until the maturity thereof, in the amounts set forth in the Series 2009B Bond Order as the Sinking Fund Requirements therefor, at a redemption price equal to 100% of the

principal amount of the Series 2009B Bonds to be redeemed, plus accrued interest to the redemption date.

At least thirty (30) days but not more than sixty (60) days prior to the redemption date of any Series 2009B Bonds to be redeemed, whether such redemption is in whole or in part, the Trustee shall cause a notice of any such redemption signed by the Trustee to be mailed, first class, postage prepaid, to all registered owners of Series 2009B Bonds to be redeemed in whole or in part, provided that failure to mail any such notice to any registered owner or any defect in such notice shall not affect the validity of the proceedings for such redemption as to the Series 2009B Bonds of any other registered owner to whom such notice is properly given.

On the date designated for redemption, notice having been given as aforesaid, the Series 2009B Bonds or portions thereof so called for redemption shall become due and payable at the redemption price provided for the redemption of such Series 2009B Bonds or such portions thereof on such date plus accrued interest to such date.

If less than all of the Series 2009B Bonds are to be called for redemption, the Series 2009B Bonds to be so redeemed shall be called for redemption in the manner that the Issuer shall determine as set forth in an Officer's Certificate filed with the Trustee. If less than all the Series 2009B Bonds of any one maturity are called for redemption, the Trustee shall select the Series 2009B Bonds to be redeemed by lot, each \$5,000 portion of principal being counted as one Series 2009B Bond for this purpose; provided, however, that so long as the only registered owner of the Series 2009B Bonds is Cede & Co., such selection shall be made by DTC.

Any notice of redemption, except a notice of redemption in respect of a Sinking Fund Requirement, may state that the redemption to be effected is conditioned upon the receipt by the Trustee on or prior to the redemption date of moneys sufficient to pay the principal of and interest on the Series 2009B Bonds to be redeemed and that if such moneys are not so received such notice shall be of no force or effect and such Bonds shall not be required to be redeemed. In the event that such notice contains such a condition and moneys sufficient to pay the principal of and interest on such Series 2009B Bonds are not received by the Trustee on or prior to the redemption date, the redemption shall not be made, and the Trustee shall within a reasonable time thereafter give notice, in the manner in which the notice of redemption was given, that such moneys were not so received.

The registered owner of this bond shall have no right to enforce the provisions of the Bond Order, or to institute action to enforce the covenants therein, or to take any action with respect to any default under the Bond Order, or to institute, appear in or defend any suit or other proceeding with respect thereto, except as provided in the Bond Order.

Upon the occurrence of certain events, and on the conditions, in the manner and with the effect set forth in the Bond Order, the principal of all Bonds, including the Series 2009B Bonds, then outstanding under the Bond Order may become or may be declared due and payable before the stated maturities thereof, together with the interest accrued thereon.

Modifications or amendments to the Bond Order or any order supplemental thereto may be made only to the extent and in the circumstances permitted by the Bond Order.

This bond, notwithstanding the provisions for registration and transfer stated herein and contained in the Bond Order, at all times shall be and shall be understood to be an investment security within the meaning of and for all the purposes of Article 8 of the Uniform Commercial Code of North Carolina.

This bond is issued with the intent that the laws of the State of North Carolina shall govern its construction.

All acts, conditions and things required to happen, exist and be performed precedent to and in the issuance of this Series 2009B Bond and the adoption of the Original Bond Order and the Series 2009B Bond Order have happened, exist and have been performed as so required.

Neither the members of the City Council of the Issuer or its officers or employees nor any member, officer or employee of its Public Works Commission is liable personally hereon or subject to any personal liability or accountability by reason of the issuance or execution hereof.

This bond shall not be valid or become obligatory for any purpose or be entitled to any benefit or security under the Bond Order until it shall have been authenticated by the execution by the Trustee of the certificate of authentication endorsed hereon.

IN WITNESS WHEREOF, the City of Fayetteville, North Carolina, by resolution duly passed by its City Council, has caused this bond to be manually signed by the Mayor and the City Clerk and its corporate seal to be impressed hereon, all as of the ___ day of October, 2009.

Mayor

[SEAL]

City Clerk

CERTIFICATE OF LOCAL GOVERNMENT COMMISSION

The issuance of the within bond has been approved under the provisions of The State and Local Government Revenue Bond Act.

Secretary, Local Government Commission

CERTIFICATE OF AUTHENTICATION

This bond is a Bond of the Series designated therein and issued under the provisions of the within mentioned Bond Order.

THE BANK OF NEW YORK MELLON TRUST COMPANY, N.A., as Trustee

By: _____
Authorized Signatory

Date of authentication: _____

ASSIGNMENT

FOR VALUE RECEIVED the undersigned hereby sells, assigns and transfers unto _____

PLEASE INSERT SOCIAL SECURITY NUMBER
OR OTHER IDENTIFYING NUMBER OF ASSIGNEE

PLEASE PRINT OR TYPEWRITE NAME AND ADDRESS OF TRANSFEREE

the within bond and all right thereunder, and hereby irrevocably constitutes and appoints _____, attorney, to transfer the within bond on the books kept for registration thereof, with full power of substitution in the premises.

Dated: _____

In the presence of:

NOTICE: Signature must be guaranteed by an institution which is a participant in the Securities Transfer Agent Medallion Program (STAMP) or similar program.

The signature to this assignment must correspond with the name as it appears upon the face of the within bond in every particular, without alteration or enlargement or any change whatever.

REQUISITION NO. _____

REQUISITION

The Bank of New York Mellon Trust Company, N.A.
10161 Centurion Parkway
Jacksonville, Florida 32256
Attention: Corporate Trust Department

Re: Disbursement from the Series 2009B Project Account pursuant to Series 2009B Bond Order adopted on September 14, 2009 (the "Bond Order") by the City Council of the City of Fayetteville, North Carolina (the "Issuer")

1. The Issuer hereby requests payment in the amount of \$ _____ to be paid to _____ [by wire transfer][by check]. Delivery instructions are as follows:

2. The purpose for which the obligation to be paid was incurred was for _____
Said costs constitutes an eligible cost of the Series 2009 Project within the meaning of the Bond Order.

3. The obligation set forth above has been incurred by the Issuer, is presently due and payable, and is a proper charge against the Series 2009B Project Account that has not been paid.

4. No notice of any lien, right to lien or attachment upon, or claim affecting the right of any such person to receive payment of, the amount stated in this Requisition has been filed or attached.

[If any contractors or other construction lien has been imposed with respect to the Series 2009 Project or the proceeds of the Series 2009B Bonds paragraph 4 should be revised to describe the lien and certify that same either has been or will be satisfied or discharged or that provisions have been made (which should be specified) to protect adequately the Trustee and the Owners of the Series 2009B Bonds from incurring any loss as a result of the same.]

5. This Requisition does not contain any item representing payment on account of any retainage to which the Issuer is entitled as of the date of this Requisition.

Very truly yours,

Commission Representative

CITY COUNCIL ACTION MEMO

TO: Mayor and Members of City Council
FROM: Lisa Smith, Chief Financial Officer
DATE: September 14, 2009
RE: **FINANCE-RESOLUTION PROVIDING FOR THE ISSUANCE OF NOT TO EXCEED \$14,000,000 GENERAL OBLIGATION REFUNDING BONDS, SERIES 2009**

THE QUESTION:

Adoption of the attached resolution will authorize the City to proceed with the issuance of bonds to refund certain outstanding general obligation bonds that were issued in 1996, 1999 and 2000 for the purpose of achieving interest cost savings.

RELATIONSHIP TO STRATEGIC PLAN:

Core Value: Stewardship Goal 4: More Efficient City Government - Cost Effective Service Delivery

BACKGROUND:

- On August 24, City Council took several actions related to the bond issue including adoption of the order authorizing \$14,000,000 General Obligation Refunding Bonds.
- On September 1, the Local Government Commission approved the City's application to issue the bonds.
- The attached resolution provides for the issuance of refunding bonds in an amount not to exceed \$14,000,000 to refund certain outstanding street improvement and public improvement bonds issued in 1996, 1999 and 2000.
- The resolution includes authorization to execute the Bond Purchase Agreement with Stephens, Inc., to execute the Escrow Deposit Agreement with Regions Bank, to prepare and distribute the Preliminary Official Statement and the final Official Statement.
- Consistent with previous instructions, a copy of the Preliminary Official Statement, Bond Purchase Agreement and Escrow Deposit Agreement are available in the City Clerk's Office for review.

ISSUES:

None.

OPTIONS:

- Adopt the resolution.
- Do not adopt the resolution and do not proceed with the issuance of refunding bonds.

RECOMMENDED ACTION:

Adopt the Resolution Providing For The Issuance Of Not To Exceed \$14,000,000 General Obligation Refunding Bonds, Series 2009.

ATTACHMENTS:

Resolution Providing For The Issuance Of Not To Exceed \$14,000,000 General Obligation Refunding Bonds, Series 2009

The City Council of the City of Fayetteville, North Carolina held a regular meeting in the City Council Chambers at City Hall located at 433 Hay Street in Fayetteville, North Carolina, the regular place of meeting, at 7:00 p.m. on September 14, 2009.

Present: Mayor Anthony G. Chavonne, presiding, and Council Members

Absent: Council Members

Also Present: _____

* * * * *

_____ introduced the following resolution the title of which was read and copies of which had been previously distributed to each Council Member:

RESOLUTION PROVIDING FOR THE ISSUANCE OF NOT TO EXCEED \$14,000,000 GENERAL OBLIGATION REFUNDING BONDS, SERIES 2009

BE IT RESOLVED by the City Council (the "City Council") of the City of Fayetteville, North Carolina (the "City"):

Section 1. The City Council has determined and does hereby find and declare as follows:

(a) An order authorizing \$14,000,000 General Obligation Refunding Bonds was adopted by the City Council on August 24, 2009, which order has taken effect.

(b) None of said bonds have been issued, no notes have been issued in anticipation of the receipt of the proceeds of the sale of said bonds and it is necessary to issue not to exceed \$14,000,000 of such refunding bonds at this time.

(c) (i) The shortest period of time in which the outstanding Street Improvement Bonds, Series 1996 (the "1996 Street Improvement Bonds") of said City, dated December 1, 1996, to be refunded by said refunding bonds can be finally paid without making it unduly burdensome on the taxpayers of the City as determined by the Local Government Commission of North Carolina (the "Commission") is a period which expires on December 1, 2014, and that the end of the unexpired usefulness of the projects financed by said 1996 Street Improvement Bonds is estimated as a period of twenty (20) years from December 1, 1996, the date of said 1996 Street Improvement Bonds, and that such period expires on December 1, 2016; (ii) the shortest period of time in which the outstanding Public Improvement Bonds, Series 1996 (the "1996 Public Improvement Bonds") of said City, dated December 1, 1996, to be refunded by said refunding bonds can be finally paid without making it unduly burdensome on the taxpayers of the City as

determined by the Commission is a period which expires on December 1, 2015 and that the end of the unexpired usefulness of the projects financed by said 1996 Public Improvement Bonds, is estimated as a period of twenty (20) years from December 1, 1996, the date of said 1996 Public Improvement Bonds, and that such period expires on December 1, 2016; (iii) the shortest period of time in which the outstanding Street Improvement Bonds, Series 1999 (the "1999 Street Improvement Bonds") of said City, dated March 1, 1999, to be refunded by said refunding bonds can be finally paid without making it unduly burdensome on the taxpayers of the City as determined by the Commission is a period which expires on March 1, 2017 and that the end of the unexpired usefulness of the projects financed by said 1999 Street Improvement Bonds, is estimated as a period of twenty (20) years from March 1, 1999, the date of said 1999 Street Improvement Bonds, and that such period expires on March 1, 2019; (iv) the shortest period of time in which the outstanding Public Improvement Bonds, Series 1999 (the "1999 Public Improvement Bonds") of said City, dated March 1, 1999, to be refunded by said refunding bonds can be finally paid without making it unduly burdensome on the taxpayers of the City as determined by the Commission is a period which expires on March 1, 2017 and that the end of the unexpired usefulness of the projects financed by said 1999 Public Improvement Bonds, is estimated as a period of twenty (20) years from March 1, 1999, the date of said 1999 Public Improvement Bonds, and that such period expires on March 1, 2019; (v) the shortest period of time in which the outstanding Street Improvement Bonds, Series 2000 (the "2000 Street Improvement Bonds") of said City, dated October 1, 2000, to be refunded by said refunding bonds can be finally paid without making it unduly burdensome on the taxpayers of the City as determined by the Commission is a period which expires on April 1, 2018 and that the end of the unexpired usefulness of the projects financed by said 2000 Street Improvement Bonds, is estimated as a period of twenty (20) years from October 1, 2000, the date of said 2000 Street Improvement Bonds, and that such period expires on October 1, 2020; and (vi) the shortest period of time in which the outstanding Public Improvement Bonds, Series 2000 (the "2000 Public Improvement Bonds") of said City, dated October 1, 2000, to be refunded by said refunding bonds can be finally paid without making it unduly burdensome on the taxpayers of the City as determined by the Commission is a period which expires on April 1, 2021 and that the end of the unexpired usefulness of the street improvement projects financed by said 2000 Public Improvement Bonds, is estimated as a period of twenty (20) years from October 1, 2000, the date of said 2000 Public Improvement Bonds, and that such period expires on October 1, 2020 and the end of the unexpired usefulness of the sanitary sewer system and water system improvement projects financed by said 2000 Public Improvement Bonds, is estimated as a period of forty (40) years from October 1, 2000, the date of said 2000 Public Improvement Bonds, and that such period expires on October 1, 2040.

Section 2. Pursuant to said order there shall be issued bonds in the aggregate principal amount not to exceed \$14,000,000 designated "General Obligation Refunding Bonds, Series 2009" (the "Bonds") and dated the date of delivery thereof. The exact amount of the Bonds to be issued shall be determined by the City at the time the Bonds are sold pursuant to the Bond Purchase Agreement (hereinafter defined) as provided in Section 6 hereof and shall be an amount sufficient, together with other available funds of the City, to (a) refund all or a portion of the Refunded Bonds (hereinafter defined) and (b) pay certain other costs and expenses incurred in connection with the issuance and sale of the Bonds. Subject to the provisions of this resolution, the Bonds shall (a) mature at such times and in such amounts and (b) bear interest at a rate or rates to be determined by the Commission, with the approval of the City, at the time the Bonds

are sold, which interest to the respective maturities thereof shall be payable on each March 1 and September 1, beginning March 1, 2010, until payment of such principal sum, all as shall be set forth in the Bond Purchase Agreement.

Each Bond shall bear interest from the interest payment date next preceding the date on which it is authenticated, unless it is (a) authenticated upon an interest payment date, in which event it shall bear interest from such interest payment date or (b) authenticated prior to the first interest payment date, in which event it shall bear interest from its date; provided, however, that if at the time of authentication interest is in default, such Bond shall bear interest from the date to which interest has been paid.

The principal of and the interest on the Bonds shall be payable in any coin or currency of the United States of America which is legal tender for the payment of public and private debts on the respective dates of payment thereof.

The Bonds shall be issued by means of a book-entry system with no physical distribution of Bond certificates to be made except as hereinafter provided. One Bond certificate with respect to each date on which the Bonds are stated to mature, in the aggregate principal amount of the Bonds stated to mature on such date and registered in the name of Cede & Co., as nominee of The Depository Trust Company, New York, New York ("DTC"), shall be issued and required to be deposited with DTC and immobilized in its custody. The book-entry system will evidence ownership of the Bonds in the principal amount of \$5,000 or any whole multiple thereof, with transfers of ownership effected on the records of DTC and its participants pursuant to rules and procedures established by DTC and its participants. The principal of each Bond shall be payable to Cede & Co. or any other person appearing on the registration books of the City hereinafter provided for as the registered owner of such Bond or his registered assigns or legal representative at such office of the Bond Registrar mentioned hereinafter or such other place as the City may determine upon the presentation and surrender thereof as the same shall become due and payable. Payment of the interest on each Bond shall be made by said Bond Registrar on each interest payment date to the registered owner of such Bond (or the previous Bond or Bonds evidencing the same debt as that evidenced by such Bond) at the close of business on the record date for such interest, which shall be the 15th day (whether or not a business day) of the calendar month next preceding such interest payment date, by check mailed to such person at his address as it appears on such registration books; provided, however, that for so long as the Bonds are deposited with DTC, the payment of the principal of and interest on the Bonds shall be made to DTC in same-day funds by 2:30 p.m. or otherwise as determined by the rules and procedures established by DTC. Transfer of principal and interest payments to participants of DTC will be the responsibility of DTC, and transfer of principal and interest payments to beneficial owners of the Bonds by participants of DTC will be the responsibility of such participants and other nominees of such beneficial owners. The City shall not be responsible or liable for such transfers of payments or for maintaining, supervising or reviewing records maintained by DTC, its participants or persons acting through such participants.

In the event that (a) DTC determines not to continue to act as securities depository for the Bonds or (b) the Chief Financial Officer of the City determines that continuation of the book-entry system of evidence and transfer of ownership of the Bonds would adversely affect the interests of the beneficial owners of the Bonds, the City will discontinue the book-entry system

with DTC. If the City identifies another qualified securities depository to replace DTC, the City will make arrangements with DTC and such other depository to effect such replacement and deliver replacement Bonds registered in the name of such other depository or its nominee in exchange for the outstanding Bonds, and the references to DTC or Cede & Co. in this resolution shall thereupon be deemed to mean such other depository or its nominee. If the City fails to identify another qualified securities depository to replace DTC, the City shall deliver replacement Bonds in the form of fully-registered certificates in denominations of \$5,000 or any whole multiple thereof ("Certificated Bonds") in exchange for the outstanding Bonds as required by DTC and others. Upon the request of DTC, the City may also deliver one or more Certificated Bonds to any participant of DTC in exchange for Bonds credited to its account with DTC.

Unless indicated otherwise, the provisions of this resolution that follow shall apply to all Bonds issued or issuable hereunder, whether initially or in replacement thereof.

Section 3. The Bonds shall bear the manual or facsimile signatures of the Mayor and the City Clerk of the City and the official seal or a facsimile of the official seal of the City shall be impressed or imprinted, as the case may be, on the Bonds.

The certificate of the Local Government Commission of North Carolina to be endorsed on all Bonds shall bear the manual or facsimile signature of the Secretary of said Commission and the certificate of authentication of the Bond Registrar to be endorsed on all Bonds shall be executed as provided hereinafter.

In case any officer of the City or the Local Government Commission of North Carolina whose manual or facsimile signature shall appear on any Bonds shall cease to be such officer before the delivery of such Bonds, such manual or facsimile signature shall nevertheless be valid and sufficient for all purposes the same as if he had remained in office until such delivery, and any Bond may bear the manual or facsimile signatures of such persons as at the actual time of the execution of such Bond shall be the proper officers to sign such Bond although at the date of such Bond such persons may not have been such officers.

No Bond shall be valid or become obligatory for any purpose or be entitled to any benefit or security under this resolution until it shall have been authenticated by the execution by the Bond Registrar of the certificate of authentication endorsed thereon.

The Bonds to be registered in the name of Cede & Co. and the endorsements thereon shall be in substantially the following form:

No. R-__ \$_____

United States of America
State of North Carolina
County of Cumberland

CITY OF FAYETTEVILLE
GENERAL OBLIGATION REFUNDING BOND
SERIES 2009

Maturity Date

March 1, 20__

Interest Rate

_____%

CUSIP No.

The City of Fayetteville, a municipal corporation duly organized and validly existing in the State of North Carolina, is justly indebted and for value received hereby promises to pay to
CEDE & CO.

or registered assigns or legal representative on the date specified above, upon the presentation and surrender hereof, at the office of the Chief Financial Officer of said City (the "Bond Registrar"), in the City of Fayetteville, North Carolina, the principal sum of

_____ DOLLARS

and to pay interest on such principal sum from the date hereof or from March 1 or September 1 next preceding the date of authentication to which interest shall have been paid, unless such date of authentication is March 1 or September 1 to which interest shall have been paid, in which case from such date, such interest to the maturity hereof being payable on each March 1 and September 1, beginning March 1, 2010, at the rate per annum specified above, until payment of such principal sum. The interest so payable on any such interest payment date will be paid to the person in whose name this bond (or the previous bond or bonds evidencing the same debt as that evidenced by this bond) is registered at the close of business on the record date for such interest, which shall be the 15th day (whether or not a business day) of the calendar month next preceding such interest payment date, by check mailed to such person at his address as it appears on the bond registration books of said City; provided, however, that for so long as the Bonds (hereinafter defined) are deposited with The Depository Trust Company, New York, New York ("DTC"), the payment of the principal of and interest on the Bonds shall be made to DTC in same day funds by 2:30 p.m. or otherwise as determined by the rules and procedures established by DTC. Both the principal of and the interest on this bond shall be paid in any coin or currency of the United States of America that is legal tender for the payment of public and private debts on the respective dates of payment thereof. For the prompt payment hereof, both principal and interest as the same shall become due, the faith and credit of said City are hereby irrevocably pledged.

This bond is one of an issue of bonds designated "General Obligation Refunding Bonds, Series 2009" (the "Bonds") and issued by said City for the purpose of providing funds to refund certain outstanding general obligation bonds of the City. The Bonds are issued under and pursuant to The Local Government Bond Act, as amended, Article 7, as amended, of Chapter 159 of the General Statutes of North Carolina, an order adopted by the City Council of said City, which order has taken effect, and a resolution duly passed by said City Council (the "Resolution").

The Bonds are not subject to redemption prior to their respective maturities.

The Bonds are being issued by means of a book-entry system with no physical distribution of bond certificates to be made except as provided in the Resolution. One bond certificate with respect to each date on which the Bonds are stated to mature, in the aggregate

principal amount of the Bonds stated to mature on such date and registered in the name of Cede & Co., as nominee of DTC, is being issued and required to be deposited with DTC and immobilized in its custody. The book-entry system will evidence ownership of the Bonds in the principal amount of \$5,000 or any whole multiple thereof, with transfers of ownership effected on the records of DTC and its participants pursuant to rules and procedures established by DTC and its participants. Transfer of principal and interest payments to participants of DTC will be the responsibility of DTC, and transfer of principal and interest payments to beneficial owners of the Bonds by participants of DTC will be the responsibility of such participants and other nominees of such beneficial owners. Said City will not be responsible or liable for such transfers of payments or for maintaining, supervising or reviewing the records maintained by DTC, its participants or persons acting through such participants.

In certain events, said City will be authorized to deliver replacement Bonds in the form of fully-registered certificates in the denomination of \$5,000 or any whole multiple thereof in exchange for the outstanding Bonds as provided in the Resolution.

At the office of the Bond Registrar, in the manner and subject to the conditions provided in the Resolution, Bonds may be exchanged for an equal aggregate principal amount of Bonds of the same maturity, of authorized denominations and bearing interest at the same rate.

The Bond Registrar shall keep at his office the books of said City for the registration of transfer of Bonds. The transfer of this bond may be registered only upon such books and as otherwise provided in the Resolution upon the surrender hereof to the Bond Registrar together with an assignment duly executed by the registered owner hereof or his attorney or legal representative in such form as shall be satisfactory to the Bond Registrar. Upon any such registration of transfer, the Bond Registrar shall deliver in exchange for this bond a new Bond or Bonds, registered in the name of the transferee, of authorized denominations, in an aggregate principal amount equal to the unredeemed principal amount of this bond, of the same maturity and bearing interest at the same rate.

It is hereby certified and recited that all acts, conditions and things required by the Constitution and laws of North Carolina to happen, exist and be performed precedent to and in the issuance of this bond have happened, exist and have been performed in regular and due form and time as so required; that provision has been made for the levy and collection of a direct annual tax upon all taxable property within said City sufficient to pay the principal of and the interest on this bond as the same shall become due; and that the total indebtedness of said City, including this bond, does not exceed any constitutional or statutory limitation thereon.

This bond shall not be valid or become obligatory for any purpose or be entitled to any benefit or security under the Resolution until this bond shall have been authenticated by the execution by the Bond Registrar of the certificate of authentication endorsed hereon.

IN WITNESS WHEREOF, the City of Fayetteville, North Carolina, by resolution duly adopted by its City Council, has caused this bond to be manually signed by the Mayor and the City Clerk of said City and its official seal to be impressed hereon, all as of the ____ day of October, 2009.

Mayor

[SEAL]

City Clerk

CERTIFICATE OF LOCAL GOVERNMENT COMMISSION

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

Secretary, Local Government Commission

CERTIFICATE OF AUTHENTICATION

This bond is one of the Bonds of the series designated herein and issued under the provisions of the within-mentioned Resolution.

Chief Financial Officer, as Bond Registrar

Date of authentication: _____

ASSIGNMENT

FOR VALUE RECEIVED the undersigned registered owner thereof hereby sells, assigns and transfers unto _____

_____ the within Bond and all rights thereunder and hereby irrevocably constitutes and appoints _____

_____ attorney to register the transfer of said bond on the books kept for registration thereof, with full power of substitution in the premises.

Dated: _____

In the presence of:

NOTICE: The signature must be guaranteed by an institution which is a participant in the Securities Transfer Agent Medallion Program (STAMP) or similar program.

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 of enlargement or any change whatever.

Certificated Bonds issuable hereunder shall be in substantially the form of the Bonds registered in the name of Cede & Co. with such changes as are necessary to reflect the provisions of this resolution that are applicable to Certificated Bonds.

Section 4. The Bonds shall not be subject to redemption prior to their maturities.

Section 5. Bonds, upon surrender thereof at the office of the Bond Registrar together with an assignment duly executed by the registered owner or his attorney or legal representative in such form as shall be satisfactory to the Bond Registrar, may, at the option of the registered owner thereof, be exchanged for an equal aggregate principal amount of Bonds of the same maturity, of any denomination or denominations authorized by this resolution and bearing interest at the same rate.

The transfer of any Bond may be registered only upon the registration books of the City upon the surrender thereof to the Bond Registrar together with an assignment duly executed by the registered owner or his attorney or legal representative in such form as shall be satisfactory to the Bond Registrar. Upon any such registration of transfer, the Bond Registrar shall authenticate and deliver in exchange for such Bond a new Bond or Bonds, registered in the name of the transferee, of any denomination or denominations authorized by this resolution, in an aggregate principal amount equal to the unredeemed principal amount of such Bond so surrendered, of the same maturity and bearing interest at the same rate.

In all cases in which Bonds shall be exchanged or the transfer of Bonds shall be registered hereunder, the Bond Registrar shall authenticate and deliver at the earliest practicable time Bonds in accordance with the provisions of this resolution. All Bonds surrendered in any such exchange or registration of transfer shall forthwith be canceled by the Bond Registrar. The City or the Bond Registrar may make a charge for shipping and out-of-pocket costs for every such exchange or registration of transfer of Bonds sufficient to reimburse it for any tax or other governmental charge required to be paid with respect to such exchange or registration of transfer, but no other charge shall be made by the City or the Bond Registrar for exchanging or registering the transfer of Bonds under this resolution. The Bond Registrar shall not be required to exchange or register the transfer of any Bond during a period beginning at the opening of business fifteen (15) days before the date of the mailing of a notice of redemption of Bonds or any portion thereof and ending at the close of business on the day of such mailing or of any Bond called for redemption in whole or in part pursuant to Section 4 of this resolution.

As to any Bond, the person in whose name the same shall be registered shall be deemed and regarded as the absolute owner thereof for all purposes, and payment of or on account of the principal or redemption price of any such Bond and the interest on any such Bond shall be made only to or upon the order of the registered owner thereof or his legal representative. All such payments shall be valid and effectual to satisfy and discharge the liability upon such Bond,

including the redemption premium, if any, and interest thereon, to the extent of the sum or sums so paid.

The City shall appoint such registrars, transfer agents, depositaries or other agents as may be necessary for the registration, registration of transfer and exchange of Bonds within a reasonable time according to then current commercial standards and for the timely payment of principal, interest and any redemption premium with respect to the Bonds. The Chief Financial Officer of the City, or any person at any time acting in such capacity, is hereby appointed the registrar, transfer agent and paying agent for the Bonds (collectively the "Bond Registrar"), subject to the right of the City Council of the City to appoint another Bond Registrar, and as such shall keep at his office in the City, the books of the City for the registration, registration of transfer, exchange and payment of the Bonds as provided in this resolution.

Section 6. The City proposes to sell the Bonds to Stephens Inc. (the "Underwriter") pursuant to the provisions of a Bond Purchase Agreement, to be dated as of the date of delivery thereof (the "Bond Purchase Agreement"), among the Commission, the City and the Underwriter, at such prices determined by the Commission, subject to the approval thereof by the City. There has been presented to City Council the form of the Bond Purchase Agreement. The proposal set forth in the Bond Purchase Agreement submitted by the Underwriter offering to purchase the Bonds at the aggregate purchase price and bearing interest at the rates determined by the Commission and approved by the City as hereinafter provided, such purchase price not to be less than 95% of the aggregate principal amount of the Bonds and such interest rates not to result in an aggregate true interest cost in excess of 3.50% per annum and an effective interest cost in excess of 3.65%, is hereby approved. The final maturity of the Bonds shall not be later than March 1, 2021. The Commission is hereby requested to sell and award the Bonds to the Underwriter on behalf of the City, subject to the approval of the City, in accordance with the terms and provisions set forth in the Bond Purchase Agreement. The Mayor, the City Manager and the Chief Financial Officer of the City are each hereby authorized to approve on behalf of the City the sale of the Bonds to the Underwriter at such interest rates, for such purchase price and upon such terms and conditions as the Mayor, the City Manager and the Chief Financial Officer of the City determine, subject to the provisions of this resolution. The Mayor, the City Manager and the Chief Financial Officer of the City are each hereby authorized and directed in the name and on behalf of the City to execute and deliver the Bond Purchase Agreement in substantially the form presented at this meeting, together with such changes, additions and deletions as the Mayor, the City Manager and the Chief Financial Officer of the City, with the advice of counsel, may deem necessary and appropriate, such execution and delivery to be conclusive evidence of the approval and authorization in all respects of the form and content thereof.

Section 7. The City covenants that, to the extent permitted by the Constitution and laws of the State of North Carolina, it will comply with the requirements of the Internal Revenue Code of 1986 (the "Code"), as amended or as may be amended from time to time, and any Treasury regulations now or hereafter promulgated thereunder, to the extent necessary so that interest on the Bonds will not be included in gross income of the owners of the Bonds for purposes of federal income tax.

Section 8. All actions of the Mayor, the City Manager, the Chief Financial Officer and the City Clerk of the City in applying to the Commission to sell the Bonds to the Underwriter are hereby authorized, ratified and approved and the Commission is hereby requested to sell the Bonds to the Underwriter by private sale. The preparation of a Preliminary Official Statement, dated as of the date of delivery thereof (the "Preliminary Official Statement"), in substantially the form presented at this meeting, and the distribution thereof by the Underwriter, is hereby authorized and approved. The City authorizes and consents to the preparation and distribution of a final Official Statement, in substantially the form of the Preliminary Official Statement, together with such changes as are necessary to reflect the final terms of the Series 2009 Bonds. The Mayor, the City Manager and the Chief Financial Officer of the City are each hereby authorized and directed to execute and deliver the final Official Statement, in substantially the form of the Preliminary Official Statement, together with such changes, additions and deletions as such officer, with the advice of counsel, may deem necessary and appropriate, such execution and delivery to be conclusive evidence of the approval and authorization in all respects of the form and content thereof.

Section 9. The City hereby undertakes, for the benefit of the beneficial owners of the Bonds, to provide:

(a) by not later than seven months from the end of each fiscal year of the City, beginning with the fiscal year ended June 30, 2009, to the Municipal Securities Rulemaking Board (the "MSRB"), audited financial statements of the City for such 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 of the City are not available by seven months from the end of such fiscal year, unaudited financial statements of the City for such fiscal year to be replaced subsequently by audited financial statements of the City to be delivered within fifteen (15) days after such audited financial statements become available for distribution;

(b) by not later than seven months from the end of each fiscal year of the City, beginning with the fiscal year ending June 30, 2010, to the MSRB, (i) 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 headings "THE CITY - Debt Information and - Tax Information" (excluding any information on overlapping units) in the Final Official Statement relating to the Bonds and (ii) the combined budget of the City for the current fiscal year, to the extent such items are not included in the audited financial statements referred to in (a) above;

(c) in a timely manner, to the MSRB, if any, notice of any of the following events with respect to the Bonds, if material:

- (1) principal and interest payment delinquencies;
- (2) non-payment related defaults;
- (3) unscheduled draws on debt service reserves reflecting financial difficulties;
- (4) unscheduled draws on credit enhancements reflecting financial difficulties;
- (5) substitution of credit or liquidity providers, or their failure to perform;
- (6) adverse tax opinions or events affecting the tax-exempt status of the Bonds;
- (7) modification to the rights of the beneficial owners of the Bonds;
- (8) bond calls;

- (9) defeasances;
- (10) release, substitution or sale of any property securing repayment of the Bonds; and
- (11) rating changes; and

(d) in a timely manner, to the MSRB, notice of a failure of the City to provide required annual financial information described in (a) or (b) above on or before the date specified.

All information provided to the MSRB as described in this Section shall be provided in an electronic format as prescribed by the MSRB and accompanied by identifying information as prescribed by the MSRB.

The City may meet the continuing disclosure filing requirements described above by complying with any other procedure that may be authorized or required by the United States Securities and Exchange Commission.

If the City fails to comply with the undertaking described above, any beneficial owner of the Bonds may take action to protect and enforce the rights of all beneficial owners with respect to such undertaking, including an action for specific performance; provided, however, that failure to comply with such undertaking shall not be an event of default and shall not result in any acceleration of payment of the Bonds. All actions shall be instituted, had and maintained in the manner provided in this paragraph for the benefit of all beneficial owners of the Bonds.

The City reserves the right to modify from time to time the information to be provided to the extent necessary or appropriate in the judgment of the City, provided that:

(a) 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 City;

(b) the information to be provided, as modified, would have complied with the requirements of Rule 15c2-12 issued under the Securities Exchange Act of 1934 ("Rule 15c2-12") as of the date of the Official Statement, after taking into account any amendments or interpretations of Rule 15c2-12, as well as any changes in circumstances; and

(c) any such modification does not materially impair the interests of the beneficial owners of the Bonds, as determined either by parties unaffiliated with the City (such as bond counsel), or by the approving vote of the registered owners of a majority in principal amount of the Bonds pursuant to the terms of this resolution, as this resolution may be amended from time to time, at the time of such amendment.

In the event that the City makes such a modification, the annual financial information containing the modified operating data or financial information shall 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.

The provisions of this Section shall terminate upon payment, or provision having been made for payment in a manner consistent with Rule 15c2-12, in full of the principal of and interest on all of the Bonds.

Section 10. Regions Bank, Charlotte, North Carolina, is hereby appointed as escrow agent (the "Escrow Agent") in connection with the refunding of the bonds to be refunded mentioned in Section 11 below, subject to the right of the City Council of the City to appoint another Escrow Agent as provided in the Escrow Deposit Agreement (hereinafter mentioned), and as such shall perform its responsibilities as provided in the Escrow Deposit Agreement. The Escrow Deposit Agreement, to be dated as of October 1, 2009 (the "Escrow Deposit Agreement"), between the City and the Escrow Agent, in substantially the form presented at this meeting, and the creation of the Escrow Fund thereunder and the other arrangements to accomplish such refunding, is hereby approved, and the Mayor, the City Manager, the Chief Financial Officer and the City Clerk are each hereby authorized to execute and deliver the Escrow Deposit Agreement for and on behalf of the City with such additions, deletions and changes as they deem necessary.

Section 11. Subject to the next succeeding sentence, the City hereby determines to refund (a) all of the outstanding 1996 Street Improvement Bonds maturing December 1, 2010 to 2014, inclusive (the "1996 Street Improvement Refunded Bonds"), (b) all of the outstanding 1996 Public Improvement Bonds maturing December 1, 2010 to 2015, inclusive (the "1996 Public Improvement Refunded Bonds"), (c) all of the outstanding 1999 Street Improvement Bonds maturing March 1, 2010 to 2017, inclusive (the "1999 Street Improvement Refunded Bonds"), (d) all of the outstanding 1999 Public Improvement Bonds maturing March 1, 2010 to 2017, inclusive (the "1999 Public Improvement Refunded Bonds"), (e) all of the outstanding 2000 Street Improvement Bonds maturing April 1, 2011 to 2018, inclusive (the "2000 Street Improvement Refunded Bonds"), and (f) all of the outstanding 2000 Public Improvement Bonds maturing April 1, 2011 to 2021, inclusive (the "2000 Public Improvement Refunded Bonds" and collectively with the 1996 Street Improvement Refunded Bonds, the 1996 Public Improvement Refunded Bonds, the 1999 Street Improvement Refunded Bonds, the 1999 Public Improvement Refunded Bonds and the 2000 Street Improvement Refunded Bonds, the "Refunded Bonds"). If, on the date of sale of the Bonds, the Chief Financial Officer of the City shall determine that it is in the best economic interests of the City not to refund all or any portion of the Refunded Bonds, the Chief Financial Officer is hereby authorized to make changes in the amounts and maturities of such Refunded Bonds to be refunded, such changes to be set forth in the Escrow Deposit Agreement.

Subject to the refunding of the 1996 Street Improvement Refunded Bonds as provided above, the 1996 Street Improvement Refunded Bonds are hereby irrevocably called for redemption on October 23, 2009, in accordance with the resolution authorizing the issuance of the 1996 Street Improvement Refunded Bonds, this resolution and the Escrow Deposit Agreement. The Escrow Agent is hereby directed to provide notices of such refunding and redemption at the times and in the manner set forth in the resolutions authorizing the issuance of the 1996 Street Improvement Refunded Bonds and the Escrow Deposit Agreement.

Subject to the refunding of the 1996 Public Improvement Refunded Bonds as provided above, the 1996 Public Improvement Refunded Bonds are hereby irrevocably called for redemption on October 23, 2009, in accordance with the resolution authorizing the issuance of the 1996 Public Improvement Refunded Bonds, this resolution and the Escrow Deposit Agreement. The Escrow Agent is hereby directed to provide notices of such refunding and

redemption at the times and in the manner set forth in the resolutions authorizing the issuance of the 1996 Public Improvement Refunded Bonds and the Escrow Deposit Agreement.

Subject to the refunding of the 1999 Street Improvement Refunded Bonds as provided above, the 1999 Street Improvement Refunded Bonds are hereby irrevocably called for redemption on October 23, 2009, in accordance with the resolution authorizing the issuance of the 1999 Street Improvement Refunded Bonds, this resolution and the Escrow Deposit Agreement. The Escrow Agent is hereby directed to provide notices of such refunding and redemption at the times and in the manner set forth in the resolutions authorizing the issuance of the 1999 Street Improvement Refunded Bonds and the Escrow Deposit Agreement.

Subject to the refunding of the 1999 Public Improvement Refunded Bonds as provided above, the 1999 Public Improvement Refunded Bonds are hereby irrevocably called for redemption on October 23, 2009, in accordance with the resolution authorizing the issuance of the 1999 Public Improvement Refunded Bonds, this resolution and the Escrow Deposit Agreement. The Escrow Agent is hereby directed to provide notices of such refunding and redemption at the times and in the manner set forth in the resolutions authorizing the issuance of the 1999 Public Improvement Refunded Bonds and the Escrow Deposit Agreement.

Subject to the refunding of the 2000 Street Improvement Refunded Bonds as provided above, the 2000 Street Improvement Refunded Bonds are hereby irrevocably called for redemption on April 1, 2010, in accordance with the resolution authorizing the issuance of the 2000 Street Improvement Refunded Bonds, this resolution and the Escrow Deposit Agreement. The Escrow Agent is hereby directed to provide notices of such refunding and redemption at the times and in the manner set forth in the resolutions authorizing the issuance of the 2000 Street Improvement Refunded Bonds and the Escrow Deposit Agreement.

Subject to the refunding of the 2000 Public Improvement Refunded Bonds as provided above, the 2000 Public Improvement Refunded Bonds are hereby irrevocably called for redemption on April 1, 2010, in accordance with the resolution authorizing the issuance of the 2000 Public Improvement Refunded Bonds, this resolution and the Escrow Deposit Agreement. The Escrow Agent is hereby directed to provide notices of such refunding and redemption at the times and in the manner set forth in the resolutions authorizing the issuance of the 2000 Public Improvement Refunded Bonds and the Escrow Deposit Agreement.

Section 12. The Mayor, the City Manager, the Chief Financial Officer and the City Clerk for the City are hereby authorized and directed to execute and deliver such closing and other documents and to take such other actions as may be necessary or appropriate for the purpose of facilitating the sale and issuance of the Bonds in a manner consistent with the terms of this resolution.

Section 13. This resolution shall take effect upon its passage, except for Section 11 of this resolution which shall become effective only upon the issuance of the Bonds.

Upon motion of Council Member _____, seconded by Council Member _____, the foregoing resolution entitled "RESOLUTION PROVIDING FOR THE

ISSUANCE OF NOT TO EXCEED \$14,000,000 GENERAL OBLIGATION REFUNDING BONDS, SERIES 2009" was passed by the following vote:

Ayes: _____

Noes: _____

* * * * *

I, Rita Perry, City Clerk of the City of Fayetteville, North Carolina, DO HEREBY CERTIFY that the foregoing is a true copy of so much of the proceedings of the City Council of said City at a regular meeting held on September 14, 2009, as relates in any way to the foregoing resolution providing for the issuance of general obligation refunding bonds of said City and that said proceedings are recorded in the minutes of said City Council.

I DO HEREBY FURTHER CERTIFY that proper notice of such regular meeting was given as required by North Carolina law.

WITNESS my hand and the official seal of said City this 14th day of September, 2009.

City Clerk

[SEAL]



OFFICE OF THE TAX ADMINISTRATOR

117 Dick Street, 5th Floor, New Courthouse • PO Box 449 • Fayetteville, North Carolina • 28302
Phone: 910-678-7507 • Fax: 910-678-7582 • www.co.cumberland.nc.us

MEMORANDUM

TO: Fayetteville City Clerk

FROM: Aaron Donaldson, Tax Administrator *AD*

DATE: September 1, 2009

RE: MONTHLY STATEMENT OF TAXES

Attached hereto is the report that has been furnished to the Mayor and governing body of your municipality for the month of August 2009. This report separates the distribution of real property and personal property from motor vehicle property taxes, and provides detail for the current and delinquent years.

Should you have any questions regarding this report, please contact me at 678-7587.

AD/sn
Attachments

Celebrating Our Past... Embracing Our Future

EASTOVER - FALCON - FAYETTEVILLE - GODWIN - HOPE MILLS - LINDEN - SPRING LAKE - STEDMAN - WADE

FAYETTEVILLE MACC LEDGER
1999-2009

AUGUST 2009

DATE	REPORT #	REMITTED TO FINANCE	2009 CC	2009 VEHICLE	2009 REVIT	2009 VEHICLE REVIT	2009 FVT	2009 TRANSIT TAX	2009 STORM WATER	2009 FAY STORM WATER
08/03/09	2009-023	SYSTEM DOWN	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00
08/04/09	2009-024	SYSTEM DOWN	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00
08/05/09	2009-025	SYSTEM DOWN	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00
08/06/09	2009-026	SYSTEM DOWN	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00
08/07/09	2009-027	172,885.27	19,245.07	81,422.77	0.00	37.57	9,813.28	9,813.28	760.62	1,521.19
08/10/09	2009-028	51,151.90	7,478.12	23,847.01	0.00	102.84	2,813.49	2,813.49	229.48	458.89
08/11/09	2009-029	39,853.98	17,492.90	7,718.89	0.00	0.00	905.00	905.00	658.00	1,316.04
08/12/09	2009-030	46,509.13	20,073.69	11,058.94	0.26	0.00	1,333.37	1,333.37	1,294.09	2,588.21
08/13/09	2009-031	61,079.04	27,676.66	15,913.27	17.46	0.00	1,275.00	1,275.00	1,643.30	3,286.54
08/14/09	2009-032	128,643.31	21,545.58	12,095.64	0.00	17.78	1,360.01	1,360.01	25,887.60	51,775.21
08/17/09	2009-033	44,571.38	8,124.60	21,962.12	0.00	58.98	1,980.00	1,980.00	180.00	360.00
08/18/09	2009-034	36,350.57	14,375.11	9,854.27	0.00	0.00	1,106.91	1,106.92	306.57	613.15
08/19/09	2009-035	27,445.91	8,025.00	9,679.56	0.00	0.00	1,100.00	1,100.00	120.00	240.00
08/20/09	2009-036	62,755.04	39,299.92	6,820.57	0.00	42.48	635.00	635.00	1,031.13	2,062.27
08/21/09	2009-037	43,263.54	17,296.58	11,948.77	0.00	0.00	1,290.00	1,290.00	288.00	576.00
08/24/09	2009-038	293,307.13	221,787.08	25,543.29	24.62	24.58	2,260.00	2,260.00	6,168.00	12,336.00
08/25/09	2009-039	184,664.88	139,806.68	10,580.26	4.45	0.00	915.00	915.00	4,582.75	9,165.50
08/26/09	2009-040	214,560.90	173,617.16	8,742.26	274.30	0.00	860.79	860.80	5,089.70	10,179.40
08/27/09	2009-041	288,211.82	226,328.71	15,135.73	8.28	21.80	1,453.49	1,453.49	7,663.68	15,327.34
08/28/09	2009-042	256,590.80	186,978.07	16,310.78	511.87	0.00	1,475.00	1,475.00	8,961.34	17,922.68
08/31/09	2009-043	643,681.48	491,524.66	39,519.02	750.49	0.00	3,972.91	3,972.91	23,618.20	47,236.38
TOTALS		2,595,526.08	1,640,675.59	328,153.15	1,591.73	306.03	34,549.25	34,549.28	88,482.46	176,964.80

TRUE
MACC: MONTHLY ACCOUNTING (TOTALS COLLECTED FOR MONTH)
CC: INCLUDES REAL & PERSONAL, LATE LIST, & PUBLIC SERVICE
FVT: FAYETTEVILLE VEHICLE TAX (\$5.00)

FAYETTEVILLE MACC LEDGER

AUGUST 2009

1999-2009

2009 RECYCLE FEE	2008 CC	2008 VEHICLE	2008 REVIT	2008 VEHICLE REVIT	2008 FVT	2008 TRANSIT TAX	2008 STORM WATER	2008 RECYCLE	2008 FAY STORM WATER	2008 ANNEX	2007 CC	2007 VEHICLE
0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00
0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00
0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00
0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00
1,932.85	8,710.83	24,790.01	0.00	0.00	2,801.47	2,378.87	566.74	606.22	346.41	0.00	544.47	1,291.34
658.79	1,517.95	6,893.58	0.00	0.83	885.32	775.31	159.37	129.92	74.24	0.00	160.06	380.74
1,891.02	1,040.60	3,645.77	0.00	0.00	512.98	432.98	242.59	197.94	401.10	0.00	743.27	290.88
2,958.16	771.79	3,334.17	0.00	0.00	415.00	385.00	47.62	81.36	23.24	0.00	0.00	84.81
3,013.19	1,009.73	3,363.66	0.00	0.00	467.23	412.23	60.10	163.54	93.45	0.00	114.93	134.41
923.41	1,777.79	7,373.49	0.00	0.00	975.00	825.00	262.64	74.14	282.38	0.00	28.02	221.29
608.00	2,104.30	4,259.63	0.00	0.00	600.62	490.61	177.02	343.69	196.40	(10.53)	0.00	21.83
856.82	324.35	4,113.41	0.00	0.00	450.00	390.00	51.62	98.21	56.12	0.00	1,053.10	93.89
384.00	1,584.78	3,179.03	0.00	0.00	414.00	389.01	86.89	96.59	55.20	0.00	12.86	355.31
2,961.26	2,057.63	4,510.02	0.00	0.00	553.20	498.20	153.59	159.58	235.19	0.00	150.20	248.17
874.00	2,259.27	4,406.73	0.00	7.65	640.00	560.00	193.10	358.79	205.02	0.00	5.58	17.38
14,060.00	951.49	5,114.59	0.00	0.00	582.38	532.38	51.00	42.00	24.00	0.00	122.57	78.96
10,218.03	760.08	4,445.51	0.00	0.00	522.55	497.55	208.86	211.28	349.72	0.00	0.00	153.38
8,897.39	606.94	3,544.27	0.00	0.00	410.00	370.00	48.00	84.00	48.00	0.00	15.90	123.75
12,146.30	2,035.94	4,401.67	0.00	22.52	470.00	430.00	96.00	168.00	96.00	0.00	98.55	157.78
9,909.57	2,440.56	5,456.98	0.00	0.00	637.25	563.05	122.84	159.96	91.41	0.00	356.07	433.74
18,085.88	1,219.96	8,594.02	0.00	0.00	1,045.61	1,000.61	195.62	168.00	96.00	0.00	411.32	236.40
90,378.67	31,173.99	101,426.54	0.00	31.00	12,382.61	10,930.80	2,723.60	3,143.22	2,673.88	(10.53)	3,816.90	4,324.06

FAYETTEVILLE MACC LEDGER

AUGUST 2009

1999-2009

2007 REVIT	2007 VEHICLE REVIT	2007 FVT	2007 STORM WATER	2007 FAY STORM WATER	2007 ANNEX	2006 CC	2006 VEHICLE REVIT	2006 REVIT	2006 VEHICLE REVIT	2006 FVT	2006 STORM WATER	2006 ANNEX	2005 CC & PRIOR
0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00
0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00
0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00
0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00
0.00	0.00	222.62	48.42	48.46	0.00	111.86	245.78	0.00	0.00	55.00	7.05	1,533.36	151.23
0.00	0.00	68.69	23.42	24.00	0.00	160.06	85.98	0.00	0.00	30.00	12.00	316.94	72.46
0.00	0.00	40.00	36.00	72.00	0.00	232.64	27.92	0.00	0.00	15.00	12.00	116.20	0.00
0.00	0.00	35.00	0.00	0.00	0.00	0.00	12.62	0.00	0.00	10.00	0.00	64.40	0.00
0.00	0.00	20.00	0.00	0.00	0.00	0.00	79.98	0.00	0.00	5.00	0.00	312.87	0.00
0.00	0.00	15.00	36.00	0.00	0.00	31.90	50.18	0.00	0.00	10.00	0.00	684.48	0.00
0.00	0.00	35.00	0.00	0.00	0.00	0.00	(10.55)	0.00	0.00	0.00	0.00	247.69	16.19
0.00	0.00	35.00	132.00	264.00	0.00	45.62	76.35	0.00	0.00	10.00	0.00	122.29	0.00
0.00	0.00	25.00	0.00	0.00	0.00	0.00	59.68	0.00	0.00	0.00	0.00	138.96	0.00
0.00	0.00	40.00	0.00	0.00	0.00	0.00	4.59	0.00	0.00	5.00	0.00	44.44	0.00
0.00	0.00	15.00	0.00	0.00	0.00	0.00	23.85	0.00	0.00	5.00	0.00	181.67	62.06
0.00	0.00	41.82	12.00	0.00	0.00	0.00	140.48	0.00	0.00	30.00	0.00	368.18	0.00
0.00	0.00	30.00	0.00	0.00	0.00	0.00	1.12	0.00	0.00	5.00	0.00	556.90	14.93
0.00	0.00	20.00	0.00	0.00	0.00	0.00	65.44	0.00	0.00	0.00	0.00	215.35	0.00
0.00	0.00	10.00	24.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	24.00	2.63	0.00
0.00	0.00	85.00	17.15	32.62	0.00	303.89	147.16	0.00	0.00	0.00	3.19	717.37	233.31
0.00	0.00	50.00	24.00	48.00	0.00	44.75	32.07	0.00	0.00	5.00	0.00	428.68	81.35
0.00	0.00	788.13	352.99	489.08	0.00	930.72	1,042.65	0.00	0.00	185.00	58.24	6,052.41	631.53

FAYETTEVILLE MACC LEDGER

AUGUST 2009

1999-2009

2005 VEHICLE & PRIOR	2005 REVIT & PRIOR	2005 VEHICLE REVIT & PRIOR	2005 FVT & PRIOR	2005 & PRIOR STORM WATER	INTEREST	REVIT INTEREST	STORM WATER INTEREST	FAY STORM WATER INTEREST	ANNEX INTEREST	FAY RECYCLE INTEREST	TOTAL TAX & INTEREST
0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00
0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00
0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00
0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00
262.90	0.00	0.00	98.89	1.80	3,214.85	0.00	49.29	30.46	180.56	39.74	172,885.27
44.47	0.00	0.00	20.00	0.00	846.03	0.01	17.40	8.91	33.00	9.10	51,151.90
59.09	0.00	0.00	16.05	0.00	746.90	0.00	25.28	39.16	8.43	12.35	39,853.98
185.09	0.00	0.00	30.00	0.00	372.76	0.00	3.59	1.76	4.67	6.16	46,509.13
138.19	0.00	0.00	20.00	0.00	513.38	0.00	4.70	5.94	48.86	10.42	61,079.04
96.74	0.00	0.00	35.00	0.00	773.07	0.00	23.75	19.25	79.73	3.22	128,643.31
39.68	0.00	0.00	22.96	0.00	686.18	0.00	12.92	14.33	34.63	25.08	44,571.38
68.52	0.00	0.00	29.23	0.00	627.05	0.00	25.53	47.53	8.87	8.13	36,350.57
(112.97)	0.00	0.00	(5.00)	0.00	468.02	0.00	6.23	3.61	33.82	6.33	27,445.91
62.70	0.00	0.00	5.00	0.00	500.44	0.00	10.99	16.67	1.00	10.80	62,755.04
62.38	0.00	0.00	20.00	0.00	619.00	0.79	13.46	13.82	5.45	24.19	43,263.54
78.38	0.00	0.00	24.73	0.00	587.52	0.00	5.41	1.75	50.85	3.07	293,307.13
100.84	0.00	0.00	25.00	9.73	473.15	0.00	14.91	10.24	71.28	15.18	184,664.88
64.07	0.00	0.00	5.00	0.00	389.37	0.00	3.58	3.57	15.61	6.25	214,560.90
5.35	0.00	0.00	5.00	72.00	475.11	1.46	57.50	7.04	0.14	12.31	288,211.82
116.56	0.00	0.00	28.59	0.00	1,002.85	0.00	18.16	10.66	54.35	13.77	256,590.80
155.81	0.00	0.00	27.08	0.00	1,044.77	0.00	17.99	15.05	46.45	12.49	643,681.48
1,427.80	0.00	0.00	407.53	83.53	13,350.45	2.26	310.69	249.75	677.70	218.59	2,595,526.08



OFFICE OF THE TAX ADMINISTRATOR
117 Dick Street, 5th Floor, New Courthouse • PO Box 449 • Fayetteville, North Carolina • 28302
Phone: 910-678-7507 • Fax: 910-678-7582 • www.co.cumberland.nc.us

August 14, 2009

Mr. Anthony Chavonne
Mayor of Fayetteville
433 Hay Street
Fayetteville, NC 28301

RE: City of Fayetteville
Levy for 2009-2010 Fiscal Year

Dear Mr.Chavonne:

Please find attached a copy of the 2009-2010 levy for the City of Fayetteville. The Public Service levy will be added in October, 2009.

If you have any questions regarding this information, please call me at 678-7587.

Sincerely,

Sandra Napier

Sandra Napier
Financial Tax Coordinator

cc: Dale Iman – City Manager
Dena Dail – Finance Director
City Clerk

Enclosure

Celebrating Our Past....Embracing Our Future

EASTOVER - FALCON - FAYETTEVILLE - GODWIN - HOPE MILLS - LINDEN - SPRING LAKE - STEDMAN - WADE

**CITY OF FAYETTEVILLE
2009-2010
TAX LEVY**

City of Fayetteville:	No. of Accts.	Real Value	Personal Value	***Exempt Value	Taxable Value
Real Property w/Personal	91,522	11,107,924,973	556,134,064	113,659,561	11,550,399,476
*Public Service					
Total:	91,522	11,107,924,973	556,134,064	113,659,561	11,550,399,476
Description:		Taxes	Late List	Total:	
Real Property w/Personal		52,667,185.52	47,550.38	52,714,735.90	
*Public Service					
Total:		52,667,185.52	47,550.38	52,714,735.90	

Revitalization:	No. of Accts.	Real Value	Personal Value	***Exempt Value	Taxable Value
Real Property w/Personal	777	108,038,003	12,677,943	0	120,715,946
*Public Service					
Total:	777	108,038,003	12,677,943	0	120,715,946
Description:		Taxes	Late List	Total:	
Real Property w/Personal		120,716.28	199.15	120,915.41	
*Public Service					
Total:		120,716.28	199.15	120,915.41	

***EXEMPT:	***EXEMPT:REVIT
REAL	0
PERSONAL	0
TOTAL:	0

Fayetteville Storm Water:	3,405,072.00
Fayetteville Recycling:	2,257,998.00
Storm Water:	1,702,140.00

*Public Service will be added October, 2009.

August 12, 2009



September 14, 2009

TO: Lisa Smith, Chief Financial Officer *LS*

FROM: Nancy Peters, Accounts Payable *N.P.*

RE: Tax Refunds of Less Than \$100

The tax refunds listed below for less than \$100 were approved by the Cumberland County Special Board of Equalization for the month of August, 2009.

NAME	BILL NO.	YEAR	BASIS	CITY REFUND
Burnham, Cynthia C.	6349134	2008	Corrected Assessment	49.93
TOTAL				\$49.93

433 HAY STREET
 P.O. DRAWER D
 FAYETTEVILLE, NC 28302-1746
 FAX (910) 433-1680
 www.fayetteville.org
 An Equal Opportunity Employer

INFORMATION