

**AGENDA**  
**UNION COUNTY BOARD OF COMMISSIONERS**  
**Regular Meeting**  
**Monday, September 20, 2010**  
**7:00 P.M.**  
**Board Room, First Floor**  
**Union County Government Center**  
**500 North Main Street**  
**Monroe, North Carolina**

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[www.co.union.nc.us](http://www.co.union.nc.us)

1. **Opening of Meeting**
  - a. Invocation
  - b. Pledge of Allegiance
  - c. Featured Community Benefit Organization: **March Forth With Hope Foundation**  
(\*Estimated Time: 5 Minutes)
  - d. Employee Recognition: Service Award Recipients for the Month of September 2010
  
2. **Public Hearing - Re: Economic Development Incentive to Perfect Fit Industries in a Total Amount Not to Exceed \$19,557** (\*Estimated Time: 10 Minutes)  
**ACTION REQUESTED:** Conduct a public hearing
  
3. **Informal Comments** (\*Estimated Time: 10 Minutes)  
**ACTION REQUESTED:** No action required
  
4. **Additions, Deletions and/or Adoption of Agenda** (\*Estimated Time: 5 Minutes)  
**ACTION REQUESTED:** Adoption of Agenda
  
5. **Consent Agenda** (\*Estimated Time: 10 Minutes)  
**ACTION REQUESTED:** Approve items listed on Consent Agenda
  
6. **Public Information Officer's Comments** (\*Estimated Time: 5 Minutes)  
**ACTION REQUESTED:** No action required

**New Business:**

7. **Consideration of Economic Incentive Grant Award – Perfect Fit Industries in a Total Amount Not to Exceed \$19,557** (\*Estimated Time: 5 Minutes)  
**ACTION REQUESTED:** Authorize the County Manager to approve the grant agreement with Perfect Fit Industries pending legal review
  
8. **Proclamation for National Long-Term Care Residents' Rights Week 2010**  
**ACTION REQUESTED:** Adopt Proclamation

9. **Discussion of Legal and Ethical Concerns** (\*Estimated Time: 10 Minutes)  
**ACTION REQUESTED:** Staff defers to Commissioner Baucom
10. **Discussion of Health Benefits for Commissioners** (\*Estimated Time: 10 Minutes).  
**ACTION REQUESTED:** Staff defers to Commissioner Baucom for a recommendation
11. **Announcement of Vacancies on Boards and Committees** (\*Estimated Time: 10 Minutes)
  - a. Adult Care Home Advisory Committee (at least 4 Vacancies)
  - b. Agricultural Advisory Board (1 Vacancy Expiring June 2010)
  - c. Juvenile Crime Prevention Council:
    1. Substance Abuse Professional
    2. Two Members under the Age of 18
    3. One Member of Business Community
    4. One Member Representing United Way or Other Non-Profit
    5. One Commissioner Appointee
  - d. Nursing Home Advisory Committee (at least 4 vacancies)
  - e. Parks and Recreation Advisory Committee (1 vacancy for a member with a physical disability)
  - f. Carolinas Medical Center-Union Community Trustee Council (Three Vacancies, one of which is an unexpired term ending December 2010)
  - g. Planning Board (Four Vacancies as Follows: One Unexpired Term for Regular Member Ending 4/20/2011; Two Unexpired Terms for Regular Members Ending 4/20/2012; and One Unexpired Term for Regular Member Ending 4/20/2013)  
**ACTION REQUESTED:** Announce Vacancies
12. **Appointments to Boards and Committees** (\*Estimated Time: 10 Minutes)
  - a. Industrial Facilities & Pollution Control Financing Authority (2 Vacancies)  
**ACTION REQUESTED:** Consider appointments
13. **Interim County Manager's Comments**
14. **Commissioners' Comments**

**CONSENT AGENDA  
September 20, 2010**

1. **Contracts and Purchase Orders Over \$20,000**
  - a. Library: Purchase Order for Library Consultant
  - b. Health Department: Purchase Order for Influenza Vaccine for the 2010-2011 Flu Season in the Amount of \$20,250
  - c. Change Orders for Blythe Development Company & Amendment to CM&E Contract for the Jesse Helms Park Bridge Entrance Project
  - d. Contract Amendment to CM&E Contract for Additional Services Required for JHP Passive Area Project

**ACTION REQUESTED:** Authorize the County Manager to approve Items a-d, above, pending legal review and to transfer the funds in the Parks and Recreation capital projects appropriation
  
2. **Minutes**

**ACTION REQUESTED:** Approval of Minutes of Regular Meeting of September 7, 2010
  
3. **Advance Refunding of Outstanding Debt Issues**

**ACTION REQUESTED:** Confirm Resolution Authorizing the Finance Department to Pursue an Advance Refunding of 2007D, 2009A and 2009B Bonds and Approve Financing Team
  
4. **Commercial Use of Union County's GIS Electronic Data**

**ACTION REQUESTED:** Allow Commercial Use of GIS Electronic Data at No Cost like Cabarrus County, Lincoln County, and Stanly County. [Union County's Electronic GIS Data is Currently Available Free of Charge Thru a Data Download Webpage.]
  
5. **Tax Administrator's Departmental Monthly Report for July 2010**

**ACTION REQUESTED:** Approve report
  
6. **Request to Remove Member from the Union County Adult Care Home Community Advisory Committee Due to Failure to Complete Mandatory Orientation Requirement**

**ACTION REQUESTED:** Approval to Remove Member's Name from Roster as Requested by Centralina Council of Governments
  
7. **Amendment to Union County Drug and Alcohol Policy**

**ACTION REQUESTED:** Adopt Proposed Amendments to the Union County Drug and Alcohol Free Workplace Policy, including the Proposed Addendum to the Union County Drug and Alcohol Free Workplace Policy
  
8. **Groundwater Testing on County Owned Property**

**ACTION REQUESTED:** Authorize County Manager to approve agreement with Yale Security, Inc. (Norton) pending legal review

9. **FY 2011 County Capital**  
**ACTION REQUESTED:** Adopt Capital Project Ordinance #136
10. **Government Center Phase VII Renovations – Bid Award Recommendation**  
**ACTION REQUESTED:** Accept bids, award bid to the lowest responsive, responsible bidder, Ponder & Company, Inc., in the amount of \$1,287,000, and authorize the County Manager to approve contract documents with low bidder pending legal review
11. **Contribution to Monroe for Veterans Day Event**  
**ACTION REQUESTED:** Authorize the County Manager to approve an interlocal agreement with the City of Monroe in the amount of \$36,000

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**INFORMATION ONLY  
NO ACTION REQUESTED**

1. Report of Approval of Sewer Tap Request Due to Septic Failure – 2620 Waxhaw Marvin Road
2. Department of Inspection's Monthly Report for August 2010

**UNION COUNTY  
BOARD OF COMMISSIONERS**

**ACTION AGENDA ITEM ABSTRACT**

Meeting Date: 9/20/2010

Action Agenda Item No. 1d

(Central Admin. use only)

**SUBJECT:** Employee Recognition

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**DEPARTMENT:** Personnel

**PUBLIC HEARING:** Choose one....

**ATTACHMENT(S):**  
Service Award Recipients for the  
month of September 2010.

**INFORMATION CONTACT:**  
Julie Broome

**TELEPHONE NUMBERS:**  
704-283-3803

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**DEPARTMENT'S RECOMMENDED ACTION:**

Recognize those County employees who have reached special milestones in their years of dedicated and loyal service to the citizens of Union County.

**BACKGROUND:**

The employee recognition program acknowledges employees for full-time continuous service at the following intervals: 5 years, 10 years, 15 years, 20 years, 25 years, and 30 years of service.

The attached list details the employee name, department, and years of service for our current service award recipients. We ask that you join us in acknowledging and congratulating these employees by reading their names during the opening of BOCC meeting.

**FINANCIAL IMPACT:**

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**Legal Dept. Comments if applicable:** \_\_\_\_\_

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**Finance Dept. Comments if applicable:** \_\_\_\_\_

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**Manager Recommendation:**

**Union County Service Award Recipients for the month of September 2010**

**We would like to recognize the following employees for full-time continuous service with Union County Local Government.**

**5 YEARS OF SERVICE**

KELLI MANCZKA  
JOSEPH BLACK

**DEPARTMENT**

GENERAL SERVICES  
SHERIFF'S OFFICE

**10 YEARS OF SERVICE**

BEVERLY LILES  
ROGER CARTER  
JIMMIE GUILLEN  
PENNY MARTIN  
RONNIE RAPE  
BRAD MOSLEY  
ANNE BRIGGS  
ALBERT CHIONG

**DEPARTMENT**

FINANCE  
PARKS AND RECREATION  
PUBLIC WORKS  
PUBLIC WORKS  
PUBLIC WORKS  
SHERIFF'S OFFICE  
SOCIAL SERVICES  
SOCIAL SERVICES

**15 YEARS OF SERVICE**

LARRY LOCKHART  
JERRY PAXTON  
LORI WADE

**DEPARTMENT**

PUBLIC WORKS  
SHERIFF'S OFFICE  
TAX COLLECTION

**20 YEARS OF SERVICE**

\*LYNN WEST

**DEPARTMENT**

CENTRAL ADMINISTRATION

\*Presentation of service award

**UNION COUNTY  
BOARD OF COMMISSIONERS**

**ACTION AGENDA ITEM ABSTRACT**

**Meeting Date: September 20, 2010**

**Action Agenda Item No. 247**

(Central Admin. use only)

**SUBJECT:** Consideration of Economic Development Incentive for Perfect Fit Industries

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**DEPARTMENT:** Union County  
Partnership for  
Progress

**PUBLIC HEARING:** Yes

**ATTACHMENT(S):**

**INFORMATION CONTACT:**  
Michael Trotter

**TELEPHONE NUMBERS:**

704-238-0640 office

704-441-0915 mobile

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**DEPARTMENT'S RECOMMENDED ACTION:**

**BACKGROUND:** This past July, Perfect Fit Industries was acquired by the Anderson Group, a private equity firm from Michigan. Shortly after the acquisition, the new owner announced their plans to consolidate Perfect Fit's manufacturing facilities. As a result of the consolidation, they would either shut-down operations in Loogootee, Indiana and relocate it to Monroe, or, shut-down Monroe and move the production to Indiana. If Perfect Fit consolidates in Union County, over the next two years, they would invest \$ 2,123,828 and hire 40 additional people.

**FINANCIAL IMPACT:** The incentive grant is for an amount not to exceed \$ 19,557 to be paid over a three year period. During that period, the tax revenue collected from Perfect Fit Industries would be \$ 31,226. Therefore, the net revenue to Union County would be \$11,669 (\$31,226 - \$19,557)

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**Legal Dept. Comments if applicable:** \_\_\_\_\_

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\_\_\_\_\_

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**Finance Dept. Comments if applicable:** \_\_\_\_\_

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**Manager Recommendation: Approve Incentive Grant Agreement and authorize County Manager to sign pending legal approval.**



**PUBLIC NOTICE**

NOTICE IS HEREBY GIVEN that the Union County Board of Commissioners will hold a public hearing on Monday, September 20, 2010, beginning at 7:00 p.m. in the Commissioners' Board Room located on the first floor of the Union County Government Center, 500 North Main Street, Monroe, North Carolina, to consider the provision of economic development incentives pursuant to G.S. 158-7.1. The Board of Commissioners intends to consider an incentive grant to Perfect Fit Industries in a total amount not to exceed \$19,557 to be paid in three (3) annual payments as follows: 1) \$8,242 in the year 2013; 2) \$6,279 in the year 2014; and 3) \$5,036 in the year 2015. This grant is based on the company's projected total capital investment of \$2,628,703 as follows: a) \$1,478,703 for additional used machinery and equipment installed in 2010; and b) additional new machinery and equipment of \$1,150,000 to be added in 2011. The company will add 40 jobs to its Monroe Plant. The company is a textile manufacturer. Based on its projected investment in Union County, the company will pay estimated property taxes on its new taxable investment over the three-year grant period of \$31,226 in property taxes based upon the current tax rate. The proposed grant recipient acknowledges that the incentive grant, if awarded by the Board, will serve as inducements to make the indicated capital investments in Union County. The source of funding for the proposed grant is general fund revenues. All interested persons are invited to attend the hearing and present their views. Any person requiring a sign language interpreter, please call (704) 225-8554 and make a request at least 96 hours in advance. Any other special assistance needed by an individual with a disability under the Americans with Disabilities Act should call (704) 283-3810 and make a request at least 96 hours in advance.

Lynn G. West  
County Clerk  
Union County  
Board of Commissioners  
September 10, 2010

NORTH CAROLINA,  
UNION COUNTY

**AFFIDAVIT OF PUBLICATION**

Before the undersigned, a Notary Public of said County and State, duly commissioned, qualified, and authorized by the law to administer oaths, personally appeared Marvin Enderle who being first duly sworn, deposes and says: that he is Publisher engaged in the publication of a newspaper known as The Enquirer-Journal, published, issued, and entered as second class mail in the City of Monroe in said County and State; that he is authorized to make this affidavit and sworn statement; that the notice or other legal advertisement, a true copy of which is attached hereto, was published in The Enquirer-Journal on the following dates:

September 10, 2010

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

This 10 day of September 2010

Marvin Enderle

Sworn to and subscribed before me, this 10 day of Sept \* 2010 \*

Patricia D. Jones Notary Public

Seal

My commission expires \* May 26, 2013 \*

Inches: 9.24  
Monroe, NC Date: September 10 2010

Smart Account # 30062340

COST: 9204

Commissioners

IN ACCOUNT WITH

THE ENQUIRER-JOURNAL  
Post Office Box 5040  
500 West Jefferson Street  
Monroe, NC 28111-5040

IMPORTANT LEGAL DOCUMENT, PLEASE RETAIN

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Lynn G. West  
County Clerk  
Union County Board of Commissioners

Publish on Friday, September 10, 2010

**UNION COUNTY  
BOARD OF COMMISSIONERS**

**ACTION AGENDA ITEM ABSTRACT**

**Meeting Date: September 20, 2010**

**Action Agenda Item No. 247**  
(Central Admin. use only)

**SUBJECT:** Consideration of Economic Development Incentive for Perfect Fit Industries

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**DEPARTMENT:** Union County Partnership for Progress  
**PUBLIC HEARING:** Yes

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**ATTACHMENT(S):**  
**INFORMATION CONTACT:** Michael Trotter

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**TELEPHONE NUMBERS:**  
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**Legal Dept. Comments if applicable:** \_\_\_\_\_

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Lynn G. West  
County Clerk  
Union County  
Board of Commissioners  
September 10, 2010

NORTH CAROLINA,  
UNION COUNTY

**AFFIDAVIT OF PUBLICATION**

Before the undersigned, a Notary Public of said County and State, duly commissioned, qualified, and authorized by the law to administer oaths, personally appeared Marvin Enderle who being first duly sworn, deposes and says: that he is Publisher engaged in the publication of a newspaper known as The Enquirer-Journal, published, issued, and entered as second class mail in the City of Monroe in said County and State; that he is authorized to make this affidavit and sworn statement; that the notice or other legal advertisement, a true copy of which is attached hereto, was published in The Enquirer-Journal on the following dates:

September 10, 2010

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

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Lynn G. West  
County Clerk  
Union County Board of Commissioners

Publish on Friday, September 10, 2010

NATIONAL LONG-TERM CARE  
RESIDENTS' RIGHTS WEEK 2010  
PROCLAMATION

AGENDA ITEM

# 8

MEETING DATE 9/20/10



**Whereas**, there are more than 1.6 million individuals living in 16,000 nursing homes; and one million individuals living in 50,000 board and care/assisted living facilities in the U.S.; and

**Whereas**, the federal Nursing Home Reform Act of 1987 guarantees residents their individual rights in order to promote and maintain their dignity and autonomy; and

**Whereas**, all residents should be aware of their rights so they may be empowered to live with dignity and self-determination; and

**Whereas**, the Union County Board of Commissioners wishes to honor and celebrate these citizens, to recognize their rich individuality, and to reaffirm their rights as community members and citizens, including the right to have a say in their care; and

**Whereas**, individuals and groups across the country will be celebrating Residents' Rights Week with the theme – "**Defining Dining: It's About Me**" – to emphasize the importance of affirming these rights through facility practices, public policy and resident-centered decision-making that impacts quality of care and quality of life.

**Now, therefore**, the Union County Board of Commissioners does hereby proclaim October 3-9, 2010, as National Long-Term Care Residents' Rights Week, in Union County and encourages all citizens to join us in these important observances.

Adopted this the 20<sup>th</sup> day of September, 2010.

ATTEST:

\_\_\_\_\_  
Lynn G. West, Clerk to the Board

\_\_\_\_\_  
Kim Rogers, Chairwoman

\_\_\_\_\_  
Tracy Kuehler, Vice Chairwoman

\_\_\_\_\_  
Allan Baucom, Commissioner

\_\_\_\_\_  
A. Parker Mills, Jr., Commissioner

\_\_\_\_\_  
Lanny Openshaw, Commissioner

# **A History of Celebrating Residents' Rights Week**

One way to honor residents receiving long-term care is by celebrating Residents' Rights Week, the first full week of October (October 3-9, 2010). This is an opportunity to show tribute to residents and support ombudsmen, citizen advocates, facility staff and family members who work to promote and support residents' rights. Setting aside a week to focus on rights is an effective way to make sure that this important topic is never forgotten in your community, facility or state.

Residents' Rights Week is designated by the National Consumer Voice for Quality Long-Term Care\* (Consumer Voice), each year to highlight residents living in all long-term care settings. It is a time to reflect on the importance of the Nursing Home Reform Law of 1987 that promises quality of life, quality of care and rights for each resident. During this week the Consumer Voice also gives special recognition to the work of thousands of individuals who collaborate daily to help assure that dignity, privacy and other basic human rights - often taken for granted in the community - are maintained as an integral part of the lives of residents living in long-term care settings.

Residents' Rights Week originated in 1981 at an annual meeting of the National Consumer Voice for Quality Long-Term Care. Several nursing home residents in attendance from across the United States decided that it would be special for all residents if time were set aside to celebrate residents and their rights, separate from annual National Nursing Home Week events always held in May. The Consumer Voice organized a successful petition drive to persuade Congress to designate a "Residents' Rights Day." Senator Claude Pepper (D-FL) and Senator David Pryor (D-AR) responded by introducing a Congressional Resolution for that purpose.

The Consumer Voice was also successful in making arrangements to take five nursing home residents to the White House to meet with President Jimmy Carter's Special Counselor on Aging, Dr. Harold Sheppard. The residents who attended were Janet Tulloch, Rae Spanover, Joan Knowlton, Ethel Gross and Virginia Caming (all now deceased).

Since 1981, the Consumer Voice has preserved this tradition of celebrating Residents' Rights, although we have extended the designation to a full week so that facility staff, family members, community advocates and ombudsmen will have flexible opportunities to conduct educational programs and festive events.

Thank you for working to make Residents' Rights Week special and meaningful for all involved. Please remember to share information about how you will be celebrating Residents' Rights Week. The Consumer Voice would like to highlight these celebrations on our website. If you have questions, please call us at (202) 332-2275, ext. 222.

\*formerly NCCNHR



# Sample Press Release

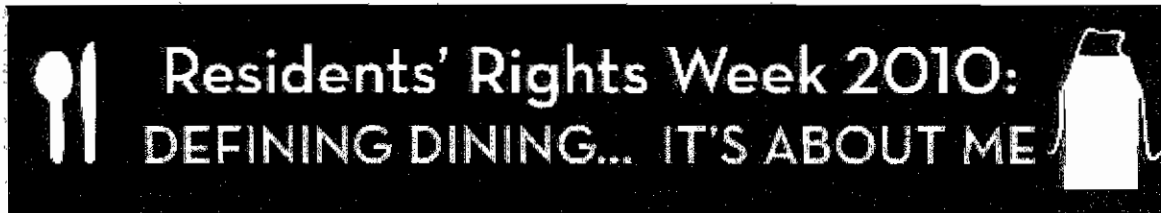
FOR IMMEDIATE RELEASE:

<DATE>

CONTACT:

<NAME/PHONE/E-MAIL>

**Long-Term Care Residents Honored During Residents' Rights Week, October 3-9, 2010**



<INSERT CITY, AND DATE> Across the country, residents of nursing homes and other long-term care facilities along with family members, ombudsmen, citizen advocates, facility staff, and others will honor the individual rights of long-term care residents by celebrating Residents' Rights Week October 3-9, 2010. Designated by the National Consumer Voice for Quality Long-Term Care\* (Consumer Voice), the week highlights the importance of listening to residents who live in our country's nursing homes, assisted living, and board and care facilities.

"This year's theme, *Defining Dining: It's About Me*, emphasizes the fundamental rights of all long-term residents to be treated with the appropriate care they deserve and need to maintain quality of life," said Sarah F. Wells, Executive Director of the Consumer Voice. "Residents will be treated with dignity and respect of their full individuality; staff and residents will enjoy relationships that enhance their day to day lives; and the long-term care facility will operate more effectively with its day to day activities being based on and developed with consumer involvement when facilities care about their residents."

Many people care about residents - family members, citizen advocates, ombudsmen, facility staff and other visitors. This care can be truly individualized and focused on each person's needs and preferences.

<INSERT DETAILS ABOUT ANY LOCAL EVENTS INCLUDING WHEN, WHERE AND WHY THE EVENT IS BEING HELD.  
HIGHLIGHT ANY PROCLAMATION BY AN ELECTED OFFICIAL >

In 1987, the Nursing Home Reform Law that was passed guarantees nursing home residents their individual rights, including but not limited to: individualized care, respect, dignity, the right to visitation, the right to privacy, the right to complain, and the right to make independent choices. Residents who have made their home in other types of facilities <INSERT NAMES OF OTHER TYPES OF FACILITIES IN YOUR STATE, i.e. assisted living, adult care homes> maintain their rights as US Citizens. Residents' Rights Week raises awareness about these rights and pays tribute to the unique contributions of long-term residents.

The National Long-Term Care Ombudsman Program has worked tirelessly for over 30 years to promote residents' rights daily. More than 8,000 volunteers and 1,000 paid staff are advocates for residents in all 50 states plus the District of Columbia, Guam and Puerto Rico. Authorized under the Older Americans' Act and administered by the Administration on Aging, the program also provides information on how to find a facility, conducts community education sessions, and supports residents, their families and the public with one-on-one consultation regarding long-term care.

<INSERT DETAILS ABOUT STATE OR LOCAL OMBUDSMAN PROGRAM HERE.>

"Residents' Rights Week is an excellent opportunity to re-affirm our collective commitment to residents' rights and to honor long-term care residents. We strongly encourage the community to participate in Residents' Rights Week activities and to visit residents who continue to be important to our communities and society," Wells said.

<INSERT QUOTE FROM LOCAL OR STATE OMBUDSMAN OR CITIZEN ADVOCACY GROUP>

\*formerly NCCNHR

**UNION COUNTY  
BOARD OF COMMISSIONERS**

**ACTION AGENDA ITEM ABSTRACT**

Meeting Date: 9/20/10

Action Agenda Item No. 5/16  
(Central Admin. use only)

**SUBJECT:** Influenza Vaccine Purchase

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**DEPARTMENT:** Public Health

**PUBLIC HEARING:** No

**ATTACHMENT(S):**

**INFORMATION CONTACT:**  
Phillip Tarte

**TELEPHONE NUMBERS:**

704-296-4801

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**DEPARTMENT'S RECOMMENDED ACTION:** Approve purchase of Influenza vaccine

**BACKGROUND:** Each year the agency prebooks influenza vaccine in preparation for the upcoming influenza vaccination season. Currently the remaining order for 180 vials of vaccine, totalling 1,800 doses is yet to be shipped. The total cost for the remaining shipment totals \$20,250.

**FINANCIAL IMPACT:** \$20,250 budgeted expense, \$45,000 in fees associated with vaccine. Available revenue of \$24,750.

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**Legal Dept. Comments if applicable:** \_\_\_\_\_

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\_\_\_\_\_

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**Finance Dept. Comments if applicable:** \_\_\_\_\_

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**Manager Recommendation:** \_\_\_\_\_

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**UNION COUNTY  
BOARD OF COMMISSIONERS**

**ACTION AGENDA ITEM ABSTRACT**

**Meeting Date: September 20, 2010**

**Action Agenda Item No.** 5/1c

(Central Admin. use only)

**SUBJECT:** Additional Funding for Jesse Helms Park Entrance Bridge

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**DEPARTMENT:** Parks and Recreation      **PUBLIC HEARING:** No

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**ATTACHMENT(S):**

CM&E Memo:JHP Change Order #1  
CM&E Memo: JHP Change Order #2  
CM&E Memo dated August 25, 2010

**INFORMATION CONTACT:**

Bill Whitley, Interim Director

**TELEPHONE NUMBERS:**

704-843-3919

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**DEPARTMENT'S RECOMMENDED ACTION:** That the Board of County Commissioners approve additional funding in the amount of \$ 23,295.83 for the Jesse Helms Park Entrance Bridge construction project. These funds would be used to (1) Fund additional costs to upgrade the size of the rip rap rock at the footings (\$895.83), (2) Fund additional costs for the realignment of the proposed pedestrian walkway to the passive area (\$2,500), and (3) Funding of the engineer's service request for \$19,900 for observation/testing required for the bridge retaining walls and additional review of construction drawings. Total request for additional funds equals \$ 23,295.83. Upon approval, staff requests that the County Manager be authorized to execute required contract amendments/adjustments after legal review.

**BACKGROUND:**

This request falls into two major areas, namely (1) adjustment to the Blythe Development Company Contract and, (2) adjustment to the Capital Management and Engineering (CM&E) Contract.

ITEM #1: Blythe Development Company was provided with a notice to proceed on the construction of the Jesse Helms Park Entrance Bridge in May, 2010. The current contract completion date is November 15, 2010. Construction is going well with the retaining walls being constructed this week. There are two change orders that have been requested for the project. These requests include:

(a) Change Order #1: Upgrade the size of the rip rap rock from Class I to Class II which will better guard against the potential for scour at the foundation for the culvert. (Cost: \$895.83.)

(b) Change Order #2: Relocate the pedestrian walkway to better align with the design plans for the Jesse Helms Park Passive Area. (Cost: \$2,500)

Total dollars needed for the adjustment to the Blythe Construction Project contract is \$ 3,395.83. Staff would recommend funding for the change orders.

ITEM #2: On May 18, 2009 , the BOCC authorized the termination of services from the contracted engineer overseeing the Jesse Helms Park Entrance Bridge Project. With the need to keep the project moving forward, and to allow for the completion of the bridge so that the 2008 PARTF Grant project could be started on time, the services of CM&E were obtained for the bidding and construction phases of said project. CM&E have and continue to provide extensive services, exceeding the predetermined requirements to complete the bidding and construction phases of the project. An overview of the service hours expended or will be expended prior to completion of this project is broken down in the attached CM&E Memorandum. Although, approximately \$50,200 services are documented to have been required (and received) by the end of the project (above the contracted amount of \$ 32,700), CM&E is only seeking \$19,900 in additional allowances. These funds are required to assist with the on-site testing requirements of the modular retaining wall (\$14,200) and numerous reviews of Stewart Engineering's construction drawings, etc. (\$5,700) once the bioretention areas were required. Staff believes that an additional allowance of the \$19,900 is justified due to the "unknown" services required (and received), which is normally covered/provided by the original engineer (which services were terminated).

**FINANCIAL IMPACT:** No additional county funds are required. Funds were transferred within the Parks and Recreation capital projects appropriation. \$7,935 was available from the JHP Phase III completed project and \$8,356 was available from the North District inactive project. Total funding for the Bridge will be \$646,218.

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**Legal Dept. Comments if applicable:** \_\_\_\_\_

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**Finance Dept. Comments if applicable:** \_\_\_\_\_

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**Manager Recommendation:**



Capital Management & Engineering

## MEMORANDUM

**DATE:** September 10, 2010

**TO:** Wes Baker – Interim County Manager  
Bill Whitley – Director of Parks & Recreation

**FROM:** Myron George

**SUBJECT:** Jesse Helms Park – Phase I: Change order No. 1

During the construction of the precast arch culvert over Flag Creek, a question was raised about the size of the rip rap armoring that would be used to protect the foundations for the culvert. After evaluating the size of the structure, flow volumes and the potential for scour at the footings due to a major storm event, a recommendation was made to increase the size of the rip rap from Class I to Class II to further guard against the potential for scour at this location.

The cost differential to increase the size of the rip rap was \$7.80/ton. This will yield a total increase in cost of \$895.73. Upon approval of this change order by the Board of County Commissioners, the revised contract amount will be \$483,893.98.



Capital Management & Engineering, P.C.

## MEMORANDUM

**DATE:** September 10, 2010

**TO:** Wes Baker – Interim County Manager  
Bill Whitley – Director of Parks & Recreation

**FROM:** Myron George

**SUBJECT:** Jesse Helms Park – Phase I: Change order No. 2

As the arch culvert is being constructed for Phase I of the Jesse Helms Park Project, the design for Phase II (Passive Area) is underway. Based on the nearly completed design for Phase II and after evaluating pedestrian access to the Passive Area, it became evident that better means of egress could be accomplished by shifting the pedestrian path from the west side of the entrance road to the east side. This shift in the pedestrian path would result in more direct and safer access for pedestrians coming from the Agriculture Center parking lot. The realignment of the path would result in the following changes in the construction contract pay items for the Phase I Project:

- Grading = 1LS @ \$425.00
- Asphalt Removal = 53 SY @ \$5.67/sy = \$300
- Asphalt Placement = 53 SY @ \$18.40/sy = \$975
- Curb Removal & Replacement = 50 LF @ \$16/LF = \$800

The total of these items is \$2500.00 and would be a lump sum change order to the construction contract. Upon approval of this change order by the Board of County Commissioners, the revised contract amount will be \$486,393.98.

08-x-x-03-x-CON-CONT-CO MGG M to WBaker on CO #2 9.10.10

**UNION COUNTY, NORTH CAROLINA  
EXTRA WORK CHANGE ORDER  
JESSE HELMS PARK ENTRANCE**

<b>Project Name:</b> <u>Jesse Helms Park Entrance</u>	<b>Change Order No.:</b> <u>Two (2)</u>
<b>Contractor:</b> <u>Blythe Development Co.</u>	<b>Date:</b> <u>September 10, 2010</u>
<b>Original Contract Amount:</b> <u>\$482,998.25</u>	<b>Project Completion Date:</b> <u>November 15, 2010</u>
<b>Previous Change Order Amount:</b> <u>\$895.83</u>	<b>Revised Completion Date:</b> <u>November 15, 2010</u>
<b>This Change Order:</b> <u>\$2,500.00</u>	<b>Program Management:</b> <u>CME</u>
<b>Revised Contract Amount:</b> <u>\$486,394.08</u>	

**THE FOLLOWING CHANGE TO THE CONTRACT DOCUMENTS FOR THE ABOVE DESCRIBED PROJECT IS HEREBY MADE:**

Add pay items to provide compensation to contractor for the realignment of the proposed road. The realignment of the road will be \$2,500 paid on a Lump Sum basis based on the following:

- Grading - 1 LS @ \$425.00/LS = \$425.00
- Asphalt Removal - 53 SY @ \$5.67/SY = \$300.51
- Asphalt Replacement - 53 SY @ \$18.40/SY = \$975.20
- Curb Removal & Replacement - 50 LF @ \$16/LF = \$800.00

**THE REASONS FOR THE CHANGE ARE:**

The realignment of the road is based on having to install additional curb and gutter and to remove and replace more asphalt to provide better access to phase II park.

Line No.	Item No.	Description	Qty	Unit Price	Amount
	21	Realignment of Proposed Road	1 LS	\$2,500/LS	\$2,500.00
<b>NET AMOUNT OF CHANGE-THIS CHANGE ORDER</b>					<b>\$2,500.00</b>

**CONTRACT TIME:**

Contract time will not be changed as a result of this contract change order.

**Approved Addition to the Contract By:**

_____ Contractor	_____ Date
_____ CME Project Manager	_____ Date
_____ Union County	_____ Date
_____ Union County	_____ Date



# BLYTHE DEVELOPMENT CO

1415 EAST WESTINGHOUSE BOULEVARD • CHARLOTTE, NORTH CAROLINA 28273 • TEL. (704) 588-0023 • FAX (704) 588-9935

September 1, 2010

Capital Management & Engineering  
111 West Central Ave.  
Mount Holly, NC 28120

SEP 2010

Attn: Myron George

Re: Change from Class 1 to Class 2 Rip Rap and Road Realignment Pricing

Myron:

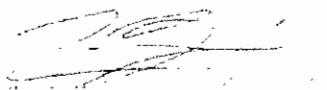
Below is a breakdown for the change in rip rap used as armoring under the culvert. per email correspondence between Myron George and Pete Gorry a unit price was established for this work. The Realignment of the proposed road is based on having to install more curb and gutter, removal of more asphalt and replacing that asphalt. Please see the attached stone tickets for referenc.

If you have any questions please feel free to call.

This includes only what is separately listed below, anything else is excluded. pet stations, lighting, grills, fire pits, 4 rail wood fence w/ stone columns, entry signage, foundation walls.

<u>DESCRIPTION</u>	<u>Qty</u>	<u>Unit</u>	<u>Unit Price</u>		<u>Total</u>
Change from CL1 to CL2 Rip Rap	114.85	TN	\$ 7.80	\$	895.83 ✓
Realignment of Proposed Road	1	LS	\$ 2,500.00	\$	2,500.00
			<b>GRAND TOTAL</b>	\$	<b>3,395.83</b>

Sincerely,  
Blythe Development Co

  
Jim Frivec  
Project Engineer



**C****E****MEMORANDUM**

CITY OF INTERIM COUNTY

**DATE:** August 25, 2010

**TO:** Wes Baker -- Interim County Manager

**FROM:** Myron George

**SUBJECT:** Jesse Helms Park -- Phase I Construction and Testing Budget

Following our meeting last Wednesday, we are providing the background information and support for our request of additional budget to complete the construction inspection and materials testing work on the concrete arch culvert, modular retaining wall and access road into the Jesse Helms Park.

CME's scope of work for Phase I of this project included four tasks:

- review of the project plans and specifications
- assistance with bid phase
- construction observation, and
- materials testing.

For the first task, review of project plans, we budgeted 23 hours and spent 169 hours due to the many cycles of review and correction for the plans and specifications. We also spent considerable time making sure the hydraulic model for the FEMA permit application was completed correctly. In addition, we coordinated with the local and federal resource agencies to make sure the permit was approved. The hydraulic modeling and permit coordination were not a part of our scope of work. We are not requesting additional compensation for this task.

For the second task, assistance with the bid phase services, we budgeted 6 hours to review the bid documents. We spent 114 hours on this task. The additional work was due to the many cycles of review and correction to the contract documents as well as the delay in approval of the project permits by the state agencies. This necessitated the project being prepared for bidding essentially three times instead of once as originally anticipated. We are not requesting additional compensation for this task.

For the third task, construction observation, we budgeted 381 hours and have spent 292 hours through the end of July. We estimate that it will take

approximately an additional 55 hours in excess of the 381 hours budgeted to complete the work. This is largely due to time required to address complications in the project because of varying rock levels. In addition there have been several tasks performed by CME that were not in our scope of work but that were accomplished to help meet the PARTF grant deadline and also to save other costs to the project. These included review and certification of shop drawings and specifications for alternate wall designs, alternate concrete arch designs and realignment of the baseline to accommodate better pedestrian access for Phase II of the project. We request an additional budget allowance of \$5,700 for this work.

For the fourth task, materials testing, we budgeted \$3500 for this testing. Due to the selection of the modular wall design there will be additional testing requirements that were unknown at the time the original budget was established. While this type of wall provides an overall savings to the county, more frequent testing is required to assure the structural integrity of the wall. We request an additional budget allowance of \$14,200 for this work.

To this point we have not requested additional budget for these tasks in an effort to keep the project moving so the grant provisions could be met and the County could secure the \$500,000 in grant funding; however, at this point we are making this request so we can adequately perform the work that will be required to successfully complete this Phase I of the project. We respectfully request approval of these additional budget allowances totaling \$19,900.

Jesse Helms Park Phase I (Bridge)

Charges to Complete the Project

(15 weeks remaining after July 24, 2010)

TASK	Senior Construction Manager	Senior Construction Field Rep.	Staff Professional	Engineering Technician	TOTAL
CEI Services:					
Prepare for and attend progress meetings	32				32
Review shop drawings	4				4
On-site inspection		4			4
Punch list inspection (one)		4			4
Final inspection (one)		3			3
Address questions from contractor and county	8				8
<b>WORKHOUR TOTALS</b>	<b>44</b>	<b>11</b>	<b>0</b>	<b>0</b>	<b>55</b>
<b>RATES PER HOUR</b>	<b>\$113.66</b>	<b>\$65.01</b>	<b>\$85.00</b>	<b>\$13.73</b>	
<b>TOTAL LABOR BY CLASSIFICATION</b>	<b>\$5,001.04</b>	<b>\$715.11</b>	<b>\$0.00</b>	<b>\$0.00</b>	<b>\$5,716.15</b>
<b>GRAND TOTAL</b>	<b>\$5,716.15</b>				

Assumptions:

Progress meetings - 4 hours every two weeks

On-site inspection - 0.5 hour every two weeks

Only 1 punch list inspection to be held

Only 1 final inspection to be held

Address questions from contractor and county - 11 hours total

**Jesse Helms Park Phase I (Bridge)  
Charges to Complete the Project  
(16 weeks remaining after July 24, 2010)**

TASK	Senior Construction Manager	Senior Construction Field Rep.	Staff Professional	Engineering Technician	TOTAL
Testing Services					
Pavement				16	16
Embankment at wall			32	128	160
Bearing capacity on walls			32	32	64
WORKHOUR TOTALS	0	0	64	176	240
RATES PER HOUR	\$113.66	\$65.04	\$85.00	\$43.73	
TOTAL LABOR BY CLASSIFICATION	\$0.00	\$0.00	\$5,440.00	\$7,696.48	\$13,136.48

<b>TOTAL LABOR</b>	<b>\$13,136.48</b>
<b>Direct Expenses (ABC Testing &amp; Travel)</b>	<b>\$1,100.00</b>
<b>GRAND TOTAL</b>	<b>\$14,236.48</b>

**Assumptions:**

Wall constructed in four segments

Wall footings not constructed in rock

Compaction tests for wall done in field by tech.

**UNION COUNTY  
BOARD OF COMMISSIONERS**

**ACTION AGENDA ITEM ABSTRACT**

**Meeting Date: September 20, 2010**

**Action Agenda Item No. 5/1d**

(Central Admin. use only)

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**SUBJECT:** Additional Services Required for Jesse Helms Park Passive Area Project

**DEPARTMENT:** Parks and Recreation      **PUBLIC HEARING:** No

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**ATTACHMENT(S):**  
CM&E Memo dated Sep 10, 2010

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**INFORMATION CONTACT:**  
Bill Whitley

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**TELEPHONE NUMBERS:**  
704-843-3919

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**DEPARTMENT'S RECOMMENDED ACTION:** That the Board of County Commissioners approve additional funding in the amount of \$7,400 to cover the costs required for Capital Management and Engineering to assist with making the required adjustments to the FY-2008 PARTF Grant Application Packet and construction documents. This includes assistance in possibly reducing the number of elements of the project (if required) and requesting an extension of the deadline for the completion of the project, if appropriate (Completion due no later than June 30, 2011). Upon approval, staff requests that the County Manager be authorized to execute appropriate contract amendments/adjustments after legal review.

**BACKGROUND:** In Jan 2010, Capital Management and Engineering was contracted to provide A&E services for the Jesse Helms Park Passive Area Project. At this point they have completed all preliminary drawings and are proceeding towards final design drawings. We hope to bid the project in November/December 2010 and bring those bids back to the BOCC for their consideration at the first available meeting.

Staff and CM&E's Team have reviewed the cost estimates and we are making every effort to stay within budget guidelines while obtaining a quality project. In April 2010, we made initial contact with the PARFT Consultant to better understand the process for requesting a possible deletion of a project element and requesting an extension for completion of the project, if necessary. He explained the process to us, however he stated that his job was being eliminated and he would be departing no later that June 30, 2010.

In July 2010, we met with our newly assigned consultant and she has requested additional information to indicate exactly what is being designed, the actual length of the trails, and refiguring/reworking of the probable cost estimate sheet. This will require additional work

(re-work) on the part of the CM&E Staff, however the work is much needed to better allow for "one consolidated request" to the NC-DENR. With the deadline for completion of the grant quickly approaching, staff requests that CM&E be tasked with completing the additional services as outlined in their memorandum (see attached), and as sought by the NC-DENR Consultant as per previous discussions, at a cost of \$7,400.

**FINANCIAL IMPACT:** No additional county funds are required. Funding is currently available within the Passive Area capital project appropriation.

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**Legal Dept. Comments if applicable:** \_\_\_\_\_

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**Finance Dept. Comments if applicable:** \_\_\_\_\_

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**Manager Recommendation:**



Capital Management & Engineering

## MEMORANDUM

**DATE:** September 10, 2010

**TO:** Wes Baker – Interim County Manager  
Bill Whitley – Director of Parks & Recreation

**FROM:** Frances Gallagher

**SUBJECT:** Jesse Helms Park Passive Area Phase II  
Request for Additional Fee to Complete PARTF Grant Revision Process

CME is requesting additional fee to complete the PARTF Grant Revision Process for Jesse Helms Park Passive Area Phase II. The additional fee is needed due to the change in the RRS Consultant (PARTF Grant contact) assigned to the project by NCDENR.

In late April, we met with the original RRS Consultant assigned to the project. Based on that meeting, we prepared the memorandum and the required exhibits for submittal to NCDENR. We were notified at that meeting that NCDENR was consolidating staff and that our current RRS Consultant would be leaving as of June 30, 2010. However, our RRS Consultant found a new position and left prior to June 30th. We did not anticipate needing to change any of our submittal, but felt it best to meet with the new RRS Consultant before submitting our formal request to NCDENR. We requested a meeting with the new RRS Consultant as soon as our project was assigned to her. We met with the new RRS Consultant on July 20, 2010. As a result of that meeting, we were directed by our new RRS Consultant to prepare a revised color site plan based on the current design, showing the PARTF elements and the future elements using the NCDENR color codes which she provided. We were also directed to prepare a revised cost estimate based on the elements included in the PARTF grant contract and to restructure the cost estimate.

Also, we were initially advised by the new RRS Consultant that the equestrian trails were not a part of the PARTF grant contract and could possibly be removed from Phase II; later however, she notified us that, after further review, all of the trails were included in the contract. As a result, to move forward with the project, she requested that we send the revised estimate for her review, removing the costs for the equestrian trail and its associated facilities. She also requested a letter justifying why these facilities need to be removed from the contract. She noted that the letter should also include the status of the project and the project schedule.

As CME was essentially complete with our submittal package prior to meeting with the new RRS Consultant, we are requesting an additional fee of \$7,400 to prepare and submit the newly requested information to NCDENR and to complete the grant revision process with the new RRS Consultant. Please see the attachment which provides the manhour and cost detail for the additional fee request.

**Attachment**

File: 08-xx-04-x-CCME-COR



Active Helms Park - Positive 5/10  
 PARF - Addition of Landscaping  
 8/20/2010

Principal	Team Leader	LA Director	Project Manager	Sr. Project Architect	Perk Consultant	Project CE	Project LA	Civil Designer II	Landscape Designer II	Civil Designer I	Landscape Designer I	CAD Tech II	Administrative Assistant	Sr. Construction Manager	Sr. Construction Field Rep.	Task Description
179	150	159	155	130	125	120	102	100	96	94	78	75	72	70	68	Meetings, prep and coordination with Union County and MCDENR to complete the PARF Grant revision process.
																PARF Site Plan, Exhibit and Cost Estimate Revisions
\$	\$	\$	\$ 1,080	\$ 2,600	\$ 2,250	\$	\$ 840	\$	\$	\$	\$ 625	\$	\$	\$	\$	



Extract of Minutes of a regular meeting of the Board of Commissioner of the County of Union, North Carolina held at the Union County Government Center, First Floor, Board Room, 500 North Main Street, Monroe, North Carolina, at 7:00 p.m. on September 20, 2010.

A regular meeting of the Board of Commissioners of the County of Union, North Carolina (the "*Board of Commissioners*") was held at the Union County Government Center, First Floor, Board Room, 500 North Main Street, Monroe, North Carolina, at 7:00 p.m. on September 20, 2010 (the "*Meeting*"), after proper notice, and was called to order by the Chairman, and on the roll being called, the following members of the Board of Commissioners answered present:

The following members of the Board of Commissioners were absent

Also present:

Commissioners \_\_\_\_\_ moved that the following resolution, copies of which having been made available to the Board of Commissioners, be adopted:

**A RESOLUTION OF THE BOARD OF COMMISSIONERS OF THE COUNTY OF UNION, NORTH CAROLINA RELATING TO THE ISSUANCE OF NOT TO EXCEED \$140,000,000 GENERAL OBLIGATION REFUNDING BONDS, SERIES 2010B OF THE COUNTY OF UNION, NORTH CAROLINA**

*WHEREAS*, the Board of Commissioner (the "*Board*") of the County of Union, North Carolina (the "*County*") adopted a bond order and a bond resolution on May 17, 2010 (the "*Bond Resolution*") authorizing the issuance of not to exceed \$140,000,000 General Obligation Refunding Bonds, Series 2010B (the "*2010B Bonds*") for the purpose of refunding prior obligations of the County as further described in the Bond Resolution;

*WHEREAS*, the County will only issue the 2010B Bonds if such issuance results in debt service savings;

*WHEREAS*, the Board wants to reaffirm the Bond Resolution and authorize County staff to make such revisions to the documentation previously approved in the Bond Resolution to accommodate the passage of time until debt service savings can be achieved with the issuance of the 2010B Bonds;

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

**Section 1.** The Board hereby reaffirms the authorization to issue the 2010B Bonds and to consummate the transactions related thereto as set forth in the Bond Resolution.

**Section 2.** The Chairman of the Board of Commissioners, the County Manager, the Finance Director and the Clerk to the Board of Commissioners of the County are authorized, empowered and

directed to authorize, execute and deliver the documentation authorized under the Bond Resolution in such form as is necessary in order to update such documentation to accommodate the passage of time until debt service savings on the refunding can be achieved, including the Preliminary Official Statement, the Bond Purchase Agreement and the Escrow Agreement (each as defined in the Bond Resolution) related to the 2010B Bonds. The Finance Director is authorized to make such changes to the terms of the 2010B Bonds set forth in Bond Resolution as may be reflected in the Pricing Certificate (as defined in the Bond Resolution) to accommodate the passage of time until the 2010B Bonds are issued.

**Section 3.** The Chairman of the Board of Commissioners, the County Manager, the Finance Director and the Clerk to the Board of Commissioners of the County are authorized and directed to execute and deliver for and on behalf of the County any and all additional certificates, documents, opinions or other papers and perform all other acts as may be required by the documents contemplated hereinabove or as may be deemed necessary or appropriate in order to implement and carry out the intent and purposes of this Resolution and the Bond Resolution.

**Section 4.** Parker Poe Adams & Bernstein LLP will serve as bond counsel to the County for the 2010B Bonds. Wells Fargo Bank, National Association will be the managing underwriter for the 2010B Bonds and the County Manager and the Finance Director may select co-managing underwriters among BB&T Capital Markets, a division of Scott & Stringfellow, LLC, and Merrill Lynch, Pierce, Fenner & Smith Incorporated (formerly Banc of America Securities LLC) that in their discretion may be in the best interest of the County. Robinson, Bradshaw & Hinson, P.A., is approved to serve as underwriters' counsel for the 2010B Bonds. The County Manager and the Finance Director are hereby authorized to retain a financial advisor to the County for the 2010B Bonds and any other members of the financing team that may, in their discretion, be in the best interest of the County and be necessary to carry out the intentions of the Board set forth in this Resolution and the Bond Resolution.

**Section 5.** All resolutions or parts thereof of the Board of Commissioners in conflict with the provisions herein contained are, to the extent of such conflict, hereby superseded and repealed.

**Section 6.** This Resolution is effective on its adoption.

On motion of Commissioner \_\_\_\_\_, seconded by Commissioner \_\_\_\_\_, the foregoing resolution entitled **"A RESOLUTION OF THE BOARD OF COMMISSIONERS OF THE COUNTY OF UNION, NORTH CAROLINA RELATING TO THE ISSUANCE OF NOT TO EXCEED \$140,000,000 GENERAL OBLIGATION REFUNDING BONDS, SERIES 2010B OF THE COUNTY OF UNION, NORTH CAROLINA"** was duly adopted by the following vote:

AYES:

NAYS:

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

I, *Lynn West*, Clerk to the Board of Commissioners of the County of Union, North Carolina, “**A RESOLUTION OF THE BOARD OF COMMISSIONERS OF THE COUNTY OF UNION, NORTH CAROLINA RELATING TO THE ISSUANCE OF NOT TO EXCEED \$140,000,000 GENERAL OBLIGATION REFUNDING BONDS, SERIES 2010B OF THE COUNTY OF UNION, NORTH CAROLINA**” adopted by the Board of Commissioners of the County of Union, North Carolina, at a meeting held on the 20<sup>th</sup> day of September, 2010.

**WITNESS** my hand and the corporate seal of the County of Union, North Carolina, this the 20<sup>th</sup> day of September, 2010.

\_\_\_\_\_  
Lynn West  
Clerk to the Board  
County of Union, North Carolina

Extract of Minutes of a regular meeting of the Board of Commissioner of the County of Union, North Carolina held at the Union County Government Center, First Floor, Board Room, 500 North Main Street, Monroe, North Carolina, at 7:00 p.m. on May 17, 2010.

A regular meeting of the Board of Commissioners of the County of Union, North Carolina (the "*Board of Commissioners*") was held at the Union County Government Center, First Floor, Board Room, 500 North Main Street, Monroe, North Carolina, at 7:00 p.m. on May 17, 2010 (the "*Meeting*"), after proper notice, and was called to order by the Chairman, and on the roll being called, the following members of the Board of Commissioners answered present:

The following members of the Board of Commissioners were absent

Also present:

Commissioners \_\_\_\_\_ moved that the following resolution, copies of which having been made available to the Board of Commissioners, be adopted:

**A RESOLUTION OF THE BOARD OF COMMISSIONERS OF THE COUNTY OF UNION, NORTH CAROLINA PROVIDING FOR THE ISSUANCE OF NOT TO EXCEED \$140,000,000 GENERAL OBLIGATION REFUNDING BONDS, SERIES 2010B OF THE COUNTY OF UNION, NORTH CAROLINA**

*WHEREAS*, the Bond Order hereinafter-described has been adopted, and it is desirable to make provision for the issuance of the Bonds authorized by said Bond Order;

*WHEREAS*, the County of Union, North Carolina (the "*County*") desires to issue its General Obligation Refunding Bonds, Series 2010B (the "*Bonds*") for the purposes described herein and to request that the Local Government Commission (the "*Commission*") sell the Bonds through a negotiated sale to Wells Fargo Bank, National Association and certain co-managing underwriters (collectively, the "*Underwriters*") in accordance with the terms and conditions set forth in a Bond Purchase Agreement to be dated on or about June 9, 2010 (the "*Bond Purchase Agreement*") among the County, the Commission and the Underwriters;

*WHEREAS*, copies of the forms of the following documents relating to the transactions described above have been filed with the County and have been made available to the Board:

1. the Bond Purchase Agreement;
2. the Preliminary Official Statement with respect to the Bonds to be dated on or about June 2, 2010, together with the Official Statement with

respect to the Bonds to be dated on or about June 9, 2010 (collectively, the "Official Statement"); and

3. the Escrow Agreement between the County and the escrow agent to be named therein with respect to the Refunded Bonds (as defined below);

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

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

*"Bond Order"* means the Bond Order authorizing the General Obligation Refunding Bonds adopted by the Board of Commissioners on May 17, 2010 and effective on its adoption.

*"Bonds"* means the County's General Obligation Refunding Bonds, Series 2010B, authorized under the Bond Order.

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

*"Escrow Agent"* means the escrow agent, and its successors and assigns, appointed as such under the Escrow Agreement.

*"Escrow Agreement"* means the Escrow Agreement between the City and the Escrow Agent related to the Refunded Bonds.

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

(a), and which underlying obligations are not available to satisfy any claim of the custodian or any person claiming through the custodian or to whom the custodian may be obligated.

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

“*Refunded Bonds*” means, collectively, the 2007D Bonds, the 2009A Bonds and the 2009B Bonds.

“*2007D Bonds*” means \$90,000,000 aggregate principal amount of the County’s General Obligation School Bonds, Series 2007D, of which \$84,000,000 is currently outstanding.

“*2009A Bonds*” means \$64,500,000 aggregate principal amount of the County’s General Obligation School Bonds, Series 2009A, of which \$63,375,000 is currently outstanding.

“*2009B Bonds*” means \$72,000,000 aggregate principal amount of the County’s General Obligation Refunding Bonds, Series 2009B, of which \$68,570,000 is currently outstanding.

“*Pricing Certificate*” means the certificate of the County’s Finance Director delivered in connection with the issuance of the Bonds which establishes, with respect to the Bonds, the final maturity amounts, the interest payment dates and the provisions for redemption, all as agreed on in the Bond Purchase Agreement.

“*S&P*” means Standard & Poor’s Ratings Services, a Division of The McGraw-Hill Companies, Inc., its successors and their assigns and, if such corporation for any reason no longer performs the functions of a securities rating agency, “*S&P*” will be deemed to refer to any other nationally recognized rating agency other than Moody’s designed by the County.

**Section 2.** The County shall issue its Bonds in an aggregate principal amount not to exceed \$140,000,000. While the Bonds are designated in this Resolution as “Series 2010B,” the Bonds may be issued with such other designation as the Commission may determine or may be issued together with bonds provided for by the Board of Commissioners under the Resolution of the Board of Commissioners of the County of Union, North Carolina Providing for the Issuance of Not to Exceed \$110,000,000 General Obligation Refunding Bonds, Series 2010A of the County of Union, North Carolina adopted on the same date as this Resolution.

**Section 3.** The Bonds shall be dated as of their date of issuance. The Bonds shall pay interest semiannually on March 1 and September 1, beginning September 1, 2010, unless the County Finance Director establishes different dates in his Pricing Certificate. The Bonds are being issued to refund all or a portion of the Refunded Bonds pursuant to and in accordance with the Bond Order.

**Section 4.** The Bonds are payable in annual installments on March 1 in each year, unless the County Finance Director establishes different a date in his Pricing Certificate. The maturities of the Bonds will be as set forth in the Pricing Certificate.

**Section 5.** The Bonds are to be numbered from “R-1” consecutively and upward and shall bear interest from their date at a rate or rates which will be hereafter determined on the sale thereof computed on the basis of a 360-day year of twelve 30-day months.



**Section 6.** The Bonds are to be registered as to principal and interest, and the Finance Director of the County is directed to maintain the registration records with respect thereto. The Bonds shall bear the original or facsimile signatures of the Chairman of the Board of Commissioners or County Manager of the County and the Clerk to the Board of Commissioners of the County. An original or facsimile of the seal of the County is to be imprinted on each of the Bonds.

**Section 7.** The Bonds will initially be issued by means of a book-entry system with no physical distribution of bond certificates made to the public. One bond certificate for each maturity will be issued to The Depository Trust Company, New York, New York ("*DTC*"), and immobilized in its custody. A book-entry system will be employed, evidencing ownership of the Bonds in principal amounts of \$5,000 or integral multiples thereof, with transfers of beneficial ownership effected on the records of DTC and its participants pursuant to rules and procedures established by DTC. Interest on the Bonds will be payable to DTC or its nominee as registered owner of the Bonds in immediately available funds. The principal of and interest on the Bonds will be payable to owners of Bonds shown on the records of DTC at the close of business on the 15th day of the month preceding an interest payment date or a bond payment date. The County will not be responsible or liable for maintaining, supervising or reviewing the records maintained by DTC, its participants or persons acting through such participants.

If (a) DTC determines not to continue to act as securities depository for the Bonds or (b) the Finance Director for the County determines that the 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 County will discontinue the book-entry system with DTC. If the County fails to identify another qualified securities depository to replace DTC, the County will authenticate and deliver replacement bonds in accordance with DTC's rules and procedures.

**Section 8.** If the Pricing Certificate designates a date for the Bonds on and after which the Bonds are subject to redemption, then such Bonds are subject to redemption before maturity, at the option of the County, from any money that may be made available for such purpose, either in whole or in part on any date on or after the date set forth in the Pricing Certificate, at the principal amount of the Bonds to be redeemed, together with interest accrued thereon to the date fixed for redemption, with such redemption premium, if any, designated for the Bonds in the Pricing Certificate.

If the Bonds are subject to optional redemption and if less than all the Bonds are called for redemption, the County shall select the maturity or maturities of the Bonds to be redeemed in such manner as the County in its discretion may determine, and DTC and its participants shall determine which Bonds within a maturity are to be redeemed by lot; *provided, however*, that the portion of any Bond to be redeemed must be in principal amount of \$5,000 or integral multiples thereof and that, in selecting Bonds for redemption, each Bond is to be considered as representing that number of Bonds which is obtained by dividing the principal amount of such Bond by \$5,000. When the County elects to redeem any Bonds, notice of such redemption of such Bonds, stating the redemption date, redemption price and identifying the Bonds or portions thereof to be redeemed by reference to their numbers and further stating that on such redemption date there are due and payable on each Bond or portion thereof so to be redeemed, the principal thereof and interest accrued to the redemption date and that from and after such date interest thereon shall cease to accrue, is to be given not less than 30 days nor more than 60 days before the redemption date in writing to DTC or its nominee as the registered owner of such Bonds, by prepaid certified or registered United States mail (or in such other manner as is permitted by DTC's rules and procedures), at the address provided to the County by DTC, but any failure or defect in respect of such mailing will not affect the validity of the redemption. If DTC is not the registered owner of such Bonds, the County will give notice at the time set forth above by prepaid first class United States mail, to the

then-registered owners of such Bonds or portions thereof to be redeemed at the last address shown on the registration books kept by the County. The County will also mail or transmit by facsimile a copy of the notice of redemption within the time set forth above (1) to the Commission, (2) to each of the then-existing securities depositories and (3) to at least two of the then-existing national information services.

**Section 9.** The Bonds and the provisions for the registration of the Bonds and for the approval of the Bonds by the Secretary of the Local Government Commission are to be in substantially the form set forth in the Appendix A hereto.

**Section 10.** The County covenants to take such action as may be required in the opinion of nationally recognized bond counsel to cause the Bonds and all actions of the County with respect to the proceeds thereof to comply with Code. In particular, the County covenants as follows:

(a) At least one of the following two conditions will be satisfied for the Bonds: (1) less than 10% of the proceeds of the Bonds, reduced by costs of issuance, will be used directly or indirectly in the business of a person other than a state or local governmental unit or (2) less than 10% of the principal or interest on the Bonds will be (under the terms of such issue or any underlying arrangement) directly or indirectly (A) secured by an interest in property used or to be used in a private business or any interest in payments made with respect to such property or (B) to be derived from payments made with respect to property, or borrowed money, used or to be used in a private business;

(b) At least one of the following two conditions will be satisfied: (i) less than 5% of the proceeds of the Bonds, reduced by costs of issuance, will be used by nongovernmental persons for a use unrelated or disproportionate to the purposes for which the Bonds were issued or (ii) less than 5% of the principal or interest on the Bonds will be (under the terms of such issue or any underlying arrangement) directly or indirectly (A) secured by an interest in property used or to be used in a private business described in (i) or by any interest in payments made with respect to such property or (B) derived from payments made with respect to property the use of which is described in (i), or borrowed money, used or to be used in a private business

(c) It will not loan directly or indirectly more than 5% of the proceeds of the Bonds to nongovernmental persons;

(d) It will not enter into any management contract with respect to the facilities refinanced with the proceeds of the Bonds unless it obtains an opinion of nationally recognized bond counsel that such management contract will not impair the exclusion from a recipient's gross income for federal income tax purposes of the interest on the Bonds;

(e) The County acknowledges that the continued exclusion of interest on the Bonds from a recipient's gross income for federal income tax purposes depends, in part, on compliance with the arbitrage limitations imposed by Section 148 of the Code. The County covenants to comply with all the requirements of Section 148 of the Code, including the rebate requirements, and it shall not permit at any time any of the proceeds of the Bonds or other funds of the County to be used, directly or indirectly, to acquire any asset or obligation, the acquisition of which would cause the Bonds to be "*arbitrage bonds*" for purposes of Section 148 of the Code;

(f) The Bonds shall not be "*federally guaranteed*" as defined in Section 149(b) of the Code;

(g) The County covenants to file or cause to be filed Form 8038G with respect to the Bonds in accordance with Section 149(e) of the Code.

**Section 11.** The proceeds from the sale of the Bonds, less the costs of issuance of the Bonds to be paid from the proceeds of the Bonds, shall be deposited with the Escrow Agent, in an Escrow Fund created pursuant to the Escrow Agreement. The Chairman of the Board of Commissioners, the County Manager and the Finance Director are each hereby authorized and directed to enter into the Escrow Agreement, a form of which has been made available to the Board of Commissioners, but with such changes, modifications, additions or deletions therein as shall to them seem necessary, desirable or appropriate, their execution thereof to constitute conclusive evidence of the Board of Commissioner's approval of any and all changes, modifications, additions or deletions therein from the form and content of the Escrow Agreement presented to the Board of Commissioners, and that from and after the execution and delivery of the Escrow Agreement, the Chairman of the Board of Commissioners, the County Manager and the Finance Director are each hereby authorized, empowered and directed to do all such acts and things and to execute all such documents as may be necessary to carry out and comply with the provisions of the Escrow Agreement as executed. Proceeds of the Bonds to be used to pay the costs of issuance of the Bonds shall be deposited in a separate segregated account held by the County and invested and reinvested by the Finance Director as permitted by the laws of the State of North Carolina. The Finance Director shall keep and maintain adequate records pertaining to such account and all disbursements therefrom so as to satisfy the requirements of the laws of the State of North Carolina and to assure that the City maintains its covenants with respect to the exclusion of the interest on the Bonds from gross income for purposes of federal income taxation. To the extent any funds remain in such account after all of the costs of issuance on the Bonds are paid, the Finance Director shall apply them to pay interest on the Bonds on that date.

**Section 12.** Actions taken by officials of the County to select paying and transfer agents, and a bond registrar, or alternate or successor agents and registrars pursuant to Section 159E-8 of the Registered Public Obligations Act, Chapter 159E of the General Statutes of North Carolina, are hereby authorized and approved.

**Section 13.** The Commission is hereby requested to sell the Bonds through a negotiated sale to the Underwriters pursuant to the terms of the Bond Purchase Agreement at a true interest cost not to exceed 4.90%. The managing Underwriter for the Bonds is Wells Fargo Bank, National Association and the County Manager and the Finance Director may select co-managing underwriters among BB&T Capital Markets, a division of Scott & Stringfellow, LLC, and Merrill Lynch, Pierce, Fenner & Smith Incorporated (formerly Banc of America Securities LLC) that in their discretion may be in the best interest of the County. The form and content of the Bond Purchase Agreement is in all respects approved and confirmed, and the Chairman of the Board of Commissioners, the County Manager or the Finance Director of the County is hereby authorized, empowered and directed to execute and deliver the Bond Purchase Agreement for and on behalf of the County, including necessary counterparts, in substantially the form and content presented to the County, but with such changes, modifications, additions or deletions therein as he may deem necessary, desirable or appropriate, the execution thereof to constitute conclusive evidence of the Board of Commissioners' approval of any and all such changes, modifications, additions or deletions therein, and that from and after the execution and delivery of the Bond Purchase Agreement, the Chairman of the Board of Commissioners, the County Manager and the Finance Director of the County are hereby authorized, empowered and directed to do all such acts and things and to

execute all such documents as may be necessary to carry out and comply with the provisions of the Bond Purchase Agreement as executed.

**Section 14.** The Chairman of the Board of Commissioners, the County Manager, the Finance Director and the Clerk to the Board of Commissioners of the County are hereby authorized and directed to cause the Bonds to be prepared and, when they shall have been duly sold by the Commission, to execute the Bonds and to turn the Bonds over to the registrar and transfer agent of the County for delivery through the facilities of DTC to the Underwriters.

**Section 15.** The form and content of the Official Statement are in all respects authorized, approved and confirmed, and the Chairman of the Board of Commissioners, the County Manager, the Finance Director and the Clerk to the Board of Commissioners of the County are authorized, empowered and directed to execute and deliver the Official Statement in substantially the form and content presented to the Board of Commissioners, but with such changes, modifications, additions or deletions therein as the Chairman of the Board of Commissioners, County Manager or the Finance Director of the County may deem necessary, desirable or appropriate, their execution thereof to constitute conclusive evidence of the approval of the Board of Commissioners of any and all changes, modifications, additions or deletions therein from the form and content of the Official Statement presented to the Board of Commissioners.

**Section 16.** The Chairman of the Board of Commissioners, the County Manager, the Finance Director and the Clerk to the Board of Commissioners of the County are authorized and directed to execute and deliver for and on behalf of the County any and all additional certificates, documents, opinions or other papers and perform all other acts as may be required by the documents contemplated hereinabove or as may be deemed necessary or appropriate in order to implement and carry out the intent and purposes of this Resolution.

**Section 17.** The County agrees, in accordance with Rule 15c2-12 (the "*Rule*") promulgated by the Securities and Exchange Commission (the "*SEC*") and for the benefit of the Registered Owners and beneficial owners of the Bonds, as follows:

- (1) by not later than seven months after the end of each Fiscal Year to the Municipal Securities Rulemaking Board (the "*MSRB*") the audited financial statements of the County for the preceding Fiscal Year, if available, prepared in accordance with Section 159-34 of the General Statutes of North Carolina, as it may be amended from time to time, or any successor statute, or if such audited financial statements are not then available, unaudited financial statements of the County for such Fiscal Year to be replaced subsequently by audited financial statements of the County to be delivered within 15 days after such audited financial statements become available for distribution;
- (2) by not later than seven months after the end of each Fiscal Year to the MSRB, (a) the financial and statistical data as of a date not earlier than the end of the preceding Fiscal Year for the type of information included under the captions "**THE COUNTY--DEBT INFORMATION**" and "**--TAX INFORMATION**" (excluding information on overlapping units) in the Official Statement referred to in Section 16 and (b) the combined budget of the County for the current Fiscal Year to the extent such items are not included in the audited financial statements referred to in clause (1) above;
- (3) in a timely manner to the MSRB, notice of the occurrence of any of the following events with respect to the Bonds, if material:

- (a) principal and interest payment delinquencies;
- (b) non-payment related defaults;
- (c) unscheduled draws on debt service reserves reflecting financial difficulties;
- (d) unscheduled draws on credit enhancements for the Bonds reflecting financial difficulties;
- (e) substitution of any credit or liquidity providers, or their failure to perform;
- (f) adverse tax opinions or events affecting the tax-exempt status of the Bonds;
- (g) modification to the rights of the beneficial owners of the Bonds;
- (h) call of any of the Bonds for redemption, other than sinking fund redemptions;
- (i) defeasance of any of the Bonds;
- (j) release, substitution or sale of any property securing repayment of the Bonds;
- (k) rating changes on the Bonds; and

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

The County agrees that its undertaking under this Paragraph is intended to be for the benefit of the registered owners and the beneficial owners of the Bonds and is enforceable by any of the registered owners and the beneficial owners of the Bonds, including an action for specific performance of the County's obligations under this Paragraph, but a failure to comply will not be an event of default and will not result in acceleration of the payment of the Bonds. An action must be instituted, had and maintained in the manner provided in this Paragraph for the benefit of all of the registered owners and beneficial owners of the Bonds.

The County agrees to provide all documents described in this section in an electronic format as prescribed by the MSRB and accompanied by identifying information as prescribed by the MSRB. The County may discharge its undertakings described above by transmitting the documents or notices referred to above in a manner subsequently authorized or required by the SEC in lieu of the manner described above.

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

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

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

(3) any such modification does not materially impair the interest of the registered owners or the beneficial owners, as determined by nationally recognized bond counsel or by the approving vote of the registered owners of a majority in principal amount of the Bonds.

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

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

**Section 18.** Those portions of this Resolution other than Section 17 may be amended or supplemented, from time to time, without the consent of the owners of the Bonds if in the opinion of nationally recognized bond counsel, such amendment or supplement would not adversely affect the interests of the owners of the Bonds and would not cause the interest on the Bonds to be included in the gross income of a recipient thereof for federal income tax purposes. This Resolution may be amended or supplemented with the consent of the owners of a majority in aggregate principal amount of the outstanding Bonds, exclusive of Bonds, if any, owned by the County, but a modification or amendment (1) may not, without the express consent of any owner of Bonds, reduce the principal amount of any Bond, reduce the interest rate payable on it, extend its maturity or the times for paying interest, change the monetary medium in which principal and interest is payable, or reduce the percentage of consent required for amendment or modification and (2) as to an amendment to Section 17, must be limited as described therein.

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

If the County proposes an amendment or supplemental resolution to this Resolution requiring the consent of the owners of the Bonds, the Registrar shall, on being satisfactorily indemnified with respect to expenses, cause notice of the proposed amendment to be sent to each owner of the Bonds then outstanding by first-class mail, postage prepaid, to the address of such owner as it appears on the registration books; but the failure to receive such notice by mailing by any owner, or any defect in the mailing thereof, will not affect the validity of any proceedings pursuant hereto. Such notice shall briefly set forth the nature of the proposed amendment and shall state that copies thereof are on file at the principal office of the Registrar for inspection by all owners of the Bonds. If, within 60 days or such longer period as shall be prescribed by the County following the giving of such notice, the owners of a majority in aggregate principal amount of Bonds then outstanding have consented to the proposed amendment, the amendment will be effective as of the date stated in the notice.

**Section 19.** Nothing in this Resolution precludes (a) the payment of the Bonds from the proceeds of refunding bonds or (b) the payment of the Bonds from any legally available funds.

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

If such a defeasance occurs and after the County receives an opinion of a nationally recognized accounting firm that the segregated moneys or Federal Securities together with interest earnings thereon are sufficient to effect a defeasance, the County shall execute and deliver all such instruments as may be necessary to effect such a defeasance and desirable to evidence such release, discharge and satisfaction. Provisions shall be made by the County, for the mailing of a notice to the owners of the Bonds that such moneys are so available for such payment.

**Section 20.** All acts and doings of the Chairman of the Board of Commissioners, the County Manager, the Finance Director of the County and the Clerk to the Board of Commissioners of the County that are in conformity with the purposes and intents of this Resolution and in the furtherance of the issuance of the Bonds and the execution, delivery and performance of the Bond Purchase Agreement are in all respects approved and confirmed.

**Section 21.** If any one or more of the agreements or provisions herein contained is held contrary to any express provision of law or contrary to the policy of express law, though not expressly prohibited, or against public policy, or for any reason whatsoever is held invalid, then such covenants, agreements or provisions are null and void and separable from the remaining agreements and provisions and will in no way affect the validity of any of the other agreements and provisions hereof or of the Bonds authorized hereunder.

**Section 22.** All resolutions or parts thereof of the Board of Commissioners in conflict with the provisions herein contained are, to the extent of such conflict, hereby superseded and repealed.

**Section 23.** This Bond Resolution is effective on its adoption.

On motion of Commissioner \_\_\_\_\_, seconded by Commissioner \_\_\_\_\_, the foregoing resolution entitled "**A RESOLUTION OF THE BOARD OF COMMISSIONERS OF THE COUNTY OF UNION, NORTH CAROLINA PROVIDING FOR THE ISSUANCE OF NOT TO EXCEED \$140,000,000 GENERAL OBLIGATION REFUNDING BONDS, SERIES 2010B OF THE COUNTY OF UNION, NORTH CAROLINA**" was duly adopted by the following vote:

AYES:

NAYS:



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

I, *Lynn West*, Clerk to the Board of Commissioners of the County of Union, North Carolina, “**A RESOLUTION OF THE BOARD OF COMMISSIONERS OF THE COUNTY OF UNION, NORTH CAROLINA PROVIDING FOR THE ISSUANCE OF NOT TO EXCEED \$140,000,000 GENERAL OBLIGATION REFUNDING BONDS, SERIES 2010B OF THE COUNTY OF UNION, NORTH CAROLINA**” adopted by the Board of Commissioners of the County of Union, North Carolina, at a meeting held on the 17<sup>th</sup> day of May, 2010.

**WITNESS** my hand and the corporate seal of the County of Union, North Carolina, this the 17<sup>th</sup> day of May, 2010.

\_\_\_\_\_  
Lynn West  
Clerk to the Board  
County of Union, North Carolina

APPENDIX A

Form of Bond

No. R-

\$

UNITED STATES OF AMERICA  
STATE OF NORTH CAROLINA  
COUNTY OF UNION

<u>INTEREST</u> <u>RATE</u>	<u>MATURITY DATE</u> MARCH 1, _____	<u>DATED DATE</u> [DATE OF ISSUE], 2010	<u>CUSIP</u> 906395[ ]
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REGISTERED OWNER: CEDE & CO.

PRINCIPAL SUM: DOLLARS

**GENERAL OBLIGATION REFUNDING BOND, SERIES 2010B**

*THE COUNTY OF UNION, NORTH CAROLINA* (the "County") acknowledges itself indebted and for value received hereby promises to pay to the Registered Owner named above, on the Maturity Date specified above, on surrender hereof, the Principal Sum shown above and to pay to the Registered Owner hereof interest thereon from the date of this Bond until it shall mature at the Interest Rate per annum specified above, payable on September 1, 2010 and semiannually thereafter on March 1 and September 1 of each year. Principal of and interest on this Bond are payable in immediately available funds to The Depository Trust Company ("DTC") or its nominee as registered owner of the Bonds and is payable to the owner of the Bonds shown on the records of DTC at the close of business on the 15<sup>th</sup> day of the month preceding an interest payment date or a bond payment date. The County is not responsible or liable for maintaining, supervising or reviewing the records maintained by DTC, its participants or persons acting through such participants.

This Bond is issued in accordance with the Registered Public Obligations Act, Chapter 159E of the General Statutes of North Carolina, and pursuant to The Local Government Finance Act, a bond order adopted by the Board of Commissioners of the County on May 17, 2010 and effective on the date of its adoption. The Bonds are issued to provide funds to refund in advance of their maturities (1) \$90,000,000 aggregate principal amount of the County's General Obligation School Bonds, Series 2007D, of which \$84,000,000 is currently outstanding; (2) \$64,500,000 aggregate principal amount of the County's General Obligation School Bonds, Series 2009A, of which \$63,375,000 is currently outstanding; and (3) \$72,000,000 aggregate principal amount of the County's General Obligation Refunding Bonds, Series 2009B, of which \$68,570,000 is currently outstanding.

The Bonds maturing on or before [Call Date] are not subject to redemption before maturity. The Bonds maturing after [Call Date] are subject to redemption before maturity, at the option of the County, from any moneys that may be made available for such purpose, either in whole or in part on any date on or after [Call Date], at the principal amount of the Bonds to be redeemed, together with interest accrued thereon to the date fixed for redemption, [without premium].

If less than all of the Bonds are called for redemption, the County shall select the maturity or maturities of the Bonds to be redeemed in such manner as the County in its discretion may determine and

DTC and its participants shall determine which of the Bonds within a maturity are to be redeemed by lot; *provided, however*, that the portion of any Bond to be redeemed is to be in principal amount of \$5,000 or integral multiples thereof and that, in selecting Bonds for redemption, each Bond is to be considered as representing that number of Bonds which is obtained by dividing the principal amount of such Bond by \$5,000. Whenever the County elects to redeem Bonds, notice of such redemption of Bonds, stating the redemption date, redemption price and identifying the Bonds or portions thereof to be redeemed by reference to their numbers and further stating that on such redemption date there shall become due and payable on each Bond or portion thereof so to be redeemed, the principal thereof, redemption premium and interest accrued to the redemption date and that from and after such date interest thereon shall cease to accrue, is to be given not less than 30 days nor more than 60 days before the redemption date in writing to DTC or its nominee as the registered owner of the Bonds, by prepaid certified or registered United States mail, at the address provided to the County by DTC, but any failure or defect in respect of such mailing will not affect the validity of the redemption. If DTC is not the registered owner of the Bonds, the County will give notice at the time set forth above by prepaid first class United States mail to the then-registered owners of the Bonds or portions thereof to be redeemed at the last address shown on the registration books kept by the County.

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

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

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

(SEAL)

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

\_\_\_\_\_  
Chairman,  
Board of Commissioners

Date of Execution: [Date of Issue], 2010

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

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

**FORM OF ASSIGNMENT**

**ASSIGNMENT**

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

---

(Please print or typewrite Name and Address,  
including Zip Code, and Federal Taxpayer Identification or  
Social Security Number of Assignee)

---

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

---

Attorney to register the transfer of the within Bond on the books kept for registration thereof,  
with full power of substitution in the premises.

Dated: \_\_\_\_\_

Signature guaranteed by:

---

NOTICE: Signature must be guaranteed by  
a Participant in the Securities Transfer  
Agent Medallion Program ("*Stamp*") or  
similar program.

---

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

**TRANSFER FEE MAY BE REQUIRE**

**UNION COUNTY  
BOARD OF COMMISSIONERS**

**ACTION AGENDA ITEM ABSTRACT**

**Meeting Date: September 20, 2010**

**Action Agenda Item No.** 5/4  
(Central Admin. use only)

**SUBJECT:** Commercial Use of Union County's GIS Electronic Data

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**DEPARTMENT:** IT/GIS

**PUBLIC HEARING:** Choose one....

**ATTACHMENT(S):**

**INFORMATION CONTACT:**

Cynthia Mabry  
Carl Lucas

**TELEPHONE NUMBERS:**

704-292-2619  
704-292-2520

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**DEPARTMENT'S RECOMMENDED ACTION:** Allow commercial use of GIS electronic data at no cost like Cabarrus County, Lincoln County, and Stanly County. Union County's electronic GIS data is currently available free of charge thru a data download webpage.

**BACKGROUND:** Currently, commercial use of Union County's GIS electronic data is prohibited. We are requesting these restrictions be removed. The GIS Department has done extensive updating to the roads layer. We feel this data layer would be a great benefit to our county if allowed to be used as centerline data for GPS units, mapping websites, etc. Someone from our GIS team spoke with a GIS representative from the following counties on their GIS electronic data use policies: Cabarrus, Catawba, Gaston, Lincoln, Mecklenburg, and Stanly. None of these counties restrict commercial use of their GIS electronic data layers. However, several have fees affilitated with use of their electronic data layers; Catawba County charges \$200.00 for their centerline data layer, Gaston County charges \$25.00 for their centerline data layer, and Mecklenburg County charges between \$1500 to \$2000 per yearly commercial use data layer subscription. Similar to Union County; Cabarrus County, Lincoln County, and Stanly County make available their GIS data layers free of charge thru data download webpages.

**FINANCIAL IMPACT:**

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**Legal Dept. Comments if applicable:**

Although geographical information systems (“GIS”) databases and data files are public records, N.C. Gen. Stat. § 132-10 permits counties to condition *electronic* copies of such databases/data files (hereinafter “GIS data”) on the requesting party’s written agreement “that the copy will not be resold or otherwise used for trade or commercial purposes.” If the requesting party refuses to agree to such condition, the county can refuse to provide an electronic copy. If, however, a county chooses to allow electronic copies of its GIS data to be resold or used for trade or commercial purposes, the county is free to establish charges (or negotiate the price) for such copies/permission. See David M. Lawrence, *Public Records Law for North Carolina Local Governments*, 373, 2<sup>nd</sup> Ed. (UNC School of Govt. 2009). The price charged is not limited to the statute’s “reasonable cost” limitation imposed on other charges for copies (i.e. hard copies, or electronic copies conditioned on an agreement not to resell or use for trade or commercial purposes). See id. at 372-73. For purposes of G.S. 132-10, “publication or broadcast by the news media, real estate trade associations, or Multiple Listing Services operated by real estate trade associations [does] not constitute a resale or use of the data for trade or commercial purposes and use of information without resale by a licensed professional in the course of practicing the professional’s profession [does] not constitute use for a commercial purpose.” N.C. Gen. Stat. § 132-10. Also, “resale at cost by a real estate trade association or Multiple Listing Services operated by a real estate trade association [does] not constitute a resale or use of the data for trade or commercial purposes.” N.C. Gen. Stat. § 132-10.

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**Finance Dept. Comments if applicable:** 

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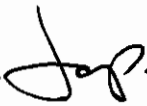
**Manager Recommendation:**



**UNION COUNTY**  
**Office of the Tax Administrator**  
**Collections Division**  
500 N. Main St. Ste 119  
P.O. Box 38  
Monroe, NC 28111-0038

AGENDA ITEM  
# 55  
MEETING DATE 9/20/10  
704-283-3848  
704-283-3897 Fax

TO: County Commissioners

FROM: John Petoskey  
Tax Administrator 

DATE: August 31, 2010

SUBJECT: Departmental Monthly Report

The collector's monthly/year to date collections report for the month ending July 31, 2010 is attached for your information and review.

Should you desire additional information, I will do so at your request.

Attachment

JP/PH

**JULY 2010  
PERCENTAGE FOR REGULAR AND MOTOR VEHICLE**

<b>JULY 31, 2010 REGULAR TAX</b>	<b>2010</b>	<b>2009</b>	<b>2008</b>	<b>2007</b>
BEGINNING CHARGE	239,370.99	147,215,097.67	143,591,883.72	116,287,816.21
DISCOVERIES				
FARM DEFERMENTS				
RELEASES				
CORRECTION (DECEMBER)			13.26	
<b>TOTAL CHARGE</b>	<b>239,370.99</b>	<b>147,215,097.67</b>	<b>143,591,896.98</b>	<b>116,287,816.21</b>
BEGINNING COLLECTIONS	126,428.32	143,422,159.14	142,006,265.96	115,715,947.64
COLLECTIONS	1,715.68	255,280.12	56,753.47	7,386.80
<b>TOTAL COLLECTIONS</b>	<b>128,144.00</b>	<b>143,677,439.26</b>	<b>142,063,019.43</b>	<b>115,723,334.44</b>
BALANCE OUTSTANDING	111,226.99	3,537,658.41	1,528,877.55	564,481.77
<b>PERCENTAGE OF REGULAR</b>	<b>53.53%</b>	<b>97.60%</b>	<b>98.94%</b>	<b>99.51%</b>
<b>JULY 31, 2010 MOTOR VEHICLE</b>				
BEGINNING CHARGE	-	10,681,919.63	11,731,288.99	12,061,061.65
1ST MOTOR VEHICLE BILLING	925,740.38			
2ND MOTOR VEHICLE BILLING	881,462.19			
ABATEMENTS	(21,662.16)	(6,873.00)	(169.44)	
NON-DISCOVERIES	5,082.47	3,294.25	159.55	
<b>TOTAL CHARGE</b>	<b>1,790,622.88</b>	<b>10,678,340.88</b>	<b>11,731,279.10</b>	<b>12,061,061.65</b>
BEGINNING COLLECTIONS	-	9,702,909.43	11,547,381.87	11,932,970.13
COLLECTIONS	535,145.34	223,478.49	6,585.40	919.18
<b>TOTAL COLLECTIONS</b>	<b>535,145.34</b>	<b>9,926,387.92</b>	<b>11,553,967.27</b>	<b>11,933,889.31</b>
BALANCE OUTSTANDING	1,255,477.54	751,952.96	177,311.83	127,172.34
<b>PERCENTAGE OF MOTOR VEHICLE</b>	<b>29.89%</b>	<b>92.96%</b>	<b>98.49%</b>	<b>98.95%</b>
<b>OVERALL CHARGED</b>	<b>2,029,993.87</b>	<b>157,893,438.55</b>	<b>155,323,176.08</b>	<b>128,348,877.86</b>
<b>OVERALL COLLECTED</b>	<b>663,289.34</b>	<b>153,603,827.18</b>	<b>153,616,986.70</b>	<b>127,657,223.75</b>
<b>OVERALL PERCENTAGE</b>	<b>32.67%</b>	<b>97.28%</b>	<b>98.90%</b>	<b>99.46%</b>



**JULY 2010  
PERCENTAGE FOR REGULAR AND MOTOR VEHICLE**

<b>JULY 31, 2010 REGULAR TAX</b>	<b>2006</b>	<b>2005</b>	<b>2004</b>	<b>2003</b>
BEGINNING CHARGE	96,271,585.56	86,243,303.52	75,933,826.17	60,651,515.04
DISCOVERIES				
FARM DEFERMENTS				
RELEASES				
CORRECTION (DECEMBER)				
<b>TOTAL CHARGE</b>	<b>96,271,585.56</b>	<b>86,243,303.52</b>	<b>75,933,826.17</b>	<b>60,651,515.04</b>
BEGINNING COLLECTIONS	95,882,637.56	86,017,046.97	75,779,149.73	60,537,555.00
COLLECTIONS	1,403.89	1,072.74	404.82	294.98
<b>TOTAL COLLECTIONS</b>	<b>95,884,041.45</b>	<b>86,018,119.71</b>	<b>75,779,554.55</b>	<b>60,537,849.98</b>
BALANCE OUTSTANDING	387,544.11	225,183.81	154,271.62	113,665.06
<b>PERCENTAGE OF REGULAR</b>	<b>99.60%</b>	<b>99.74%</b>	<b>99.80%</b>	<b>99.81%</b>
<b>JULY 31, 2010 MOTOR VEHICLE</b>				
BEGINNING CHARGE	10,333,573.26	-	-	-
1ST MOTOR VEHICLE BILLING				
2ND MOTOR VEHICLE BILLING				
ABATEMENTS				
NON-DISCOVERIES				
<b>TOTAL CHARGE</b>	<b>10,333,573.26</b>	<b>-</b>	<b>-</b>	<b>-</b>
BEGINNING COLLECTIONS	10,246,448.79	-	-	-
COLLECTIONS	385.88	-	-	-
<b>TOTAL COLLECTIONS</b>	<b>10,246,834.67</b>	<b>-</b>	<b>-</b>	<b>-</b>
BALANCE OUTSTANDING	86,738.59	-	-	-
<b>PERCENTAGE OF MOTOR VEHICLE</b>	<b>99.16%</b>			
<b>OVERALL CHARGED</b>	<b>106,605,158.82</b>	<b>86,243,303.52</b>	<b>75,933,826.17</b>	<b>60,651,515.04</b>
<b>OVERALL COLLECTED</b>	<b>106,130,876.12</b>	<b>86,018,119.71</b>	<b>75,779,554.55</b>	<b>60,537,849.98</b>
<b>OVERALL PERCENTAGE</b>	<b>99.56%</b>	<b>99.74%</b>	<b>99.80%</b>	<b>99.81%</b>

**JULY 2010  
PERCENTAGE FOR REGULAR AND MOTOR VEHICLE**

<b>JULY 31, 2010 REGULAR TAX</b>	<b>2002</b>	<b>2001</b>	<b>2000</b>	<b>1999</b>
BEGINNING CHARGE	51,673,845.76	48,122,602.16	43,552,864.81	40,736,778.57
DISCOVERIES				
FARM DEFERMENTS				
RELEASES				
CORRECTION (DECEMBER)				
<b>TOTAL CHARGE</b>	<b>51,673,845.76</b>	<b>48,122,602.16</b>	<b>43,552,864.81</b>	<b>40,736,778.57</b>
BEGINNING COLLECTIONS	51,590,395.32	48,061,400.08	43,510,144.77	40,698,736.88
COLLECTIONS	233.71	98.58		
<b>TOTAL COLLECTIONS</b>	<b>51,590,629.03</b>	<b>48,061,498.66</b>	<b>43,510,144.77</b>	<b>40,698,736.88</b>
BALANCE OUTSTANDING	83,216.73	61,103.50	42,720.04	38,041.69
<b>PERCENTAGE OF REGULAR</b>	<b>99.84%</b>	<b>99.87%</b>	<b>99.90%</b>	<b>99.91%</b>
<b>JULY 31, 2010 MOTOR VEHICLE</b>				
BEGINNING CHARGE	-	-	-	-
1ST MOTOR VEHICLE BILLING	-	-	-	-
2ND MOTOR VEHICLE BILLING	-	-	-	-
ABATEMENTS	-	-	-	-
NON-DISCOVERIES	-	-	-	-
<b>TOTAL CHARGE</b>	<b>-</b>	<b>-</b>	<b>-</b>	<b>-</b>
BEGINNING COLLECTIONS	-	-	-	-
COLLECTIONS	-	-	-	-
<b>TOTAL COLLECTIONS</b>	<b>-</b>	<b>-</b>	<b>-</b>	<b>-</b>
BALANCE OUTSTANDING	-	-	-	-
<b>PERCENTAGE OF MOTOR VEHICLE</b>				
<b>OVERALL CHARGED</b>	<b>51,673,845.76</b>	<b>48,122,602.16</b>	<b>43,552,864.81</b>	<b>40,736,778.57</b>
<b>OVERALL COLLECTED</b>	<b>51,590,629.03</b>	<b>48,061,498.66</b>	<b>43,510,144.77</b>	<b>40,698,736.88</b>
<b>OVERALL PERCENTAGE</b>	<b>99.84%</b>	<b>99.87%</b>	<b>99.90%</b>	<b>99.91%</b>

**UNION COUNTY  
BOARD OF COMMISSIONERS**

**ACTION AGENDA ITEM ABSTRACT**  
Meeting Date: September 20, 2010

Action Agenda Item No. 5/7  
(Central Admin. use only)

**SUBJECT:** Union County Drug and Alcohol Free Workplace Policy

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**DEPARTMENT:** Transportation  
Personnel  
Legal

**PUBLIC HEARING:** No

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**ATTACHMENT(S):**  
(1) Proposed Amendments to the Union County Drug and Alcohol Free Workplace Policy  
(2) Proposed Addendum to the Union County Drug and Alcohol Free Workplace Policy

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**INFORMATION CONTACT:**  
Jeff Crook

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**TELEPHONE NUMBERS:**  
(704) 283-3673

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**DEPARTMENT'S RECOMMENDED ACTION:** Adopt Proposed Amendments to the Union County Drug and Alcohol Free Workplace Policy, including the Proposed Addendum to the Union County Drug and Alcohol Free Workplace Policy

**BACKGROUND:** There are a number of federal regulations applicable to the drug and alcohol testing of drivers of commercial motor vehicles and certain Union County Transportation employees (e.g. those who operate revenue service vehicles, those who operate nonrevenue service vehicles requiring a license to drive a commercial vehicle, those who control the dispatch or movement of a revenue service vehicle, those who maintain revenue service vehicle and/or related equipment). Several of these federal regulations have been amended, thereby necessitating changes to the County's Drug and Alcohol Free Workplace Policy. This need for an update to the policy was listed as an open issue in the recent N.C. Dept. of Transportation's (NCDOT's) Compliance, Capacity, and Proficiency Review of the Union County Transportation program. The majority of the attached revisions (including those listed in the addendum) will only apply to the employees who are covered by the aforementioned federal regulations. In October, NCDOT will be conducting a Drug & Alcohol Compliance Review of the Transportation Department. Depending upon the outcome of this review, more revisions to the policy may be needed.

**FINANCIAL IMPACT:**

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**Legal Dept. Comments if applicable:** \_\_\_\_\_

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**Finance Dept. Comments if applicable:** \_\_\_\_\_

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**Manager Recommendation:**

**AMENDMENTS TO THE UNION COUNTY DRUG AND ALCOHOL FREE  
WORKPLACE POLICY**

1. In Section 2, amend the definition of “***Reasonable Suspicion*** for Covered Employees who drive Commercial Vehicles and Covered Mass Transit Employees” as follows:

***Reasonable Suspicion*** for Covered Employees who drive Commercial Vehicles and Covered Mass Transit Employees means a well-founded belief that an employee is engaged in the improper use of alcohol or drugs in violation of this Policy, based on specific, contemporaneous, articulable observations concerning the appearance, behavior, speech, or body odors of the employee made by a supervisor or other County official trained in detecting the signs and symptoms of misuse of alcohol or drugs in accordance with 49 C.F.R. § 382.603 and 49 C.F.R. § 655.14.

2. Amend Section 3.1(h) as follows:

h. A Covered Employee who drives a Commercial Vehicle or a Covered Mass Transit Employee who: ~~violates this Policy as it pertains to alcohol use~~ (i) refuses a required alcohol test or (2) has a confirmed alcohol test result of 0.04 or greater may not subsequently perform any Safety-sensitive Function for the County unless and until he or she completes a SAP evaluation, referral, and education/treatment process, and shall be subject to return-to-duty and follow up testing, as set forth in 49 C.F.R. Part 40, as amended.

3. Amend Section 3.2(f) as follows:

f. A Covered Employee who drives a Commercial Vehicle or a Covered Mass Transit Employee who: ~~violates this Policy as it pertains to drug use~~ (i) refuses a required drug test or (2) has a verified positive drug test may not subsequently perform any Safety-sensitive Function for the County unless and until he or she completes a SAP evaluation, referral and education/treatment process and shall

be subject to return-to-duty and follow up testing, as set forth in 49 C.F.R. Part 40, as amended.

4. Add the following sentence to the end of the first paragraph of Section 5(c):

If a **Covered Mass Transit Employee** acknowledges the use of alcohol when on call, but claims the ability to perform his or her safety-sensitive function, the **Covered Mass Transit Employee** must take an alcohol test.

5. Delete Section 6.2(c) as written, and replace it with the following:

- c. In addition to the other post-accident testing requirements described herein and established pursuant to Union County's independent authority, all **Covered Employees who drive Commercial Vehicles** (excluding **Covered Mass Transit Employees**) will be subject to the testing requirements found in 49 CFR § 382.303, as amended. This regulation requires the County to test all surviving drivers for alcohol following an occurrence involving a Commercial Vehicle operating on a public road in commerce if the driver: (1) was performing safety-sensitive functions (as defined by 49 CFR Part 382, as amended) with respect to the vehicle and the accident involved the loss of human life; or (2) receives a citation within 8 hours of the occurrence under State or local law for a moving traffic violation arising from the accident, if the occurrence involved: (i) bodily injury to any person who, as a result of the injury, immediately receives medical treatment away from the scene of the occurrence; or (ii) one or more motor vehicles incurring disabling damage as a result of the occurrence, requiring the motor vehicle to be transported away from the scene by a tow truck or other motor vehicle. The regulation requires the County to test all surviving drivers for controlled substances following an occurrence involving a Commercial Vehicle operating on a public road in commerce if the driver: (1) was performing was performing safety-sensitive functions (as defined by 49 CFR Part 382, as amended) with respect to the vehicle and the accident involved the loss of human life; or (2)

receives a citation within 32 hours of the occurrence under State or local law for a moving traffic violation arising from the accident, if the accident involved: (i) bodily injury to any person who, as a result of the injury, immediately receives medical treatment away from the scene of the accident; or (ii) one or more motor vehicles incurring disabling damage as a result of the accident, requiring the motor vehicle to be transported away from the scene by a tow truck or other motor vehicle. The alcohol and controlled substances testing requirements set forth in 49 CFR § 382.303 do not apply to: (1) an occurrence involving only boarding or alighting from a stationary motor vehicle; or (2) an occurrence involving only the loading or unloading of cargo; or (3) an occurrence in the course of the operation of a passenger car or a multipurpose passenger vehicle (as defined in 49 CFR § 571.3, as amended) unless the motor vehicle is transporting passengers for hire or hazardous materials of a type and quantity that require the motor vehicle to be marked or placarded in accordance with 49 CFR 177.823, as amended.

In addition to the other post-accident testing requirements described herein and established pursuant to Union County's independent authority, all **Covered Mass Transit Employees** will be subject to the testing requirements found in 49 CFR § 655.44, as amended. This regulation requires the County to conduct drug and alcohol tests on each surviving **Covered Mass Transit Employee** operating the mass transit vehicle at the time of a vehicle accident involving the loss of human life unless the employee is tested under the fatal accident testing requirements of the Federal Motor Carrier Safety Administration rule 49 CFR 389.303(a)(1) or (b)(1). This regulation also requires the County to conduct drug and alcohol tests on any other **Covered Mass Transit Employee** whose performance could have contributed to a vehicle accident involving a fatality, as determined by the County using the best information available at the time of the decision. Furthermore, the regulation requires drug and alcohol testing of the following **Covered Mass**

**Transit Employees** in the event that a mass transit vehicle is involved in an accident not involving the loss of human life: (1) each **Covered Mass Transit Employee** operating the mass transit vehicle at the time of the accident unless the County determines, using the best information available at the time of the decision, that the **Covered Mass Transit Employee's** performance can be completely discounted as a contributing factor to the accident; and (2) any other **Covered Mass Transit Employee** whose performance could have contributed to the accident, as determined by the County using the best information available at the time of the decision.

An employee who is subject to post-accident testing under this subsection c shall remain readily available for such testing or may be deemed by the County to have refused to submit to testing. Nothing in this Policy shall be construed to require the delay of necessary medical attention for injured people following an accident or to prohibit a driver from leaving the scene of an accident for the period necessary to obtain assistance in responding to the accident, or to obtain necessary emergency medical care.

6. Amend Section 6.3(b) as follows:

Before any new or existing **Covered Employee who drives a Commercial Vehicle** first operates a commercial vehicle or performs other related safety-sensitive functions as defined in 49 C.F.R. 382.107, and before any new or existing Covered Mass Transit Employee first operates a Revenue Service Vehicle or performs related safety-sensitive functions as defined in 49 C.F.R. 655.4, the employee must submit to both drug and alcohol testing and receive a verified negative result for both. If the pre-placement drug test is canceled, the employee must take another pre-placement drug test with a verified negative result.”

7. Add a new subsection (c) to Section 6.3 to read as follows:



- c. When a **Covered Mass Transit Employee** has not performed a safety-sensitive function as defined in 49 C.F.R. 655.4 for 90 consecutive calendar days regardless of the reason, and the Covered Mass Transit Employee has not been in the random selection pool during that time, the **Covered Mass Transit Employee** must take a pre-placement drug test with a verified negative result.

8. Delete Section 6.5(c) as written and replace it with the following:

- c. Covered Employees who drive Commercial Vehicles and Covered Mass Transit Employees are subject to return to duty testing following a verified positive drug test result, a confirmed alcohol test with a result indicating an alcohol concentration of 0.04 or greater, a refusal to test (including by adulterating or substituting a urine specimen) or any other violation of the prohibition on the use of alcohol or drugs under a DOT agency regulation. Such employees must have a negative drug test result and/or (depending upon which test is required) an alcohol test with an alcohol concentration of less than 0.02 before they will be allowed to resume any DOT safety-sensitive duties. The test cannot occur until after the SAP has determined that the employee has successfully complied with prescribed education and/or treatment. Nothing in this section requires the County to return an employee to safety-sensitive duties because the employee has met these conditions.

9. Delete Section 6.6(e) as written.

10. Delete Section 7 as written, and replace it with the following:

**Refusal to Submit to a Test**

Any of the following behaviors constitute a test refusal:

- a. Failure to appear for any test within a reasonable time, as determined by the Personnel Director or the Personnel Director's designee;

- b. Failure to remain at the testing site until the testing process is complete;
- c. Failure to provide a urine specimen for any required drug test;
- d. Failure to permit the observation or monitoring of the specimen collection when required to do so;
- e. Failure to provide a sufficient amount of urine when directed and there is no adequate medical explanation for the failure;
- f. Failure to take an additional test when directed to do so by the collector, the Personnel Director, or the Personnel Director's designee;
- g. Failure to undergo a medical examination when directed to do so by the MRO, the Personnel Director or the Personnel Director's designee;
- h. Failure to cooperate with any part of the testing process (e.g., refusal to empty pockets when directed by the collector, confrontational behavior that disrupts the collection process, failure to wash hands after being directed to do so by the collector);
- i. Failure to follow the observer's instructions during an observed collection including instructions to raise clothing above the waist, lower clothing and underpants, and to turn around to permit the observer to determine if the employee has any type of prosthetic or other device that could be used to interfere with the collection process;
- j. Possession or wearing of a prosthetic or other device that could be used to interfere with the collection process;
- k. Admission to the collector or MRO that the employee adulterated or substituted the specimen;
- l. Failure to provide an adequate amount of saliva or breath for any required alcohol test;
- m. Failure to provide a sufficient breath specimen when directed and there is no adequate medical explanation for the failure;
- n. Failure to sign the certification at Step 2 of the Alcohol Testing Form (ATF) if required by 49 CFR Part 40, as amended; and
- o. Failure to remain readily available for post-accident testing if subject to post-accident testing.

In addition, if the MRO reports that an employee has a verified adulterated or substituted test result, the employee will be deemed to have refused the test. Nothing in this

Policy shall be construed to require the delay of necessary medical attention for injured people following an accident or to prohibit a driver from leaving the scene of an accident for the period necessary to obtain assistance in responding to the accident, or to obtain necessary emergency medical care.

11. Add the attached Addendum # 1 to the Union County Drug and Alcohol Free Workplace Policy.
12. Except as herein amended, the provisions of the Union County Drug and Alcohol Free Workplace Policy shall remain in full force and effect.

## ADDENDUM # 1

### PROVISIONS APPLICABLE TO COVERED MASS TRANSIT EMPLOYEES, COVERED EMPLOYEES WHO DRIVE COMMERCIAL VEHICLES, AND COVERED APPLICANTS FOR SUCH POSITIONS

#### **SECTION 1**

##### **Applicability**

The provisions in this Addendum #1 (hereinafter "Addendum") are only applicable to Covered Mass Transit Employees, Covered Employees who drive Commercial Vehicles, and Covered Applicants for such positions. The provisions shall be read to be in addition to those provisions set forth in the Union County Drug and Alcohol Free Workplace Policy, as amended (the "Policy"). Where there is a conflict between this Addendum and the Policy, this Addendum shall control.

#### **SECTION 2**

##### **Definitions**

***Adulterated specimen*** means a specimen that has been altered, as evidenced by test results showing either a substance that is not a normal constituent for that type of specimen or showing an abnormal concentration of an endogenous substance.

***Aliquot*** means a fractional part of a specimen used for testing. It is taken as a sample representing the whole specimen.

***Confirmatory Drug Test*** means a second analytical procedure performed on a different aliquot of the original specimen to identify and quantify the presence of a specific drug or metabolite.

***Confirmatory Validity Test*** means a second test performed on a different aliquot of the original urine specimen to further support a validity test result.

***Dilute Specimen*** means a urine specimen with creatine and specific gravity values that are lower than expected for human urine.

***Disabling Damage*** means damage that precludes departure of a motor vehicle from the scene of the accident in its usual manner in daylight after simple repairs. This definition includes damage to a motor vehicle, where the vehicle could have been driven, but would have been further damaged if so driven. This definition excludes: damage that can be remedied temporarily at the scene of the accident without special tools or parts; tire disablement without other damage even if no spare tire is available; headlamp or tail light damage; and damage to turn signals, horn, or windshield wipers, which makes the vehicle inoperable.

**HHS** means the Department of Health and Human Services or any designee of the Secretary, Department of Health and Human Services.

**Initial Drug Test or Screening Drug Test** means the test used to differentiate a negative specimen from one that requires further testing for drugs or drug metabolites.

**Initial Specimen Validity Test** means the first test used to determine if a urine specimen is adulterated, diluted, substituted, or invalid.

**Invalid Result or Invalid Drug Test** means the result reported by an HHS-certified laboratory in accordance with the criteria established by the HHS Mandatory Guidelines when a positive, negative, adulterated, or substituted result cannot be established for a specific drug or specimen validity test.

**Laboratory** means any U.S. laboratory certified by HHS under the National Laboratory Certification Program as meeting the minimum standards of Subpart C of the HHS Mandatory Guidelines for Federal Workplace Drug Test Programs; or, in the case of foreign laboratories, a laboratory approved for participation by DOT under this part.

**Limit of Detection (LOD)** means the lowest concentration at which a measurand can be identified, but (for quantitative assays) the concentration cannot be accurately calculated.

**Limit of Quantitation** means for quantitative assays, the lowest concentration at which the identity and concentration of the measurand can be accurately established.

**Negative**, with respect to the results of a **drug test**, means a test result that is reported when a specimen contains no drug or the concentration of the drug is less than the cutoff concentration for the drug or drug class and the specimen is a valid specimen.

**Negative Dilute** means a drug test result which is negative for the five drug/drug metabolites but has a specific gravity value lower than expected for human urine.

**Positive**, with respect to the results of a **drug test**, means the test result that is reported when a specimen contains a drug or drug metabolite equal to or greater than the cutoff concentrations.

**Reconfirmed** means the result reported for a split specimen when the second laboratory is able to corroborate the original result reported for the primary specimen.

**Rejected for Testing** means the result reported when no tests are performed for a specimen because of a fatal flaw or a correctable flaw that has not been corrected.

***Split Specimen Collection*** means a collection in which the urine collected is divided into two separate bottles, the primary specimen (Bottle A) and the split specimen (Bottle B).

***Substituted Specimen*** means a urine specimen with creatinine and specific gravity values that are so diminished that they are not consistent with normal human urine.

***Validity Testing*** means the evaluation of the specimen to determine if it is consistent with normal human urine. Specimen validity testing will be conducted on all urine specimens provided for testing under DOT authority. The purpose of validity testing is to determine whether certain adulterants or foreign substances were added to the urine, if the urine was diluted, or if the specimen was substituted.

### **SECTION 3**

#### **Drug Testing Procedures**

- a. The drugs that will be tested for include MDMA (Ecstasy), marijuana, cocaine, opiates, amphetamines, and phencyclidine. Initial testing for heroin will be mandatory for all opiate positives.
- b. After the identity of the donor employee/applicant is checked using picture identification, a urine specimen will be collected using the split specimen collection method described in 49 CFR Part 40, as amended. Each specimen will be accompanied by a DOT Chain of Custody and Control Form and identified using a unique identification number that attributes the specimen to the correct individual. The specimen analysis will be conducted at a HHS certified laboratory. An initial drug screen and validity test will be conducted on the primary urine specimen. For those specimens that are not negative, a confirmatory Gas Chromatography/Mass Spectrometry (GC/MS) test will be performed. The test will be considered positive if the amounts of the drug(s) and/or its metabolites identified by the GC/MS test are above the minimum thresholds established in 49 CFR Part 40, as amended.
- c. The test results from the HHS certified laboratory will be reported to the MRO, and the MRO will review the results as described in Section 10 of the Union County Drug and Alcohol Free Workplace Policy and as required by 49 CFR Part 40, as amended.
- d. Employees that have a verified positive drug test result or a test refusal due to adulteration or substitution may request a test of their split specimen. However, employees do not have access to a test of their split specimen following an invalid result. The split sample test must be conducted at a second HHS-certified laboratory with no affiliation with the laboratory that analyzed the primary specimen. The test must be conducted on the split sample that was provided by the employee at the same time as the primary sample. The method of collecting, storing, and testing the split sample will be consistent with the procedures set forth in 49 CFR Part 40, as amended. The employee's request for a split sample test must be made to the MRO within 72 hours of notice of the original sample verified test result. Requests after 72 hours will only be accepted at the discretion

- of the MRO if the delay was due to documentable facts that were beyond the control of the employee. Union County will ensure that the cost for the split specimen is covered in order for a timely analysis of the sample. However, Union County will seek reimbursement for the split sample test from the employee.
- e. If a test is invalid without a medical explanation, a retest will be conducted under direct observation. Employees do not have access to a test of their split specimen following an invalid result.
  - f. Following a negative dilute result, the employee will be required to undergo another test. Should this second test result in a negative dilute result, the test will be considered a negative and no additional testing will be required unless directed to do so by the MRO.
  - g. Observed collections
    1. Observed collections are required in the following circumstances:
      - i. All return-to-duty tests;
      - ii. All follow-up tests;
      - iii. Anytime the temperature on the original specimen was out of the accepted temperature range;
      - iv. Anytime the employee is directed to provide another specimen because the original specimen appeared to have been tampered with;
      - v. Anytime a collector observes materials brought to the collection site or the employee's conduct clearly indicates an attempt to tamper with a specimen;
      - vi. Anytime the laboratory reported to the MRO that the original specimen was invalid and the MRO determined that there was not an adequate medical explanation for the result;
      - vii. Anytime the MRO reports that the original specimen was positive, adulterated or substituted, but had to be cancelled because the test of the split specimen could not be performed;
      - viii. Anytime the laboratory reports to the MRO that the specimen was negative-dilute with a creatinine concentration greater than or equal to 2 mg/dL but less than or equal to 5 mg/dL, and the MRO reported the specimen to the County as negative-dilute and that a second collection must take place under direct observation.
    2. The employee who is being observed will be required to raise his or her shirt, blouse, or dress/skirt, as appropriate, above the waist; and lower clothing and underpants to show the collector, by turning around that they do not have a prosthetic device.

## **SECTION 4**

### **Alcohol Testing Procedures**

Tests for breath alcohol concentration will be conducted utilizing a National Highway Traffic Safety Administration (NHTSA)-approved Evidential Breath Testing device (EBT) operated by a trained Breath Alcohol Technician (BAT). Alcohol

screening tests may be performed using a non-evidential testing device which is also approved by NHSTA. If the initial test indicates an alcohol concentration of 0.02 or greater, a second test will be performed to confirm the results of the initial test. The confirmatory test must occur on an EBT. The confirmatory test will be conducted at least fifteen minutes after the completion of the initial test. The confirmatory test will be performed using a NHTSA-approved EBT operated by a trained BAT. The EBT will identify each test by a unique sequential identification number. This number, time, and unit identifier will be provided on each EBT printout. The EBT printout, along with an approved alcohol testing form, will be used to document the test, the subsequent results and to attribute the test to the correct employee. The test will be performed in a private, confidential manner as required by 49 CFR Part 40, as amended. The procedure will be followed as prescribed by 49 CFR Part 40, as amended, to protect the employee and to maintain the integrity of the alcohol testing procedures and validity of the test result.

## **SECTION 5**

### **Test Refusals**

An employee's refusal to take a required drug or alcohol test is a violation of the Union County Drug and Alcohol Free Workplace Policy. An employee who violates this Policy by refusing to take a required drug or alcohol test may not subsequently perform any Safety-Sensitive Function for the County unless and until he or she completes a SAP evaluation, referral, and education/treatment process and shall be subject to return-to-duty and follow up testing, as set forth in 49 C.F.R. Part 40.

An employee or applicant who leaves the testing site before the testing process commences for a pre-placement test is not deemed to have refused to test. An employee or applicant who does not provide a urine specimen because he or she has left the testing site before the testing process commences for a pre-employment test is not deemed to have refused to test. An employee or applicant who does not provide an adequate amount of breath or saliva because he or she has left the testing site before the testing process commences for a pre-placement test is not deemed to have refused to test.

## **SECTION 6**

### **Drug and Alcohol Tests**

#### **6.1 Pre-Placement Testing**

Applicants for a Covered Mass Transit Employee position are required to report previous DOT covered employer drug and alcohol test results. The failure to do so will result in the employment offer, if any, being rescinded. If the applicant for a Covered Mass Transit Employee position has tested positive or refused to test on a pre-employment test for another DOT covered employer, the applicant must provide Union County proof of having successfully completed a referral, evaluation and treatment plan as described in 49



CFR § 655.62. This Section 6.1 only applies to applicants for a Covered Mass Transit Employee position.

## **6.2 Follow-up Testing**

An employee who violates this policy by refusing to take a required drug or alcohol test or by having a verified positive drug test or by having a confirmed alcohol test result of 0.04 or greater, and who seeks to resume the performance of safety-sensitive functions, will be required to undergo frequent, unannounced drug and/or alcohol testing following their return-to-duty in accordance with a written follow-up testing plan to be established by the SAP after the SAP determines that the employee has successfully complied with the SAP's recommendations for education and/or treatment. The SAP is the sole determiner of the number and frequency of follow-up tests and whether these tests will be for drugs, alcohol, or both, unless otherwise directed by the appropriate DOT agency regulations. However, the SAP must, at a minimum, direct that the employee be subject to six unannounced follow-up tests in the first 12 months of safety-sensitive duty following the employee's return to safety-sensitive functions. The requirements of the SAP's follow-up testing plan "follow the employee" to subsequent employers or through breaks in service in accordance with the provisions in 49 CFR Part 40. The employee will not be allowed to continue to perform safety-sensitive functions unless follow-up testing is conducted as directed by the SAP.

## **SECTION 7**

### **49 CFR Part 382**

- a. The provisions in 49 CFR Part 382, as amended, apply to Covered Employees who drive a Commercial Vehicle.
- b. The following list indicates the tests required by 49 CFR Part 382, and is meant to satisfy the requirement in 49 CFR § 382.113 that employers notify employees of tests required by Part 382. This list should not in any way be interpreted to limit the tests provided for in this Policy. 49 CFR Part 382 requires (for Covered Employees who drive Commercial Vehicles):
  1. Drug testing with a verified negative result prior to allowing a Covered Mass Transit Employee or applicant to perform a safety sensitive function (as defined by Part 382) for the first time. However, Part 382 does not require a drug test in this situation if: (1) the driver has participated in a controlled substances testing program that meets the requirements of Part 382 within the previous 30 days; and (2) while participating in that program, the driver either (i) was tested for controlled substances within the past 6 months (from the date of application with the County), or (ii) participated in the random controlled substances testing program for the previous 12 months (from the date of application with the County); and (3) the County ensures that no prior employer of the driver of whom the County has knowledge has records of a violation of Part 382 or the controlled substances use rule of another DOT agency within the previous six months.

2. Post-accident testing under 49 CFR § 382.303, as described in Section 6.2(c) of the Policy.
  3. Random testing for prohibited drug use anytime the employee is on duty.
  4. Random testing for alcohol misuse while the Covered Employee is performing safety-sensitive functions (as defined by 49 CFR Part 382); just before the Covered Employee is to perform such functions, or just after the Covered Employee has ceased performing such functions.
  5. Reasonable suspicion testing for alcohol misuse if the required observations of appearance, behavior, speech, or body odors are made while the Covered Employee is performing safety-sensitive functions (as defined by 49 CFR Part 382), just preceding the performance of safety-sensitive functions (as defined by 49 CFR Part 382), or just after the Covered Employee has ceased performing safety-sensitive functions (as defined by 49 CFR Part 382);
  6. Alcohol and/or drug testing when the County has reasonable suspicion to believe that the employee has used a prohibited drug and/or engaged in alcohol misuse. Reasonable suspicion alcohol testing is authorized under 49 CFR Part 382 only if the required observations are made during, just preceding, or just after the period of the workday that the employee is required to be in compliance with 49 CFR Part 382, and the employee is directed to undergo the test while performing safety-sensitive functions (as defined by 49 CFR Part 382), just before the employee is to perform such functions, or just after the employee has ceased performing such functions.
  7. If an employee has a verified positive DOT drug test result, a DOT alcohol test with a result indicating an alcohol concentration of 0.04 or greater, or a refusal to test (including by adulterating or substituting a urine specimen) or any other violation of the prohibition on the use of alcohol or drugs under a DOT agency regulation, 49 CFR Part 382 requires return-to-duty drug and/or alcohol testing prior to the return of the employee to safety-sensitive duties (as defined by 49 CFR Part 382). Such testing must occur after the SAP has determined that the employee has successfully complied with prescribed education and/or treatment.
  8. Follow-up testing of each employee who returns to duty in accordance with a written follow-up testing plan to be established by the SAP.
- c. 49 CFR Part 382 authorizes pre-employment alcohol testing in accordance with 49 CFR § 382.301.
  - d. 49 CFR Part 382 defines “safety-sensitive function” to mean “all time from the time a driver begins to work or is required to be in readiness to work until the time he/she is relieved from work and all responsibility for performing work.” Under this part “safety-sensitive functions” include: (1) All time at an employer or shipper plant, terminal, facility, or other property, or on any public property, waiting to be dispatched, unless the driver has been relieved from duty by the employer; (2) All time inspecting equipment as required by Sections 392.7 and 392.8 of Part 382 or otherwise inspecting, servicing, or conditioning any commercial motor vehicle at any time; (3) All time spent at the driving controls of a commercial motor vehicle in operation; (4) All time, other than driving time, in

or upon any commercial motor vehicle except time spent resting in a sleeper berth; (5) All time loading or unloading a vehicle, supervising, or assisting in the loading or unloading, attending a vehicle being loaded or unloaded, remaining in readiness to operate the vehicle, or in giving or receiving receipts for shipments loaded or unloaded; and (5) All time repairing, obtaining assistance, or remaining in attendance upon a disabled vehicle.”

## **SECTION 8**

### **49 CFR Part 655**

- a. The provisions in 49 CFR Part 655, as amended, apply to Covered Mass Transit Employees. The Union County Drug and Alcohol Free Workplace Policy implements elements of an anti-drug use and alcohol misuse program that are not required by 49 CFR Part 655.
- b. The following list indicates the tests required by 49 CFR Part 655, and is meant to satisfy the requirement in 49 CFR § 655.17 that employers notify employees of tests required by Part 655. This list should not in any way be interpreted to limit the tests provided for in this Policy. 49 CFR Part 655 requires:
  1. Drug testing with a verified negative result prior to allowing a Covered Mass Transit Employee or applicant to perform a safety sensitive function (as defined by Part 655) for the first time.
  2. Drug testing with a verified negative result prior to allowing a Covered Mass Transit Employee to perform a safety sensitive function if the Covered Mass Transit Employee has not performed a safety sensitive function (as defined by 49 CFR Part 655) for 90 consecutive calendar days regardless of the reason and the employee has not been in the random selection pool during that time.
  3. Alcohol testing if a Covered Mass Transit employee acknowledges the use of alcohol while on-call but claims the ability to perform his or her safety-sensitive function (as defined by 49 CFR Part 655).
  4. Alcohol and/or drug testing when the County has reasonable suspicion to believe that the Covered Mass Transit Employee has used a prohibited drug and/or engaged in alcohol misuse. Reasonable suspicion alcohol testing is authorized under 49 CFR Part 655 only if the required observations are made during, just preceding, or just after the period of the workday that the Covered Mass Transit Employee is required to be in compliance with 49 CFR Part 655, and the employee is directed to undergo the test while performing safety-sensitive functions (as defined by 49 CFR Part 655), just before the employee is to perform such functions, or just after the employee has ceased performing such functions.
  5. Random testing for alcohol misuse while the Covered Mass Transit Employee is performing safety-sensitive functions (as defined by 49 CFR Part 655); just before the Covered Mass Transit Employee is to perform such functions; or just after the Covered Mass Transit Employee has ceased performing such functions.

6. Random testing for prohibited drug use anytime a Covered Mass Transit Employee is on duty.
  7. Post-accident drug and alcohol testing under 49 CFR § 655.44 as described by Section 6.2(c) of the Policy.
  8. If a Covered Mass Transit Employee has a verified positive DOT drug test result, a DOT alcohol test with a result indicating an alcohol concentration of 0.04 or greater, or a refusal to test (including by adulterating or substituting a urine specimen) or any other violation of the prohibition on the use of alcohol or drugs under a DOT agency regulation, 49 CFR Part 655 requires return-to-duty drug and/or alcohol testing prior to the return of the employee to safety-sensitive duties (as defined by 49 CFR Part 655). Such testing must occur after the SAP has determined that the employee has successfully complied with prescribed education and/or treatment.
  9. Follow-up testing of each Covered Mass Transit Employee who returns to duty in accordance with a written follow-up testing plan to be established by the SAP.
- c. 49 CFR Part 655 authorizes pre-employment alcohol testing in accordance with 49 CFR § 655.42.
  - d. 49 CFR Part 655 defines “safety-sensitive function” to mean any of the following duties: (1) Operating a revenue service vehicle, including when not in revenue service; (2) Operating a nonrevenue service vehicle, when required to be operated by a holder of a Commercial Driver’s License; (3) Controlling dispatch or movement of a revenue service vehicle; (4) Maintaining (including repairs, overhaul and rebuilding) a revenue service vehicle or equipment used in revenue service; and (5) Carrying a firearm for security purposes.

**UNION COUNTY  
BOARD OF COMMISSIONERS**

**ACTION AGENDA ITEM ABSTRACT**

**Meeting Date: September 20, 2010**

**Action Agenda Item No. 5/8**

(Central Admin. use only)

**SUBJECT:** Groundwater Testing on County Owned Property

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**DEPARTMENT:**

**PUBLIC HEARING:** No

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**ATTACHMENT(S):**

Access Agreement  
Parcel Map  
Location of Testing Well on Site  
Requirement From NCENR

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**INFORMATION CONTACT:**

Dave Cannon

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**TELEPHONE NUMBERS:**

704-283-3631

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**DEPARTMENT'S RECOMMENDED ACTION:** Authorize County Manager to execute agreement with Yale Security, Inc.

**BACKGROUND:** Yale Security, Inc., Norton Door Controls Division ("Norton") leases property located at 3000 Highway 74 East in Monroe (the "Norton Leased Property"). Norton is working with the North Carolina Department of Environment and Natural Resources ("NCDENR") to address groundwater contamination at the Norton Leased Property, which resulted from prior use of solvents containing volatile organic compounds ("VOCs"). NCDENR has instructed Norton to establish that the groundwater contamination has not migrated to certain nearby properties, including the above-referenced parcel which is owned by Union County (the "Union County Property"). The Union County Property is depicted on Tract ID Sheet attached to this email.

DENR has instructed our client to perform, for the purpose of making sure that the contamination at our client's property has not impacted the Union County parcel. In other words, the testing is intended to protect Union County. Also, testing results establishing that groundwater at the Union County parcel is clean would be of additional value to Union County if and when Union County may be interested in selling or developing the parcel. In order to satisfy NCDENR's requirement, Norton's environmental engineering firm needs access to the Union County Property to install one groundwater monitoring well. The proposed location of the monitoring well is shown on the attached figure. The water will be analyzed for VOCs. This process has nothing to do with any past or current uses of the Union County Property, but solely to satisfy a NCDENR requirement pertaining to conditions at the Norton Leased Property. York Security is legally required to remediate the groundwater at its site, and the actual remediation will begin within the next month or so. Because the Union County parcel is down-gradient from the property where the remediation system will be installed, the remediation system will also remediate any associated

groundwater contamination at the Union County property, although we do not have any reason to believe the Union County property has any contamination to begin with.

A proposed Access Agreement is also attached. The Access Agreement sets forth the details of the work needed on the Union County Property.

**FINANCIAL IMPACT:** None – Any remedial work is the responsibility of Yale security, Inc.

**Legal Dept. Comments if applicable:** \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

**Finance Dept. Comments if applicable:** \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

**Manager Recommendation:** Approve Agreement.

as of 9-14-10

## ACCESS AGREEMENT

This **ACCESS AGREEMENT** (this "*Agreement*") is entered into as of September \_\_\_\_, 2010 by and between Yale Security Inc., Norton Door Controls Division ("*Norton*") and Union County ("*Owner*").

**WHEREAS**, Norton leases a parcel of land located at 3000 Highway 74 East, Monroe, North Carolina (the "*Norton Leased Property*");

**WHEREAS**, Owner owns parcel of land referred to as Parcel ID 09057017 located on Presson Road in Monroe, North Carolina (the "*Subject Property*");

**WHEREAS**, Norton, through its employees, consultants and contractors (collectively, the "*Norton Representatives*" or individually, the "*Norton Representative*"), wishes to enter onto the Subject Property for the installation of one groundwater monitoring well and the sampling of that well to comply with requirements of the North Carolina Department of Environment and Natural Resources ("*DENR*") Inactive Hazardous Sites Branch relative to the Norton Leased Property (the "*Work*"), and the Owner agrees to allow such access on the terms and conditions set forth below. The Work also shall include the proper closure of the well when the required activities have been completed.

**NOW, THEREFORE**, in consideration of the mutual covenants contained herein, the sufficiency of which is hereby acknowledged, the parties agree as follows.

1. The Work, as defined above, will be performed in a professional manner. The proposed location of the groundwater monitoring well on the Subject Property is shown on Figure 1 to this Agreement as "MW-37D." If necessary to avoid interference in Owner's activities on the Subject Property, Norton agrees to work with the Owner to relocate the proposed well. Norton agrees to cooperate with the Owner to ascertain the ingress and egress routes to and from the well location on the Subject Property that will minimize interference to the Owner when entering and exiting the Subject Property.

2. The Work shall be performed at Norton's sole cost and expense, and the Owner shall not be responsible for payment of any such costs or expenses. The Owner will be responsible for the payment of its attorney's fees and any consultant's fees, expenses or costs and any other costs the Owner may incur in connection with the review and implementation of this Agreement and all activities performed by Norton hereunder.

3. The term of this Agreement ("*Term*") shall commence upon execution of this Agreement, and shall end when the well sampling requirements have been satisfied.

4. Norton and the Owner shall develop a schedule for the well installation and sampling that is satisfactory to both parties with the understanding that Norton must complete this work as expeditiously as possible.

5. In connection with the installation of the well, Norton will ensure that the Subject Property is not damaged and if any damage occurs, Norton agrees to promptly repair same to the condition existing immediately prior the Work. Norton will be responsible for verifying the location of any underground or over head utilities on the Subject Property.

6. Norton will provide the Owner copies of reports that include information from the well sampling on the Subject Property.

7. During the Term, Norton shall have its contractors and subcontractors, at Norton's sole cost and expense comply with all applicable Federal, state and local laws, ordinances, statutes, codes, rules, regulations (collectively, "Laws").

8. In connection with the Work undertaken pursuant to this Agreement, Norton shall indemnify, hold harmless and defend the Owner from and against any and all costs, expenses (including, without limitation, reasonable attorneys' fees and court costs), liabilities, losses, damages, suits, actions, fines, penalties, claims and demands of any kind and asserted by or on behalf of any person or governmental authority, arising out of or in any way connected with, and the Owner shall not be liable on account of: (a) any failure by Norton or its contractors, agents and employees, to perform any agreement, term, covenant or condition of this Agreement required to be performed by or to be caused to be performed by Norton; (b) any failure by Norton or any Norton contractor to comply with any Law, including, without limitation, any applicable Law relating to health, safety or the environment; (c) claims or threatened claims of any contractor, or any subcontractor thereof, including without limitation, the filing of mechanic's liens; and (d) any accident, death, personal injury, or damage, loss or theft of property, to the extent caused by any act or omission of Norton or its contractors.

9. Shield Engineering, Inc. ("*Shield*") and its subcontractors have performed the environmental site investigation work on the Norton Leased Property, and same shall perform the Work on the Subject Property. Norton shall cause Shield to maintain \$1,000,000 general liability insurance, \$1,000,000 automobile insurance, and worker's compensation insurance in statutory amounts during the time when it performs the Work. Owner shall be named additional insured with respect to Shield's GL policy and automobile policy and all such insurance to be evidenced by a certificate showing the required policy amounts, and containing a provision whereby such insurance will not be canceled or modified without thirty (30) days' prior written notice to the Owner, such certificate to be delivered to the Owner prior to Norton or any employee, contractor or agent of Norton entering onto the Subject Property.

10. To the extent that Norton or any of its employees will be entering onto the Subject Property in connection with this Agreement, then, Norton shall maintain \$1,000,000 general liability insurance, \$1,000,000 automobile insurance, and worker's compensation insurance in statutory amounts during the time when it access the Subject Property. Owner shall be named additional insured with respect to Norton's GL policy and automobile policy and all such insurance to be evidenced by a certificate showing the required policy amounts, and containing a



provision whereby such insurance will not be canceled or modified without thirty (30) days' prior written notice to the Owner, such certificate to be delivered to the Owner prior to Norton or any employee, contractor or agent of Norton entering onto the Subject Property.

11. Norton shall cause Shield to remove all investigation-derived waste (the "IDW") generated during the course of the Work promptly after each event when any such IDW is generated such that no IDW is stored temporarily or disposed of on the Subject Property.

12. The contacts for Norton and the Owner are listed below, and each such contact must receive electronic copies of all notices required by the terms of this Agreement.

***For Norton:***

Ms. Abbie Baker

Tel 203.230.0303

Email [AbbieBaker@comcast.net](mailto:AbbieBaker@comcast.net)

***With copies by email to:***

R. Steven DeGeorge  
Robinson, Bradshaw & Hinson  
101 North Tryon Street, Suite 1900  
Charlotte, North Carolina 28246

Tel 704.377.8380

Email [sdegeorge@rbh.com](mailto:sdegeorge@rbh.com)

***For the Owner:***

Mr. David Cannon  
Finance Director - Union County  
500 North Main Street - Suite 901  
Monroe, North Carolina 28112

Tel 704.283.3631

Email [david.cannon@co.union.nc.us](mailto:david.cannon@co.union.nc.us)

13. Norton designates Mr. David Wallace at Shield as the primary contact for Norton, and the Owner designates Mr. David Cannon as the primary contact for the Owner for all notices regarding scheduling of the Work hereunder.

14. The undersigned representatives of Norton on one hand, and the Owner on the other hand, represent and warrant that they are authorized to execute this Agreement on behalf of Norton and the Owner, respectively.

15. This Agreement shall be construed, governed and enforced in accordance with the laws of the State of North Carolina.

16. Neither party shall record this Agreement or any memorandum thereof.

*[signature lines follow on next page]*

**IN WITNESS WHEREOF**, the parties have executed this Agreement as of the dates noted below.

**WITNESS**

**YALE SECURITY INC. -  
NORTON DOOR CONTROLS DIVISION**

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

\_\_\_\_\_  
By: W. David Gray  
Its: General Manager  
Date: September \_\_\_\_, 2010

**WITNESS**

**UNION COUNTY**

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

\_\_\_\_\_  
By: Wes Baker  
Its: Interim County Manager  
Date: September \_\_\_\_, 2010

**FIGURE 1**

**PROPOSED LOCATION OF GROUNDWATER MONITORING WELL  
ON UNION COUNTY PROPERTY**

**Parcel ID**

09057017

**Owner Name**

UNION  
COUNTY

**Owner Mailing Address**

500 N MAIN ST  
MONROE  
NC, 28112



**Tax Information**

Deeds	1847 843	Sale 2 Amount	550000
Sale Amount	0	Sale 2 Date	01/18/2002
Sale Date	06/19/2002	Deeds 2	1739 015
Land Value	258700	Farm Deferral	0
Total Value	258700	Legal Desc 1	#1 UNION COUNTY PARKS & RECREATION OPCI-097
Acreage	12.8700	Legal Desc 2	
M Value	258700	Legal Desc 3	
Improved Value	0	Parcel Address	PRESSON RD

**Location Information**

Census Tract Acres		Municode	
Census Tract Number		Fire District	
Census Tract Population		County Zoning	CITY
Zoning Admin	Monroe	School	County

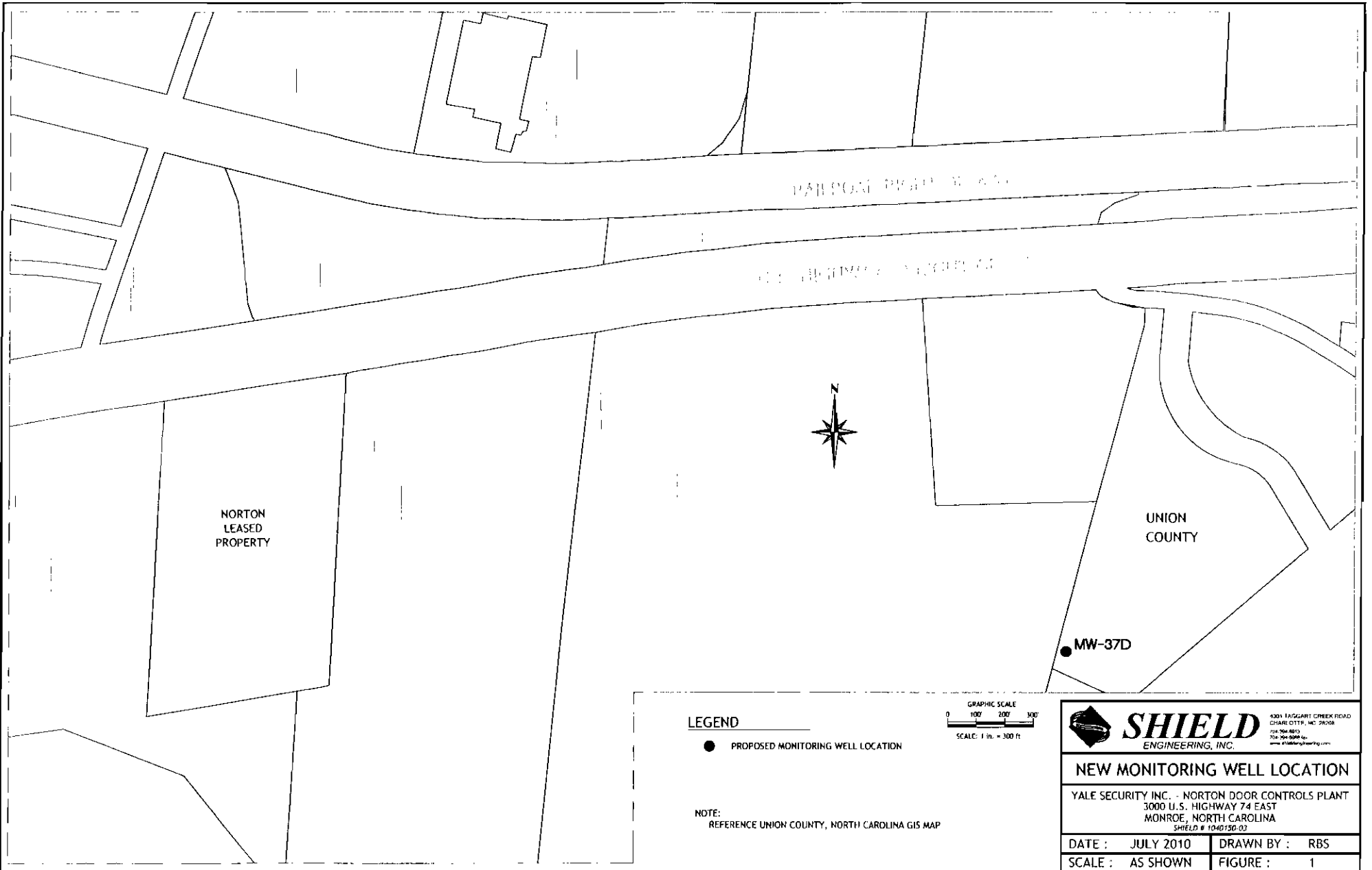
**Site/Land Information**

FEMA Panel	FEMA Zone
FEMA Map	
Soils	

**Appraisal Information**

Square Feet	Type
Half Baths	AC
Full Baths	Story
Year Built	Use
Heating	

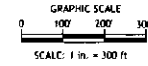
F:\PROJECTS\2004\1040-130-03 MONROE AMENDMENT 03\FIGURES\DATA GAPS\WORK PLAN APPENDIX 2 FIGURES\NEW MONITORING WELL LOCATION 3\10-1.DWG



**LEGEND**

- PROPOSED MONITORING WELL LOCATION

NOTE:  
REFERENCE UNION COUNTY, NORTH CAROLINA GIS MAP



**SHIELD**  
ENGINEERING, INC.

4301 FARGART CREEK ROAD  
CHARLOTTE, NC 28208  
704-584-8810  
704-584-8888  
www.shieldengineering.com

**NEW MONITORING WELL LOCATION**

YALE SECURITY INC. - NORTON DOOR CONTROLS PLANT  
3000 U.S. HIGHWAY 74 EAST  
MONROE, NORTH CAROLINA  
SHIELD # 1040130-03

DATE : JULY 2010	DRAWN BY : RBS
SCALE : AS SHOWN	FIGURE : 1



North Carolina Department of Environment and Natural Resources

Dexter R. Matthews, Director

Division of Waste Management

Michael F. Easley, Governor  
William G. Ross Jr., Secretary

August 12, 2008

Mr. Jeffrey Mereschuk  
Assa Abloy, Inc.  
110 Sargent Drive  
New Haven, CN 06511

Re: Executed REC Administrative Agreement  
Scovill Inc. (Currently Norton Door)  
Monroe, Union County, NC  
Site ID No. NCD000616516

Dear Mr. Mereschuk:

I have attached a copy of the executed Registered Environmental Consultant (REC) Administrative Agreement (AA) for the above referenced site. The effective date of the AA is August 12, 2008. By signing the AA, both the Remediator and the REC have acknowledged that the REC is fully accountable for complying with 15A NCAC 13C .0300 including the deadlines that are established upon execution of this AA and the standards of conduct for RECs in Section .0305(b). The first quarterly letter status report required by Section III.E of the AA is due October 15, 2008.

If you have any questions, please feel free to contact me.

Sincerely,

Kim T. Caulk  
REC Program  
Inactive Hazardous Sites Branch  
Superfund Section

Enclosure

cc: Ms. Abbie Baker (w/ enclosure)  
Mr. Tom Witner, Shield Engineering (w/ enclosure)

**NORTH CAROLINA DEPARTMENT OF ENVIRONMENT  
AND NATURAL RESOURCES  
DIVISION OF WASTE MANAGEMENT  
SUPERFUND SECTION**

IN RE: SCOVILL INC/SECURITY PRODUCTS  
(CURRENTLY NORTON DOOR  
CONTROLS DIVISION OF YALE SECURITY INC)  
NCD000616516  
MONROE, NORTH CAROLINA  
UNION COUNTY

ADMINISTRATIVE AGREEMENT  
FOR REGISTERED ENVIRONMENTAL  
CONSULTANT-DIRECTED ASSESSMENT  
AND REMEDIAL ACTION PURSUANT TO  
N.C.G.S. 130A-310.9(c) and  
15A NCAC 13C .0300.

DOCKET NUMBER 08-SF-243

**I. STATEMENT OF PURPOSE**

The purpose of this Administrative Agreement (Agreement) is to provide for implementation by Yale Security Inc. Norton Door Controls Plant Division (the Remediator) of a voluntary remedial action program pursuant to N.C.G.S. 130A-310.9(c) and 15A NCAC 13C .0300 at the site defined in Section II. A. of this Agreement.

**II. STIPULATIONS OF FACT**

- A. The "Site" is the property currently owned by Cal West Industrial Properties, LLC at 3000 Highway 74 East, Monroe, Union County, North Carolina and any additional area which has become contaminated as a result of hazardous substances or waste disposed or discharged at that property.
- B. The Site is an inactive hazardous substance or waste disposal site within the meaning of N.C.G.S. 130A-310(3).

**III. WORK TO BE PERFORMED**

- A. The Remediator shall conduct a voluntary remedial action at the Site in accordance with the provisions of N.C.G.S. 130A-310.9(c), 15A NCAC 13C .0300, and the "Registered Environmental Consultant Program Implementation Guidance" of the North Carolina Division of Waste Management (the Division). The voluntary remedial action shall include the remediation of any hazardous substances as defined in G.S. 130A-310(2) and any contaminants as defined in 15A NCAC 2L present at the Site.



- B. Within thirty-six (36) months after the execution of this Agreement, the Remediator shall complete a remedial investigation at the Site which complies with the provisions of 15A NCAC 13C .0300 including, but not limited to, .0302(l), .0302(k)-(p), .0306(c)-(h) and .0306(q). For any requirement that has already been met, the Remediator shall specify the location within the document(s) on file with the Superfund Section that show(s) that the requirement has been met. The remedial investigation shall not be considered complete until the Remediator has submitted a remedial investigation report and completion statement, both certified in accordance with .0306(b) by the REC and the Remediator.
- C. Within twenty-four (24) months of completion of the remedial investigation or within sixty (60) months after the execution of this Agreement, whichever is earlier, the Remediator shall begin operation of the remedial action system for groundwater at the Site in compliance with the provisions of 15A NCAC 13C .0300 including, but not limited to, .0302(f), .0302(k) - (p), .0306(c) - (d) and .0306(i) - (n). For any requirement that has already been met, the Remediator shall specify the location within the document(s) on file with the Superfund Section that show(s) that the requirement has been met. Operation of the remedial action system for groundwater shall be considered to have begun only upon the submission to the Division of the groundwater remedial action construction completion report, certified in accordance with .0306(b) by the REC and the Remediator, and upon commencement of the actual operation of the remedial system.
- D. Within ninety-six (96) months after the execution of this Agreement, the Remediator shall complete, for wastes, soils, surface water and sediments at the Site, a remedial action which complies with the provisions of 15A NCAC 13C .0300 including, but not limited to, .0302(f), .0302(k) - (p), .0306(c) - (d), .0306(i) - (n) and .0308. For any requirement that has already been met, the Remediator shall specify the location within the document(s) on file with the Superfund Section that show(s) that the requirement has been met. The remedial action for wastes, soils, surface water and sediments shall not be considered complete until the Remediator has submitted, for these media, a remedial action completion report and work phase completion statement, both certified in accordance with .0306(b) by the REC and the Remediator.
- E. The Remediator shall submit quarterly letter status reports on or before the 15<sup>th</sup> day of January, April, July and October of each year until such time as the REC has prepared and submitted certified completion statements for all contaminated media pursuant to 15A NCAC 13C .0306(b)(5)(D). Each quarterly status report must summarize, in one to two paragraphs, work performed since the last quarterly status report. These status reports must include a statement confirming work is progressing in a manner to achieve the mandatory work phase completion deadlines set out in 15A NCAC 13C .0302(h). These status reports must be certified in accordance with .0306(b) by the REC assigned to this project and the Remediator. A quarterly letter status report may be incorporated with another document such as a remedial

investigation work plan, a remedial investigation report, a remedial action plan, etc. if such other document is submitted at the time when a quarterly letter status report is due. Once the REC has prepared and submitted certified completion statements for all contaminated media pursuant to 15A NCAC 13C .0306(b)(5)(D), quarterly letter status reports under this paragraph shall be supplanted with the requirements of progress reporting of remedial action implementation pursuant to 15A NCAC 13C .0306(o).

- F. If there is groundwater contamination at the Site, the Remediator shall install and monitor sentinel groundwater monitoring wells such that groundwater monitoring data obtained from the monitoring activities will accurately monitor the migration of any contamination at the Site toward any drinking water or production water well that is known to be present within a one-thousand (1000) feet of the detectible perimeter of the groundwater contamination at the Site. The Remediator shall notify the Division within twenty-four (24) hours of the time when the Remediator or the Remediator's REC discovers that a sentinel groundwater monitoring well has detectable concentrations of any contamination.
- G. After completing the inventory of all identifiable wells used as sources of potable water pursuant to 15A NCAC 13C .0306(g)(6), if any new drinking water wells are installed within one-thousand five-hundred (1500) feet of the Site property boundaries, the Remediator and/or the Remediator's REC shall notify the Division within twenty-four (24) hours of the time when the Remediator and/or the Remediator's REC discovers or otherwise finds out about such wells during the normal course of work for the project.
- H. If hazardous substances as defined in G.S. 130A-310(2) or other contaminants as defined in 15A NCAC 2L present at the Site have affected any drinking water wells, the Remediator shall, within a time period established by the Division, provide an alternate drinking water source for users of those wells.
- I. The Remediator shall ensure that remedial action progress reports are prepared in accordance with 15A NCAC 13C .0306(o).

#### IV. ADDITIONAL PROVISIONS

- A. All work performed pursuant to this Agreement shall be under the direction and supervision of the Division-approved REC specified in Attachment A, in accordance with 15A NCAC 13C .0302(f).
- B. All work plans, reports, completion statements and project schedules prepared pursuant to this Agreement shall be certified by a representative of the Remediator in accordance with 15A NCAC 13C .0306(a) and .0306(b)(2).
- C. In the event that the REC specified in Attachment A ceases to serve in that capacity at the Site or is disqualified as an REC by the Division, the Remediator's voluntary

remedial action status shall be subject to revocation if the Remediator fails to propose a replacement REC within sixty (60) days, in accordance with 15A NCAC 13C .0302(n).

- D. The Remediator shall pay an annual administration fee to the Division, in accordance with 15A NCAC 13C .0307(c), to help offset the costs of the Division's audits of voluntary remedial actions.
- E. The Remediator is responsible for obtaining all necessary registrations, permits and approvals in accordance with 15A NCAC 13C .0306(m)(3).
- F. The Remediator and its REC shall preserve, for at least six (6) years after termination of this Agreement, all records and documents in its possession or in the possession of its divisions, employees, agents, accountants, contractors or attorneys which relate in any way to this Agreement. After this six (6)-year period, the Remediator shall notify the Division at least thirty (30) days prior to the destruction of any such records and documents. The Remediator shall comply with any written request by the Division, prior to the day for which destruction is scheduled, to continue to preserve such records and documents or to provide them to the Division. The Remediator may assert any available right to confidentiality regarding particular records and documents, other than analytical data. Pursuant to 15A NCAC 13C .0302(m) the REC must maintain all such records and documents beyond the six (6) year period unless it receives Division approval for destruction.
- G. In the event that the Agreement is terminated, the Remediator and/or REC shall, within thirty (30) days, submit to the Division a summary report that includes all information and data that has been collected pursuant to 15A NCAC 13C .0306(h), (n), (o), or (p). Certification of the report shall be provided in accordance with 15A NCAC 13 C .0306(b)(1) and (2).

The effective date of this Agreement shall be the date on which it is executed by Jack R. Butler.

Date Executed: Aug. 12, 2008

By: Jack R. Butler  
Jack R. Butler, P.E.  
Chief, Superfund Section  
Division of Waste Management  
North Carolina Department of Environment  
and Natural Resources

By: Jeffrey A. Mareschuk  
(Signature of Party Authorized to Bind Remediator)

Jeffrey A. Mareschuk, Secretary  
(Typed or Printed Name of Signatory, Title)

Norton Controls Division of Yale Security Inc.  
(Typed or Printed Name of Company)

North Carolina Department of Environment  
and Natural Resources  
Division of Waste Management  
Superfund Section

Attachment A to  
Administrative Agreement  
for Registered Environmental  
Consultant-Directed Assessment  
and Remedial Action Pursuant to  
N.C.G.S. 130A-310.9(c) and  
15A NCAC 13C .0300.

Docket No. 08-SF-243

We hereby certify that the Remediator has retained the undersigned Division-approved Registered Environmental Consultant (REC) to implement and oversee a voluntary remedial action at the Site pursuant to N.C.G.S. 130A-310.9(c) and 15A NCAC 13C .0300, and that the undersigned Division-approved Registered Site Manager (RSM) shall serve as RSM for the voluntary remedial action.

The undersigned Remediator and REC agree to indemnify and save and hold harmless the State of North Carolina and its agencies, departments, officials, agents, employees, contractors and representatives, from any and all claims or causes of action arising from or on account of acts or omissions of the Remediator or REC or their officers, employees, receivers, trustees, agents or assigns in carrying out actions required pursuant to the Agreement which incorporates this Attachment A (this Agreement). Neither the State of North Carolina nor any agency or representative thereof shall be held to be a party to any contract involving the Remediator relating to the Site excluding, however, this Agreement.

The Remediator affirms that the REC has been provided a full and complete copy of this Agreement prior to signature. The undersigned REC representatives affirm that they have received, read, and intend to comply with the provisions of this Agreement. Both the Remediator and REC acknowledge that the REC is fully accountable for complying with 15A NCAC 13C .0300 including the deadlines established upon execution of this Agreement.

**Remediator:**

Jeffrey A. Maruschuk 8/6/08  
(Signature Party Authorized to Bind Remediator) (Date)

Jeffrey A. Maruschuk, Secretary  
(Typed or Printed Name of Signatory, Title)

Norton Controls Division of Yale Security Inc.  
(Typed or Printed Name of Company)

**Registered Environmental Consultant:**

Greg D. Icenhour, Vice President 8/3/08  
(Signature of REC Owner, Partner, or Corporate Officer) (Date)

GREG D. ICENHOUR, VICE PRESIDENT  
(Typed or Printed Name of Signatory, Title)

SHIELD ENGINEERING, INC.  
(Typed or Printed Name of REC Firm)

**Registered Site Manager:**

Thomas W. Wytner 8/8/08  
(RSM Signature) (Date)

Thomas W. Wytner  
(Typed or Printed Name of RSM)

**UNION COUNTY  
BOARD OF COMMISSIONERS**

**ACTION AGENDA ITEM ABSTRACT**

**Meeting Date: July 20, 2009**

**Action Agenda Item No.** 5/9

(Central Admin. use only)

**SUBJECT:** FY2011 County Capital

**DEPARTMENT:** Finance

**PUBLIC HEARING:** No

**ATTACHMENT(S):**

Capital Project Ordinance Amendment 136

**INFORMATION CONTACT:**

David Cannon

**TELEPHONE NUMBERS:**

704-283-3631

**DEPARTMENT'S RECOMMENDED ACTION:**

Adopt Capital Project Ordinance Number 136.

**BACKGROUND:**

The FY2010-2011 Adopted Budget Ordinance contains approximately \$4.1 million of County capital comprised of CIP projects (\$3.3MM) and recurring/maintenance capital (\$887K). The CIP projects are the DSS Business Process Automation System project (\$1.3MM), the first year of the I.T. Infrastructure project (\$774K), replacement of the remaining portion of the jail facility roof (\$606K), jail control systems replacement (\$468K), and the Inspections Mobile Office project (\$123K).

The recurring/maintenance projects are mainly comprised of law enforcement replacement vehicles and associated equipment such as radars, cameras, mobile display terminals and animal control vehicles (\$809K), as well as replacement rooftop HVAC units at the jail facility (\$78K).

Virtually all of the recurring capital appropriation for FY2011 is for law enforcement.

Historically, the 'pay-go' recurring capital has been budgeted in the range of \$3 million.

The FY2010-2011 Adopted Budget reflected the elimination of funding for the pay go capital and the use of capital reserves for the second year.

This capital project ordinance reflects the use of capital reserves for these 'pay go' law enforcement items.

The status of the capital reserve budget is reflected below:

29,912,657 Transferred from General Fund

(200,000) Parks projects  
(1,432,072) SPCC projects  
(8,131,297) Government Facility Renovations projects  
(398,321) CAD/RMS/EOC-911 projects  
(4,385,283) Jail Expansion project  
(399,940) VFD Portables/Land project  
(1,115,895) FY10 Law Enforcement Capital  
(774,000) FY11 CIP - IT Infrastructure  
(467,675) FY11 CIP - Jail Control Systems  
(605,727) FY11 CIP - Jail Roof Replacement  
(123,400) FY11 CIP - Inspections Mobile Office  
(1,280,802) FY11 CIP - DSS Bus. Process Autom. Sys.  
(886,747) FY11 Law Enforcement Capital  
(20,201,160)

(3,483,000) Transferred & Appropriated - Library, SW Regional  
(1,295,665) Appropriated - Law Enforcement Firearms Range  
(564,950) Appropriated - EOC-911  
(4,367,882) Unallocated  
(9,711,497)

**FINANCIAL IMPACT:**

No impact on operating budget for FY2011. Use of capital reserves.

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**Legal Dept. Comments if applicable:**

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**Finance Dept. Comments if applicable:**

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**Manager Recommendation:**

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**CAPITAL PROJECT ORDINANCE AMENDMENT**

BUDGET General Capital Project Ordinance Fund

REQUESTED BY David Cannon

FISCAL YEAR FY 2010-11

DATE September 20, 2010

**PROJECT SOURCES**

Source Description and Code	Project To Date	Requested Amendment	Revised Project
IFT From General Fund	-	4,138,351	4,138,351
	-	4,138,351	4,138,351

**PROJECT USES**

Project Description and Code	Project To Date	Requested Amendment	Revised Project
IT Infrastructure	-	774,000	774,000
Jail Control Systems	-	467,675	467,675
Jail Roof Replacement	-	605,727	605,727
Inspections Mobile Office	-	123,400	123,400
DSS Bus. Process Autom. Sys.	-	1,280,802	1,280,802
Sheriff's Office Vehicles	-	808,747	808,747
Jail HVAC	-	78,000	78,000
	-	4,138,351	4,138,351

EXPLANATION: Appropriate funds from unallocated funds previously transferred from the General Fund to the General CPO Fund for IT Infrastructure, Jail Control Systems, Jail Roof Replacement, Inspections Mobile Office, DSS Business Process Automation System, Sheriff's Office Vehicles, and Jail HVAC. Projects were approved by the BOCC on July 22, 2010 in FY2010-2011 Adopted Budget Ordinance, Section X., General Capital Project Ordinance Fund. At the completion of each of these capital projects, all excess funds will be remitted to the "unallocated funds previously transferred from the General Fund" account and these Capital Project Ordinance projects will be closed.

DATE: \_\_\_\_\_

APPROVED BY: \_\_\_\_\_  
Bd of Comm/County Manager  
Lynn West/Clerk to the Board

**FOR FINANCE POSTING PURPOSES ONLY**

**PROJECT SOURCES**

Source Description and Code	Project To Date	Requested Amendment	Revised Project
IFT From General Fund 40442100-4010-PR048	-	774,000	774,000
IFT From General Fund 40443500-4010-PR050	-	123,400	123,400
IFT From General Fund 40453101-4010-PR051	-	1,280,802	1,280,802
IFT From General Fund 40443128-4010-PR052	-	605,727	605,727
IFT From General Fund 40443128-4010-PR053	-	467,675	467,675
IFT From General Fund 40443128-4010-PR049 (FY2011 Capital Outlay)	-	78,000	78,000
IFT From General Fund 40443130-4010-PR049 (FY2011 Capital Outlay)	-	747,955	747,955
IFT From General Fund 40443138-4010-PR049 (FY2011 Capital Outlay)	-	60,792	60,792
	-	4,138,351	4,138,351

**PROJECT USES**

Project Description and Code	Project To Date	Requested Amendment	Revised Project
IT Infrastructure 40542100-5510-PR048	-	774,000	774,000
Inspections Mobile Office 40543500-5580-PR050	-	123,400	123,400
DSS Bus. Process Autom. Sys. 40553101-5510-PR051	-	1,280,802	1,280,802
Jail Roof Replacement 40543128-5580-PR052	-	605,727	605,727
Jail Control Systems 40543128-5580-PR053	-	467,675	467,675
Jail HVAC 40543128-5580-PR049 (FY2011 Capital Outlay)	-	78,000	78,000
Sheriff's Office Vehicles-Patrol 40543130-5540-PR049 (FY2011 Capital Outlay)	-	498,493	498,493
Sheriff's Office Vehicles Equip-Patrol 40543130-5550-PR049 (FY2011 Capital Outlay)	-	249,462	249,462
Sheriff's Office Vehicles-Animal Control 40543138-5540-PR049 (FY2011 Capital Outlay)	-	47,382	47,382
Sheriff's Office Vehicles Equip.-Animal Control 40543138-5550-PR049 (FY2011 Capital Outlay)	-	13,410	13,410
	-	4,138,351	4,138,351

Prepared By aar  
Posted By \_\_\_\_\_  
Date \_\_\_\_\_



**UNION COUNTY  
BOARD OF COMMISSIONERS**

**ACTION AGENDA ITEM ABSTRACT**

**Meeting Date: September 20, 2010**

**Action Agenda Item No.** 5/10

(Central Admin. use only)

**SUBJECT:** Government Center Phase VII Renovations - Bid Award  
Recommendation

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**DEPARTMENT:** General Services                      **PUBLIC HEARING:** No

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**ATTACHMENT(S):**  
Architect's Recommendation  
Bid Tabulation

**INFORMATION CONTACT:**  
Barry Wyatt

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**TELEPHONE NUMBERS:**  
704-283-3868

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**DEPARTMENT'S RECOMMENDED ACTION:**

1. Accept Bids.
2. Award bid to the lowest responsive, responsible bidder, Ponder & Company, Inc. in the amount of \$1,287,000.
3. Authorize the Interim County Manager to approve contract documents.

**BACKGROUND:** Phase VII covers the renovation of the ground and sixth floors, refurbishing of an existing service elevator and re-covering of elevator doors and frames on six floors, and a cosmetic remodel of two existing stairwells. The space being renovated will be occupied by Inspections, Environmental Health, General Services, Veteran's Services and the Planning Department.

The Request for Bids was advertised, posted on the County's website, and made available at the offices of Associated General Contractors, Hispanic Contractors Association, Dodge Plan Room, Metrolina Minority Contractors Resource Center, and Reed Construction Data. Fourteen bids were received on September 14 and ranged from the low of \$1,287,000.00 to the high of \$1,660,000.00.

**FINANCIAL IMPACT:** The Board approved funding for this and future renovation phases in the 2006 CIP whose funding was authorized in the FY07 adopted budget. The low bid of \$1,287,000 is \$661,000 or 34% less than the \$1.948 million budgeted for Phase VII.

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**Legal Dept. Comments if applicable:** \_\_\_\_\_

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**Finance Dept. Comments if applicable:** \_\_\_\_\_

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**Manager Recommendation:** \_\_\_\_\_

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RAMSAY, BURGIN, SMITH, ARCHITECTS, INC.

ARCHITECTURE PLANNING DEVELOPING

September 15, 2010

Mr. Barry Wyatt, General Services Manager  
Union County  
500 North Main Street, Suite 8  
Monroe, NC 28112

Subject: UNION COUNTY GOVERNMENT CENTER  
OFFICE RENOVATION PHASE VII

Dear Barry:

Enclosed is a certified bid tabulation for bids received on September 14, 2010 for Phase VII of the Union County Government Center Office Renovation. We are prepared to recommend to Union County that they award the contract for construction to Ponder & Company, Inc. for the base bid amount of **\$1,287,000**.

These bids were below our estimate of \$1,948,000, which reflects the current buyer's market in the construction industry, and we feel is good news for the County. We recommend that you review Ponder's financial statement to verify that your requirements are met.

RBSA looks forward to continuing working with you on this project. If you have questions, please feel free to call.

Sincerely,

RAMSAY BURGIN SMITH ARCHITECTS, INC.



William R. Burgin, AIA

WRB/pgm

Enc.

**BID TABULATION**  
**Union County Government Center**  
**Office Renovation Phase VII**  
September 14, 2010

<b>General Contractors</b>	<b>License #</b>	<b>Addenda Received</b>	<b>MBE</b>	<b>Bid Bond</b>	<b>Position</b>	<b>BASE BID</b>
Carpenter Construction Co., Inc.	35725	4	X	X	3	\$1,344,337.00
Fabco Construction, Inc.	42058	4	X	X	13	\$1,590,000.00
Gleeson Snyder Constructors	67680	4	X	X	10	\$1,460,000.00
Godfrey Construction Co., Inc.						
Hamlett Associates, Inc.	9628	4	X	X	11	\$1,503,906.00
Holden Building Co., Inc.	68119	4	X	X	2	\$1,314,000.00
Hostetter & Keach, Inc.	33428	4	X	X	12	\$1,515,800.00
Ike's Construction, Inc.	8037	4	X	X	6	\$1,385,000.00
Liles Construction Co., Inc.	26158	4	X	X	8	\$1,436,500.00
Little Mountain Builders						
Miles Builders, Inc.						
Morland Construction	68528	4	X	X	5	\$1,379,000.00
Murray Construction Co.	30655	4	X	X	9	\$1,456,100.00
Ponder & Company, Inc.	38006	4	X	X	1	\$1,287,000.00
Price & Hill, Inc.	6415	4	X	X	4	\$1,369,000.00
Sorensen Gross, Inc.	19240	4	X	X	7	\$1,413,200.00
Spectra Builders, Inc.	45325	4	X	X	14	\$1,660,000.00

I certify that the above is a true and accurate tabulation of the bids received at the above referenced dates.

**Ramsay Burgin Smith ARCHITECTS, Inc.**

*William [Signature]*  
Signature

**UNION COUNTY  
BOARD OF COMMISSIONERS**

**ACTION AGENDA ITEM ABSTRACT**

**Meeting Date: March 15, 2010**

**Action Agenda Item No.** 511

(Central Admin. use only)

**SUBJECT:** Interlocal Agreement with the City of Monroe for Veterans Day Event

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**DEPARTMENT:** Veterans Services

**PUBLIC HEARING:** No

**ATTACHMENT(S):**

**INFORMATION CONTACT:**

David Cannon

Michelle Marcano

**TELEPHONE NUMBERS:**

704-283-3631

704-283-3711

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**DEPARTMENT'S RECOMMENDED ACTION:** Approval of Interlocal Agreement with the City of Monroe for the Veterans Day Event.

**BACKGROUND:** The County has contributed to the Monroe Veterans Day event over the past two years (\$40,000 in FY 2009 and \$36,000 in FY 2010). The Board of Commissioners budgeted \$36,000 for FY 2011, and the agreement will authorize transfer of these funds to the City. In addition, the City has asked that Environmental Health waive the fees for the Mass Gathering permit. The County policy is not to waive fees so the permit fee of \$375 will be paid from the \$36,000 contribution to the City.

**FINANCIAL IMPACT:** \$36,000 budgeted in FY2011 for Veterans Day event.

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**Legal Dept. Comments if applicable:** \_\_\_\_\_

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**Finance Dept. Comments if applicable:** \_\_\_\_\_

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**Manager Recommendation:**

STATE OF NORTH CAROLINA

INTERLOCAL AGREEMENT

COUNTY OF UNION

THIS AGREEMENT is made and entered into as of the \_\_\_\_ day of September, 2010, by and between UNION COUNTY, a political subdivision of the State of North Carolina, hereinafter referred to as "Union," and the CITY OF MONROE, a North Carolina municipal corporation, hereinafter referred to as "Monroe."

WITNESSETH:

WHEREAS, Monroe is hosting a two-day air show involving aircraft and pyrotechnics (hereinafter referred to as "the Air Show") at the Charlotte-Monroe Executive Airport on November \_\_\_\_, 2010; and

WHEREAS, Monroe is providing financial and in-kind contributions covering the majority of the Air Show's expenses as host of the Air Show; and

WHEREAS, Union desires to provide financial assistance to Monroe in the amount of \$36,000 to help pay for the Air Show, thus providing recreational opportunities to the citizens of Union County pursuant to G.S. 153A-444; and

WHEREAS, Article 20, Chapter 160A of North Carolina General Statutes authorizes units of local government to jointly exercise powers and functions through interlocal cooperation.

NOW, THEREFORE, for and in consideration of the premises and the mutual covenants of the parties as set forth herein, Monroe and Union agree as follows:

1. **Purpose.** The purpose of this agreement is for Union to provide financial assistance to Monroe, and for Monroe, as host, to coordinate, procure, and provide all services necessary for conducting the Air Show.
2. **Duration.** This agreement shall commence as of the date shown above and continue until the Air Show has been performed and all amounts owed by Union pursuant to this agreement have been paid. The provisions of Section 6 regarding indemnification shall survive termination or expiration of this Agreement.
3. **Personnel.** In addition to the provision of personnel by Monroe to support its in-kind contribution to the Air Show, Monroe shall have sole responsibility for selecting and engaging the services of one or more service providers to perform the Air Show.
4. **Financing.** Union shall pay to Monroe \$36,000 within thirty (30) days of the effective date of this Agreement. Monroe shall use the funding provided by Union solely for goods and services directly related to conducting the Air Show.

5. **Advertising.** Monroe agrees to prominently list Union as a financial supporter of the Air Show in all advertisements, press releases, and promotional material regarding the Air Show produced after the date of this Agreement.
6. **Indemnification.** To the extent permitted by applicable law, Monroe agrees to protect, defend, indemnify and hold Union, its officers, employees and agents free and harmless from and against any and all losses, penalties, damages, settlements, costs, charges, professional fees or other expenses or liabilities of every kind and character arising out of or relating to any and all claims, liens, demands, obligations, actions, proceedings, or causes of action of every kind in connection with or arising out of this agreement or the performance hereof that are due to the negligence or intentional acts of Monroe, its officers, employees, subcontractors or agents. Monroe further agrees to investigate, handle, respond to, provide defense for, and defend the same at its sole expense and agrees to bear all other costs and expenses related thereto.
7. **Amendment.** This agreement may be supplemented, amended or revised only in writing by agreement of the parties.
8. **Termination.** If at any time Monroe cancels the Air Show in its entirety, Monroe shall refund to Union the amount stated in Section 4.
9. **Compliance with Applicable Law.** Monroe agrees to abide by and comply with all Federal, State and local laws, regulations and directives regarding the use and expenditure of the funds referred to herein.

This Agreement is executed in duplicate originals as of the day and year first above stated by authority duly granted by the Monroe City Council and the Union County Board of Commissioners.

Attest: City of Monroe

\_\_\_\_\_  
 City Clerk  
 [SEAL]

\_\_\_\_\_  
 City Manager

Attest: Union County

\_\_\_\_\_  
 Clerk to the Board of Commissioner  
 [SEAL]

\_\_\_\_\_  
 County Manager

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

\_\_\_\_\_  
 Kai Nelson, Union County

\_\_\_\_\_  
 Director of Finance, City of Monroe

Approved as to form: \_\_\_\_\_