

ACTIONS
Board of Supervisors Meeting of April 1, 2015

April 6, 2015

<u>AGENDA ITEM/ACTION</u>	<u>ASSIGNMENT</u>	<u>PODCAST</u>
<p>1. Call to Order.</p> <ul style="list-style-type: none"> Meeting was called to order at 1:03 p.m., by the Chair, Ms. Dittmar. All BOS members were present. Also present were Tom Foley, Larry Davis, Ella Jordan and Travis Morris. 		Listen
<p>4. Adoption of Final Agenda.</p> <ul style="list-style-type: none"> By a vote of 6:0, the Board ADOPTED the final agenda. 		
<p>5. Brief Announcements by Board Members.</p> <p><u>Ann Mallek:</u></p> <ul style="list-style-type: none"> Congratulated Ronnie Morris's family, Fox Mountain Farm, awarded the 2014 Thomas Jefferson Soil and Water Conservation District Clean Water Farm Award. Requested discussion on strengthening regulations pertaining to brush fires. Requested future discussion on requirements for construction debris burning in the growth areas. <p><u>Jane Dittmar:</u></p> <ul style="list-style-type: none"> Highlighted the County's Improved Insurance Service Office (ISO) rating effective April 1 to a Class 3/3Y. Highlighted Governor McAuliffe's attendance at the Chamber of Commerce annual breakfast and his signing of bill regarding the business property tax. Highlighted Viticulture and Enology program celebration of ten years at Mount Alto. Passed around a copy of a booklet produced by Monticello about Jefferson's legacy that will be part of an exhibit in China. 		
<p>6. Proclamations and Recognitions:</p> <p>a. Introduction of Dr. Denise Bonds, Health Director, Thomas Jefferson Health District.</p> <ul style="list-style-type: none"> HELD. <p>b. Introduction of Faith McClintic, Director of Economic Development.</p> <ul style="list-style-type: none"> HELD. <p>c. Resolution Proclaiming April, 2015 as National County Government Month in Albemarle County.</p> <ul style="list-style-type: none"> ADOPTED by a vote of 6:0. 	(Attachment 1)	
<p>7. From the Public: Matters Not Listed for Public Hearing on the Agenda.</p> <ul style="list-style-type: none"> <u>Doug Arrington</u> spoke about the proposed budget and the Comp Plan. <u>Neil Williamson</u>, President of Free Enterprise Forum, commented on the proposed increase in Community Development fees. 		
<p>8.2 FY 2015 Budget Amendment and Appropriations.</p> <ul style="list-style-type: none"> APPROVED appropriations #2015087, #2015088, #2015089, #2015090, and #2015091 for general government and school 	<u>Clerk:</u> Notify OMB, Finance and appropriate individuals.	Listen

	division programs and projects.		
8.3	Acquisition of Conservation Easements (ACE) Ranking Order for FY14-15 Applicant Class. <ul style="list-style-type: none"> • APPROVED the final ranking order for the FY14-15 applicant pool as recommended; and • AUTHORIZED staff to order appraisals for the Sweeney, Clark, and Dollard properties. 	<u>Clerk:</u> Proceed as approved.	
8.4	Traffic Calming in Fontana Subdivision. <ul style="list-style-type: none"> • ADOPTED Resolution requesting that VDOT install traffic calming measures on Fontana Drive and that VDOT install and maintain temporary traffic calming measures on Verona Drive until such time that a sidewalk is constructed along Verona Drive. 	<u>Jack Kelsey:</u> Proceed as approved. (Attachment 2)	Listen
9.	Stagnant Water Ordinance. <ul style="list-style-type: none"> • By a vote of 6:0, SET public hearing on proposed Nuisance Ordinance for May 6, 2015. 	<u>Clerk:</u> Advertise public hearing.	Listen
10.	Work Session/Action: Community Development Fees. <ul style="list-style-type: none"> • SUPPORTED staff's recommendation to hold roundtable on revising fees prior to hold public hearings. • SUPPORTED staff's recommendation to prepare ordinance amendment that includes 7.5% fee increase for Building Regulations, Subdivision and Zoning Ordinances with an effective date no earlier than July 1, 2015 or date of adoption. • SUPPORTED staff's recommendation to advertise Building Regulations ordinance amendment for Board public hearing when ready. • By a vote of 5:1(Boyd), ADOPTED Resolution of Intent to amend Subdivision Ordinance fees. • By a vote of 5:1(Boyd), ADOPTED Resolution of Intent to amend Zoning Ordinance fees. 	<u>Clerk:</u> Advertise when ready to come back to Board. Forward Resolutions of Intent to Planning Department to schedule public hearing. (Attachments 3 and 4)	Listen
11.	Work Session: Transportation Priority Setting. <ul style="list-style-type: none"> • HELD. 		Listen
	Recess. Board recessed at 3:20 p.m., and reconvened at 3:35 p.m.		
12.	Photosafe Program. <ul style="list-style-type: none"> • HELD discussion. • Mr. Sheffield asked the split of revenue that goes to the County and to Redflex. 	<u>County Executive:</u> Provide information.	Listen
13.	Board-to-Board, April 2015, <i>A monthly report from the Albemarle County School Board to the Albemarle County Board of Supervisors.</i> <ul style="list-style-type: none"> • RECEIVED. • Recognized Dr. Pam Moran as Region 5's Superintendent of the Year. • Recognized Vince Scheivert, National Technology Leadership Award. 		Listen
14.	Route 29 Solutions Update. <ul style="list-style-type: none"> • RECEIVED. 		
15.	Closed Meeting. <ul style="list-style-type: none"> • At 4:35 p.m., the Board went into Closed Meeting pursuant to Section 2.2-3711(A) of the Code of Virginia under Subsection (1) to 		Listen

	consider appointments to boards, committees, and commissions in which there are pending vacancies or requests for reappointments.		
16.	<p>Certified Closed Meeting.</p> <ul style="list-style-type: none"> At 6:06 p.m., the Board reconvened into open meeting and certified the closed meeting. 		
17.	<p>Boards and Commissions: Appointments.</p> <ul style="list-style-type: none"> REAPPOINTED Ms. Jennifer Lafferty More, Ms. Mary Gallo, Mr. Jon McKeon, Ms. Beth Bassett, Mr. John Savage and Ms. Alice (Lisa) Marshall to the Crozet Community Advisory Committee with said terms to expire March 31, 2017. APPOINTED Ms. Alice Lucan to the Crozet Community Advisory Committee with said term to expire March 31, 2017. REAPPOINTED Mr. Richard Lindsay and Mr. Robert Gest III to the Jefferson Area Board for Aging (JABA) with said terms expire March 31, 2017. APPOINTED Ms. Susan Friedman to the Jefferson Area Board for Aging (JABA) with said term to expire March 31, 2017. REAPPOINTED Mr. Richard Wagaman, Ms. Carole Milks, Mr. Dennis Odinov, Ms. Paula Pagonakis and Ms. Linda Porterfield to the Village of Rivanna Community Advisory Committee with said terms to expire March 31, 2017. 	<p><u>Clerk:</u> Prepare appointment/reappointment letters, update Boards and Commissions book, webpage, and notify appropriate persons.</p>	<p>Listen</p>
18.	<p>Recognition:</p> <p>a. CustomInk as one of the 2015 <i>Fortune</i> 100 Best Companies to Work For.</p> <ul style="list-style-type: none"> Chair recognized DeLois Wood, Team Services Manager and Don Churms, General Manager of In-House Productions, of CustomInk. 		<p>Listen</p>
19.	<p>From the Public: Matters Not Listed for Public Hearing on the Agenda.</p> <ul style="list-style-type: none"> There were none. 		<p>Listen</p>
20.	<p>Public Hearing: VPSA Bonds. To receive comments on proposed issuance of general obligation school bonds of Albemarle County in the estimated maximum principal amount of \$10,000,000. The purpose of the proposed bonds is to finance capital projects for public schools.</p> <p>a. Final Decision on Financing Options.</p> <ul style="list-style-type: none"> By a vote of 6:0, ADOPTED resolution. 	<p><u>Clerk:</u> Forward copy of signed resolution to EDA and County Attorney's office. (Attachment 5)</p>	<p>Listen</p>
21.	<p>To receive comments on Proposed Operating and Capital Budgets for FY 2015/2016, and Calendar Year 2015 Tax Rates.</p> <ul style="list-style-type: none"> RECEIVED. 		<p>Listen</p>
22.	<p>From the Board: Committee Reports and Matters Not Listed on the Agenda.</p> <p><u>Jane Dittmar:</u></p> <ul style="list-style-type: none"> Discussed agenda topics for annual meeting with the Planning Commission. Reminded Supervisors to mark their calendars for September 25 for the Board's Retreat. <p><u>Diantha McKeel:</u></p> <ul style="list-style-type: none"> Thanked staff for their help with her Town Hall 	<p><u>Clerk:</u> Schedule date for annual meeting.</p>	<p>Listen</p>

<p>meetings and all materials composed.</p> <ul style="list-style-type: none"> • Gave Supervisors Dittmar and Palmer a handout entitled “New Market Tax Program” that could benefit residents of southern Albemarle. • Commented that she appreciated the letter that the Chair wrote to the Chamber and the North Charlottesville Business Council, and said that it will be important to hear their response. <p><u>Liz Palmer:</u></p> <ul style="list-style-type: none"> • Questioned the County’s goal of dedicating a minimum 3% of the annual General Fund revenues allocated to the County’s operating budget to the Capital Improvements Program each year. 		
<p>23. From the County Executive: Report on Matters Not Listed on the Agenda.</p> <p><u>Tom Foley:</u></p> <ul style="list-style-type: none"> • Provided follow-up on the County’s legislative approach on equal taxing authority. • Discussed the recently adopted Business Personal Property Tax bill that was passed by the General Assembly and how it will proceed. 		
<p>24. Adjourn to April 7, 2015, 5:00 p.m., Room 241.</p> <ul style="list-style-type: none"> • The meeting was adjourned at 8:16 p.m. 		

ewj/tom

- Attachment 1 – Resolution Proclaiming April, 2015 as National County Government Month in Albemarle County
- Attachment 2 – Resolution – Traffic Calming in Fontana Subdivision
- Attachment 3 – Resolution of Intent to amend Subdivision Ordinance fees
- Attachment 4 – Resolution of Intent to amend Zoning Ordinance fees
- Attachment 5 – Resolution Approving a Place of Lease Financing with the Economic Development Authority

Proclamation

**National County Government Month - April 2015
"Counties Moving America Forward: The Keys are Transportation and Infrastructure"**

WHEREAS, the nation's 3,069 counties play a critical role in maintaining a healthy, vibrant, safe, and economically competitive America, and America's counties provide transportation and infrastructure services that play a key role in everything from residents' daily commutes to shipping goods around the world; and

WHEREAS, Albemarle County takes pride in fulfilling its responsibility to protect and enhance its community by building infrastructure, educating citizens, providing health care, administering justice, maintaining community safety, running elections, protecting the environment, keeping records and much more; and

WHEREAS, Albemarle County consistently ranks as an outstanding location to live, work and play based on high quality services, sound fiscal practices and an engaged and energetic citizenry, demonstrating the unique strength of local government to positively impact residents; and

WHEREAS, Albemarle County's local government and school employees are dedicated to providing quality services and critical capital projects to the County's residents that strengthen and support our community;

NOW, THEREFORE, BE IT RESOLVED, that the Albemarle County Board of Supervisors, does hereby proclaim April 2015 as National County Government Month and encourage all County officials, employees, schools and residents to participate in county government celebration activities.

Signed and sealed this 1st day of April, 2015.

**RESOLUTION TO REQUEST THE VIRGINIA DEPARTMENT OF TRANSPORTATION
TO INSTALL ADDITIONAL TRAFFIC CALMING MEASURES IN FONTANA SUBDIVISION**

WHEREAS, the residents of the Fontana Subdivision have expressed concerns about speeding and pedestrian safety in the subdivision since 2006; and

WHEREAS, the Virginia Department of Transportation (VDOT) and the Albemarle County Police Department have conducted multiple speed studies on Fontana Drive (Rte 1765), Verona Drive (Rte 1771) and Olympia Drive (Rte 1770), which demonstrated that Fontana Drive meets the criteria for traffic calming per VDOT's policy; and

WHEREAS, staff from VDOT, the Office of Facilities Development, and the Police Department have acknowledged that the traffic and pedestrian conflicts experienced by the Fontana Subdivision residents have been the result of vehicle speed and the lack of pedestrian facilities along the streets; and

WHEREAS, on April 9, 2014, the Albemarle County Board of Supervisors adopted a Resolution to request an additional maximum \$200 fine for speeding in the subdivision; and

WHEREAS, VDOT and the County have installed measures and conducted enforcement activities to address the neighborhood concerns, but these measures have been ineffective at reducing vehicle speeds and the comfort level of walking and biking residents who must share the road; and

WHEREAS, the Board of Supervisors finds that a speeding problem continues to exist on Fontana Drive (Rte 1765) and Verona Drive (Rte 1771), and that it continues to create a potential hazard for pedestrians and residents in the Fontana Subdivision; and

WHEREAS, VDOT has recommended that additional traffic calming measures be installed at strategic locations along Fontana Drive, and that temporary traffic calming measures be installed and maintained at strategic locations along Verona Drive until such time that a sidewalk is constructed along Verona Drive.

NOW, THEREFORE, BE IT RESOLVED that the Albemarle County Board of Supervisors hereby requests that the Virginia Department of Transportation install traffic calming measures on Fontana Drive and install and maintain temporary traffic calming measures on Verona Drive until such time that a sidewalk is constructed along Verona Drive.

RESOLUTION OF INTENT

WHEREAS, Section 14-203, Fees, of the Subdivision Ordinance (Chapter 14 of the Albemarle County Code) establishes a schedule of fees for services provided for various subdivision and related applications and approvals under the Subdivision Ordinance (the “services”); and

WHEREAS, the County conducted an extensive fee study to determine the cost of services provided by the County under the Subdivision Ordinance in conjunction with the comprehensive amendment to Albemarle County Code § 14-203 in 2009; and

WHEREAS, since 2009, the County’s cost of providing services under the Subdivision Ordinance has increased and the current fees are inadequate to cover the County’s reasonable costs; and

WHEREAS, it is desired to amend the fee schedule in Albemarle County Code § 14-203 in an amount that corresponds to the County’s increased costs to provide those services.

NOW, THEREFORE, BE IT RESOLVED THAT for purposes of public necessity, convenience, general welfare and good land development practices, the Albemarle County Board of Supervisors hereby adopts a resolution of intent to consider amending Albemarle County Code § 14-203 to achieve the purposes described herein; and

BE IT FURTHER RESOLVED THAT the Planning Commission shall hold a public hearing on the subdivision text amendment proposed by this resolution of intent, and make its recommendations to the Board of Supervisors, at the earliest possible date.

RESOLUTION OF INTENT

WHEREAS, Section 18-35.1, Fees, of the Zoning Ordinance (Chapter 18 of the Albemarle County Code) establishes a schedule of fees for services provided for various zoning and related applications and approvals under the Zoning Ordinance (the “services”); and

WHEREAS, the County conducted an extensive fee study to determine the cost of services provided by the County under the Zoning Ordinance in conjunction with the comprehensive amendment to Albemarle County Code § 18-35.1 in 2009; and

WHEREAS, since 2009, the County’s cost of providing services under the Zoning Ordinance has increased and the current fees are inadequate to cover the County’s reasonable costs; and

WHEREAS, the County has recently added services under the Zoning Ordinance for which no fee has been established; and

WHEREAS, it is desired to amend the fee schedule in Albemarle County Code § 18-35.1 in an amount that corresponds to the County’s increased costs to provide those services, and to establish fees for services for which no fee is currently imposed.

NOW, THEREFORE, BE IT RESOLVED THAT for purposes of public necessity, convenience, general welfare, and good zoning practices, the Albemarle County Board of Supervisors hereby adopts a resolution of intent to consider amending Albemarle County Code § 18-35.1 to achieve the purposes described herein; and

BE IT FURTHER RESOLVED THAT the Planning Commission shall hold a public hearing on the zoning text amendment proposed by this resolution of intent, and make its recommendations to the Board of Supervisors, at the earliest possible date.

A RESOLUTION APPROVING A PLAN OF LEASE FINANCING WITH THE ECONOMIC DEVELOPMENT AUTHORITY OF ALBEMARLE COUNTY, VIRGINIA, APPROVING THE FORM OF CERTAIN DOCUMENTS PREPARED IN CONNECTION THEREWITH AND AUTHORIZING THE EXECUTION AND DELIVERY OF THE SAME

WHEREAS, the Board of Supervisors (the “County Board”) of Albemarle County, Virginia (the “County”), desires to finance the costs of various capital improvements for school and other governmental purposes, including but not limited to (a) additions to and renovations of Agnor Hurt Elementary School, (b) redesign, renovation and refurbishment of existing classroom, library and other school facilities, (c) addition of an auxiliary gym and other related space to Henley Middle School, (d) additions and renovations to Murray High School, (e) maintenance and replacement projects at existing school facilities, (f) security improvements, modifications and renovations to existing school facilities and (g) upgrades to the County’s telecommunications infrastructure (collectively, the “Project”);

WHEREAS, the Economic Development Authority of Albemarle County, Virginia (the “Authority”), was created under and is authorized to exercise all the powers set forth in the Industrial Development and Revenue Bond Act, Title 15.2, Chapter 49, Code of Virginia, as amended (the “Act”), which include, among other things, the powers (a) to make loans to, among others, a county in furtherance of the Act, (b) to finance or refinance facilities and lease facilities for use by, among others, a county, (c) to issue its revenue bonds, notes and other obligations from time to time for such purposes and (d) to pledge all or any part of its revenues and receipts derived from payments received by the Authority in connection with its loans or from the leasing by the Authority of such facilities or from any source, as security for the payment of principal of and interest on any such obligations;

WHEREAS, the County Board desires to undertake the Project through a lease financing structure with the School Board of Albemarle County, Virginia (the “School Board”), and the Authority, pursuant to which the County and the School Board would lease the Agnor Hurt Elementary School property (as more specifically described in the hereinafter defined Prime Lease, the “Premises”) to the Authority pursuant to the terms of the Prime Lease (as hereinafter defined) and the Authority would lease such real property back to the Authority pursuant to the terms of a Lease Agreement (as hereinafter defined);

WHEREAS, the County Board has requested that the Authority (a) issue one or more series of lease revenue bonds or notes (collectively, the “Bond”) pursuant to the terms of the Lease Agreement, (b) loan the proceeds of the Bond to the County pursuant to the terms of the Lease Agreement to pay the costs of the Project, including all or a portion of the costs of issuing the Bond, and (c) secure the repayment of the Bond by a lease of the Premises to the County and the School Board pursuant to the terms of the Prime Lease (as hereinafter defined) and the Lease Agreement;

WHEREAS, the County has requested Davenport & Company LLC, as the County’s financial advisor (the “Financial Advisor”), to solicit bids from banking and other financial institutions for the purchase of the Bond; and

WHEREAS, there have been presented to this meeting drafts of the following documents (collectively, the “Documents”) that the County proposes to execute in support of the transactions described above, copies of which shall be filed with the records of the County Board:

(a) Prime Lease (the “Prime Lease”), between the Authority, the County and the School Board, pursuant to which the County and the School Board will lease the Premises to the Authority; and

(b) Bond Purchase and Lease Agreement (the “Lease Agreement”), between the Authority, the County, the School Board and the Bondholder (as hereinafter defined), pursuant to which (1) the Authority will issue the Bond, (2) the Authority will agree to sell, and the Bondholder will agree to purchase, the Bond, (3) the Authority will use proceeds thereof to finance the Project and (4) the Authority will lease the Premises to the County and the School Board.

BE IT RESOLVED BY THE BOARD OF SUPERVISORS OF ALBEMARLE COUNTY, VIRGINIA:

1. The following plan of lease financing for the Project is hereby approved: (a) the Authority shall issue the Bond in a principal amount not to exceed \$10,000,000, (b) the County and the School Board will

lease the Premises to the Authority pursuant to the terms of the Prime Lease, with an expiration not later than December 31, 2040, and (c) the Authority will lease the Premises back to the County and the School Board pursuant to the terms of the Lease Agreement, with an expiration not later than December 31, 2035. The County will undertake to make payments to the Authority of basic rent ("Basic Rent") and additional rent ("Additional Rent") under the terms of the Lease Agreement in amounts sufficient to pay when due the principal of, and premium (if any) and interest on the Bond and to pay the fees and expenses of the Authority. The obligation of the Authority to pay principal of and premium, if any, and interest on the Bond will be limited to the payments of Basic Rent and Additional Rent received from the County. The undertaking by the County to make payments of Basic Rent and Additional Rent will be subject to appropriations from time to time by the County Board of sufficient amounts for such purposes. Upon an event of default or an event of non-appropriation by the County Board under the Lease Agreement, the Authority shall have the right to exercise any remedies provided in the Lease Agreement, including the right to terminate the Lease Agreement and exclude the County and the School Board from possession of the Premises for the remainder of the term of the Prime Lease. The Bond will be secured in part by an assignment to the Bondholder of the Authority's rights to receive payments of Basic Rent. This plan of lease financing shall contain such additional requirements and provisions as the County Executive (which term for purposes of this Resolution includes any Deputy County Executive) may approve and determine to be in the best interests of the County.

2. Subject to the pricing parameters of the Bond described below, the County Board hereby authorizes the County Executive, in consultation with the Financial Advisor and the Authority, to review the bids received and to select the bid that the County Executive determines to be in the best interests of the County. The banking or other financial institution submitting such winning bid shall be selected as the bondholder (the "Bondholder").

3. The County Executive is authorized and directed to execute the Documents, which shall be in substantially the forms submitted to this meeting, which are hereby approved, with such completions, omissions, insertions and changes not inconsistent with this Resolution as may be approved by the County Executive, his execution to constitute conclusive evidence of his approval of any such completions, omissions, insertions and changes. In making completions to the Lease Agreement, the County Executive shall provide for payments of Basic Rent on terms equivalent to the Bond, which (a) shall mature in installments ending no later than December 31, 2035; (b) shall have an aggregate principal amount not exceeding \$10,000,000; (c) shall have an initial interest rate not exceeding 4.50% per year; (d) shall be subject to optional redemption on such terms that the County Executive and the Chairman or Vice-Chairman of the Authority determine to be in the best interests of the County and the Authority; (e) shall be sold to the Bondholder at a price not less than 100% of the aggregate principal amount thereof; and (f) may be structured either as a long-term, short-term or line of credit financing, as the County Executive and the Chairman or Vice-Chairman of the Authority determine to be in the best interests of the County and the Authority. Following the sale of the Bond, the County Executive shall file a certificate with the records of the County Board setting forth the final terms of the Bond and the Lease Agreement. The actions of the County Executive in approving the terms of the Bond and the Lease Agreement shall be conclusive, and no further action shall be necessary on the part of the County. As set forth in the Lease Agreement, the County undertakes to pay from legally available funds such "late charges" and other charges as described therein.

4. The officers of the County are authorized and directed to execute and deliver all certificates and instruments and to take all actions necessary or desirable in connection with the execution and delivery of the Documents and the completion of the lease financing.

5. The undertaking by the County to pay any amounts under the Lease Agreement shall be limited obligations payable solely from funds to be appropriated by the County Board for such purpose. Nothing herein or in the Lease Agreement shall constitute a debt of the County within the meaning of any constitutional or statutory limitation or a pledge of the faith and credit or taxing power of the County.

6. The County Board believes that funds sufficient to make payment of all amounts payable under the Lease Agreement can be obtained. While recognizing that it is not empowered to make any binding commitment to make such payments beyond the current fiscal year, the County Board hereby states its intent to make annual appropriations for future fiscal years in amounts sufficient to make all such payments and hereby recommends that future County Boards do likewise during the term of the Lease Agreement. The County Board directs the County Executive, the Director of Finance or such other officer who may be charged with the responsibility for preparing the County's annual budget, to include in the

budget request for each fiscal year during the term of the Lease Agreement an amount sufficient to make the payment of all amounts payable under the Lease Agreement. Within 10 days after adoption of the County's annual budget and related appropriation resolution, but not later than 10 days after the beginning of each fiscal year, the County Executive is authorized and directed to deliver to the Authority and the Bondholder a certificate stating whether an amount equal to or credited to the payment of Basic Rent and Additional Rent that will be due during such fiscal year has been budgeted and appropriated by the County Board. So long as the Bond is outstanding, if at any time during any fiscal year of the County, the amount appropriated in the County's annual budget in such fiscal year is insufficient to pay when due the amounts payable under the Lease Agreement, the County Board directs the County Executive or Director of Finance, or such other officer who may be charged with the responsibility for preparing the County's annual budget, to submit to the County Board a request for a supplemental appropriation sufficient to cover the deficit.

7. (a) The County covenants that it will not take or omit to take any action the taking or omission of which will cause the Bond to be an "arbitrage bond" within the meaning of Section 148 of the Internal Revenue Code of 1986, as amended, and regulations issued pursuant thereto (the "Code"), or otherwise cause the interest due on the Bond to be includable in the gross income of the holder thereof under existing statutes. Without limiting the generality of the foregoing, the County shall comply with any provision of law that may require the County at any time to rebate to the United States any part of the earnings derived from the investment of the funds received under the Lease Agreement, unless the County receives an opinion of nationally recognized bond counsel that such compliance is not required to prevent interest on the Bond from being includable in the gross income for federal income tax purposes of the holder thereof under existing law.

(b) The County covenants that during the term of the Lease Agreement it shall not permit the proceeds of the Bond or the facilities financed therewith to be used in any manner that would result in (a) 10% or more of such proceeds or facilities being used in a trade or business carried on by any person other than a governmental unit, as provided in Section 141(b) of the Code, provided that no more than 5% of such proceeds may be used in a trade or business unrelated to the County's use of such facilities, (b) 5% or more of such proceeds or facilities being used with respect to any "output facility" (other than a facility for the furnishing of water), within the meaning of Section 141(b)(4) of the Code, or (c) 5% or more of such proceeds being used directly or indirectly to make or finance loans to any persons other than a governmental unit, as provided in Section 141(c) of the Code; provided, however, that if the County receives an opinion of nationally recognized bond counsel that any such covenants need not be complied with to prevent the interest on the Bond from being includable in the gross income for federal income tax purposes of the holder thereof under existing law, the County need not comply with such covenants.

8. Such officers of the County as may be requested by bond counsel for the County are authorized and directed to execute an appropriate certificate setting forth (a) the expected use and investment of the proceeds of the Lease Agreement in order to show that such expected use and investment will not violate the provisions of Section 148 of the Code and (b) any elections such officers deem desirable regarding rebate of earnings to the United States for purposes of complying with Section 148 of the Code. Such certificate shall be prepared in consultation with bond counsel for the County, and such elections shall be made after consultation with bond counsel.
9. All costs and expenses in connection with the undertaking of the Project and the issuance of the Bond, including the Authority's fees and expenses and the fees and expenses of bond counsel, counsel for the Authority, the Bondholder and counsel to the Bondholder, shall be paid from the proceeds of the Bond or other legally available funds of the County. If for any reason the Bond is not issued, it is understood that all such expenses shall be paid by the County from its legally available funds and that the Authority shall have no responsibility therefor.
10. Any authorization herein to execute a document shall include authorization to deliver it to the other parties thereto and to record such document where appropriate.
11. All other actions of the officers of the County that are in conformity with the purposes and intent of this Resolution and in furtherance of this lease financing are approved and ratified.
12. All resolutions or parts of resolutions in conflict herewith are repealed.
13. This Resolution shall take effect immediately.