

ATTACHMENT A

**A RESOLUTION RECEIVING THE FOLLOW-UP REPORT FOR THE FEBRUARY 2, 2009
BOARD OF ALDERMEN PLANNING RETREAT
Resolution No. 81/2008-09**

WHEREAS, the Carrboro Board of Aldermen held a Board Retreat on February 2, 2009 for the purpose of discussing the state of the economy and the effect the economy was having on the Town of Carrboro; and

WHEREAS, during the retreat the Board of Aldermen the aldermen identified a number of potential action items for staff to review and present to the Board at a future worksession; and

WHEREAS, staff has reviewed the potential action items and provided a response to many of the items; and

WHEREAS, a report has been prepared for the Board containing staff response to the potential action items as identified during the Board Retreat.

NOW, THEREFORE, be it resolved by the Carrboro Board of Aldermen that the follow-up report was received on March 10, 2009 on the potential action items identified during the February 2, 2009 Board Retreat.

Attach. B-1

TO: Mayor and Board of Aldermen
FROM: Steven E. Stewart, Town Manager
DATE: March 10, 2009
RE: Follow Up Report from February 2, 2009 Board Retreat

A) Items Identified by Board as Top Priority

The items in this section are those which the Board identified as being their "top priority" for staff response.

1) Involve BOA members in combined giving campaign

- The annual kick-off for the Town's Combined Giving Campaign is usually in October. Members of the Board of Aldermen will be provided campaign participation information when it is distributed to employees.

- a. Seek philanthropy to match funds contributed by Town employees
- b. Publicize the matching funds/contributor

2) Consider increasing aid to agencies

- a. Ask HSC to identify agencies seeing an increase in clientele
- b. Get checks out to agencies soon after budget is decided

- Additional Board discussion is needed on this item as it pertains to increasing financial contributions to agencies. Town fiscal policy dictates that non-profits receive an annual increase in contributions based on CPI, which is budgeted currently at 3.8% using December 2008 figures. This translates into an increase of approximately \$5,000 for non-profits in the FY 09-10 budget. Staff is working with the HSC to identify those agencies seeing additional demands due to economic factors, and the process for distributing funds is being reviewed for efficiency.

3) Explore with legislators options for local preferential purchasing

- a. Perform cost analysis re: local buying

- Due to the complexity of the staff response to this issue, please see the attachment entitled "Board Retreat: Potential Action Item #2: Options for Local Preferential Purchasing"

4) Move assets to locally owned banks and/or credit unions

- a. Explore legislation allowing funds to be deposited with Credit Unions

- Due to the complexity of the staff response to this issue, please see the attachment entitled "Board Retreat: Potential Action Item #3: Move Assets to locally-owned banks and/or credit unions"

5) Refer "What can we do to help businesses" question from local business survey to LLE

- a. Plan a BOA work session on above topic

- Staff will refer this item to LLE and will set a future worksession agenda to discuss the item.

6) Discuss BOA interest in green building industry and set objectives.

Att. B-2

- a. Grow local green building businesses
- b. Build a guild of local green builders

- Staff has requested additional discussion and clarification on this item in order to provide a complete response.

- c. Board discussion on energy initiatives as related to local "green collar" jobs

B) Other Potential Action Items (Short Term)

1) Discuss with Chapel Hill and Orange County which assets each community can provide to non-profits without additional taxpayer expense, i.e. meeting space, etc.

- a. Mayors Roundtable" for local non-profit leaders and news media to publicize results of UNC survey and inform public of agency needs

- As a follow up to the Orange County Human Services Advisory Commission Forum held last fall the non-profit agencies were encouraged to reestablish the Association of County Agencies that existed in this county for years. The purpose for reestablishing that group is to provide a collective voice for human service needs to the local governments and on a regular basis to the Human service staff in Carrboro, Chapel Hill and Orange County. This is very important in the current economic climate where the social needs of the community are great.

2) Control the tax rate

- Staff is in the process of developing the FY 09-10 budget at this time.

3) Move forward with planned capital expenditures

- Based on recent Board direction, staff is moving forward with Bond Anticipation Notes for sidewalks and greenways projects. Additional capital expenditures are being reviewed for possible deferment until staff can more accurately estimate future revenues.

4) Seek funds to reestablish community oriented policing

- The Police Department will continue to investigate grant opportunities as they become available. During the last fiscal year, the department received approximately \$95,000 in grant funding. At this time, there are no pending grant applications.

5) Did we reach all local businesses with survey?

- The business survey was sent to businesses that belong to the Carrboro business association. The survey was sent to 68 email addresses of which 50 actually received the survey. Eighteen of the emails bounced back which might suggest that they had changed or for some reason on the day the survey went out did not get delivered. So of the 50 that actually received the survey 38% responded which is a good response. There is considerable effort going on to update and improve the contact information for businesses which would give the Town and even better return on surveys in the future. This is being done

by the Economic and Community Development Department and members of the Local Living Economy Task Force.

6) Ask employees how to save money

- Seeking ways to save time and money has always been part of the culture of the Town of Carrboro. Employees routinely make suggestions to their supervisors, department heads, and human resources on how to reduce waste, recycle, or be more economical. However, if an employee would like to make a suggestion indirectly, an employee suggestion box is in place at each of the three Town facilities. The suggestion box is monitored by the Public Works Department, who forwards any suggestions to the Town Manager's Office. In addition, management of fiscal resources is built into the Town of Carrboro performance evaluation process. Employees are expected to maximize resources and save money wherever and whenever possible.

7) Look at town-based WPA-style volunteer program for families, etc as a swap for town programming.

a. Build community with this idea

- Currently a Volunteer Coach/Child fee waiver is in place. For the upcoming budget year a volunteer- program credit system is being proposed.

8) Broad-scale community meetings to get residents pulse, ideas

- In addition to Board of Alderman Meetings and Advisory Board meetings, there are a number of staff-initiated community meetings held on a variety of topics. Please see the attached list of neighborhood meetings held through September 2008.

9) Look into child care needs of residents/employees/Advisory Board members for Town Meetings

- This item would require additional expenditures and would create significant additional liabilities for the Town. Staff requests additional Board clarification on this item.

10) Review and respond to Orange County BOCC goals, press BOCC to be clear and specific.

- Staff has requested additional discussion and clarification on this item in order to provide a complete response.

C) Other Potential Action Items (Long Term)

1) Re-assess commercial usage in northern Carrboro

- This item is already listed as one of the Planning Department's top ten projects and is part of the department's overall work program described as follows: Refine implementation of the Northern Small Area Plan as directed by Board of Aldermen in follow-up to recommendations of Northern Study Area Plan Implementation Review Committee. Strategies to include adjustments to existing policies, new and modified regulations, and rezoning to achieve target densities as well as a desired mix of land uses in the NSA. Target for completion – FY 09-10.

2) Re-assess size of houses

This item needs additional clarification from the Board. Does this include the entire housing stock; single family detached, townhouses, apartments, and/or condos? Does this pertain to a particular portion of the town's planning jurisdiction such as the small area planning area or the entire jurisdiction? Does this only pertain to houses built within a certain time frame i.e. over the past 4 or 5 years or since the last census for instance? Answers to these points will help in carrying out an appropriate analysis. It would also be helpful to know when this information is needed.

3) Look into Federal call for proposals to expand internet access beyond Main street.

\$4.7 billion has been set aside in the American Recovery and Reinvestment Act of 2009 (stimulus bill) for rural broadband enhancement. The National Telecommunications and Information Administration (NTIA) is currently designing the grant process and establishing criteria for discretionary spending. Staff will attend NTIA webcast on the grants process on March 10, 2009.

4) Create viable support for community "victory gardens"

- a. Involve County Ag extension program
- b. Provide greater access for Carrboro residents

Staff has requested additional discussion and clarification on this item in order to provide a complete response.

D) List of Attachments

- BA) Options for Local Preferential Purchasing
- BB) Staff Response to Locally Owned Banks
- BC) Resolution Awarding Contract for Banking Services
- BD) Resolution Approving a Two-Year Extension of the Banking Services Contract with Bank of America
- BE) Collateralization of Public Deposits in North Carolina
- BF) Memo Re: Collateralization of Public Deposits and Pooling List
- BG) Memo Re: Public Deposits
- BH) List of Neighborhood Meetings as of September 2008

Board Retreat: Potential Action Item #3: Options for Local Preferential Purchasing

The Board has asked staff to explore with legislators options for local preferential purchasing. In addition, the Board asked for a cost analysis regarding local buying.

Questions to the Board for Clarification

- What does the Board mean when they say “buy local?”
- Should a requirement to buy local pre-empt the legal intent of purchasing law which is “the lowest responsive bid?” If so, when? (Would require approval by General Assembly)
- What does buying local achieve in combination with other purchasing considerations?
- How do other criteria or other considerations fit into Board desire to buy local?

Considerations in Contemplating Legal Means for Local Preferential Purchasing

As a point of analysis, town staff compiled spending information from FY07-08. As shown in the chart on the right, \$10,744,221, or 61% of the Town’s budget goes to personnel and debt service costs.

Local Buying Opportunities, FY07-08 Budget			
ALL FUNDS			
Salaries + Benefits	\$	9,384,192	
Debt Service	\$	1,360,028	
FIXED COSTS - N/A TO LOCAL SPENDING	\$	10,744,220	61.1%
ALL OTHER EXPENDITURES			
AMOUNT SPENT IN ORANGE COUNTY (37.3%)	\$	2,554,366	
AMOUNT SPENT OUTSIDE OF ORANGE COUNTY (62.6%)	\$	4,293,609	
GRAND TOTAL SPENT PER 06/30/08 AUDIT	\$	17,592,195	100.0%

The remaining expenditures, totaling \$6,847,975 reflect operational expenses in performing town services. The Town, when expending funds, uses electronic wires and transfers, checks and provides procurement cards as an alternative to check requests to a small subset of employees. Wires and electronic payments are limited at this point in time to salary and debt service expenses. Of the total in checks and procurement card expenses, \$2,554,036 or 37.3% is spent within Orange County.

The procurement cards are largely for small dollar expenditures with the exception of purchases made on behalf of fleet maintenance and information technology. Procurement cards accounted for approximately \$470,000 of total expenditures in FY07-08. For many employees, some of whom are in the field, the card streamlines staff time spent processing paperwork to purchase items needed either in the field or in the office.

Review of procurement card expenditures that exceeded \$4,000 with a particular vendor in a fiscal year, show expenses related to information technology, vehicle maintenance, and police-related needs such as ammunition, uniforms, and police vehicle equipment. The costs for information technology

reflect phone and bandwidth costs (\$71,164 of \$77,000); all of these costs are from vendors outside of Orange County. In the case of fleet maintenance, approximately \$48,000 of \$67,000 is spent within Carrboro and Chapel Hill using several vendors that provide such services. All police-related supplies were purchased outside of Orange County.

Expenditures paid through the check request process total \$6,377,580. For checks processed in excess of \$2,500, approximately \$3,760,000 is spent outside of Orange County, or 59%. When expending funds, town purchasing guidelines require formal bids for capital construction at \$300,000 or more and \$90,000 and above for specific expenses that are subject to state bidding laws. For informal bids, \$30,000 up to the formal limit, town staff receives bids and chooses the lowest responsive bid as per the state bidding laws. Local governments also have approval under state law to take advantage of state contracts and other local municipality bids that set the benchmark for lowest responsible bids. This legal availability has been a tremendous cost-effective purchasing tool for town staff.

By and large, the majority of expenses made to vendors within Orange County (\$2,013,000) reflect interagency cooperation or services shared and/or provided between Carrboro, Chapel Hill, Hillsborough and OWASA. The bulk of expenditures include the transit contract with Chapel Hill (\$992K); and landfill fees (\$344K). In addition, the Town provided a revolving loan (\$102,900) and support to the Orange Community Housing Corporation (\$26K). The remaining \$677,000 is spent on numerous nonprofits, businesses and individuals within Orange County for services or goods provided.

Highlights – Local Spending Within Orange County, FY07-08

Many of the expenditures *outside* of Orange County reflect large capital or unusual expenditures. Numerous purchases affect the Public Works Department including \$500,000 for vehicles and heavy operating equipment (Solid Waste Refuse Truck); \$228,394 for construction of the sewer outfall in the northern area of town; \$115,000 for a generator at the Century Center; and \$575,000 for sidewalk construction. Capital projects are advertised in the local and minority newspapers, even if they fall in the informal range (which doesn't require advertising). Notices to Bidders are also sent to those vendors who have submitted a vendor application. Sealed bids are received and opened publicly. The lowest responsive, responsible bidder is selected as per the State contracting statutes.

Other expenses reflect contractual services or operational costs incurred by the Town for special needs or expertise that may or may not be available within Orange County. The Town, in FY07-08, paid expenses for contractual fees for various projects including engineering, architectural, design, and

planning costs for development review, fire substation, Wilson Park bathroom, greenways planning, watershed grant, Adams Tract, and generator design costing approximately \$412,000). Other contractual fees include the Town's external auditors and attorneys with specialized expertise for policing functions (\$57K) and temporary personnel for seasonal labor (\$50K). Operational expenses include utilities (\$227K); fuel (\$234K); insurance for workers' compensation, property and general liability (\$326K). A number of these expenditures are procured through bidding procedures such as RFQs (Request for Qualifications) that focus on criteria around expertise. Some such as utilities, fuel, and insurance are highly specialized and represent limited markets.

Another \$448,336 represents spending decisions about technology needed for the Town. When possible, the IT Division will purchase through established state contracts. State contracts set benchmarks for lowest responsive and responsible bid price and are based on sound competitive purchasing procedures and transparency. Specific vendors will qualify for these contracts and the IT Division will seek out these vendors when purchasing. Other determining factors are a vendor's expertise, the type and number of certifications possessed by employees of the vendor, and what partnership level a vendor has with a specific major hardware or software distributor (such as Cisco, Dell, Symantec, etc.). Finally, in some cases the IT Division is simply limited to specific vendors because of the uniqueness of the hardware or software that needs to be supported. These factors, when taken together, can often make it difficult to choose or require a local vendor locally.

In summary, it is very apparent that spending decisions made by town employees incorporate numerous factors when making purchasing decisions. Factors include (not necessarily in order):

- Cost
- Location – particularly for procurement card purchases
- Product Availability
- Whether a product is on state contract or available through piggybacking on another municipal bid
- Type of expertise needed
- Number of vendors capable of providing a good or service (i.e., OWASA is only provider for water and sewer)

The bidding process or the process of obtaining three quotes for informal bids are ongoing means of reaching out to the local market for services and goods needed by the Town.

Board Retreat: Potential Action Item #4: Move Assets to locally-owned banks and/or credit unions
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Questions to the Board for Clarification

- What is Board's interest in moving assets to locally-owned banks?
- How to determine what constitutes a "local bank"?
- What do businesses need from banks?
- Should we drive the Town's business decisions (banking services, financings, etc) based on banking relationships with local businesses? Are there other ways to accomplish a similar initiative?
- Will the Town's assets in a bank influence decisions made by the bank regarding local business relationships and financing?

Consideration in Contemplating Legal Means for Local Banking

Currently, the Town has a contract with Bank of America to banking services including online services. Bank of America was initially chosen following a bidding process whereby town staff sought proposals from banks for online banking services. This contract was approved by the Board in March 2003. In February 2008, the Board of Aldermen approved an additional extension to the contract through February 2010 to allow staff ample time to research and initiate a full-scaled Request for Proposal (RFP) for banking services (see attached agenda items). Bank of America was chosen because it provided the level of services desired by the Town at the lowest overall prices for all services. Another advantage for Bank of America was that they had and continue to have a branch in Carrboro.

North Carolina General Statutes have specific requirements regarding public deposits and investments, both of which are critical aspects to the Town's overall cash management plan. There are several memos attached that explain the banking requirements for public deposits. The Town uses the pooling method of collateralization because the State Treasurer's office monitors banks' compliance with collateralization requirements. The pooling method removes the legal steps, expertise, and time required of local finance staffs that are required under the dedicated method of collateralization. In Memorandum #1112 from the Local Government Commission (LGC) on Collateralization of Public Deposits and Pooling, the list of banks that collateralize public funds via the pooling method are listed. It is notable that none of the banks on this list that have branches in North Carolina has a corporate office in Orange County. In addition, it is notable that a number of formerly local banks have been bought out or consumed by larger banks. This makes it challenging to define what makes a bank "local."

BB-2

Perusing the phone directory, this list of banks in Orange County was created. Staff analyzed the list of banks on the following page to show which banks have public funds and if the Town has had any contact or performed business with the banks.

<u>Name of Bank</u>	<u>Branch in Carrboro</u>	<u>Branch in Orange County (Not Carrboro)</u>	<u>Received RFP for installment financing FY07-08</u>	<u>Responded to FRP for installment financing FY07-08</u>
Bank of America (formerly North Carolina National Bank);	X		X	
BB&T – (formerly Southern National Bank) Chapel Hill		X	X	X
Cardinal State Bank (bought out by Yadkin Valley Bank) – Hillsborough		X	X	
CommunityOne Bank – Hillsborough		X		
First Citizens – Chapel Hill		X	X	
Gateway Bank & Trust – Chapel Hill		X		
RBC Centura	X		X	X
Suntrust (Formally Carolia Central Bank CCB)	X		X	X
Wachovia (recently bought by Wells Fargo) - Chapel Hill		X	X	

The institutions listed below have not reported any public funds and are not collateralized through the Department of State Treasurer, or in the case of the State Employees Credit Union, are not legally eligible to be a public depository.

<u>Name of Bank</u>	<u>Branch in Carrboro</u>	<u>Branch in Orange County (Not Carrboro)</u>	<u>Received RFP for installment financing FY07-08</u>	<u>Responded to FRP for installment financing FY07-08</u>
Harrington Bank – Chapel Hill		X	X	
Hillsborough Bank – Hillsborough		X		
State Employees Credit Union	X			

The agenda item presented to the Board in March 2003 is very helpful in understanding the considerations involved in banking services. The ultimate goal is effective cash management that maximizes the Town's return on idle cash. Given that our banking services are highly automated and convenient; a key consideration in banking services will be to maintain the level of services currently used. An additional factor to consider when choosing a banking institution is that Town staff physically makes daily deposits of cash and checks and a banking institution with branches located farther away from Town facilities will result in inefficiencies.

Another important consideration in managing the Town's assets is through investments. The Town's investments are prescribed by North Carolina General Statutes (G.S. 159-30) and are considered very low risk with the primary objective of safety and then liquidity. Currently, the Town invests much of its idle cash in money market accounts with Bank of America and with the North Carolina Cash Management Trust (NCCMT), a trust that is offered exclusively to local government and public authorities of the state of North Carolina. The NCCMT is located in Charlotte.

The final important consideration in banking services is around the area of debt financing. The Town performs a bid process for financing for all capital and vehicle/equipment financings. This action, while not required by purchasing statutes, is beneficial to the Town since rates offered through the competitive bidding process vary widely and do indeed save taxpayers money.

As in the past bid process for banking services, the Town did and will continue to consider banks' Community Reinvestment Act (CRA) rating and commitment to the CRA. An added focus in a future banking RFP perhaps, could be to ask for more information on the bank's involvement in the community and what types of local business support is available.

~~ATTACHMENT A~~
Att. BC

ATTACHMENT A

**A RESOLUTION AWARDING A CONTRACT FOR BANKING SERVICES
Resolution No. 119/2002-03**

BE IT RESOLVED by the Board of Alderman that a contract is awarded for the following:

- (1) Award the contract to Bank of America for an estimated cost of \$17,127 for a period of three years.**

TO: Michael Brough, Town Manager

FROM: L. Bingham Roenigk, Assistant Town Manager
Judy Weller, Accounting Officer

DATE: March 11, 2003

RE: Banking Services – RFP Recommendation

The Accounting division, as part of its work plan, identified a need to improve the cash management activities of the Town with the ultimate goal of maximizing the Town's return on idle cash. One aim of the division is to update its work processes to take advantage of various technological advances in banking services that will improve the Town's cash management activities in numerous areas. The financial transactions affecting cash management are in the following areas: disbursements, revenue collections, and investments. Banking services are considered essential to developing a strong cash management program.

The Town, on December 20, 2002, solicited banking services proposals from all banks that have a branch in Carrboro. The Town is not required by law to request proposals but does so to ensure competitive financing and is required to do so according to the Town's Cash Management Plan. In this plan, the Town is encouraged to periodically accept proposals from financial institutions interested in banking services and the Board of Aldermen is responsible for selecting the financial institution as the official depository for the Town.

Current Banking Services

The town holds its accounts with Bank of America and is operating without a contractual arrangement. Without a contract in place, fees are subject to increases at any time. Recently, the bank has been trying to discourage large customers from doing banking activities manually by charging less for on-line transactions. With on line banking services the Town would be able to minimize banking services cost and maximize interest earnings. For instance, the cost for a stop payment on check online is \$12.00 versus \$25.00 verbally. Manual wire transfers \$50.00 versus \$8.00 on line.

An account analysis of FY01-02 banking charges reveals that the banking services cost \$5,493.80. FY02-03 charges through June 30, 2003 are estimated to be at \$5,498.36. This does not include charges for procurement cards or online banking services. Adding online services, positive pay, and continuing procurement card and payroll direct deposit services actually reduces costs and improves services. Securing a banking services contract has the added benefit of controlling price changes for a minimum of three years.

Recommendation

As required by NC General Statute 159-31 banking proposals were sent to the three qualified depository for public funds. A request for proposal for banking services was submitted to three banks, Centura, Central Carolina Bank (CCB), and Bank of America (bank currently used by Town); all three responded.

The Town has chosen Bank of America to provide the Town's banking services for three years commencing on April 1, 2003. Bank of America provided the minimum level of services requested by the Town at the lowest overall price for all of the services. A comparison of services and pricing offered is listed below:

Service	Bank of America	CCB	Centura
Banking services - annual cost	\$5,184.00	\$5,376.00	\$5,880.00
Procurement card program	\$ 525.00	-0-	DID NOT BID
Total annual cost - recurring	\$5,709.00	\$5,376.00	\$5,880.00
Startup costs*	0.00	\$3,500.00	\$1,000.00

*Estimated cost to initiate procurement card program plus cost of \$1,000.00 for new checks, deposit slips, etc.

Key factors in the evaluation of the proposals were the cost for service and fees that would be most beneficial to the Town. In addition, staff requested information on the banks' Community Reinvestment activities and rating.

In submitting the service proposal, the Town identified several specific services in addition to the current basic banking services including: Positive Pay and On Line Banking Services, which are enumerated in detail below.

Description of Cash Management Activities and Banking Services Sought

The major goal of a government's disbursement system should be to slow the payment of funds so that funds are available for investment for the maximum amount of time possible while ensuring that timely payments are made. Invoices should be paid on the due date if possible. Early payment results in loss of interest income. In addition, in this age of electronic banking, the Town needs to use disbursement methods that are effective at reducing opportunities for fraud to occur.

With collections, the Town strives to improve collections operations electronically, by accepting wire payments from other units of government or businesses for contractual agreements and eventually by accepting debit and credit cards from town customers and then expanding that capability on-line via the Town's website. Currently, the town does receive daily electronic deposits from Orange County on property tax revenue and various other recurring payments per interlocal agreements. At a later date, hopefully in time for the upcoming fiscal year, the Management Services Department will pursue expanded banking services that will enable citizens to pay for town services via credit or debit card.

Investment activities should be aimed at identifying beneficial investment opportunities and decisions. The Town's investments are prescribed by North Carolina General Statutes and are considered very low risk with the primary objective of safety and then liquidity. Currently, the Town invests idle cash with the NC Cash Management Trust, a trust that is offered exclusively to local government and public authorities of the state of North Carolina, and in the Town's money market accounts. Historically, where interest rates were higher, the Town would sometimes invest in a Certificate of Deposit (CD).

Disbursement Banking Services

Positive Pay

A new banking services feature for the Town will be positive pay. Positive Pay is a fraud deterrent service that enables the town to minimize potential fraud losses associated with checks issued by the town. The utilization of Positive Pay will allow the town to review suspect items prior to their being paid by the bank and return any checks found to be fraudulent.

On-Line Banking Services

The on-line banking services requested by the Town aim to maximize the interest earned on idle cash. The following are some of the on-line banking services features available through Bank of America via Internet access:

- Check account balances and activity
- Transfer funds electronically
- Place stop payments on checks
- Verify deposits, wire transfers and other credits
- Check inquiry – verify whether a check was cleared
- Request a copy of a check
- View statements

With on-line banking services, the Town would be able to minimize banking services costs, transfer funds immediately when needed, and to maximize interest earnings. As indicated above, some banking services cost more to do by phone than by computer.

Since on-line banking gives accounting staff the ability to view our accounts daily, funds can easily be transferred immediately from a low interest bearing account to a higher interest bearing thus earning more interest and ensuring effective cash management. Presently the Town receives its bank statements within 5-10 days after the end of the previous month. At that point, any excess funds in low interest bearing accounts would be transferred to higher interest bearing accounts. In the interim, these funds could have been earning higher interest had the Town had the benefit of on-line banking services. Debt payments or other recurring town payments, rather than being processed by check in advance of the due date, could be processed via electronic transfer at the time needed.

Direct Deposit

Another banking service that further reduces opportunities for fraudulent checks is the provision of direct deposit as an alternative to payroll checks. Payroll checks are the highest candidates for fraud; direct deposit almost eliminates check fraud losses. The town currently requires employees to use direct deposit and expects to continue that service with the new contract.

Procurement Cards

The Town's use of procurement cards is now organization-wide. Currently, we pay Bank of America \$35 annually per cardholder to use the procurement card and a \$25 monthly fee for online information. With 20 cardholders, the annual procurement card fee is \$1,000 per year.

Community Reinvestment Act – Bank Ratings and Activities

In preparing the banking services request-for-proposal, the Board of Aldermen requested that town staff ascertain information from interested banks on their past and current efforts associated with the Community Reinvestment Act (CRA). In addition, banks were asked to provide their CRA rating.

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BC-9

~~ATTACHMENT D-4~~

All of the banks responded about their CRA ratings and activities. The ratings stated by the banks are listed below:

Bank	CRA Rating
Bank of America	Outstanding
CCB	Satisfactory
	Overall
Centura	Satisfactory

Bank of America, as our recommended banker, holds an "Outstanding" CRA rating. In addition its main focus on community development is to make affordable housing and mortgages available in places such as Carrboro. Bank of America is partnered with the Chapel Hill-Carrboro Schools system to help recruit teachers to the school system with its attractive mortgage programs. It also grants funds to nonprofit organizations for early childhood development, financial literacy and professional development for teachers. Responses from each bank on their CRA ratings and activities are attached.

Summary

As mentioned earlier, staff recommends that the Board approve continuing banking services and relations with Bank of America. The total cost for banking services including start up cost and procurement card averaged annually as follows: Bank of America \$5,709.00, CCB \$6,210 and Centura \$6,213.00. Centura offered fairly comprehensive banking services but did not offer procurement card services. The annual banking services costs for Centura are higher because the town would have to continue with Bank of America for procurement card services.

While it is possible to continue the procurement card services with Bank of America and go with Centura for the other services, it is recommended that both procurement card and banking services reside with the same bank due to the cost savings as revealed in the banking services analyses. By keeping banking services tied with the procurement card program, the Town is also able to achieve a lower cost per cardholder (\$35 to \$25) with Bank of America.

Sufficient funds are available within the budget to purchase the comprehensive banking services recommended. At a later date, the Management Services Department will pursue an analysis and a request to the Board to implement a credit and debit card program through which citizens can purchase town services.

Describe the bank's past efforts and current initiatives related to Community Reinvestment programs in other communities and its plan to provide these type of services in Carrboro. State the bank's CRA ratings. Please see the attached "RBC Centura Mission Statement" to evidence RBC Centura's commitment to meet its responsibilities under the Community Reinvestment Act. Also attached is our CRA Notice. Our CRA rating is currently "satisfactory". Several initiatives which we are proud of include:

- 1) In 1997, we started the Community Centered Banking Program statewide. It is a comprehensive outreach initiative providing greater access to the Bank and financial literacy workshops to the "unbanked" and "underbanked". The program partners with local churches and non-profit organizations to deliver the program to all people.
- 2) For many years, the Bank has provided Affordable Housing Programs as a solution to home ownership for low and moderate income individuals and families. The Program provides numerous mortgage loan options including loans sponsored by the NC Housing Finance Agency, FHA, VA, and the Rural Development Agency.
- 3) RBC Centura is currently helping to subsidize the lease for Carrboro's El Centro Latino Community Center with a \$1000 monthly payment for 36 months.(Total: \$36,000)
- 4) RBC Centura donated \$500 toward the new "Carrboro Clock" at the Century Center. In 2002, we also donated \$1,000 to Carrboro-based non-profit, Volunteers For Youth, Inc. and \$450 to the local Salvation Army's Adopt-a-child program. In 1999, Centura Bank donated \$5,000 to Habitat for Humanity of Orange County. Finally, RBC Centura's parent company, RBC Financial Group donated \$1 Million to the United Way September 11th Fund on behalf of its employees.
- 5) Other organizations the Bank encourages its employees to get involved include Communities in Schools, United Way, American Red Cross, March of Dimes, American Heart Association, and the Food Bank of NC.

A. . In 1998, Bank of America made a commitment to make \$350 billion in loans and investments for community development over the next ten years. This commitment sets minimum goals in the areas of economic development (\$25 billion), small business (\$180 billion), affordable housing (\$115 billion) and consumer lending (\$30 billion). In the past year, the bank has put even more resources to work in neighborhoods across North Carolina and is on track to fulfill its 10 year commitment ahead of schedule.

The major focus of this community development commitment is to make affordable housing and affordable mortgages more available in North Carolina and places like Carrboro, NC. Our nationally recognized Neighborhood Advantage program offers two innovative home loans – Neighborhood Advantage Zero Down and Neighborhood Advantage Credit Flex – that require little or no down payment and feature flexible underwriting guidelines for borrowers with income of 80% or less of an area's median income. The Teacher Zero Down and Teacher Flex mortgage loans help teachers overcome the high cost of home ownership. Bank of America has partnered with the Chapel Hill Carrboro Schools system to help recruit teachers to the school system with this attractive mortgage program. Bank of America Mortgage also offers other affordable loan products, FHA/VA loans, and down payment assistance and financing programs offered by state and local agencies.

The Bank of America Foundation is one of the country's most generous foundations. We have adopted new guidelines that will focus resources in the coming years on a banner issue: helping children succeed. To support this goal, we grant funds to nonprofit organizations for early childhood development, financial literacy, and professional development for teachers. Our secondary focus is helping our communities succeed. To support this goal, we grant funds to nonprofit organizations for affordable housing and workforce development. The Bank of America Foundation grants funds each year to our local United Way partners to help bring about a better quality of life for families and individuals in need. Additionally, associates contribute to the United Way by giving to our annual United Way campaign and by volunteering their time and talent. Our Foundation dollars and/or volunteers have supported such local entities as the Chapel Hill Carrboro Public School Foundation, the MLK University/Community Planning Corporation scholarship fund for Chapel Hill High School students, the PTA Thrift Shop and the Chapel Hill Museum.

The bank's *Volunteer Time for Schools* program gives every full-time associate the opportunity to spend up to two hours a week of paid time volunteering in a public or private school. With the National Council on Economic Education (NCEE), Bank of America has launched an innovative financial education curriculum called Financial Fitness for Life (FFFL). FFFL is designed to help students from kindergarten through high school become skilled consumers, savers and investors. Associates who volunteer at schools can obtain FFFL CD-ROMs to use in conjunction with their volunteer work.

In 1999, Bank of America announced a fifty million-dollar grant to expand and enhance Success By 6 through the United Way System. Success By 6 is a national United Way program that helps prepare children for school. In 2001, the bank provided \$240,000 in support of local Success By 6 initiatives in the Triangle. One of the uses of the recent grant was to support a bilingual outreach worker for the Chapel Hill-Carrboro Head Start program.

At Bank of America, we believe that as a corporate citizen, our relationship with our communities is reciprocal. That is, giving back to the individuals and entities that contributed to our success is paramount. Because of this commitment to the communities in which we do business, Bank of America's Charter CRA rating is currently an "Outstanding." There are many more initiatives and programs to help our communities. You can find even more information at WWW.BankofAmerica.com.

"The very reason Bank of America exists in the first place, or any bank exists, is to help make communities stronger." Kenneth D. Lewis,
Chairman and CEO Bank of America.

Describe the bank's past efforts and current initiatives related to Community Reinvestment programs in other communities and its plan to provide these types of services in Carrboro. State the bank's CRA ratings.

CCB is proud of its commitment to the community. CCB received an overall "Satisfactory" rating on its last CRA exam in January of 2000. CCB received a "High Satisfactory" on the lending and investment tests and an "Outstanding" on the service test. The following examples are just a few highlights of what CCB contributes to the Orange County community.

In the last 12 months, CCB has provided over \$3,500,000 in financing to CRA activities in Orange County and has made investments into funds that will benefit the entire state, including Orange County, of \$10,000,000. Additionally, CCB has contributed over \$11,000 in investments/donations to non-profit CRA related agencies in Orange County. Some of these include Residential Services - \$4,000; YMCA Chapel Hill/Carrboro - \$5,000; Orange Congregations Mission - \$2,500 and \$942,000 benefiting the entire Triangle region.

CCB is pleased to offer its Community Housing Affordable Mortgage Product (CHAMP) throughout North Carolina in order to provide flexible financing to low and moderate income communities. CCB also offers two NC Housing Finance Agency (NCHFA) bond programs to fund low interest rate loans for first time homebuyers.

CCB staff members throughout Orange County and Carrboro are also very active in the local community. Their participation includes community boards, teaching homebuyer education classes, and participating in small business seminars. For example, Margi Rice, First VP & Commercial Officer, serves on the board of the Orange Community Housing Corporation, which provides home ownership and rental opportunities to low and moderate income families. Additionally, Margi is on the board of the Orange County Small Business Loan Program.

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Richard (Rick) Chambless, Retail Group Manager for Orange County, serves on the Board of Directors for Habitat for Humanity of Orange County. Melissa Shepherd, Mortgage Officer, has taught first-time homebuyer programs in Orange County. Finally, Robert (Bob) Ward, Commercial Officer at our University Square Office, also serves as Chairman of the Community Relation Committee for the Chapel Hill/Carrboro Chamber of commerce.

Through the CCB Foundation, many organizations have benefited from grants to assist with community development activities, homebuyer education, and creation of loan funds for economic development. Some of the organizations benefiting have been Downtown Housing Improvement Corporation (DHIC) in Raleigh, Durham Affordable Housing Coalition, ReBuild Durham, North Carolina Low Income Housing Coalition, and several others.

Each of these efforts exemplifies the commitment CCB has to CRA activities and the communities we serve. All of these efforts and programs are available to the Town of Carrboro and to its citizens.

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Att. BD

ATTACHMENT A

**A RESOLUTION APPROVING A TWO-YEAR EXTENSION OF THE
BANKING SERVICES CONTRACT WITH BANK OF AMERICA
Resolution No. 106/2007-08**

BE IT RESOLVED by the Board of Aldermen that the current Banking Services Contract with Bank of America be extended for an additional two years through February 28, 2010.

Collateralization Of Public Deposits In North Carolina



**Richard H. Moore, State Treasurer
Raleigh, North Carolina
January, 2001**

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INTRODUCTION

Financial institutions in North Carolina serving as official depositories for public funds, as well as the public depositors of those funds, are subject to statutory and regulatory requirements regarding the collateralization of certain public deposits. This pamphlet contains the applicable Administrative Code pertaining to the collateralization requirements, as well as a general explanation of the Code. If there are any conflicts between the Code and the general explanation, the Code must be followed.

In addition to the statutory and regulatory requirements, Statement No. 3 of the Governmental Standards Board requires the financial statements of applicable governmental units to disclose any conditions of undercollateralization as of balance sheet date, and any significant violations of collateral requirements at any time during an audit period. Because of the importance of the various requirements, it is hoped that each recipient of this pamphlet will become familiar with the contents.

Discussions in this pamphlet do not include the requirements for collateralization of U.S. Treasury funds (Treasury Tax and Loan Accounts, etc.) See 31 CFR Part 202, 203 and 214 with information available at web site <http://fms.treas.gov/collateral/index.html>. Nor does this pamphlet include collateral requirements of banks' trust departments. (See G.S. 36A-63 for State-chartered and 12 CFR Reg 9 Section 9.10 for federally chartered.)

Any forms contained in this pamphlet may be duplicated.

Questions pertaining to the contents of this pamphlet may be addressed to:

Department of State Treasurer
Investment and Banking Division
Raleigh, North Carolina 27603-1385
Telephone: (919) 508-5971

or

Department of State Treasurer
State and Local Government Finance Division
Raleigh, North Carolina 27603-1385
Telephone: (919) 733-3064

The State Treasurer's web site is www.treasurer.state.nc.us. This pamphlet and forms are available for downloading.

Published 1982, 1986, 1988, 1994, 1999

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GENERAL EXPLANATION OF 20 NCAC 7
(Collateralization Rules For Public Deposits)

Authorization. North Carolina General Statutes authorize and require the State Treasurer and the Local Government Commission to prescribe such rules as may be necessary to regulate the collateralization of certain public deposits in North Carolina banks and savings institutions. These rules are codified in the North Carolina Administrative Code - Title 20, Chapter 7. The April 1, 1994 amendments incorporated the Federal Deposit Insurance Corporation's (FDIC) Policy Statement dated March 23, 1993, which specifies the requirements for creation of an enforceable security interest in any pledged collateral securities. This policy statement resulted from the North Arkansas v. Barrett, 962 F.2d (8th Cir. 1992) court decision, and clarifies the FDIC's policy on enforcing the requirements of Section 11(e) of the Federal Deposit Insurance Act, as amended by the Financial Institutions Reform, Recovery, and Enforcement Act of 1989 (FIRREA). The April 1994 amendments to the rules also incorporated compliance with any requirements of the North Carolina Uniform Commercial Code in regards to the creation of an enforceable security interest.

Public Deposits. Public deposits covered under the rules include the deposits of:

<u>Entity</u>	<u>Statutory Reference</u>
The State Treasurer	G.S. 147-69 and 79
The North Carolina State Bar	G.S. 84-34.1
University System's Medical Schools	G.S. 116-36.1(g)(7) and 36.1(h)
Local School Administrative Units	G.S. 115C-443 and 444
Community Colleges	G.S. 115D-55(b) and 56(b)
Local ABC Boards	G.S. 18B-702(d)
Local Governmental Units	G.S. 159-30 and 31

Examples of a local governmental unit include:

Cities and Towns	Regional Hospitals
Counties	Area Mental Health Centers
Public Hospitals	District Health Departments
Public Airports	Drainage Districts
Public Libraries	District Water and Sewer Authorities
Public Housing Authorities	Councils of Governments

Clerks of Superior Court. Funds administered by the 100 Clerks of Superior Court are public deposits, but not public deposits as defined under 20 NCAC 7, and therefore are not subject to the rules. However, collateralization of these deposits is required by G.S. 7A-112. The securities which may be used to collateralize the Clerks of Superior Court's deposits are limited to bonds of the United States government or of the State of North Carolina, or of counties and municipalities of North Carolina whose bonds have been approved by the Local Government Commission. The North Carolina Administrative Office of the Courts (AOC) establishes the rules pertaining to the Clerks' deposits and has promulgated security agreements (Form AOC-A-911M) and escrow agent agreements (Form AOC-A-912M) for use by the Clerks. The forms are available either from the Clerk's Office or AOC. (Since the Clerks are not subject to 20 NCAC 7, their deposit accounts are not eligible to be included in the State Treasurer's Pooling Method of collateralization.)

Funds Not Subject to Collateralization. Being a public agency in itself does not necessarily require that funds of the public agency be collateralized. Based upon opinions issued by the North Carolina Attorney General's Office, there must be a specific statute authorizing the collateralization of deposits of a public agency. In the absence of express statutory authorization, any such pledge would likely be considered an invalid pledge and be of no value to the pledgee in the event of a failure. Therefore, before pledging its assets, a financial institution should be assured of its authority to do so. On page 6 of this pamphlet is a listing of the statutory references which may be used to determine whether a particular entity's deposits

may be collateralized. A resolution passed by an entity's board of directors or trustees, in the absence of statutory authority, is not sufficient authority to require/provide collateral. Any entity (public, private, or non-profit) requiring an institution to pledge securities when there is no statutory authorization is relying upon false security.

Public Depositor Definition. The term "public depositor" as defined in the rules can be either the State Treasurer in the case of State funds, or the person charged with the custody of public deposits of a participating unit. This is the official custodian of funds for a "public unit account" recognized by the Federal Deposit Insurance Act (12 C.F.R. 330.14). (See Rule .0102)

Public Deposit Definition. The term "public deposit" as defined in the rules includes the deposits of all public depositors and consists of two categories—demand and time. Time deposits are generally any deposits on which interest is paid and include savings accounts, negotiable order of withdrawal (NOW) accounts, money market deposit accounts (MMDA), certificates of deposit, and savings certificates. Although NOW and MMDA accounts are normally reported on certain federal reporting forms as transactional accounts along with checking accounts, for insurance coverage purposes they are considered time deposits (12 C.F.R. 204.2 and 12 C.F.R. 329.1). Repurchase agreements, accounts with the North Carolina Capital Management Trust, and State Treasurer Short Term Investment Fund (STIF) accounts are not deposits to be insured or secured since they are considered investments. (See Rule .0102)

FDIC Insurance Coverage. FDIC regulations (12 C.F.R. 330.14) provide insurance coverage to the official custodian of a public unit (public depositor), not to the public unit itself. Additionally, in the case of public unit accounts, FDIC allows \$100,000 of coverage on all demand deposits combined and a separate \$100,000 on all time deposits combined. It is therefore possible for a public depositor to have up to \$200,000 of total insurance coverage. (See Rule .0202)

Notification of New Accounts. Upon the opening of every new deposit account, it is the responsibility of the public depositor to notify the depository either orally or in writing that the deposits in said deposit account are public deposits subject to the collateralization rules. The depository should develop procedures to identify public deposits when new accounts are opened in order that the balances may be included in determining total balances to be collateralized (on a timely basis). (See Rule .0103)

Annual Notification Report. To assist the depository in keeping its records current, as of June 30 of each year, the public depositor is required to provide each depository Form INV-91 "Notification of Public Deposit," which lists the current account names and numbers of all its public deposit accounts. The public depositor sends a duplicate copy of this completed form to the State Treasurer's Office to assist in the monitoring process. Blank forms are supplied to the public depositors by the State and Local Government Finance Division. (See Rule .0103)

Depository's Responsibility. It is the responsibility of the depository to provide adequate collateral for all deposits in excess of any insurance coverage for all accounts which it has been notified are public deposit accounts. If the depository has not received notification for a questionable account, it may forward the public depositor a written request for verification of the deposit. (See Rules .0107, .0103)

Two Methods of Securing Deposits. There are two methods a depository may choose to secure its uninsured public deposit accounts. The first is the "Dedicated Method" (formerly Option 1), which each public depositor's deposits are secured separately, and which requires the establishing of a separate escrow account for each public depositor. The second is the "Pooling Method" (formerly Option 2), under which all public depositors' deposits are secured through a single escrow account established by the depository with the State Treasurer for the benefit of the State and the participating units. The Pooling Method is generally beneficial for a depository which has a large number of public depositors and desires to limit its dealings to only the State Treasurer's Office in administering the collateralization process. On page 11 of this pamphlet is a comparison of the two options. (See Rule .0104)

Public Housing Authorities Exception. The deposits of Public Housing Authorities are not eligible to be included in the Pooling Method. These deposits are to be collateralized under the Dedicated Method, and

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in accordance with any further restrictions required by regulations of the United States Department of Housing and Urban Development (HUD). Such restrictions generally allow only certain types of eligible collateral, such as U.S. treasury and agency securities. (See Rule .0104)

Selection of Method - Depository's Choice. The depository may select only one method for all public depositors. It cannot use one method for some units and another method for others (with the exception that Public Housing Authorities must be included only under the Dedicated Method). Unless the depository has taken the necessary action to initiate the Pooling Method, by default it is under the Dedicated Method. (See Rules .0104, .0105)

Monitoring Responsibility. If a depository has chosen the Dedicated Method, the responsibility for monitoring the depository's compliance is that of the public depositor. The public depositor is required to maintain a record of all securities pledged at all times. Other responsibilities include ensuring that the proper security agreements and escrow agent agreements have been executed, and approving the pledging and releasing of all securities as requested by the depository. If a depository has chosen the Pooling Method, the State Treasurer is responsible for monitoring the depository's compliance. The depository is required to provide certain reports to the State Treasurer, quarterly and annually, to accommodate this central monitoring process. The State and Local Government Finance Division periodically publishes a listing of all depositories that have chosen the Pooling Method. (See Rules .0104, .0202, .0304, .0305, .0501, .0502, .0505)

Exercising the Pooling Method. Rule .0105 outlines in detail the steps a depository must take in order to convert from the Dedicated Method to the Pooling Method. The steps include submitting the following to the State Treasurer:

- 1) Letter of intent indicating the desired effective date;
- 2) Executed Form INV-93A, "Security Agreement with Resolution";
- 3) Executed INV-93B, "Escrow Agent Agreement" (Not required if the Federal Reserve Bank is the escrow agent);
- 4) Completed Form INV-99, "Selected Financial Data Report" (A low capital adequacy ratio may preclude the approval to exercise the Pooling Method); and
- 5) Completed Form INV-97, "Annual Report on Public Deposits."

In addition, a completed Form INV-92, "Election of Pooling Method," must be sent to each of its public depositors notifying them of its election. A duplicate of this form must be provided to the State Treasurer. The depository may pledge the required collateral to the State Treasurer in one of two ways, making such indication on the Form INV-92. When submitting Form INV-92, the depository should also include Form INV-95, "Request for Collateral Pledge/Release," requesting the public depositor to authorize either:

- 1) The release of any collateral currently pledged to the public depositor to be simultaneously repledged to the State Treasurer; or
- 2) The release of any collateral without substitution, as the depository has previously pledged sufficient collateral to the State Treasurer. (See Rule .0105)

Security Agreements. The FDIC's Policy Statement dated March 23, 1993, specifies the requirements which must be met in order to create an enforceable security interest in pledged collateral securities. One of the requirements is that a security agreement be executed in duplicate between the public depositor and the depository, and that it be approved by a resolution passed by either the depository's board of directors or loan committee. The security agreement to be executed depends upon which method the depository has chosen:

Pooling Method	— INV93A
Dedicated Method	— INV94A
(See Rule .0305)	

Escrow Agent Agreements. Eligible escrow agents include the Federal Reserve Bank, the Federal Home Loan Bank, and any commercial bank having authority to conduct a trust business, provided the bank is not an affiliate of the depository. For each commercial escrow agent used, and in the case of the Federal Home Loan Bank, an "Escrow Agent Agreement" is to be executed in triplicate by each of the parties. Securities pledged with the Federal Reserve Bank are in accordance with Circular 16 of the Federal Reserve Bank and therefore do not require an escrow agent agreement. However, the Federal Reserve Bank's signature cards (pink) are to be executed. The escrow agent agreement to be executed depends upon which method the depository has chosen:

Pooling Method	—	INV93B
Dedicated Method	—	INV94B

(See Rules .0301, .0302, .0303)

Calculating Amount of Collateral to be Pledged. Under the Dedicated Method, the amount of required collateral shall be based on actual current balances (both time and demand). Under the Pooling Method, the amount for each public depositor's time deposits shall be based on actual current balances, while the amount for demand deposits shall be based on an approved averaging method. All securities shall be valued at current market value, and at a minimum shall equal 100% of the amount required to be collateralized. However, the public depositor in the case of the Dedicated Method or the State Treasurer in the case of the Pooling Method may, at his discretion, require the market value of the securities pledged to be 10% greater than the 100% minimum, should he feel circumstances indicate an apparent risk. Additionally, any depository using the Pooling Method which does not maintain a 10% excess, although not required to maintain such cushion, must submit reports (Form INV-96) to the State Treasurer on a monthly basis as opposed to a quarterly basis. (See Rules .0202, .0505)

School Funds. The amount of collateral required to be pledged for deposits of individual schools within the same system are to be calculated separately from the deposits of the school administrative unit. The school finance officer of the administrative unit is considered the "official custodian" under FDIC regulations and is therefore allowed the maximum insurance coverage on each type of deposit, both demand and time. However, the treasurers of the individual schools are each allowed only \$100,000 for both demand and time accounts combined. The school finance officer of the school administrative unit is charged with the public depositor's responsibility of administering the collateral requirements for the funds of all schools within the system. This responsibility includes notifying the depository of openings of new accounts, filing the required reports, and in the case of the Dedicated Method, monitoring the collateral needs within one collateral account in the name of the school administrative unit. As such, he/she is the person to whom all the required collateral is to be pledged under the Dedicated Method. In the case of the Pooling Method, where the depository is required to submit an annual report on public deposits, the report should indicate the required deposit and insurance amounts for the school administrative unit's accounts, separate from the total amounts for each individual school within the system. (See Rule .0202)

Pledging/Releasing Collateral. All pledges, releases, and substitutions shall be initiated by the Form INV-95, "Request for Collateral Pledge/Release." The form should be prepared in triplicate, the original for the escrow agent (addressee), the duplicate for the pledgee (either State Treasurer or public depositor), and the triplicate for the depository (preparer). If the transaction involves a release or a substitution, the original should be forwarded to the pledgee for approval before being sent to the escrow agent for action. The form should indicate the percentage of excess collateral pledged after the transaction is completed. Escrow agents must provide the pledgee a written advice of all completed transactions. (See Rule .0304)

Reporting Under Dedicated Method. A depository using the Dedicated Method is required to report to each public depositor the total par and market values of securities pledged at the end of each calendar quarter. Annually, as of June 30, it is to file with each public depositor INV-98, "Annual/Quarterly Report on Collateral for Public Deposits." This report is a detailed listing of collateral securities pledged at each escrow bank for that public depositor. This report may be requested by the public depositor to be filed more frequently, and may be used to accommodate the quarterly reporting. The more frequent reporting is generally appropriate whenever securities which have periodic principal reductions are pledged. (See Rule .0501)

Reporting Under Pooling Method. A depository using the Pooling Method is required to file INV-96, "Quarterly Report on Public Deposits," with the State Treasurer at the end of each calendar quarter. This report summarizes all accounts secured and the collateral pledged to cover the accounts. Along with the quarterly report, the depository is to file INV-99, "Selected

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Financial Data," which is a report containing financial data from its quarterly Call Report. The depository may elect to file Form INV-96/99, which is a combination report of Form INV-95 and INV-99. Annually, as of June 30, it is required to file with the State Treasurer INV-97, "Annual Report on Public Deposits," and INV-98, "Annual/Quarterly Report on Collateral for Public Deposits." These two reports provide the detail figures supporting the summary figures provided on the quarterly report. Report INV-98 may be requested by the State Treasurer to be filed more frequently (quarterly). The more frequent reporting is generally appropriate whenever securities which have periodic principal reductions are pledged. (See Rule .0502)

Selected Financial Data Report. A depository using the Pooling Method must file an INV-99, "Selected Financial Data Report" with the State Treasurer quarterly as referenced above. Additionally, any depository using the Dedicated Method and which has State funds on deposit, must also file this report with the State Treasurer quarterly. (See Rule .0504)

Monthly Reporting. Because monitoring of a depository using the Pooling Method is periodic in nature, and because calculation of demand account balances is based on averages, it is desirable to encourage those depositories to provide a cushion of excess collateral. Therefore, for those depositories maintaining less than a 10% excess cushion, monthly reporting will be required. A depository can avoid monthly reporting by maintaining 10% excess collateral at all times. In addition, a depository which is repeatedly late in filing its quarterly report or files a report with a material error will be required to report on a monthly basis. Such monthly reporting directives will be issued by the State Treasurer and will be effective for a period of six months, after which time the depository may resume quarterly reporting. However, subsequent violations may extend the monthly reporting requirement. (See Rule .0505)

Surety Bonds. Surety bonds with a corporate surety may be substituted in lieu of part or all of the collateral securities required to be pledged. Rule .0203 outlines in detail the conditions under which they may be used. Eligible providers of surety bonds must be listed in Circular 570 published annually, as of July 1, by the United States Department of the Treasury. It may be found at web site <http://fms.treas.gov/c570/index.html>. An insurance company desiring to offer surety services must submit the surety bond to the State Treasurer for prior approval. A list of the insurance companies currently approved by the State Treasurer is available. (See Rule .0203)

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STATUTORY REFERENCES

DEPOSITS OF THE STATE TREASURER:

§ 147-79(a) — The amount of funds deposited by the State Treasurer in an official depository shall be adequately secured by deposit insurance, surety bonds, or investment securities of such nature, in such amounts, and in such manner, as may be prescribed by rule or regulation of the State Treasurer with the approval of the Governor and Council of State. No security is required for the protection of funds remitted to and received by a bank or trust company designated by the State Treasurer under G.S. 142-1 and acting as paying agent for the payment of the principal of or interest on bonds or notes of the State.

DEPOSITS OF LOCAL GOVERNMENT UNITS AND PUBLIC AUTHORITIES:

§ 159-31(b) — The amount of funds on deposit in an official depository or deposited at interest pursuant to G.S. 159-30(b) shall be secured by deposit insurance, surety bonds, letters of credit issued by a Federal Home Loan Bank, or investment securities of such nature, in a sufficient amount to protect the local government or public authority on account of deposit of funds made therein, and in such manner, as may be prescribed by rule or regulation of the Local Government Commission. When deposits are secured in accordance with this subsection, no public officer or employee may be held liable for any losses sustained by a local government or public authority because of the default or insolvency of the depository. No security is required for the protection of funds remitted to and received by a bank or trust company acting as fiscal agent for the payment of principal and interest on bonds or notes, when the funds are remitted no more than 60 days prior to the maturity date.

DEPOSITS OF THE NORTH CAROLINA BAR:

§ 84-34.1 — Deposits of the North Carolina Bar, its boards, agencies, and committees shall be secured as provided in G.S. 159-31(b).

DEPOSITS OF LOCAL SCHOOL ADMINISTRATIVE UNITS OR INDIVIDUAL SCHOOLS:

§ 115C-444(b) — Money on deposit in an official depository or deposited at interest pursuant to G.S. 115C-443(b) shall be fully secured by deposit insurance, surety bonds, or investment securities of such nature, in such amounts, and in such manner, as may be prescribed by rule or regulation of the Local Government Commission. When deposits are secured in accordance with this subsection, no public officer or employee may be held liable for any losses sustained by a local school administrative unit because of default or insolvency of the depository.

DEPOSITS OF COMMUNITY COLLEGES:

§ 115D-58.7(b) — Money deposited in an official depository or deposited at interest pursuant to G.S. 115D-58.6(b) shall be secured in the manner prescribed in G.S. 159-31(b). When deposits are secured in accordance with this subsection, no public officer or employee may be held liable for any losses sustained by an institution because of the default or insolvency of the depository.

DEPOSITS OF ABC BOARDS:

§ 18B-702(d) — Deposits and Investments. A local board may deposit moneys at interest in any bank or trust company in this State in the form of savings accounts or certificates of deposit. Investment deposits shall be secured as provided in G.S. 159-31(b)...

DEPOSITS OF UNIVERSITY MEDICAL SCHOOLS:

§ 116-36.1(g)(7) — Moneys received by an institution in respect to fees and other payments for services rendered by medical, dental or other health care professionals under a contractual agreement between the institution and a hospital or other health provider.

§ 116-36.1(h) — Notwithstanding the provisions of subsection (b) of this section, the Board may designate as the official depository of the funds identified in subsection (g)(7) of this section one or more banks or trust companies in this State. The amount of funds on deposit in an official depository shall be fully secured by deposit insurance, surety bonds, or investment securities of such nature, in such amounts, and in such manner as is prescribed by the State Treasurer for the security of public deposits generally.

SUMMARY OF RESPONSIBILITIES

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Public Depositor:

1. Upon opening an account with a depository, ascertain the method used by the depository to collateralize the public deposits. Stay informed of any change in methods as the result of conversions to a different method or as the result of merger of depositories.
2. Notify each depository whenever a new deposit account is opened or a certificate of deposit is purchased, that the account is a public deposit account subject to the collateralization requirements.
3. File a "Notification of Public Deposit" (INV-91) with each depository, with a copy to the State Treasurer, as of June 30 of each year.
4. In the case of depositories using the Dedicated Method, determine that a "Security Agreement With Resolution" (INV-94A) is executed with each. (Resolution must be passed by depository's board of directors or loan committee.)
5. In the case of depositories using the Dedicated Method, determine that an "Escrow Agent Agreement" (INV-94B or Federal Reserve Bank's signature card) is executed with each.
6. In the case of depositories using the Dedicated Method, maintain a record of the securities pledged by each depository for monitoring purposes. If securities having periodic principal pay downs are pledged, consideration should be given to record their decline in "outstanding principal" balances.
7. In the case of the Dedicated Method, periodically check the market values of the collateral pledged to verify at least 100% of the amount required to be collateralized. The frequency of checking the market values would depend upon the amount of excess collateral pledged, the types of collateral pledged, and the volatility of market conditions.
8. In the case of depositories using the Dedicated Method, sign "Request for Collateral Pledge/Release" forms (INV-95), authorizing the release or substitution of collateral whenever requested by the depository, provided sufficient collateral remains pledged after the transaction is effected.
9. In the case of depositories using the Dedicated Method, report the amount of collateral pledged by each depository on the semi-annual reports (LGC-203) filed with the Local Government Commission.

Depository:

1. Collateralize all uninsured deposits of public depositors through an eligible escrow agent(s), using either the Dedicated Method or the Pooling Method.
2. Ensure that the proper security agreement with resolution (INV-93A or INV-94A) is executed with the State Treasurer or with each public depositor. (Resolution must be passed by depository's board of directors or loan committee.)
3. Ensure that the proper escrow agent agreement (INV-93B, INV-94B, or Federal Reserve Banks signature card) is executed for each escrow account.
4. Pledge only securities that are eligible collateral, and in adequate amounts.
5. Maintain valuation of all securities pledged at market value, including the monitoring of securities which may have periodic principal paydowns.

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6. Provide a means for relaying information to the home office from each branch office which may receive notifications of public deposits from public depositors.
 7. Annually (as of June 30), verify the "Notification of Public Deposit" (INV-91) received from each public depositor; determine that all reported accounts are being monitored for collateralization.
 8. Use the "Request for Collateral Pledge/Release" form (INV-95) when instructing the escrow agent to pledge, release, or substitute collateral securities. The pledgee must approve all releases and substitutions before being sent to the escrow agent. Cusip numbers must be used when describing the securities.
 9. File the required quarterly and annual reports in a timely manner.

State Treasurer:

1. In the case of depositories using the Pooling Method, determine that a "Security Agreement with Resolution" (INV-93A) is executed with each depository. (Resolution must be passed by depository's board of directors or loan committee.)
2. In the case of depositories using the Pooling Method, determine that an "Escrow Agent Agreement" (INV-93 or Federal Reserve Bank signature card) is executed with each escrow agent.
3. For monitoring purposes, maintain a record of the securities pledged by each depository having an escrow account for the State Treasurer.
4. When the State Treasurer is the pledgee, sign "Request for Collateral Pledge/Release" forms (INV-95), authorizing the release or substitution of collateral whenever requested by the depository, provided sufficient collateral remains pledged after the transaction is effected.
5. Maintain a file by depository of all "Election of Pooling Method" (INV-92) forms received from depositories electing the Pooling Method, indicating the participating units included in the depository's collateral pool.
6. Maintain a current file of the "Notification of Public Deposit" (INV-91) forms received from the public depositors to assist in monitoring purposes.
7. Respond to requests from public depositors' independent auditors confirming whether or not a public depositor's deposits in a depository using the Pooling Method are secured through the State Treasurer, and whether or not adequate collateral is (was) pledged.
8. For monitoring purposes, receive and review quarterly and annual reports from depositories using the Pooling Method.

Escrow Agent:

1. Provide escrow account services in accordance with the escrow agent agreements and ensure that the proper agreement (INV-93B, INV-94B, or Federal Reserve Bank signature card) has been executed for each escrow account.
2. Take appropriate action upon receiving a "Request for Collateral Pledge/Release" (Form INV-95) from a depository. The pledgee (State Treasurer or public depositor) must authorize all releases and substitutions of all securities, including the release of proceeds from maturities.
3. Send written advices of all completed transactions on a timely basis to the pledgee (State Treasurer or public depositor).

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Public Depositor's Independent Auditor:

1. Verify whether the depositories used by the public depositor are under the Dedicated Method or Pooling Method by checking the most recent list published by the Local Government Commission.
2. Verify for each depository using the Dedicated Method that the proper security agreement (INV-94A) has been executed and that it has been approved by a resolution of the depository's board of directors or loan committee.
3. Verify for each depository using the Dedicated Method that the proper escrow agreement (INV-94B or Federal Reserve Bank signature card) has been executed, that an adequate amount of eligible securities is pledged, and that the public depositor has a record of the securities pledged.
4. As of June 30 of each year, send to the State Treasurer a letter for each depository securing the public depositor's deposits under the Pooling Method, asking for confirmation of the public depositor's inclusion in the depository's pool of collateral established with the State Treasurer (only if deemed necessary). Since the annual reports due from the depositories are not received by the State Treasurer's Office until after July 31, the Treasurer's Office normally cannot respond to the confirmations until sometime in August.

Local Government Commission:

1. Periodically provide participating units a listing of all depositories which have elected the Pooling Method.
2. Provide the participating units blank "Notification of Public Deposit" (INV-91) forms, to be filed with the depositories as of June 30 annually.
3. Provide guidance to the participating units in fulfilling their collateralization responsibilities.
4. Monitor compliance by certain participating units (governmental units) through the review of semi-annual LGC-203 reports.

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ELIGIBLE COLLATERAL SECURITIES PURSUANT TO 20 NCAC 7 & N.C. GENERAL STATUTES

The following types of securities are eligible for pledging as security provided that the securities are eligible for investment by the depository and can be included at full value in the reserves of the depository:

- (1) Obligations of the United States of America;
- (2) Obligations of any agency or instrumentality of the United States of America if the payment of such obligation is fully guaranteed by the United States of America;
- (3) Obligations of the State of North Carolina, the N.C. Medical Care Commission, the N.C. Housing Finance Agency, the N.C. State Education Assistance Authority and the component institutions of the University of North Carolina;
- (4) Bonds or notes of any North Carolina local government or public authority issued with the approval of the Local Government Commission and not currently in default on payment of interest or principal on any of its bonds or notes;
- (5) General obligations bonds of other states whose full faith and credit are pledged to the payment of principal and interest thereof;
- (6) Bonds, notes and other direct obligations of the Federal Financing Bank, the Farm Credit System, the Federal Land Banks, the Federal Home Loan Banks, the Federal Home Loan Mortgage Corporation, the Federal National Mortgage Association, the Government National Mortgage Association, the Federal Housing Administration, the Farmers Home Administration, the United States Postal Service, the Export-Import Bank, the International Bank for the Reconstruction and Development, the International Finance Corporation, the Inter-American Development Bank, the Asian Development Bank, the African Development Bank, and the Student Loan Marketing Association.
- (7) Bonds or notes of a housing authority established or to be established pursuant to Article 1, Chapter 157 of the General Statutes of North Carolina or issued by any public housing authority or agency in the United States, when such bonds and notes are secured by a pledge of an annual contribution to be paid by the United States government or any agency thereof, or bonds or notes which may be issued by a not-for-profit corporate agency of a housing authority secured by rentals payable pursuant to Section 23 of the United States Housing Acts of 1937, as amended;
- (8) Prerefunded bonds and bonds escrowed to maturity—if the issuer shall have applied for and received a re-rating of “AAA” by at least one nationally recognized rating service by reason of U.S. Government securities being escrowed with the trustee;
- (9) Special obligation bonds—if they were originally rated “AAA” by reason of U.S. Government securities being escrowed with the trustee;
- (10) Prime quality commercial paper bearing the highest rating of at least one nationally recognized rating service and not bearing a rating below the highest by any nationally recognized rating service which rates the particular obligation;
- (11) Bills of exchange or time drafts drawn on and accepted by a commercial bank and eligible for use as collateral by member banks in borrowing from a Federal Reserve Bank, provided that the accepting bank or its holding company is either: (a) incorporated in the State of North Carolina; or (b) has outstanding publicly held obligations bearing the highest rating of at least one nationally recognized rating service and not bearing a rating below the highest by any nationally recognized rating service which rates the particular obligation;
- (12) Letters of credit issued by a Federal Home Loan Bank. (Senate Bill 417, 1999 Session)

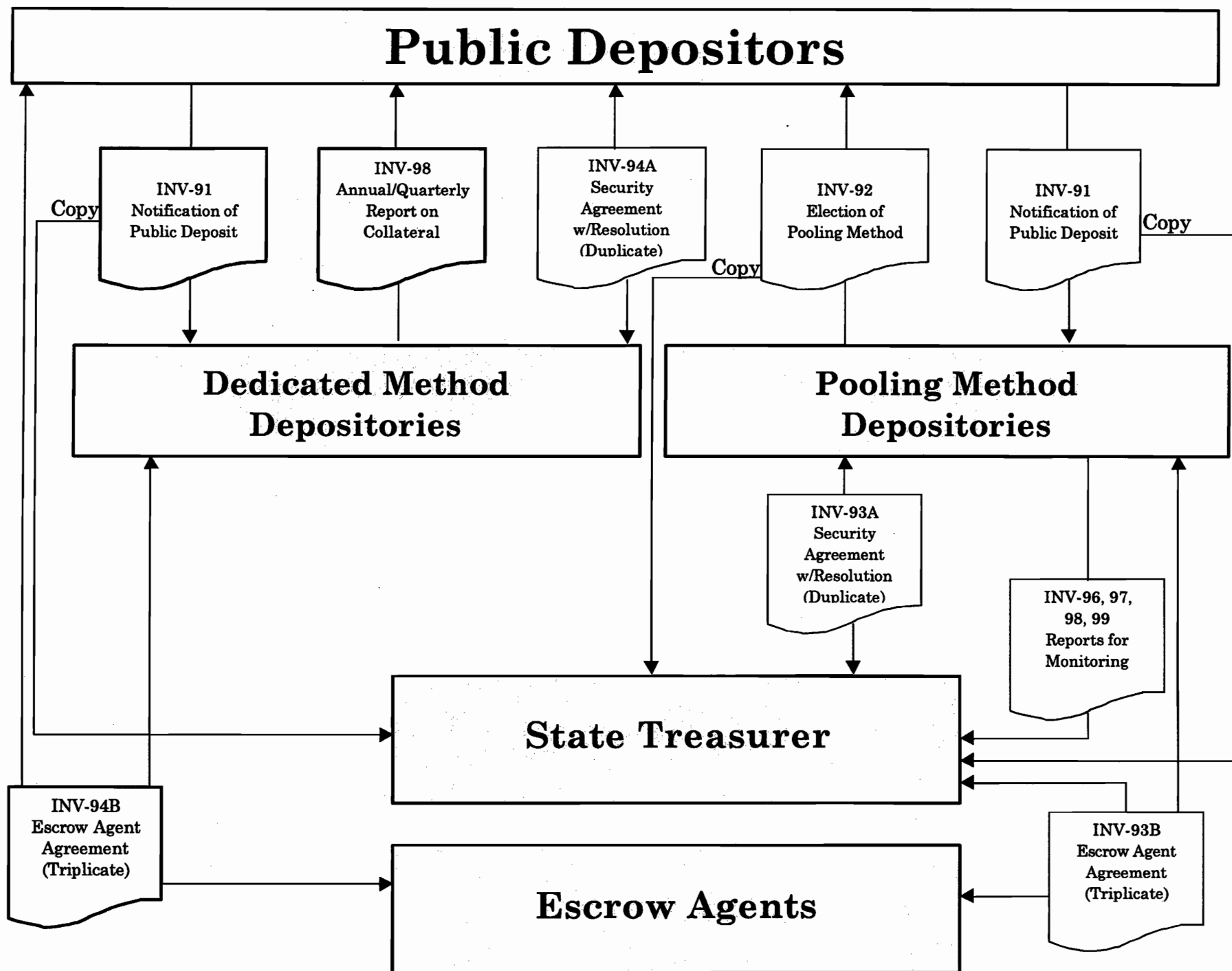
In case of questions, it is the responsibility of the depository to demonstrate that the security to be pledged does fulfill the requirements of this Rule.

Surety bonds with a corporate surety may be substituted in lieu of part or all of the collateral required, pursuant to Rule .0203.

**COMPARISON OF METHODS FOR
COLLATERALIZING PUBLIC DEPOSITS**

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	Dedicated Method (Formerly Option 1)	Pooling Method (Formerly Option 2)
Responsibility for Collateralization	Depository	Depository
Responsibility for Monitoring Depository	Public Depositor	State Treasurer
Security Agreement With Resolution	With Public Depositor (INV-94A)	With State Treasurer (INV-93A)
Escrow Agreement for Commercial Escrow or FHLB	With Public Depositor (INV-94B)	With State Treasurer (INV-93B)
Escrow Agent Agreement for Federal Reserve Bank	Not Required (Cir. 16) Signature Card Instead	Not Required (Cir. 16) Signature Card Instead
Signature Card for Federal Reserve Bank	Signed by Public Depositor	Signed by State Treasurer
Quarterly Report on Deposits from Depository	Not Required	To State Treasurer (INV-96)
Quarterly Report of Collateral from Depository	To Public Depositor (Letter Form)	To State Treasurer (INV-98)
Selected Financial Data Report from Depository	Not Required Unless State Funds	To State Treasurer (INV-99)
Annual Report on Public Deposits from Depository as of June 30	Not Required	To State Treasurer (INV-97)
Annual Report on Collateral from Depository as of June 30	To Public Depositor	To State Treasurer (INV-98)
Request for Collateral Pledge/Release Form Required (INV-95)	Authorization by Public Depositor	Authorization by State Treasurer
Reports Required if Deposits do not Exceed FDIC Insurance Coverage	No	Yes
Notification of Public Deposit from Public Depositor to Depository (INV-91)	June 30 with Copy to State Treasurer	June 30 with Copy to State Treasurer
"Election of Pooling Method" Form Submitted to Public Depositor by Depository (INV-92)	No	At Conversion with Copy to State Treasurer
Time Deposit Calculations	Actual Daily Balances	Actual Daily Balances
Demand Deposit Calculations	Actual Daily Balances	Average Daily Balances
Valuing of Securities Pledged	Market Value	Market Value
Minimum Amount of Collateral	100%	110% to Avoid Monthly Reporting



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FORMS AND REPORTS FOR PROCEDURAL COMPLIANCE

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- FORM INV-91** "NOTIFICATION OF PUBLIC DEPOSIT"—Prepared in duplicate as of June 30 of each year by each public depositor to identify public deposits to the depository. One copy is sent to the depository, and one copy is sent to the State Treasurer.
- FORM INV-92** "ELECTION OF POOLING METHOD"—Prepared in duplicate by a depository converting from the Dedicated Method to the Pooling Method to notify each public depositor of its intention to secure all public deposits through the State Treasurer. One copy is sent to the public depositor, and one copy is sent to the State Treasurer.
- FORM INV-93A** "SECURITY AGREEMENT WITH RESOLUTION (POOLING METHOD)"—Executed in duplicate by the State Treasurer and the depository and used to create an enforceable security interest in any collateral pledged by the depository to the State Treasurer. Agreement must be approved by a resolution passed by the depository's board of directors or loan committee.
- FORM INV-93B** "ESCROW AGENT AGREEMENT (POOLING METHOD)"—Executed in triplicate by the State Treasurer, the depository, and the escrow bank agent and used by a depository to establish an escrow account to secure the deposits of all public depositors through the State Treasurer. Applicable to commercial escrow banks and the Federal Home Loan Bank, but not the Federal Reserve Bank.
- FORM INV-94A** "SECURITY AGREEMENT WITH RESOLUTION (DEDICATED METHOD)"—Executed in duplicate by the public depositor and the depository and used to create an enforceable security interest in any collateral pledged by the depository to the public depositor. Agreement must be approved by a resolution passed by the depository's board of directors or loan committee.
- FORM INV-94B** "ESCROW AGENT AGREEMENT (DEDICATED METHOD)"—Executed in triplicate by the depository, the escrow bank agent, and the public depositor and used by a depository using the Dedicated Method to establish an escrow account to secure the public depositor's deposits in a separate escrow account. Applicable to commercial escrow banks and the Federal Home Loan Bank, but not the Federal Reserve Bank.
- FORM INV-95** "REQUEST FOR COLLATERAL PLEDGE/RELEASE"—Prepared in triplicate by the depository to instruct the escrow agent of all pledges, releases, and substitutions to effect for each escrow account. The original is for the escrow agent, the duplicate for the pledgee (State Treasurer or public depositor) and the triplicate for the depository. In the case of a release or substitution, the form must be signed by the pledgee before being acted upon by the escrow agent.
- FORM INV-96** "QUARTERLY REPORT ON PUBLIC DEPOSITS"—Prepared quarterly by all depositories using the Pooling Method. Report is due 30 days following the end of each calendar quarter, and is to be filed with the State Treasurer. Report is required to be filed monthly if the depository does not maintain at least 10% excess collateral.
- FORM INV-97** "ANNUAL REPORT ON PUBLIC DEPOSITS"—Prepared by all depositories using the Pooling Method. Report is a listing of all public depositors, and for each depositor, the amounts on deposit for demand and time accounts, and the insurance amount on each type. Report is to be dated June 30 and is due by July 31.
- FORM INV-98** "ANNUAL/QUARTERLY REPORT ON COLLATERAL FOR PUBLIC DEPOSITS"—Prepared by all depositories having any public deposits requiring collateralization. Report is a listing of the securities pledged as collateral with each escrow agent. Depositories using the Dedicated Method forward the reports to the individual public depositors, and depositories using the Pooling Method forward reports to the State Treasurer. Report is to be dated June 30 and is due by July 31. The report may be requested to be filed more frequently (quarterly).
- FORM INV-99** "SELECTED FINANCIAL DATA"—Prepared by all depositories using the Pooling Method and those depositories using the Dedicated Method which have State funds. Report is due 30 days following the end of each calendar quarter, and is to be filed with the State Treasurer. Report contains data extracted from its quarterly call report.
- FORM INV-96/99** "COMBINED QUARTERLY REPORT ON PUBLIC DEPOSITS AND SELECTED FINANCIAL DATA"—May be used in lieu of filing separate forms INV-96 and INV-99.

NOTE: The depository may substitute its own formats for Forms INV-95, INV-97, and INV-98 provided the formats are substantially the same in the content and order of presentation.

Copies of the forms may be found in the back of this publication as Exhibits.

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NORTH CAROLINA ADMINISTRATIVE CODE
(EXCERPT)

TITLE 20
DEPARTMENT OF STATE TREASURER

CHAPTER 7
COLLATERALIZATION OF DEPOSITS

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Chapter 7 — Collateralization of Deposits

Section .0100 — General

.0101 GENERAL INFORMATION

- (a) This Chapter sets for the manner in which the official depositories shall provide the collateralization of the uninsured balances on deposit in accordance with provisions in G.S. 18B-702(d), G.S. 115C-443 and 444, G.S. 115D-58.6(b) and 58.7(b), and G.S. 147-69.1 and 79, G.S. 159-30 and 31, G.S. 116-36.1(h), and G.S. 84-34.1.
- (b) All correspondence to the State Treasurer under this Chapter shall be addressed to: Division of Investment and Banking, Department of State Treasurer, 325 North Salisbury Street, Raleigh, NC 27603-1385.

History Note: Statutory Authority G.S. 115C-444(b); 147-79; 159-31(b);
Eff. August 1, 1980;
Readopted with Change Eff. February 1, 1982;
Amended Eff. April 1, 1994; August 1, 1987.

.0102 DEFINITION OF TERMS

The words and phrases defined in this Rule will have the meanings indicated when used in this Chapter, unless the context clearly requires another meaning:

- (1) "Affiliate" means "affiliate" as defined in 12 USC 371c(b)(1) including subsequent amendments.
- (2) "Demand Deposits" are all deposits that are not time deposits as defined in these Rules, i.e. all non-interest bearing deposits.
- (3) "Deposit Accounts" include all demand and time deposits as defined in these Rules.
- (4) "Deposit Insurance" means the insurance provided by the Federal Deposit Insurance Corporation.
- (5) "Depository" means a financial institution into which the State Treasurer or a participating unit is empowered to deposit money with or without interest, and which is required by law to secure the deposits with deposit insurance and collateral securities.
- (6) "Governmental Unit" includes any city, town, county, special district, public hospital, public authority, whose deposits are required to be secured.
- (7) "Participating Unit" means any governmental unit, any city or county school administrative unit, any community college, any local ABC board, any university depositing moneys pursuant to G.S. 116-36(h), and the State Bar of North Carolina.
- (8) "Public Depositor" means the State Treasurer or the person charged with the custody of public deposits of a participating unit. In the case of special funds of the individual schools of a city or county school administrative unit, this person is the school finance officer.
- (9) "Public Deposits" means all deposits made to the account of the State Treasurer and all deposits made by a participating unit in any depository, including those held by the depository in an escrow capacity.
- (10) "State Funds" means deposits to the account of the State Treasurer.
- (11) "State Treasurer" means the State Treasurer of North Carolina.
- (12) "Time Deposits" means interest-bearing deposits including savings accounts, negotiable order of withdrawal (NOW) accounts, and money market deposit accounts (MMDA), and certificates of deposits and savings certificates, both negotiable and non-negotiable.

History Note: Statutory Authority G.S. 115C-444(b); 147-79; 159-31(b);
Eff. August 1, 1980;
Readopted with Change Eff. February 1, 1982;
Amended Eff. April 1, 1994; September 1, 1988; June 1, 1984; November 1, 1983.

.0103 NOTIFICATION BY DEPOSITOR

- (a) When opening a new deposit account, the public depositor shall provide the depository either written or oral notification that the said deposits in said deposit account are public deposits subject to the collateralization rules.
- (b) As of June 30 of each year, or when requested by the State Treasurer, the public depositor shall provide the depository Form INV-91 "Notification of Public Deposit," listing the current account names and numbers of all public deposit accounts, and shall provide a duplicate copy to the State Treasurer. Form INV-91 shall be certified by the public depositor that the statements are correct.
- (c) If the depository has any reason to believe that a deposit account for which it has not received a notification pursuant to Paragraph (a) of this Rule is in fact a public deposit, it may forward to the public depositor a written request for

verification of the deposit account. The public depositor shall respond promptly to this request in writing to the depository.

*History Note: Statutory Authority G.S. 115C-444(b); 147-79; 159-31(b);
Eff. August 1, 1980;
Readopted with Change Eff. February 1, 1982;
Amended Eff. April 1, 1994; September 1, 1988.*

.0104 METHODS OF SECURING DEPOSITS

- (a) Deposits of Public Depositors. Except for public deposits of housing authorities each depository shall have the following options:
 - (1) Dedicated Method. To secure all uninsured public deposits of each public depositor separately. The depository shall maintain a record of all securities pledged, with such record being an official record of the depository and made available to examiners or representatives of all regulatory agencies. Each public depositor shall maintain a record of the securities pledged for monitoring purposes.
 - (2) Pooling Method. To secure all uninsured public deposits of every public depositor through a pool of collateral established by the depository with the State Treasurer for the benefit of the State and the participating units. The depository shall maintain a record of all securities pledged, with such record being an official record of the depository and made available to examiners or representatives of all regulatory agencies. The State Treasurer shall maintain a record of the securities pledged for monitoring purposes.
- (b) Notwithstanding the definitions in 20 NCAC 7 .0102, housing authorities established pursuant to G.S. 157, Article 1 and operating under the provisions of the United States Housing Act of 1937, as amended, shall not be eligible to be included in the Pooling Method. The deposits of such housing authorities shall be collateralized under the Dedicated Method, and in accordance with any further restrictions required by regulations of the United States Department of Housing and Urban Development.
- (c) The State Treasurer shall maintain a listing of depositories which have selected the Pooling Method, and shall periodically make such listing available to all participating units.

*History Note: Statutory Authority G.S. 115C-444(b); 147-79; 159-31(b);
Eff. August 1, 1980;
Readopted with Change Eff. February 1, 1982;
Amended Eff. April 1, 1994; November 1, 1993.*

.0105 EXERCISING THE POOLING METHOD

- (a) Unless and until the requirements of this Rule are met, the depository is considered to be under the Dedicated Method.
- (b) If the depository selects the Pooling Method, it shall:
 - (1) Submit to the State Treasurer a letter of intent, indicating the effective date it desires to convert to the Pooling Method, which shall not be prior to the date the requirements of this Rule are met.
 - (2) Submit to the State Treasurer an executed Form INV-93A, "Security Agreement with Resolution," required to comply with Rule .0305 of this Chapter.
 - (3) Submit to the State Treasurer all executed escrow agreements required to comply with Rule .0303(b) of this Chapter.
 - (4) Submit to the State Treasurer Form INV-99, "Selected Financial Data," referred to in Rule .0501(c) of this Chapter.
 - (5) Submit to the State Treasurer Form INV-97, "Annual Report on Public Deposits" referred to in Rule .0502(c) of this Chapter; however, the report shall be for the period immediately preceding the date of the election of the Pooling Method.
 - (6) Submit to each public depositor Form INV-92, "Election of Pooling Method," notifying them that it has opted to pool the collateral of all public deposits through the State Treasurer; and provide the State Treasurer a duplicate copy of all "Election of Pooling Method" forms.
- (c) When Pooling Method is chosen, the depository shall pledge the required amount of collateral with the escrow agent in one of two ways:
 - (1) The depository shall request the public depositor to sign a letter authorizing the escrow agent to release any collateral securities pledged to the participating unit to be simultaneously repledged to the State Treasurer, with the effective date of the release not being prior to the effective date indicated on the Form INV-92. The recognized

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effective date shall be the date on which the escrow agent records the pledge of the required collateral securities to the State Treasurer.

- (2) The depository shall first pledge the required amount of collateral securities with the escrow agent to the account of the State Treasurer, and then request the public depositor to sign a letter authorizing the escrow agent to release any collateral securities pledged to the participating unit without substitution. The recognized effective date shall be the effective date indicated on the Form INV-92.
- (d) The public depositor shall promptly sign any authorization letter referred to in Paragraph (c) of this Rule.

History Note: Statutory Authority G.S. 115C-444(b); 147-79; 159-31(b);
Eff. August 1, 1980;
Readopted with Change Eff. February 1, 1982;
Amended Eff. April 1, 1994; September 1, 1988.

.0106 FORMS

The following forms shall be promulgated by the State Treasurer and shall be used for the purposes outlined in this Chapter unless specific permission is given to use a substitute:

- (1) INV-91 Notification of Public Deposit
- (2) INV-92 Election of Pooling Method
- (3) INV-93A Security Agreement with Resolution (Pooling Method)
- (4) INV-93B Escrow Agent Agreement (Pooling Method)
- (5) INV-94A Security Agreement with Resolution (Dedicated Method)
- (6) INV-94B Escrow Agent Agreement (Dedicated Method)
- (7) INV-95 Request for Collateral Pledge and/or Release
- (8) INV-96 Quarterly Report on Public Deposits
- (9) INV-97 Annual Report on Public Deposits
- (10) INV-98 Annual Report on Collateral for Public Deposits
- (11) INV-99 Selected Financial Data

History Note: Statutory Authority G.S. 115C-444(b); 147-79; 159-31(b);
Eff. February 1, 1982;
Amended Eff. April 1, 1994; September 1, 1988.

.0107 DUTY OF DEPOSITORY

By accepting public deposits, the depository assumes the duty and responsibility of maintaining adequate collateral as provided by law and in accordance with the provisions of this Chapter, for all uninsured deposits in accounts for which the public depositor has notified the depository pursuant to Rule .0103 of this Chapter.

History Note: Statutory Authority G.S. 115C-444(b); 147-79; 159-31(b);
Eff. September 1, 1988;
Amended Eff. April 1, 1994.

SECTION .0200 — SECURITIES TO BE DEPOSITED

.0201 ELIGIBLE INVESTMENT SECURITIES

The following types of investment securities are eligible for pledging as security provided that the securities are currently eligible for investment by the depository and can be included at full value in the reserves of the depository:

- (1) Obligations by the United States of America;
- (2) Obligations of any agency or instrumentality of the United States of America if the payment of such obligations is fully guaranteed by the United States of America.
- (3) Obligations of the State of North Carolina, the N.C. Medical Care Commission, the N.C. Housing Finance Agency, the N.C. State Education Assistance Authority and the component institutions of the University of North Carolina;

- (4) Bonds or notes of any North Carolina local government or public authority issued with the approval of the Local Government Commission and not currently in default on payment of interest or principal of any of its bonds or notes;
- (5) General obligations bonds of other states whose full faith and credit are pledged to the payment of principal and interest thereof;
- (6) Bonds, notes and other direct obligations of the Federal Financing Bank, the Farm Credit System, the Federal Land Banks, the Federal Home Loan Banks, the Federal Home Loan Mortgage Corporation, the Federal National Mortgage Association, the Government National Mortgage Association, the Federal Housing Administration, the Farmers Home administration, the United States Postal Service, the Export-Import Bank, the International Bank for Reconstruction and Development, the International Finance Corporation, the Inter-American Development Bank, the Asian Development Bank, the African Development Bank, and the Student Loan Marketing Association;
- (7) Bonds or notes of a housing authority established or to be established pursuant to Article 1, Chapter 157 of the General Statutes of North Carolina or issued by any public housing authority or agency in the United States, when such bonds and notes are secured by a pledge of an annual contribution to be paid by the United States government or any agency thereof, or bonds or notes which may be issued by a not-for-profit corporate agency of a housing authority secured by rentals payable pursuant to Section 23 of the United States Housing Acts of 1937, as amended;
- (8) Pre-refunded bonds and bonds escrowed to maturity — the issuer shall have applied for and received a re-rating of "AAA" by at least one nationally recognized rating service by reason of U.S. Government securities being escrowed with the trustee;
- (9) Special obligation bonds — if they were originally rated "AAA" by reason of U.S. Government securities being escrowed with the trustee;
- (10) Prime quality commercial paper bearing the highest rating of at least one nationally recognized rating service and not bearing a rating below the highest by any nationally recognized rating service which rates the particular obligation;
- (11) Bills of exchange or time drafts drawn on and accepted by a commercial bank and eligible for use as collateral by member banks in borrowing from a federal reserve bank, provided that the accepting bank or its holding company either:
 - (a) is incorporated in the State of North Carolina; or
 - (b) has outstanding publicly held obligations bearing the highest rating of at least one nationally recognized rating service and not bearing a rating below the highest by any nationally recognized rating service which rates the particular obligations.

In case of any questions, it is the responsibility of the depository to demonstrate that the security pledged does fulfill the requirements of this Rule.

*History Note: Statutory Authority G.S. 115C-444(b); 147-79; 159-31(b);
Eff. August 1, 1980;
Readopted with Change Eff. February 1, 1982;
Amended Eff. April 1, 1994; June 1, 1984; November 1, 1983.*

.0202 AMOUNT OF COLLATERAL REQUIRED TO BE PLEDGED

- (a) Under the Dedicated Method, each depository, which is required to pledge collateral to secure the deposit accounts of a public depositor, shall maintain collateral with an escrow agent equal to or in excess of 100 percent of the total amount of all deposit accounts to the credit of the public depositor less the allowable credit for deposit insurance.
- (b) Under the Pooling Method, the amount of required collateral shall be the sum of the amounts required to be collateralized for all public depositors in the depository calculated as follows:
 - (1) Demand Deposits. 100 percent of the average daily balance for the calendar year to date, or 100 percent of the average daily balance for the immediate preceding three calendar month period, or 100 percent of the average daily balance for the current month to date, or such greater amount as shall be given prior approval by the State Treasurer, less the applicable deposit insurance for each public depositor. Calculations for any period other than the "current month to date" method may be based on the period ending the last day of the prior month. At the option of the State Treasurer, the Treasurer may require calculations to be in accordance with the requirements of the Dedicated Method, if it is deemed that the averaging method for a particular depository does not accurately reflect the amount of deposits to be secured.
 - (2) Time Deposits. 100 percent of the actual current balance, less the applicable deposit insurance for each public depositor.

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- (c) The maximum amounts of deposit insurance which may be applied to a public depositor shall be one hundred thousand dollars (\$100,000) on demand deposits and a separate one hundred thousand dollars (\$100,000) on time deposits; however, the deposits in the name of an individual school treasurers shall be allowed one hundred thousand dollars (\$100,000) total insurance on both time and demand deposits combined. An unused amount of insurance may not be applied to another public depositor or to another type of deposit.
- (d) All eligible securities pledged shall be valued at current market.
- (e) The public depositor in the case of the Dedicated Method and the State Treasurer in the case of the Pooling Method may require the amount of collateral to be pledged by the depository to be 10 percent greater than the amount required under this Rule, if the market value of pledged securities is below the amount reasonably required to insure public deposits against the risks apparent at the time of the request.

History Note: Statutory Authority G.S. 115C-444(b); 147-79; 159-31(b);
Eff. August 1, 1980;
Readopted with Change Eff. February 1, 1982;
Amended Eff. April 1, 1994; September 1, 1988; November 1, 1983.

.0203 SURETY BONDS

Surety bonds with a corporate surety may be substituted in lieu of part or all of the collateral required under this Chapter under the following conditions:

- (1) The company is licensed by the Commissioner of Insurance to conduct the business of suretyship in North Carolina, and is acceptable to the State Treasurer.
- (2) The company may not provide surety bonds to collateralize public deposits within North Carolina in amounts exceeding the underwriting limitations established by the U.S. Department of the Treasury as provided in Sections 9304 to 9308 of Title 31 of the United States Code or successor provisions.
- (3) The bond must not permit reduction in the penal amount except with the express written permission of the State Treasurer in the case of the Pooling Method, or custodian in the case of the Dedicated Method.
- (4) The company must agree to provide the State Treasurer a quarterly report listing all surety bonds issued to collateralize public deposits in North Carolina. The report shall list at a minimum the person to whom issued, the depository for whom issued, the penal sum at the end of the quarter, the highest penal sum during the quarter and the date(s) to which the highest penal sum applied, and the underwriting limitation as defined in Paragraph (2) of this Rule currently in effect.
- (5) The surety bond must include the rules in 20 NCAC 7 by reference and provide that said rules and the definitions therein shall prevail in all questions of conflict with other provisions of the bond.
- (6) The bond shall be payable in federal funds no later than the tenth calendar day after final adjudication. Final adjudication means the issuance of a ruling by the State Treasurer that a default exists, which ruling has not been stayed by an appeal of the ruling as provided by law. The words "collateral" and "collateralize" shall include surety bonds and the use of surety bonds when used in any rule of this Chapter not incompatible with this Rule.

History Note: Statutory Authority G.S. 115C-444(b); 147-79; 159-31(b);
Eff. November 1, 1983;
Amended Eff. April 1, 1994; June 1, 1984.

SECTION .0300 — ESCROW OF SECURITIES

.0301 ELIGIBLE ESCROW AGENTS

All securities pledged to secure public deposits shall be deposited either:

- (1) with a Federal Reserve Bank or a Federal Home Loan Bank or a branch thereof pursuant to Rule .0302 of this Section; or
- (2) with a national or state-chartered bank which is not an affiliate of the depository and which has the authority to conduct a trust business pursuant to Rule .0303 of this Section.

History Note: Statutory Authority G.S. 115C-444(b); 147-79; 159-31(b);
Eff. August 1, 1980;
Readopted Eff. February 1, 1982;
Amended Eff. April 1, 1994.

.0302 ESCROW WITH FEDERAL RESERVE BANK OR FEDERAL HOME LOAN BANK

- (a) Securities pledged with a Federal Reserve Bank or a branch thereof shall be deposited under Circular 16 of the Federal Reserve Banks in the name of the State Treasurer in the case of the Pooling Method or the public depositor in the case of the Dedicated Method. The appropriate signature card must be executed.
- (b) Securities pledged with a Federal Home Loan Bank or a branch thereof shall be deposited pursuant to Rule .0303(b) of this Section, and pursuant to the terms of the Federal Home Loan Bank's "Pledge Agreement Custody Receipt" which may be in effect from time to time. The pledgee shall be the State Treasurer in the case of the Pooling Method or the public depositor in the case of the Dedicated Method.

*History Note: Statutory Authority G.S. 115C-444(b); 147-79; 159-31(b);
Eff. August 1, 1980;
Readopted with Change Eff. February 1, 1982;
Amended Eff. April 1, 1994.*

.0303 ESCROW WITH A NATIONAL OR STATE-CHARTERED BANK

- (a) Any bank or trust company which is not an affiliate of the depository, and which is authorized to conduct a trust business and is chartered by the United States government or any of its fifty states is eligible to act as an escrow agent.
- (b) All escrow accounts shall be established with the appropriate Escrow Agent Agreement. Escrow accounts for the State Treasurer under the Pooling Method shall be established by Form INV-93B. Escrow accounts for a public depositor under the Dedicated Method shall be established by Form INV-94B. The escrow agent agreements shall contain the necessary language to establish the required trust as provided in this Chapter.

*History Note: Statutory Authority G.S. 115C-444(b); 147-79; 159-31(b);
Eff. August 1, 1980;
Readopted with Change Eff. February 1, 1982;
Amended Eff. April 1, 1994.*

.0304 PLEDGING: RELEASING AND SUBSTITUTING COLLATERAL

- (a) All pledges and releases of collateral to or from an escrow account shall be initiated by means of Form INV-95 "Request for Collateral Pledge and/or Release Form." The form shall require the following:
 - (1) Amount and description (including CUSIP numbers) of securities to be released and pledged;
 - (2) The effect of the transaction(s) on the total collateral pledged, including the percentage of excess then pledged, if a decrease;
 - (3) Prior approval of all releases and substitutions of collateral by the State Treasurer or public depositor, as applicable;
 - (4) That all transactions be reported to the State Treasurer or public depositor as applicable; and
 - (5) Certification by an authorized official of the depository that after the transaction(s) are completed, the collateral pledge meets the requirements of Rule .0202 of this Chapter.
- (b) Nothing in this Rule shall have the effect of reducing the obligations of the depository to secure public deposits or the required amount of collateral to be pledged.
- (c) The depository may substitute its own format for Form INV-95 provided the format is substantially the same in content and order of presentation.

*History Note: Statutory Authority G.S. 115C-444(b); 147-79; 159-31(b);
Eff. August 1, 1980;
Readopted with Change Eff. February 1, 1982;
Amended Eff. April 1, 1994; September 1, 1988.*

.0305 SECURITY AGREEMENTS

- (a) Under the Dedicated Method, each depository which is required to pledge collateral to secure the deposits of a public depositor, shall execute with the public depositor Form INV-94A, "Security Agreement with Resolution." Form INV-94A shall consist of both a "Depository Resolution" and a "Security Agreement."
- (b) Each depository that elects the Pooling Method is required to execute with the State Treasurer Form INV-93A, "Security Agreement with Resolution." Form INV-93A shall consist of both a "Depository Resolution" and a "Security Agreement."
- (c) Forms INV-93A and INV-94A shall contain the necessary language required to establish the provisions for the perfected delivery of collateral securities pursuant to the requirements of the Federal Deposit Insurance Corporation's Policy Statement dated March 23, 1993, which is incorporated herein by reference including later amendments thereto, and of the

North Carolina Uniform Commercial Code. A copy of the Federal Deposit Insurance Corporation Policy Statement may be obtained from the Investment and Banking Division, 325 North Salisbury Street, Raleigh, NC 27603-1385 on receipt of a request accompanied by a self-addressed, stamped #10 envelope.

History Note: *Statutory Authority G.S. 115C-444(b); 147-79; 159-31(b);*
 Eff. November 1, 1983;
 Amended Eff. April 1, 1994;

SECTION .0400—DELIVERY AND SALE OF PLEDGED SECURITIES IN THE EVENT OF DEFAULT

.0401 REQUEST FOR DELIVERY OF PLEDGED SECURITIES

- (a) The State Treasurer shall, upon default of the depository, request delivery of such part of the pledged collateral as may be needed to hold the State Treasurer and/or any participating unit harmless from losses incurred by the default. The State Treasurer shall have full discretion as to the amounts and securities to be delivered but shall attempt to choose those securities which he believes to be the most saleable in the circumstances.
- (b) A default is defined as the failure of the depository to fulfill its statutory duties to honor timely requests for withdrawals. A legitimate dispute regarding the liability of the depository for specific items of deposit or withdrawal shall not be considered a default during the period of adjudicating the dispute so long as the disputed amounts are 100 percent separately collateralized by the depository at market value in accordance with this Chapter.
- (c) The State Treasurer shall provide at least 24 hours notice to the depository and may provide up to 7 calendar days notice of his order to the escrow agent to deliver part or all of the pledged securities to the State Treasurer and notice of the amount of the default. During the notice period, the depository shall have the right to pay off the amount in default in full by the sale of any of the securities pledged which the depository chooses to sell, provided that the escrow agent or the depository shall transfer the entire amount of the default in federal funds to the State Treasurer prior to the due date for delivery of the pledged securities. This notice may be provided solely by telephone communication.

History Note: *Statutory Authority G.S. 115C-444(b); 147-79; 159-31(b);*
 Eff. August 1, 1980;
 Readopted Eff. February 1, 1982;
 Amended Eff. April 1, 1994; September 1, 1988.

.0402 SAFEKEEPING OF DELIVERED SECURITIES

- (a) The State Treasurer, may, at his sole discretion, require delivery either to the Investment and Banking Division, Department of State Treasurer, 325 North Salisbury Street, Raleigh, North Carolina 27603-1385 or to any duly licensed State chartered or national bank designated by the State Treasurer.
- (b) The State Treasurer shall use the same care with respect to the custody of the delivered securities as he exercises with respect to the State investments in his custody but he shall not insure the delivered securities against any risks.

History Note: *Statutory Authority G.S. 115C-444(b); 147-79; 159-31(b);*
 Eff. August 1, 1980;
 Readopted Eff. February 1, 1982;
 Amended Eff. April 1, 1994.

.0403 CERTIFICATION OF DEFAULT BY PUBLIC DEPOSITORS

- (a) The public depositor shall provide to the State Treasurer a statement of all circumstances which he feels gives rise to a default. Each public depositor is required to discuss with the State Treasurer the need for a determination on the existence of a default prior to the sending of the statement. The statement shall be notarized and mailed to the State Treasurer by certified mail, return receipt requested. In addition, each public depositor shall provide the State Treasurer with certified

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copies of the security agreement with resolution, the escrow agent agreements, or other agreement and a current list of securities pledged to secure the applicable deposit accounts.

- (b) The State Treasurer shall make a determination no later than the close of the business day, next following receipt of the request with regard to the full default. The State Treasurer shall determine that:

- (1) a default has occurred,
- (2) a default has not occurred, or
- (3) that additional information is necessary before a ruling can be made.

If additional information is necessary, the public depositor may provide the information required. If it is provided, the public depositor shall submit the information, notarized, by certified mail, return receipt requested. Receipt of the new information shall be considered to be a new request for determination of the State Treasurer shall be considered a contested case.

- (c) Upon determining that there is a default as regards a public depositor other than the State Treasurer, the State Treasurer shall proceed under Rule .0401 of this Section.

*History Note: Statutory Authority G.S. 115C-444(b); 147-79; 159-31(b);
Eff. August 1, 1980;
Readopted Eff. February 1, 1982;
Amended Eff. April 1, 1994.*

.0404 SALE OF THE DELIVERED SECURITIES

- (a) The State Treasurer shall canvass its normal buyers for the type of securities which are to be sold and all potential buyers furnished to him by the depository from among licensed dealers who either make a market in the security or are currently offering to buy the security.
- (b) The State Treasurer shall sell as much of the securities as are needed to provide cash to cover the amount of the default. The State Treasurer may sell, at his sole discretion, all or part of any specific issue of security to be sold.
- (c) The State Treasurer shall deposit from proceeds of the sale the amount of any default on deposit accounts of State funds in the applicable fund of the State and shall return all unsold securities and excess cash to the depository. The State Treasurer shall provide to the depository a release for the amount of default paid and such other documentation as may be appropriate to enable the depository to pursue a claim against a third party for the amount of the default.
- (d) If the default is on deposit accounts of a public depositor of a participating unit, the State Treasurer shall retain the amount of the default and shall return all unsold securities and excess cash to the depository. The State Treasurer shall determine the amount distributable from the proceeds of the sale from the proceeds of the sale to each public depositor, not to exceed the uninsured amount in default. The State Treasurer shall pay the amount to the public depositor after receiving from the public depositor a release, in duplicate, for the amount in default paid and such other documentation as may be appropriate to enable the depository to pursue a claim against a third party for the amount of the default.

*History Note: Statutory Authority G.S. 115C-444(b); 147-79; 159-31(b);
Eff. August 1, 1980;
Readopted Eff. February 1, 1982;
Amended Eff. April 1, 1994.*

SECTION .0500 — REPORTING

.0501 QUARTERLY REPORTING

- (a) In the case of the Dedicated Method, the depository shall report to each public depositor the total par value and market value of the securities pledged on the last day of the calendar quarter with the escrow agent(s) to secure public deposits of the public depositor. The reports shall be submitted no later than the last day of the following month.
- (b) In the case of the Pooling Method, the depository shall submit Form INV-96, "Quarterly Report on Public Deposits" to the State Treasurer no later than the last day of the month following the end of the calendar quarter. The report shall be dated on the last working day of the calendar quarter, shall summarize the accounts secured, shall summarize the amounts insured and secured at market, shall indicate the amount and percentage of excess collateral pledged, and shall be certified by an authorized officer of the depository that the statements are correct.

- (c) In addition to the Quarterly Report required by Rule .0501(b) of this Rule, a depository utilizing the Pooling Method shall submit to the State Treasurer Form INV-99, "Selected Financial Data," which is a report containing selected financial data contained in either the current quarterly report of condition required by the Federal Deposit Insurance Act (12 U.S.C.) or the current quarterly report required to be filed with the Federal Home Loan Bank Board, as applicable.

*History Note: Statutory Authority G.S. 115C-444(b); 147-79; 159-31(b);
Eff. August 1, 1980;
Readopted with change Eff. February 1, 1982;
Amended Eff. April 1, 1994; September 1, 1988.*

.0502 ANNUAL REPORTING

- (a) In the case of the Dedicated Method, on or before July 31 of each year, the depository shall submit to each public depositor Form INV-98.
- (b) In the case of the Pooling Method, on or before July 31 of each year, each depository shall submit to the State Treasurer Forms INV-97 and INV-98, in addition to the quarterly report (INV-96) dated June 30.
- (c) Form INV-97, "Annual Report on Public Deposits," shall be dated June 30, shall list all public depositors, and for each public depositor, show the amounts on deposit by type, identify the amounts insured by type, and shall be certified by an authorized officer of the depository that the statements are correct.
- (d) Form INV-98, "Annual Report on Collateral for Public Deposits," shall be dated June 30, shall list and describe all collateral pledged (including CUSIP number, par and market value), with each escrow agent for the public depositor or State Treasurer, and shall be certified by an authorized officer of the depository that the statements are correct.
- (e) The depository may substitute its own format for Form INV-97 and Form INV-98, provided the format is substantially the same in content and order of presentation.

*History Note: Statutory Authority G.S. 115C-444(b); 147-79; 159-31(b);
Eff. August 1, 1980;
Readopted with Change Eff. February 1, 1982;
Amended Eff. April 1, 1994; September 1, 1988.*

.0503 SPECIAL CALL REPORT

Not more often than once in each annual period, the State Treasurer may require each depository to furnish a report in the same detail as the annual report as of any business day not more than 10 calendar days before the date at which the special request for the report is mailed. In addition, the State Treasurer may require a detailed report listing the account numbers of each public depositor.

*History Note: Statutory Authority G.S. 115C-444(b); 147-79; 159-31(b);
Eff. August 1, 1980;
Readopted with Change Eff. February 1, 1982;
Amended Eff. April 1, 1994.*

.0504 SPECIAL REPORTING RULE FOR DEDICATED METHOD DEPOSITORIES

A depository with State funds and which has elected the Dedicated Method shall file, in addition to all forms required under the Dedicated Method, Form INV-99, "Selected Financial Data," referred to in Rule .0501, Paragraph (c) of this Section.

*History Note: Statutory Authority G.S. 115C-444(b); 147-79; 159-31(b);
Eff. February 1, 1982;
Amended Eff. April 1, 1994; September 1, 1988.*

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.0505 ADDITIONAL MONTHLY REPORTING REQUIREMENTS

In the case of the Pooling Method, the State Treasurer may at any time and at his own discretion direct the depository to file a report in the same format as the Quarterly Report required by Rule .0501(b), but on a monthly basis. However, the monthly reporting directive shall be required under any one of the following circumstances:

- (1) A required report is repeatedly not filed timely.
- (2) A required report is filed with a material error.
- (3) A Quarterly Report required by Rule .0501(b) is filed indicating that "excess" collateral pledged is less than 10 percent of the amount required by Rule .0202.
- (4) The depository has been notified that the State Treasurer has invoked Rule .0202(e), requiring additional collateral.

Such monthly reporting directive shall be effective for a period of six months, after which time the depository may resume quarterly reporting. However, subsequent violations shall extend the period of monthly reporting as set forth in this Rule.

*History Note: Statutory Authority G.S. 115C-444(b); 147-79; 159-31(b);
Eff. September 1, 1988;
Amended Eff. April 1, 1994.*

SECTION .0600 — ENFORCEMENT

.0601 AUDIT

The State Treasurer may cause such audits to be performed as he believes necessary, or may request the active assistance of the State Auditor of North Carolina and of all federal and state regulatory agencies to assist him in the enforcement of the law and regulations regarding collateralization of public deposits pursuant to this Chapter.

*History Note: Statutory Authority G.S. 115C-444(b); 147-79; 159-31(b);
Eff. August 1, 1980;
Amended Eff. February 1, 1982.*

.0602 REVOCATION

The State Treasurer may at any time and at his own discretion revoke the right of a depository to use the Pooling Method pursuant to 20 NCAC 7. An appeal of such an order shall be considered a contested case. During the processing of the contested case the order shall remain in effect.

*History Note: Statutory Authority G.S. 115C-444(b); 147-79; 159-31(b);
Eff. August 1, 1980;
Readopted Eff. February 1, 1982;
Amended Eff. April 1, 1994.*

.0603 ACCELERATION OF MATURITIES

- (a) Whenever any depository shall fail to correct a deficiency in collateral pursuant to this Chapter, including but not limited to 20 NCAC 7.0202(e), the State Treasurer or the public depositor of a participating unit, as the case may be, shall cause to be made an oral demand to the depository to correct the deficiency.
- (b) The public depositor, in the case of the Dedicated Method, shall report any failure of a depository to correct a deficiency in the collateral pursuant to this Chapter to the State Treasurer no less than one full workday after the oral request to correct the deficiency. This report shall include a full statement of the circumstances surrounding the deficiency. The report shall be oral but shall be immediately followed by a written report.
- (c) The State Treasurer, after receiving the oral report from a public depositor pursuant to Paragraph (b) or no less than one full work day after the oral request was made in his name to a depository which fails to correct the deficiency in the collateral required by this Chapter, shall issue a written request to the depository to correct a deficiency in the collateral required by this Chapter. The depository may request an informal hearing within seven days of the receipt of the request. The appeal of the ruling by the State Treasurer shall be a contested case heard pursuant to Subchapter 1F of this Title.
- (d) Any depository which after receiving the written request to correct a deficiency in the collateral does not correct the deficiency shall be subject to the provision of automatic acceleration of time deposits of public depositories having fixed maturities. On or after seven days from the receipt of the written request sent pursuant to Paragraph (c) of this Rule or

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three days from the receipt of the written decision of the State Treasurer arising from the hearing, the State Treasurer may cause all time deposits having fixed maturities to be accelerated and become due and payable on demand without any loss in interest through the date actually paid by the depository.

History Note: *Statutory Authority G.S. 115C-444(b); 147-79; 159-31(b);*
 Eff. November 1, 1983;
 Amended Eff. April 1, 1994.



State of North Carolina

Department of State Treasurer

Att. B-F

RICHARD H. MOORE
TREASURER

*State and Local Government Finance Division
and the Local Government Commission*

T. VANCE HOLLOMAN
DEPUTY TREASURER

Memorandum # 1112

December 31, 2008

To: Finance Officers of Local Governments, Boards of Education, Public Authorities
and Certified Public Accountants

From: Sharon Edmundson, Director Fiscal Management Section

Subject: Collateralization of Public Deposits and Pooling Bank List

On the 3rd page of this memo you will find a list of the financial institutions using the Pooling Method of collateralizing public funds at December 31, 2008. The State Treasurer monitors compliance with collateralization requirements for these institutions. Any depository (and their branches) not included on this list is considered to be using the Dedicated Method of collateralization for which the finance officer has the responsibility of monitoring the pledged collateral covering the uninsured deposits.

IMPORTANT: Please review the list carefully to determine the method currently used by each of your official depositories.

For situations where a financial institution utilizes the Dedicated Method of collateralization, the finance officer should determine that the market values of the pledged securities are at least 100% of the amount required to be collateralized at all times throughout the year and that the securities are eligible for pledging as specified by the North Carolina Administrative Code, Title 20, Chapter 7. **It is imperative that the market values of the pledged securities are checked not only at the time of the deposit of public funds, but on a continuing basis when funds exceed the federal deposit insurance limit.** This is essential due to the volatility of the pledged securities' market value and the fluctuation of the unit's bank balances. Any occurrence of under collateralization is considered as non-compliance with G.S. 159-31.

For eligible mortgage-backed securities that are pledged as collateral, the calculation of market values is more difficult due to their declining principal balances. The calculation of the market values of such securities should be based on the outstanding principal value, not the original face value. Therefore, it is important to require the depository to provide a) the original face value b) the current outstanding principal and c) the current market value.

In addition, there are mandatory procedures concerning collateralization that must be followed when dealing with Dedicated Method financial institutions. They are as follows:

1. There must be a signed escrow agreement (INV-94) with a third party escrow agent for each Dedicated Method depository that holds uninsured deposits. However, if the escrow agent is the Federal Reserve Bank, an escrow agreement is not required since they are governed by federal regulations. The escrow agreement (federal regulations in the case of the Federal Reserve Bank) must require timely confirmations of pledged collateral.
2. A file of all pledges of collateral (INV-95) per depository must be maintained by the finance officer. There should be no releases or substitutions of collateral securities resulting in a decrease of the market value of pledged securities without the approval of the finance officer.

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3. The depository is required to report to each public depositor the total par and market values of securities pledged at the end of each calendar quarter. Annually, as of June 30, it is to file with each public depositor an INV-98. This report is a detailed listing of collateral securities pledged at each escrow bank for that public depositor. This report may be requested by the public depositor to be filed more frequently.

Without exception, if governmental units utilizing the dedicated method of collateralization do not adhere to these procedures, public funds may not be properly collateralized and consequently may be at risk.

For more detailed information, the complete regulations, procedures, and the respective N.C. Administrative Code can be found in a document called ***Collateralization of Public Deposits in North Carolina, January 2001***. It can be downloaded from the State Treasurer's web site at <http://www.nctreasurer.com> under Financial Operations. The appropriate forms are also available from the same web page. If the booklet or forms are needed and cannot be retrieved from the web, you may contact this office. If you have any questions or need assistance, please call Ken Wease at (919) 807-2391 or email ken.wease@nctreasurer.com.

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POOLING METHOD FINANCIAL INSTITUTIONS AS OF DECEMBER 31, 2008

<i>Name of Institution</i>	<i>Home Office</i>	<i>Name of Institution</i>	<i>Home Office</i>
AF Bank	West Jefferson	Heritage Bank	Lucama
American National Bank & Trust*	Danville, VA	High Country Bank	Boone
Anson Bank & Trust	Wadesboro	High Point Bank & Trust	High Point
Asheville Savings Bank	Asheville	Highlands Union Bank*	Abingdon, VA
Aquesta Bank	Cornelius	Home Savings Bank of Albemarle	Albemarle
Bank of America, N.A.	Charlotte	HomeTrust Bank	Asheville
Bank of Asheville	Asheville	Newbridge Bank <i>FNA Lexington State Bank</i>	Lexington
Bank of Currituck	Moyock	Lumbree Guaranty Bank	Pembroke
Bank of Granite	Granite Falls	Mechanics and Farmers Bank	Durham
Bank of Stanly	Albemarle	MidCarolina Bank	Burlington
Bank of the Carolinas	Mocksville	Mountain 1 st Bank & Trust	Hendersonville
Branch Banking & Trust	Winston-Salem	New Century Bank	Dunn
Cabarrus Bank & Trust	Concord	North State Bank	Raleigh
Capital Bank	Raleigh	Paragon Commercial Bank	Raleigh
CapStone Bank	Raleigh	Parkway Bank	Lenoir
Cardinal State Bank	Durham	Peoples Bank	Newton
Carolina Bank	Greensboro	Providence Bank	Rocky Mount
Carolina First Bank*	Greenville, SC	Piedmont Bank	Statesville
Carter Bank & Trust*	Martinsville, VA	Randolph Bank & Trust	Asheboro
Citizens South Bank	Gastonia	RBC Bank (USA) <i>FNA RBC Centura</i>	Rocky Mount
Citizens Community Bank*	South Hill, VA	Regions Bank*	Birmingham, AL
Community Bank of Rowan	Salisbury	Roxboro Savings Bank	Roxboro
Community One Bank, N.A.	Asheboro	North Carolina Bank and Trust (NCBT) <i>FNA The Scottish Bank</i>	Charlotte
Cooperative Bank	Wilmington	Security Savings Bank	Southport
Crescent State Bank	Cary	Select Bank & Trust	Greenville
East Carolina Bank	Engelhard	Sound Banking Company	Morehead City
Fidelity Bank	Fuquay-Varina	Southern Bank & Trust Co.	Mount Olive
Fifth Third Bancorp* <i>FNA First Charter Bank</i>	Cincinnati, OH	Southern Community Bank & Trust	Winston-Salem
First Bank	Troy	SunTrust Bank* <i>FNA: Central Carolina Bank</i>	Atlanta, GA
First Carolina State Bank	Rocky Mount	TrustAtlantic Bank	Raleigh
First Citizens Bank & Trust Company	Raleigh	Union Bank & Trust	Oxford
First Community Bank*	Bluefield, VA	United Community Bank*	Blairsville, GA
First National Bank of Shelby	Shelby	Waccamaw Bank	Whiteville
First South Bank	Washington	Wachovia Bank, N.A. ^A	Charlotte
Four Oaks Bank & Trust	Four Oaks	Wake Forest Federal Savings & Loan	Wake Forest
Gateway Bank & Trust	Elizabeth City	Yadkin Valley Bank	Elkin
Green Bank *	Greenville, TN		

FNA: Formerly Known As***Corporate offices are outside the state; branches are located in North Carolina****^AWachovia Bank, N.A. to be merged with Wells Fargo – name of merged entity to be determined**



STATE OF NORTH CAROLINA
DEPARTMENT OF STATE TREASURER

State and Local Government Finance Division
and the Local Government Commission

ATT. BG

JANET COWELL
TREASURER

T. VANCE HOLLOMAN
DEPUTY TREASURER
Memorandum # 1113

TO: Local Government Officials and their Independent Auditors

FROM: Sharon Edmundson, Director, Fiscal Management

DATE: February 17, 2009

SUBJECT: Public Deposits

Recently several questions have been raised concerning the classification of public deposits held in bank accounts across the State. Specifically we have been asked if public deposits that fall below the FDIC insurance limits have to be identified as public funds.

G.S. 159-31 requires that all public deposits be secured. Commercial accounts are not secured by collateralization and are protected by FDIC insurance only. By coding an account of a local government or public authority anything but as public funds the bank risks violation of the General Statutes any time deposits exceed FDIC limits. This action exposes the unit of government to the risk of loss should a bank fail. Depositors that hold uninsured or uncollateralized deposits become general creditors of the institution in the event of a bank failure. Units of government holding accounts not identified as public should report a statutory violation as part of their annual audit.

There also is the requirement set forth in the Administrative Code that all public deposits be identified as such regardless of amount (NC Administrative Code 20 NCAC 7.0103). Again, this is required in order to protect the depositors. Funds identified as public must either be insured or collateralized in order to protect the unit of government from loss in the event of a bank failure.

Public funds generally earn a lower rate of return than their commercial counterparts, due primarily to the costs associated with collateralizing those accounts. Particularly in the current economic environment, security of deposits should be top priority of local government finance officials. Monitoring of collateral by both the banks and the Department of State Treasurer can only be successful if accounts are properly identified as public funds.

Local government officials may be held personally liable for any damages caused by willful violation of the Local Budget and Fiscal Control Act. According to North Carolina State law [G.S. 159-181], any finance officer, governing board member, or other officer or employee of any local government who willfully fails or refuses to perform any duty imposed on him/her by The Local Government Budget and Fiscal Control Act is guilty of a misdemeanor and, upon conviction, shall be fined and must forfeit his/her office and shall be personally liable in a civil action for all damages suffered by the unit of government or the holders of any of its obligations.

If you have any questions please contact Sara Shippee at (919) 807-2356 or via email at sara.shippee@nctreasurer.com or Ken Wease at (919) 807-2391 or via email at ken.wease@nctreasurer.com.

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Neighborhood / Group Meeting With	Topic	Dept. Lead	Approx. Date
NC Old 86 residents	Speed limit on Old NC 86	PL	Jan-07
n/a	Safe Neighborhoods	PD	Jan-07
Carrboro Elem.	Integrity in School	PD	Feb-07
Townwide / full community	Bolin Creek Watershed Restoration forum	PL	Feb-07
NSAIRC	24 mtng.s on NSA Plan review	PL	Mar. - Dec. 07
Lake Hogan Farms	Development in Carrboro	PL	Apr-07
Smith Level Rd Task Force	5 t.f. mtng.s and one public forum	PL	Spring 2007
Townwide / full community	NSAIRC Community Forum #1	PL	Apr-06

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BH-2

n/a	Community Safety	PD	May-07
Townwide / full community	Fire Station Design Charrettes	FD / PL	May & June 07
Broad St.	n/a	E&CD	Jun-07
Townwide / full community	NSAIRC Community Forum #2	PL	Jun-07
WCOM	Police in the Community discu.	PD	Jul-07
Jones Ferry / Davie	Day laborer situation	E&CD/PD	Jul-07
Townwide / full community	National Night Out walk / presentation	PD	Aug-07
Rogers Rd.	Back to School Bash	PD	Aug-07
Charles House	Fire / fall prevention for elderly	FD	Aug. & Dec. 07
Davie / Jones Ferry neighbors	Day laborer situation	E&CD	Sep-07
Chapel Hill Bible Church	business training	E&CD	Sep-07
Lake Hogan Farms	Greenway issues / EEP stream restoration	PL	Sep-07
The Villages	Crime Prevention	PD	Oct-07
Townwide / full community	Planning table at Bolin Creek Festival	PL	Oct-07
OWASA	Fire Extinguisher Training	FD	Oct-07
Wexford	Community Watch	PD	Nov-07
Royal Park	Crime Prevention	PD	Nov-07
Carr./Ch.Hill parents & teens	Teens and Alcohol	PD	Nov-07
Town/Smith Level Rd Area	Smith Level Rd TIP project public workshop	PL	Nov-07
CHT Service Area	CHT Public Transit Forum	PL	Nov-07
Estes Park	Apartment Fire Safety	FD	Dec-07
Ramsgate Apt.s	Fire Safety	FD	Dec-07

BH-3

Neighborhood / Group Met With	Issue	Dept. Lead	Approx. Date
Bolin Forest HOA	Greenway Trails	PL	Jan-06
Realtors	Development in Carrboro	PL	Feb-06
Minority Business Owners	Minority Business Development	E&CD	Mar-06
E. CH High Students	Downtown Development	PL	Apr-06
Wilson Park area	Field lights public input session	R&P	May-06
Greenway Summit Wk. Grp.	Planning Greenway Summitt	R&P / PL	5/06-1/07
Friends of Bolin Creek	Creek Preservation	PL	May-06
RTI / builder group	Forum for Econ. Dev. Report	E&CD	May-06
RTI / community group	Forum for Econ. Dev. Report	E&CD	May-06
Lake Hogan Farm / Wexford	Comm. Watch (teen drinking, speeding)	PD	Jun-06
RTI / creative class group	Forum for Econ. Dev. Report	E&CD	Jun-06
WCOM	Police in the Community discussion	PD	Aug-06
Carrboro & Ch. Hill seniors	Shared Learning for Seniors	PD	Sep-06
New Horizons Task Force	Community Services	mult.	Sep-06
CHT Service Area	CHT Public Transit Forum	PL	Sep-07
Townwide / full community	Greenway Summit	R&P / PL	Oct-06
Townwide / full community	Planning table at Bolin Creek Festival	PL	Oct-06
Townwide / full community	Walkable/Bikeable Carrboro	PL	Oct-06
Townwide / full community	Big Sweep	PL	11/3-4/06
With	Issue	Dept.	Approx. Date
Multiple neighborhoods	24 sidewalk meetings	PW / PL	late 04 into 05
Southern Human Svcs. Ctr.	Domestic Violence	PD	Jan. and Sept. 05
CHT Service Area	CHT Public Transit Forum	PL	Jan-05
Pine Street Neighborhood	Neighborhood Meeting	PL	Feb-05
Wexford	HOA meetings (2 mtng.s in March)	PL	Mar-05
WCHL	Community Forum	PD	Apr-05
Townwide / full community	Safe Routes to School Workshop	PL	Apr-05
Simpson St.	Playground Discussion	R&P	May-05
n/a	CrimeStoppers Awards mtng.	PD	Jun-05
Bolin Forest	Neighborhood Meeting	multiple	Jun-05
Townwide / full community	National Night Out Presentation / Walk	PD	Aug-05
WCOM	Police in the Community Discussion	PD	Aug-05
BPW Club area	Neighborhood Meeting	FD	Nov-05
Weatherhill Pointe	Neighborhood Meeting	FD	Dec-05
Fit Communities	Walkability	PL	Dec-05

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BH-4

Date Not Available OR Prior to 2005			
Neighborhood / Group Met With	Issue	Dept. Lead	Approx. Date
Forest Dr.	Community Watch	PD	n/a
Carrboro Meth. Scout troop	Drug Awareness	PD	n/a
Lake Hogan Farms	Community Watch / Graffiti / Vandalism	PD	n/a
Villages Apt.s	Car Break-Ins	PD	n/a
N.Hawick Ct.	Community Watch	PD	n/a
Pine St. / H'boro Rd.	Dev. of Multi-Occupant Residences	PD	n/a
Broad St.	Drugs in the Community	PD	n/a
Carrboro Elementary	Safety Measures on School Property	PD	n/a
Rec&Parks	2 Breakfast with an Expert meetings	PD	n/a
Bolin Forest HOA	Traffic Issues	PD	n/a
CHT Service Area	CHT Public Transit Forum	PL	Feb-04
Downtown	Traffic Circulation Study Public Input	PL	Dec-04
Baldwin Park area	Playground Discussion	R&P	Nov-04
CHT Service Area	CHT Public Transit Forum	PL	Feb-02
Community wide	Downtown Visioning	PL/ED	Sept.01
Town/Smith Level Road Area	Smith Level Road TIP Project	PL	Oct-01
CHT Service Area	CHT Public Transit Forum	PL	Mar-01
CHT Service Area	CHT Public Transit Forum	PL	Mar-00
Town/Schools/Public Health	Pedestrian Safety Road Show	PL	Jul-00