

**MINUTES OF THE SPECIAL MEETING
OF THE TOWN COUNCIL
TOWN OF CAROLINA BEACH**

December 17, 2009

The Town Council of the Town of Carolina Beach met in special session on December 17, 2009 at 7:30 p.m. in the Council Chambers at the Municipal Administration Building, 1121 N. Lake Park Blvd., Carolina Beach, North Carolina. The following were present: Mayor Joel Macon; Mayor Pro Tem (MPT) Pat Efird; Councilman Lonnie Lashley; Councilman Bob Lewis; and Councilman Dan Wilcox. Also the following were present: Town Manager Tim Owens, Town Attorney Steve Coggins, Finance Director Dawn Johnson and Town Clerk Lynn Prusa.

Mayor Macon called the meeting to order.

PUBLIC HEARING REGARDING THE TOWN FORMING A NON-PROFIT CORPORATION THAT CAN ACT SOLELY FOR TOWN-AUTHORIZED PUBLIC PURPOSES, AND THE POTENTIAL ROLE OF THE SAID CORPORATION IN PURCHASE AND INSTALLMENT DEBT FINANCING OF 309 CAROLINA BEACH AVENUE NORTH (PIN#3130-56-9368), 234 CAROLINA BEACH AVENUE NORTH (PIN#3130-65-0927), 236 CAROLINA BEACH AVENUE NORTH (PIN#3130-66-0057), 239 CAROLINA BEACH AVENUE NORTH (PIN#3130-56-9121), 237 CAROLINA BEACH AVENUE NORTH (PIN#3130-56-9007), 235 CAROLINA BEACH AVENUE NORTH (PIN#3130-55-8969), 302 CAROLINA BEACH AVENUE NORTH (PIN#3130-66-0198), AND TO DISCUSS AND RECEIVE PUBLIC INPUT ON TRANSACTIONS AND ANY FINANCE CONTRACTS IN CONNECTION WITH THE SAME, PURSUANT TO THE TOWN'S AUTHORITY PROVIDED BY N.C.G.S. 159-48, 160A-4, - 11, -12, AND -20; ARTICLE I OF THE TOWN CHARTER, TOWN CODE SECTION 16; AND ANY OTHER APPLICABLE PROVISION OF LAW

Steve Coggins, Town Attorney, said thank you Mr. Mayor and honorable members of the Council. I'll be brief but thanks to you for calling this special meeting to order and taking time out of your busy schedules to attend to important business of the town as we move forward.

To summarize, the town was interested in purchasing the Arcadius additional properties. You may recall the town has already purchased a parking lot, what we know as Arcadius H for \$475,000 which was financed through BB&T. The town has acquired rights to purchase from the bankrupt estate and the primary lender of the bankrupt what we know is Arcadius A, B, C, and D, also basically the Guy Johnson and the Surfside Motel properties and the parking lot for the purchase price of 3.6 million dollars. The financing that has been negotiated in the favorable lending climate in which we're in is a loan overall of 4.3 million dollars which would finance the 3.6 million dollar purchase, the payoff of the loan that was obtained approximately five weeks ago for the \$475,000 by which the town within owned that lot free and clear and then associated operational and accounting, professional, and other associated expenses with the closing. What has occurred is that we have set up, since the last Council meeting, as per Council's authorization a non-profit corporation know as CBP3, Inc., which has already met. Its Board met officially

yesterday with its organizational meeting and executed a number of documents. The way it is structured is that at a closing that is anticipated to take place officially on Monday and with disbursements on that date is that CBP3, Inc. will take title to the property directly from the assignee of U.S. Acquisitions, which is the primary lender, creditor if you would, in the bankruptcy that had the credit bid at the auction. Their assignee is Carolina Beach, LLC. They will be conveying that property to CBP3, Inc. CBP3, Inc. in turn, will borrow from Branch Bank and Trust under terms similar to what would be available to the town that lending sum of the 4.3 million dollars which will be used to acquire the property, pay off the debt on the parking lot, the Property H Lot, and pay for these operational expenses. Of course, CBP3 does not have any assets of its own other, of course, in the property and assets that do not generate substantial revenues apart, of course, from the potential from receiving revenues from the Guy Johnson and the Surfside Motel pending its demolition which reminds me to say that the whole point of acquiring this property is in hope of the public purpose would be fulfilled that we enter into a joint venture/partnership, if you would, with the state for the construction of the aquarium pier based there on the boardwalk which will provide that connection synergy between the Yacht Basin and the ocean boardwalk area in the CBD. Concurrently with the closing, CBP3 is authorized to grant to the town an option to purchase the property for a period of four years which is the period of time of the loan that CBP3 has. This loan has for the 4.3 million dollars at 4.96% is for four years. It's advertised though as 20. There will be a payment due in a year and a balloon payment at the end. Meanwhile when the town exercises its option, the purchase price will be whatever is, of course, the balance that is owed on that loan that is owed by CBP3 to the bank; and at that time, the town would refinance that with great hope at a substantially less purchase price would be owed ultimately by the town in the meantime pursuing the various grants that are out there and potentially available to it. So through this structure the town has allowed itself to take advantage of timely acquisition of the property given the current market at the current also lending rates. Obviously we don't know what those lending rates would be if we had to wait years and the property certainly wouldn't be available at this price but at the same time also we're allowed to pursue the grants and to be able to defray the costs. CBP3 will be contractually bound to cooperate with the town and to convey it at the appropriate time by a combination of the restrictions in the Articles of Incorporation, the By-Laws, a Support Agreement which it has already signed also for with the town, and various other documents and resolutions so that it would be so bound at that time. Of course, BB&T will be secured during all of this time. The documents that have already been executed, and again I am doing this for the purposes of the record is the resolution of the last meeting of the town council approving and endorsing the formation of the corporation, the election by the town council of the CBP3 directors, and I'm pleased to report to council that those directors have been diligent in assuming their duty and their obligation to the people of the Town of Carolina Beach, and taking time out of their busy schedules this time of year to do the requisite paperwork, and the signing of documents, and to bring themselves up-to-speed on that. Articles of Incorporation have been filed, By-Laws have been adopted, various other resolutions adopted authorizing all acts for the acquisition, and approving going forward with this particular transaction and other minutes, and there's been prepared we've been shown the proposed deed will be coming down.

For execution tonight by the town if you would allow this to proceed further and to consummate what's been contemplated is the Bill of Sale for the Personal Property, the Support Agreement among CBP3, the Town, and BB&T, the Resolution of the Town Council Supporting the

Financing Agreement and the Deed of Trust, the Option to Purchase being available, the BB&T proposal to CBP3 and the town for the financing, the Town Clerk's Certificate, the Town Attorney's Certificate, the Town Closing Certificate, the Seller's Draft Closing Statement, and the Assignment of the Assumption of our Rights Under the Purchase and I'll be tendering a formal request by CBP3 to pay all the closing expenses and handling all disbursements that under the Closing Statement that's attached would normally be an attributable bit but then again for which CBP3 simply does not have the resources to do that. Again, we have to do it in this particular structure because the town does not have the legal capability of guaranteeing the debts of the other. We are contractually bound simply to establish line items in our budget and to agree to consider a formal request by CBP3 to pay certain expenses and a resolution has been prepared to that effect, and then a formal resolution by the town authorizing the payment of those expenses. I have a copy of these documents and the originals prepared for execution at the appropriate time assuming that is the pleasure of council and I am here to answer any questions.

Mayor Macon asked Council if they had any questions. No one responded.

Mr. Owens, the town manager, said there is one other item that I would like for you to consider. In order to get things started, the town would need to create, in my opinion, two line items—one, a revenue line item and one, an expenditure line item. I'm proposing a \$50,000 expenditure line item; not proposing any revenue at this time but revenue could be generated at some point and passed to the town. The insurance for the structures alone was roughly \$29,000 so part of that would be paid through this line item. I am asking for a new line item to come out of the funds would be coming from the general fund fund balance in the amount of \$50,000.

Councilman Lashley asked what is our first year's payment? Mr. Coggins said the payment that is due approximately a year from now is 400 plus...Mr. Owens answered \$427,000. Mr. Coggins said it is approximately like that and I have that...Mr. Owens continued that it is due on December 21, 2010 so it will be next budget year. Mr. Coggins said and then no other payments will be owed until the balloon at the end. Mr. Owens stated you will have a yearly payment after that up until...so there's three payments I think if I'm not mistaken and then the balloon. That's what the thing...that I looked at today. Mr. Coggins responded fair enough.

Mayor Macon asked if there were any other questions. Mayor Pro Tem Efird said it sounds like you are on go. Mr. Coggins said thank you Ms. Efird.

Mayor Macon said okay so you need us to make a motion to add two budget items, a revenue side and an expenditure side and Mr. Owens added and then those documents that he just mentioned will be included in that. Mayor Macon said and you want to put what 50 grand. Mr. Owens reply was in the expenditure side.

Councilman Wilcox made a motion to direct the town manager and the finance director to create two line items, one revenue and one expense \$50,000 for operational expenses for CBP3. MOTION CARRIED UNANIMOUSLY.

Mayor Macon addressed Mr. Coggins by saying sir what do you need us to do specifically. Mr. Coggins responded a, if you would, resolution if you could to adopt the various documents that I

just finished reading into the record. I'd be happy to repeat those if you wish.

Mayor Macon asked Ms. Prusa, do you need that and her reply was probably. Do you want to go over them one more time for the record? Mr. Coggins replied yes. For this evening the Bill of Sale for Personal Property, the Support Agreement, the Resolution of Town Council Supporting the Financing, the Option to Purchase, the Draft, the BB&T Proposal to the Town and the CBP3 for Financing, the Town Clerk's Certificate, the Town Attorney's Certificate, the Town Closing Certificate, the signing off on the Seller's Draft Closing Statement, the Assignment and Assumption of Agreement for the Right to Purchase, and the Resolution of the Town Granting the Request of CBP3 to Pay the Expenses for the closing and the handling and disbursement of funds that would normally go to CBP3. Mr. Owens interjected prior to doing this we need to make sure we have a public hearing. This is a public hearing so we need to open it for public hearing. Mayor Macon replied 10-4. You've got all of that Lynn and she replied yes and added and I will assign resolution numbers to...Mayor Macon said each item...Ms. Prusa said each resolution. Mayor Macon said thank you sir; any further questions.

Mayor Macon made a motion to open the public hearing. MOTION CARRIED UNANIMOUSLY.

Mayor Macon said anyone wishing to speak on this matter please step forward and state your name and address. There were no public comments.

Mayor Pro Tem Efirm made a motion to close the public hearing. MOTION CARRIED UNANIMOUSLY.

Councilman Lewis said one question I have is basically at the end of the balloon payment, we have to refinance this so we are going to have to go through closing costs again in three years. It sounds like it is going to cost us a couple hundred thousand bucks to go through closing now. It's going to cost us a couple hundred thousand dollars when we close on this in three years. Mayor Macon answered hopefully not. Dawn Johnson, the finance director, answered it was my understanding that BB&T was also in agreement of potentially to letting us roll the loan over from them. We talked about that issue and they're wanting to do that. Councilman Lewis responded okay. Mr. Coggins added as an example in their good faith for instance we're paying off the lot on the loan and they waived the pre-payment penalty on that. Mr. Owens stated that they said they would consider holding the interest rate as well. Councilman Lewis said oh they would, okay.

Mr. Coggins said I neglected also to mention that based on what the town does tonight, CBP3 has to execute further documents and their Board of Directors is available for execution of those as well to show that it is working in compliance with the Support Agreement.

Mr. Owens said the other thing that we really haven't talked about either is the Management Contract that CBP3 is contemplating with Village Realty. He said Dan do you want to talk...Mayor Macon interjected can we do that after we do the resolutions. Mr. Owens responded yes sir.

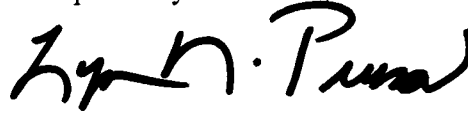
Mayor Macon made a motion to the resolutions as laid out by the town attorney and all the documents that he identified. MOTION CARRIED UNANIMOUSLY.

Mayor Macon addressed Councilman Wilcox and asked him if he wants to speak on the matter of...Councilman Wilcox said I can speak to it a little bit if you want. Mayor Macon told him to go ahead.

Councilman Wilcox said well we, in our capacity on the Board, Lonnie, myself, and the other members met earlier this evening with Bob Oakes, the owner of the company that's the management company, and Bruce, who has been the operator-manager on-site. They showed us certain financial information about what their income has been, what they shared with Arcadius, and we talked about personal property, and all the aspects of the Management Contract. There were a few requests made of them and I understand that those like raise the insurance liability to cover the Board and things of that nature that have been discussed and I think they're in agreement to that. Generally speaking our Board was in favor of the Management Contract with this group. Mr. Owens added we still have to finalize the Management Contract but I hope to get that finalized with Steve I guess and get to them the latest Monday morning I would say. They did meet with CBP3. Councilman Wilcox asked Bob or Bruce would either one of you all like to...one of them replied I will be here on Monday...Councilman Wilcox continued would like to say anything. You good? Mr. Owens said you traveled all this way Bob. There was laughter and Mayor Macon said he's a smart man. He continued by asking do you need us to do anything on that? Mr. Owens replied no sir. Mayor Macon asked is that it? Mr. Owens said that's all I have.

Mayor Pro Tem Efird made a motion to adjourn. MOTION CARRIED UNANIMOUSLY.

Respectfully submitted,



Lynn N. Prusa
Town Clerk

Approved: 1-12-10

Resolution Approving Financing Terms

WHEREAS: The Town of Carolina Beach, North Carolina (the "Town") has previously determined to undertake a project for financing the purchase of two acres of property (the "Project"), and the Finance Officer has now presented a proposal for the financing of such Project.

BE IT THEREFORE RESOLVED, as follows:

1. The Town hereby determines to finance the Project through Branch Banking and Trust Company ("BB&T"), in accordance with the proposal dated December 15, 2009. The amount financed shall not exceed \$4,300,000.00, the annual interest rate (in the absence of default or change in tax status) shall not exceed 4.96%, and the financing term shall not exceed twenty (20) years from closing.

2. All financing contracts and all related documents for the closing of the financing (the "Financing Documents") shall be consistent with the foregoing terms. All officers and employees of the Town are hereby authorized and directed to execute and deliver any Financing Documents, and to take all such further action as they may consider necessary or desirable, to carry out the financing of the Project as contemplated by the proposal and this resolution. The Financing Documents shall include a Financing Agreement and Deed of Trust and a Project Fund Agreement as BB&T may request.

3. The Finance Officer is hereby authorized and directed to hold executed copies of the Financing Documents until the conditions for the delivery of the Financing Documents have been completed to such officer's satisfaction. The Finance Officer is authorized to approve changes to any Financing Documents previously signed by Town officers or employees, provided that such changes shall not substantially alter the intent of such documents or certificates from the intent expressed in the forms executed by such officers. The Financing Documents shall be in such final forms as the Finance Officer shall approve, with the Finance Officer's release of any Financing Document for delivery constituting conclusive evidence of such officer's final approval of the Document's final form.

4. The Town shall not take or omit to take any action the taking or omission of which shall cause its interest payments on this financing to be includable in the gross income for federal income tax purposes of the registered owners of the interest payment obligations. The Town hereby designates its obligations to make principal and interest payments under the Financing Documents as "qualified tax-exempt obligations" for the purpose of Internal Revenue Code Section 265(b)(3).

5. The Town intends that the adoption of this resolution will be a declaration of the Town's official intent to reimburse expenditures for the project that is to be financed from the proceeds of the BB&T financing described above. The Town intends that funds that have been advanced, or that may be advanced, from the Town's general fund, or any other Town fund related to the project, for project costs may be reimbursed from the financing proceeds.

6. All prior actions of Town officers in furtherance of the purposes of this resolution are hereby ratified, approved and confirmed. All other resolutions (or parts thereof) in conflict with this resolution are hereby repealed, to the extent of the conflict. This resolution shall take effect immediately.

Approved this 17th day of December 2009.

By: Melinda Prusa
(Clerk)
SEAL

By: [Signature]
(Mayor)



RESOLUTION NO. 09-999
RESOLUTION GRANTING REQUEST BY CBP3, INC. TO TOWN OF
CAROLINA BEACH REGARDING CLOSING ON THE SALE OF PROPERTIES
TO CBP3, INC

WHEREAS, the Town of Carolina Beach (hereinafter "Town") desires to acquire for public purposes what is commonly referred to as the "Arcadius Lots A, B, C, & D" properties, which consists of the Guy Johnson Hotel and Surfside Hotel and each hotel's parking lot, together with personal property used to operate the hotels (234, 235, 236, 237, 239, & 302 Carolina Beach Avenue North). [Hereinafter all the said properties referred to collectively as the "Properties"]; and

WHEREAS, CBP3, Inc. (hereinafter "CBP3") will acquire the Properties and finance the acquisition; and

WHEREAS, the reason CBP3 is acquiring the Properties is to assist the Town by acquiring the Properties in a timely manner at a favorable price, holding and managing the Properties while the Town seeks to acquire grants to reduce the amount of funds the Town must use to acquire the Properties, and then conveying the Properties to the Town when it asks CBP3 to transfer title to the Town; and

WHEREAS, CBP3 will obtain title to the parcels directly from the Bankruptcy Court Examiner. The purchase price for the Properties is \$3.6 million. The amount financed through BB&T is \$4.3 million effective 12/21/2009. The loan is for 4 years at 4.960% interest, with payments due 12/21/2010 (\$428,000); 12/21/2011 (\$417,616); and 12/21/2012 (\$406,952) with a \$3,836,288 balloon payment at the end of the 4 years; and

WHEREAS, CBP3 has provided the Town with an amortization schedule and closing statement setting forth obligations of CBP3 to pay, receive and disburse various funds; and

WHEREAS, the loan is structured so that BB&T's interest income is not taxable, which is one of the reasons the loan terms are favorable in the current financing market. In order for the interest income to be non-taxable to BB&T, the proceeds must be used exclusively for the purposes of the loan. For example:

- The loan proceeds must be used exclusively for Town public purposes as determined by the Town;
- CBP3 must not operate in a "for profit" manner regarding hotel-motel operations pending demolition;
- CBP3 cannot invest loaned proceeds apart from applying the funds solely for the purposes in connection with acquiring, financing, operating and maintaining the Properties; and

WHEREAS, the loan from BB&T to CBP3 must be structured so that the Town is not obligated to guarantee CBP3's obligations to BB&T. Since CBP3 has no significant sources of revenue to pay the obligations owed to BB&T, CBP3 must request the Town to pay CBP3 obligations as they become due. The Town is obligated to place in its

budget funds for paying CBP3 requests for funds and must consider requests by CBP3 to pay sums. However, the Town is not legally bound to pay the obligations. BB&T is fully secured in the event the Town does not honor CBP3 requests for funds through a Deed of Trust from CBP3 whereby the Properties serve as security for the loan; and

WHEREAS, the CBP3 borrowings will be used to finance the purchase of the Properties, pay off the balance of the recent \$450,000 loan from BB&T to the Town (through which the Town purchased the parking lot at 309 Carolina Beach Avenue North, also known as Arcadius Lot "H"), and various closing costs and other operational expenses; and

WHEREAS, CBP3 will concurrently grant to the Town an Option to Purchase the Properties for the duration of CBP3's loan from BB&T, which the Town can exercise to purchase the Properties for the balance of the CBP3-BB&T loan; and

WHEREAS, the Town will pursue grants to help defray the cost of the purchasing the Properties from CBP3 when the Town exercises its rights under the Option to Purchase. Upon exercise of the option, CBP3 will convey the Properties to the Town and the Town will pay off the CBP3 loan from BB&T. The Town will then assume all obligations regarding the Properties; and

WHEREAS, the CBP3 Board has formally requested the Town:

1. To pay all expenses and sums of any type chargeable to CBP3 in connection with closing whereby the Properties are conveyed to CBP3 as set forth above; and
2. To receive, hold and disburse as appropriate all funds disbursed for the benefit or use by CBP3 in connection with the closing on the sale of the Properties in the manner that CBP3 is so bound to do;

and

WHEREAS, granting the request would be reasonably related to further public purposes which the Town is authorized to pursue;

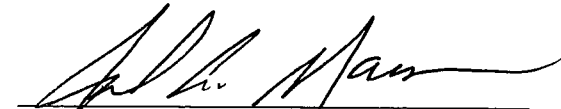
NOW, THEREFORE, BE IT RESOLVED AS FOLLOWS:

The Request of CBP3, Inc. is granted in connection with the closing on the sale of the Properties to CBP3, Inc. as set forth in this Resolution.

The Town Staff and Town Attorney are directed as follows:


1. To pay all expenses and sums of any type chargeable to CBP3 in connection with closing whereby the Properties are conveyed to CBP3 as set forth above; and
2. To receive, hold and disburse as appropriate all funds disbursed for the benefit or use by CBP3 in connection with the closing on the sale of the Properties in the manner that CBP3 is so bound to do.

This the 17th day of December, 2009.



Joel Macon
Mayor, Town of Carolina Beach

Attest:



Lynn Prusa
Clerk, Town of Carolina Beach



Town of Carolina Beach, North Carolina
 Land acquisition
 003-0301100-034

Compound Period: Annual

Nominal Annual Rate: 4.960 %

CASH FLOW DATA

Event	Date	Amount	Number	Period	End Date
1 Loan	12/21/2009	4,300,000.00	1		
2 Payment Fixed Principal (+Int.)	12/21/2010	215,000.00	3	Annual	12/21/2012
3 Payment	12/21/2013	3,836,288.00	1		

AMORTIZATION SCHEDULE - Normal Amortization, 360 Day Year

	Date	Payment	Interest	Principal	Balance
Loan	12/21/2009				4,300,000.00
2010 Totals		0.00	0.00	0.00	
1	12/21/2010	428,280.00	213,280.00	215,000.00	4,085,000.00
2011 Totals		428,280.00	213,280.00	215,000.00	
2	12/21/2011	417,616.00	202,616.00	215,000.00	3,870,000.00
2012 Totals		417,616.00	202,616.00	215,000.00	
3	12/21/2012	406,952.00	191,952.00	215,000.00	3,655,000.00
2013 Totals		406,952.00	191,952.00	215,000.00	
4	12/21/2013	3,836,288.00	181,288.00	3,655,000.00	0.00
2014 Totals		3,836,288.00	181,288.00	3,655,000.00	
Grand Totals		5,089,136.00	789,136.00	4,300,000.00	

PURCHASE AND SALE
CLOSING STATEMENT

SELLER: Carolina Beach, LLC
BUYER: CBP3, Inc.
PROPERTY: 234, 236 and 302 Carolina Beach Avenue North, Carolina Beach, NC (Surfside Hotel)
235 Carolina Beach Avenue North, Carolina Beach, NC (Guy Johnson Hotel)
237 and 239 Carolina Beach Avenue North, Carolina Beach, NC (parking lots)

PURCHASE PRICE: \$3,600,000.00

CLOSING & DISBURSEMENT DATE: December 21, 2009

Seller's Summary of Closing

Purchase Price (All Parcels)		\$3,600,000.00
Less Seller's Expenses		-\$159,973.83
A. Prorations		
Seller's 2009 Real Estate Tax Proration	\$44,128.42	
B. Prior Years' Real Property Taxes (2007)	\$48,546.89	
C. Prior Years' Real Property Taxes (2008)	\$49,298.52	
D. Auctioneer's Commissions	\$18,000.00	
E. Legal Fees to Seller's Counsel (POC)	\$0.00	
<hr/>		
Net Proceeds due Seller		\$3,440,026.17

Buyer's Summary of Closing

Purchase Price			\$3,600,000.00
Plus Buyer's Expenses			\$11,372.72
A. Recording Fees		\$199.00	
i. Deed	82		
ii. Mortgage	117		
B. Excise Taxes		\$7,200.00	
C. Prorations			
Buyer's 2009 Real Estate Tax Proration		\$1,371.22	
D. Title Insurance Premium		\$2,102.50	
E. Escrow Agent Fee		\$500.00	
F. Legal Fees to Buyer's Counsel (POC)		\$0.00	
Minus Buyer's Credit			\$360,000.00
A. Earnest Money Deposit		\$360,000.00	
Total due from Buyer			\$3,251,372.72

DISBURSEMENT SCHEDULE

Funds Available for Disbursement		\$4,660,000.00
Deposit from Attorneys Title Insurance Company	\$360,000.00	
Loan funds from BB&T	\$4,300,000.00	

DISBURSEMENTS

Title Insurance Premium to Attorneys Title Insurance Company	\$2,102.50	
Escrow Fee to Attorneys Title Insurance Company	\$500.00	
Recording Fees and Excise Tax to New Hanover County Register of Deeds	\$7,399.00	
Property Taxes to New Hanover County	\$143,345.05	
Auction Fees to Fox & Associates Partners t/a Tazon Fox	\$18,000.00	
Legal Fees to Seller's Counsel	\$0.00	
Legal Fees to Buyer's Counsel	\$0.00	
Excess cash to Close Disbursed to Town	\$1,048,627.28	
Net Proceeds due Seller	\$3,440,026.17	

TOTAL DISBURSEMENTS		\$4,660,000.00
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[SIGNATURE PAGE FOLLOWS]

CLOSING STATEMENT SIGNATURE PAGE

SELLER:

Carolina Beach, LLC

By: _____
Print Name: _____
Title: _____

BUYER:

CBP3, Inc.

By: _____
Print Name: _____
Title: _____

PURCHASE AND SALE
CLOSING STATEMENT NOTES

1. Approval of Accounts. Seller and Buyer acknowledge that the foregoing is a true, accurate and complete accounting of the disbursements made this date in connection with the subject transaction.

2. Ad Valorem Taxes For the Property. Buyer and Seller have agreed to pay to New Hanover County the 2009 ad valorem taxes for the Property from closing proceeds based on their prorated shares, set on Exhibit 1 attached. Seller will be responsible for making the payment to New Hanover County outside of closing.

3. Counterparts. This Closing Statement may be executed in any number of counterparts, each of which shall be deemed an original, and all of which counterparts together shall constitute one Closing Statement. Signature pages may be transmitted electronically or via facsimile and may be assembled to form one or more counterparts.

EXHIBIT 1
REAL PROPERTY TAXES

Real Estate Tax Proration

Proration Days					
From	To	To	Total	Seller	Buyer
1/1/09	12/21/09	12/31/09	365	354	11

Parcel Numbers	2009 tax bill	Per Diem	Seller's Share	Buyer's Share
R08818-017-001-000	\$ 10,991.56	\$ 30.11	\$ 10,660.31	\$ 331.25
R08818-018-001-000	\$ 6,545.41	\$ 17.93	\$ 6,348.15	\$ 197.26
R08818-019-001-000	\$ 2,587.88	\$ 7.09	\$ 2,509.89	\$ 77.99
R08818-019-002-000	\$ 2,058.20	\$ 5.64	\$ 1,996.17	\$ 62.03
R09006-005-020-000	\$ 5,597.47	\$ 15.34	\$ 5,428.78	\$ 168.69
R09006-006-001-000	\$ 17,719.12	\$ 48.55	\$ 17,185.12	\$ 534.00
Totals	45,499.64		\$ 44,128.42	\$ 1,371.22

Resolution No. 09-1000

Resolution of the Council of the Town of Carolina Beach taking action in support of a financing by a new Town-sponsored nonprofit corporation for the acquisition of Carolina Beach Avenue North property, including approving the formation and purposes of CBP3, agreeing to consider appropriations to pay debt service on a loan for CBP3, Inc., and agreeing to take title to the Carolina Beach Avenue North property at the end of the loan term

WHEREAS --

The Town of Carolina Beach has previously approved a plan to undertake the acquisition of properties located at 234, 236, and 302 Carolina Beach Avenue North, 235 Carolina Beach Avenue North, 237 Carolina Beach Avenue North, and 239 Carolina Beach Avenue North in Carolina Beach, NC (the "Property"), and to finance the acquisition under an installment financing arrangement with Branch Banking and Trust Company ("BB&T"). The North Carolina Local Government Commission (the "LGC"), a division of the North Carolina State Treasurer's Office, has approved this financing arrangement for the Town.

The Town Manager has now advised the Council that it would be in the Town's best interest for the Town to provide for some other entity to take title to the Property initially, to preserve options for grant funding for the Town's acquisition. Town representatives have provided for the creation of CBP3, Inc. ("CBP3"), a new nonprofit corporation, to serve as an initial title-holding entity.

Town representatives have consulted with BB&T representatives concerning revised financing arrangements, and BB&T has expressed its willingness to cooperate with the Town in this revised financing structure.

In order for the Town to obtain title to the Property under the revised financing structure, approval from the LGC will at that time be required. In this resolution, the Council will make certain findings of fact that will support LGC approval of the new financing arrangements.

The revised financing structure also requires the Town to approve the formation and purposes of CBP3 and to approve the financing plan for CBP3. As part of approving the financing plan, the Town must agree to consider appropriating funds for debt service payments due from CBP3, and agree to accept title to the Property when CBP3's financing has been retired. The Town's overall plan for the property contemplates that the Town will purchase the property from CBP3 for public purposes after the Town has obtained whatever grant funding may be available to the Town. The updated financing plan accommodates the Town's plans in this regard. The revised arrangements generally described herein are referred to collectively as the "Proposed Projects." The Town will obtain BB&T financing substantially similar to that already approved by the Town and

the LGC as appropriately adjusted to reflect the revised financing structure involving CBP3.

THEREFORE, BE IT RESOLVED by the Town Council of the Town of Carolina Beach, North Carolina, as follows –

1. Determination of plan for Property

The Town determines to undertake and participate in the Proposed Projects, including a plan for the acquisition, and the financing of the acquisition of the Property by CBP3, as described in this resolution (including the preamble to the resolution above).

2. Support for CBP3; approval of loan terms

a) The Town approves the formation, purposes and activities of CBP3 in accordance with the draft Articles of Incorporation and Bylaws provided to the Council.

b) The Town approves of CBP3's financing the acquisition of the Property in accordance with a proposal from BB&T dated December 15, 2009.

It is the Town's understanding that, as part of the Proposed Projects, the financing will proceed pursuant to BB&T financing agreements with CBP3 (the "Agreements") substantially similar to those already proposed by BB&T and approved by the Town and the LGC for the direct financing of the project by the Town, with appropriate modifications to reflect the particular characteristics of the proposed loan to CBP3.

The Agreements in final form, however, must be consistent with the financing plan described in this resolution, not requiring LGC approval, and must provide (a) for the amount financed by CBP3 not to exceed \$4,300,000, (b) for an annual interest rate not to exceed 4.97% (in the absence of a default or a change in tax status), and (c) for a financing term not to extend beyond December 31, 2013. Further, the Agreements must not require approval by the North Carolina Local Government Commission ("LGC"), a division of the North Carolina State Treasurer's Office.

The Agreements will include a Support Agreement by and among CBP3, the Town and BB&T, in substantially the form of the draft of such agreement dated December 11, 2009. The Support Agreement in final form must be in substantially the form of the draft presented, which is hereby approved, with such changes as the officer signing such agreement may approve.

The execution and delivery of the Support Agreement by an authorized officer will be conclusive evidence of the Town's approval of the final form of the Support Agreement and CBP3's financing agreement with BB&T.

The Town will acquire and accept title to the Property, including any additions to the Property, when CBP3's obligations under the financing agreements are discharged. Should financing for the acquisition that requires LGC approval be involved, the Town will apply for LGC approval.

3. Agreement to consider appropriations for debt service

The Council understands that CBP3 expects to have no funds of its own to provide for payments on its loan from BB&T for the acquisition of the Property. Payment of the loan to BB&T will be entirely dependent on appropriations of funds from the Town to BB&T from time to time to make the loan payments. If any payments on the loan are not made, BB&T will have the right to foreclose on the Property.

The Council expresses its current intention to make appropriations to pay debt service on the BB&T loan as that debt service comes due. The Council expresses its determination that such payments will be in the Town's best interest, and that it expects such payments will continue to be in the Town's best interest for the term of the loan. The Council further understands that it has no legal authority to make a legally binding long-term commitment to make the payments on the loan to CBP3.

The Town agrees to and accepts the provisions for debt service appropriations as set forth in the Support Agreement. The Town believes that funds can be made available for debt service payments throughout the life of the loan.

4. Findings of fact in support of the LGC application, and request to LGC to approve financing plan.

The Council makes the following findings of fact:

- a) The Proposed Projects are necessary and appropriate for the Town under all the circumstances, and are reasonably related to furthering public purposes the Town is authorized by law to pursue,
- b) The Proposed Projects financing structures are preferable to a bond issue under all the circumstances.

The Town has no ability to issue general obligation bonds for this project without referendum approval. There is no time to conduct a bond referendum before the deadline imposed by the current Property seller for completing the Property acquisition. The project will create no revenues that could support a self-liquidating revenue bond financing. This financing is for a single discrete asset and therefore lends itself to the use of installment financing.

In addition, the financing arrangements revised to include CBP3 are desirable for the Town under all the circumstances. The Town believes that some grant funding may

be available for the Town's acquisition of the Property. This funding may not be available to reimburse the Town for prior expenditures on the acquisition, but may be available if CBP3 first takes the title and then later transfers the Property to the Town. Using this financing arrangement therefore may preserve the Town's ability to receive grant funding for the project.

c) The estimated sums to fall due under the Agreements proposed financing contracts enabling the Town to require title to the Property from CBP3 will be adequate and not excessive for the proposed purpose. The Property is available at a favorable price, and the Town and CBP3 have favorable loan commitments from BB&T.

d) As confirmed to the Board at this meeting by the Town's Finance Officer, (i) the Town's debt management procedures and policies are sound and in compliance with law, and (ii) the Town is not in default under any of its debt service obligations.

e) The Town Attorney is of the opinion that the Proposed Projects and financing arrangements are authorized by law and are purposes for which public funds of the Town may be expended pursuant to the Constitution and laws of North Carolina.

The Town requests that the LGC consider and approve the Town's application for the financing of the Proposed Projects in accordance with the revised financing plan described in this resolution.

5. Miscellaneous provisions

a) The Town Manager and the Finance Officer are authorized and directed to take all appropriate steps toward the completion of the financing, including pursuing the LGC's approval of the financing.

In addition, the Mayor and the Town Manager, or either of them, are authorized and directed to approve, execute and deliver any further documents and agreements they deem desirable for carrying out the purposes and intents of this resolution, including the Support Agreement. The execution and delivery of any document by an authorized officer will be conclusive evidence of such officer's approval of the final form of such document.

b) The Town intends that the adoption of this resolution will be a declaration of the Town's official intent to reimburse project expenditures from financing proceeds. The Town intends that funds that have been advanced for project costs, or which may be so advanced, from any Town fund may be reimbursed from the financing proceeds.

c) All Town officers and employees are authorized and directed to take all such further action as they may consider necessary or desirable in furtherance of the purposes of this resolution. All such prior actions of Town officers and employees are ratified, approved and confirmed. Upon the absence, unavailability or refusal to act of the

Town Manager, the Mayor or the Town's Finance Officer, any other of such officers may assume any responsibility or carry out any function assigned in this resolution.

d) The Town intends that CBP3's payment obligations under the Agreements will be "qualified tax-exempt obligations" for the purpose of Internal Revenue Code Section 265(b)(3), which the Town understands to provide certain tax advantages for financial institutions providing financing to or on behalf of certain local governments. The Town allocates to CBP3 up to \$4,300,000 of the Town's annual limitation for the issuance of bank-qualified obligations for 2009 to CBP3, but is not bound to pay the funds except as provided in this Resolution.

e) The Town intends for the financing by CBP3, as contemplated by this resolution, to qualify as tax-exempt financing as meeting the parameters set forth in the Internal Revenue Service's Revenue Ruling 63-20 and Revenue Procedure 82-26.

f) The Town makes the representations and agreements set forth in this resolution with the desire and expectation that BB&T will rely on them in connection with its determination to make the proposed loan to CBP3. The Town requests and accepts this reliance.

g) This resolution takes effect immediately.

The undersigned Town Clerk of the Town of Carolina Beach, North Carolina, certifies that the foregoing is a correct and complete copy of a resolution duly adopted by the Town's governing Town Council at a meeting duly called and held on December 17, 2009. A quorum was present and acting throughout such meeting. Such resolution has not been repealed, revoked, rescinded or amended, but remains in full effect as of today.

WITNESS my signature and the seal of the Town of Carolina Beach, North Carolina, this 17th day of December, 2009.

[SEAL]



Melinda N. Pura
Town Clerk
Town of Carolina Beach, North Carolina