

Extract of Minutes of a regular meeting of the Board of Commissioner of the County of Buncombe, North Carolina held in the Commissioners' Chambers at the Buncombe County Courthouse, Asheville, North Carolina, at 4:30 p.m. on January 7, 2014, continued to January 14, 2014.

* * *

The following members were present:

The following members were absent:

Also present:

* * *

Commissioner _____ moved that the following resolution (the "*Resolution*"), a copy of which was available with the Board and which was read by title:

RESOLUTION OF THE BOARD OF COMMISSIONERS OF THE COUNTY OF BUNCOMBE, NORTH CAROLINA, MAKING CERTAIN FINDINGS OF FACT, APPROVING A CONTRACT AMENDMENT AND A NOTICE OF EXTENSION TO A DEED OF TRUST AND THE DELIVERY THEREOF AND PROVIDING FOR CERTAIN OTHER RELATED MATTERS

WHEREAS, the County of Buncombe, North Carolina (the "*County*") is a validly existing political subdivision of the State of North Carolina (the "*State*"), existing as such under and by virtue of the Constitution, statutes and laws of the State;

WHEREAS, the County has the power, pursuant to the General Statutes of North Carolina to (1) purchase real and personal property, (2) enter into installment financing contracts in order to finance the purchase of real and personal property used, or to be used, for public purposes, and (3) finance the construction of fixtures or improvements on real property by contracts that create in the fixtures or improvements and in the real property on which such fixtures or improvements are located a security interest to secure repayment of moneys advanced or made available for such construction;

WHEREAS, the Buncombe Financing Corporation (the "*Corporation*") has previously executed and delivered (1) (a) Limited Obligation Bonds (County of Buncombe, North Carolina), Series 2010A, Evidencing Proportionate Undivided Interests in Rights to Receive Certain Revenues under an Installment Financing Contract dated as of December 1, 2010 (the "*2010 Contract*") in the aggregate principal amount of \$31,500,000, (b) Taxable Limited Obligation Bonds (County of Buncombe, North Carolina Build America Bonds), Series 2010B, Evidencing Proportionate Undivided Interests in Rights to Receive Certain Revenues under the 2010 Contract in the aggregate principal amount of \$20,420,000, and (c) Taxable Limited Obligation Bonds (County of Buncombe, North Carolina Qualified Zone Academy Bonds), Series 2010C, Evidencing Proportionate Undivided Interests in Rights to Receive Certain Revenues under the 2010 Contract in the aggregate principal amount of \$3,800,000, all under an Indenture of Trust dated as of December 1, 2010 (the "*2010 Indenture*") between the Corporation and U.S. Bank National Association, as trustee (the "*Trustee*") in order to finance the 2010 Projects (as defined therein) and (2) Limited Obligation Bonds, Series 2012A, Evidencing Proportionate Undivided Interests in Rights to Receive Certain Revenues Pursuant to the 2010 Contract, as amended by Amendment Number One to the 2010 Contract, dated as of July 1, 2012 (the "*First Amendment*") in the

aggregate principal amount of \$75,365,000, under Supplemental Indenture Number 1 dated as of July 1, 2012 (the “*First Supplement*”) to the 2010 Indenture in order to finance the 2012A Projects (as defined therein) and refinance certain of the County’s prior installment payment obligations;

WHEREAS, to secure its obligations under the 2010 Contract, as amended, the County executed and delivered a deed of trust granting a security interest in the County Courthouse (as defined in the 2010 Contract), including the site on which it is located, and a Notice of Extension (as defined in the First Amendment) granting a security interest in the Courts Building (as defined in the First Amendment), including the site on which it is located;

WHEREAS, the County has determined that it is in its best interest to pay the capital costs of (1) (a) the construction and equipping of a new elementary school to replace the existing Isaac Dickson Elementary School, (b) improvements to the Asheville campus of Asheville-Buncombe Technical Community College, including the construction and equipping of an Allied Health Building, the construction and equipping of a public safety training facility classroom, the construction and equipping of a multi-purpose building, and the construction of a parking deck, and (c) improvements to the Courts Building to provide office space for the County Sheriff (collectively, the “*2014A Projects*”), (2) the construction of a terminal facility for use by Old Dominion Freight and an office and light manufacturing facility to be used by GE Aviation pursuant to a long-term lease (the “*2014B Project*”), and (3) the construction and equipping of a new middle school to replace the existing Asheville Middle School (the “*2014C Project*” and together with the 2014A Projects and the 2014B Project, the “*2014 Projects*”);

WHEREAS, the County has previously (1) issued \$12,960,000 in aggregate principal amount of Project Development Financing Bonds (Woodfin Downtown Corridor Development), Series 2008 (the “*Woodfin Bonds*”) in order to finance the Woodfin Project (as defined in the Second Amendment), and (2) entered into an Installment Financing Contract dated as of March 1, 2006 (the “*2006 Contract*”) with the Corporation to finance the 2006 Projects (as defined in the Second Amendment);

WHEREAS, the County has been advised that it may be able to refinance all or a portion of its obligations with respect to the Woodfin Bonds and a portion of the County’s installment payments under the 2006 Contract so as to reduce the County’s installment payments thereunder;

WHEREAS, the County hereby determines that it would be in the best interest of the County to enter into Amendment Number Two to the 2010 Contract (the “*Second Amendment*”) and Amendment Number Three to the 2010 Contract (the “*Third Amendment*” and collectively with the 2010 Contract, the First Amendment, and the Second Amendment, the “*Contract*”) between the County and the Corporation in order to pay the capital costs of the 2014 Projects and to refinance all or a portion of its obligations with respect to the Woodfin Bonds and a portion of the County’s installment payments under the 2006 Contract so as to reduce the County’s installment payments thereunder;

WHEREAS, in order to secure the County’s obligations under the Contract, the County will enter into (1) a Second Notice of Extension to the 2010 Deed of Trust (the “*Second Notice of Extension*”) in connection with the execution and delivery of the Second Amendment relating to the County’s fee simple interest in one or more of the sites on which the new elementary school to replace the existing Isaac Dickson Elementary School and the Allied Health Building will be located and (2) a Third Notice of Extension to the 2010 Deed of Trust (the “*Third Notice of Extension*”) in connection with the execution and delivery of the Third Amendment relating to the County’s fee simple interest in the site on which the new middle school to replace the existing Asheville Middle School will be located, each as may be required to secure the financing and the refinancing;

WHEREAS, the Corporation will initially issue its Limited Obligation Bonds (County of Buncombe, North Carolina), Series 2014A (the “2014A Bonds”) and Taxable Limited Obligation Bonds (County of Buncombe, North Carolina), Series 2014B (the “2014B Bonds” and together with the 2014A Bonds, the “2014 Bonds”) in an aggregate principal amount not to exceed \$158,000,000, evidencing proportionate undivided interests in rights to receive certain Revenues (as defined in the 2010 Contract) pursuant to the 2010 Contract, as amended by the First Amendment and the Second Amendment, in order to finance the 2014A Projects and the 2014B Project and to refinance all or a portion of its obligations with respect to the Woodfin Bonds and a portion of the County’s installment payments under the 2006 Contract so as to reduce the County’s installment payments thereunder;

WHEREAS, in connection with the sale of the 2014 Bonds by the Corporation to Robert W. Baird & Co. and a financial institution to be determined by the Finance Director (collectively, the “Underwriters”), the Corporation will enter into a Contract of Purchase to be dated on or about February 21, 2014 (the “Contract of Purchase”) between the Corporation and the Underwriters, and the County will execute a Letter of Representation to the Underwriters with respect to the 2014 Bonds (the “Letter of Representation”);

WHEREAS, there have been described to the Board the forms of the following documents (collectively, the “Instruments”), copies of which have been made available to the Board, which the Board proposes to approve, enter into and deliver, as applicable, to effectuate the proposed installment financing:

- (1) the Second Amendment;
- (2) the Second Notice of Extension;
- (3) a Supplemental Indenture, Number 2 dated as of February 15, 2014 (the “Second Supplement”) between the Corporation and U.S. Bank National Association, as trustee, supplementing the 2010 Indenture;
- (4) the Contract of Purchase;
- (5) an Escrow Agreement dated as of February 15, 2014 (the “Escrow Agreement”) between the County and U.S. Bank National Association, as escrow agent;
- (6) the Letter of Representation; and
- (7) an Interlocal Agreement dated on or about February 15, 2014 (the “Interlocal Agreement”) between the County and the Town of Woodfin, North Carolina (the “Town”), pursuant to which the Town will commit to allocate the Incremental Revenue (as defined in the Interlocal Agreement) generated by the District (as defined in the Interlocal Agreement) to the County in order to pay the portion of the installment payments with respect to the 2014 Bonds allocable to the purchase of all or a portion of the Woodfin Bonds.

WHEREAS, to make an offering and sale of the 2014 Bonds, there will be prepared a Preliminary Official Statement with respect to the 2014 Bonds (the “Preliminary Official Statement”), a draft thereof having been presented to the Board, and a final Official Statement relating to the Preliminary Official Statement (together with the Preliminary Official Statement, the “Official Statement”), which Official Statement will contain certain information regarding the County;

WHEREAS, it appears that each of the Instruments and the Preliminary Official Statement is in an appropriate form and is an appropriate instrument for the purposes intended;

WHEREAS, the Board conducted a public hearing on January 14, 2014 to receive public comment on the proposed Second Amendment, the Second Notice of Extension and the projects to be financed and refinanced thereby;

WHEREAS, the County hereby determines that the acquisition of the 2014 Projects is essential to the County's proper, efficient and economic operation and to the general health and welfare of its inhabitants; that the 2014 Projects will provide an essential use and will permit the County to carry out public functions that it is authorized by law to perform; and that entering into the Second Amendment, the Second Notice of Extension, the Third Amendment, and the Third Notice of Extension is necessary and expedient for the County by virtue of the findings presented herein;

WHEREAS, the County hereby determines that the Second Amendment and the Third Amendment would allow the County to purchase the 2014 Projects and take title thereto at a favorable interest rate currently available in the financial marketplace and on terms advantageous to the County;

WHEREAS, the County hereby determines that the estimated cost of the acquisition of the 2014 Projects is an amount not to exceed \$198,000,000 and that such cost of the acquisition of the 2014 Projects exceeds the amount that can be prudently raised from currently available appropriations, unappropriated fund balances and non-voted bonds that could be issued by the County in the current fiscal year pursuant to Article V, Section 4 of the Constitution of the State;

WHEREAS, although the cost of the acquisition of the 2014 Projects pursuant to the Second Amendment and the Third Amendment is expected to exceed the cost of the acquisition of the 2014 Projects pursuant to a bond financing for the same undertaking, the County hereby determines that the cost of the acquisition of the 2014 Projects pursuant to the Second Amendment, the Second Notice of Extension, the Third Amendment, and the Third Notice of Extension and the obligations of the County thereunder are preferable to a general obligation bond financing or revenue bond financing for several reasons, including but not limited to the following: (1) the cost of a special election necessary to approve a general obligation bond financing, as required by the laws of the State, would result in the expenditure of significant funds; (2) the time required for a general obligation bond election would cause an unnecessary delay which would thereby decrease the financial benefits of acquiring, constructing, improving and equipping the 2014 Projects; and (3) insufficient revenues are produced by the 2014 Projects so as to permit a revenue bond financing;

WHEREAS, the County has determined and hereby determines that the estimated cost of the acquisition of the 2014 Projects pursuant to the Second Amendment and the Third Amendment reasonably compares with an estimate of similar costs under a bond financing for the same undertaking as a result of the findings delineated in the above preambles;

WHEREAS, the County does not anticipate a future property tax increase to pay installment payments falling due under the Second Amendment and the Third Amendment;

WHEREAS, the sums to fall due under the Second Amendment and the Third Amendment will be adequate but not excessive for its proposed purpose;

WHEREAS, Parker Poe Adams & Bernstein LLP and Martin L. Nesbitt, Jr., Esq., as co-bond counsel ("*Co-Bond Counsel*"), will each render an opinion to the effect that entering into the Second Amendment and the Third Amendment and the transactions contemplated thereby are authorized by law;

WHEREAS, no deficiency judgment may be rendered against the County in any action for its breach of the Second Amendment or the Third Amendment, and the taxing power of the County is not and may not be pledged in any way directly or indirectly or contingently to secure any moneys due under the Second Amendment or the Third Amendment;

WHEREAS, the County is not in default under any of its debt service obligations;

WHEREAS, the County's budget process and Annual Budget Ordinance are in compliance with the Local Government Budget and Fiscal Control Act, and external auditors have determined that the County has conformed with generally accepted accounting principles as applied to governmental units in preparing its Annual Budget ordinance;

WHEREAS, past audit reports of the County indicate that its debt management and contract obligation payment policies have been carried out in strict compliance with the law, and the County has not been censured by the North Carolina Local Government Commission (the "LGC"), external auditors or any other regulatory agencies in connection with such debt management and contract obligation payment policies;

WHEREAS, a public hearing on the Second Amendment and the Third Amendment after publication of a notice with respect to such public hearing has been held, and approval of the LGC with respect to entering into the Second Amendment and the Third Amendment must be received;

WHEREAS, the County hereby determines that all findings, conclusions and determinations of the County in this Resolution are subject to modification or affirmation until the execution and delivery of the 2014 Bonds; and

WHEREAS, the County has filed an application to the LGC for approval of the Second Amendment;

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF COMMISSIONERS OF THE COUNTY OF BUNCOMBE, NORTH CAROLINA, AS FOLLOWS:

Section 1. Direction to Retain Professionals. That the County Manager and the Finance Director, with advice from the Senior Staff Attorney, are hereby authorized and directed to retain the assistance of Parker Poe Adams & Bernstein LLP, Charlotte, North Carolina, and Martin L. Nesbitt, Jr., Esq., Asheville, North Carolina, as co-bond counsel, and the Corporation's use of the Underwriters and McGuireWoods LLP, as counsel to the Underwriters is approved.

Section 2. Ratification of Instruments. All actions of the County, the Chairman of the Board (the "Chairman"), the Clerk to the Board (the "Clerk"), the County Manager, the Finance Director of the County, the Senior Staff Attorney and their respective designees, whether previously or hereinafter taken, in effectuating the proposed financing and refinancing are hereby approved, ratified and authorized pursuant to and in accordance with the transactions contemplated by the Instruments.

Section 3. Authorization of the Official Statement. The form, terms and content of the Preliminary Official Statement are in all respects authorized, approved and confirmed, and the use of the Preliminary Official Statement and of the final Official Statement by the Underwriters in connection with the sale of the Bonds is hereby in all respects authorized, approved and confirmed. The Chairman, the County Manager or the Finance Director is hereby authorized and directed, individually and collectively,

to deliver, on behalf of the County, the Official Statement in substantially such form, with such changes, insertions and omissions as he or she may approve.

Section 4. Authorization to Execute the Second Amendment. The County hereby approves the financing of the 2014A Projects, the 2014B Project, and the refinancing of all or a portion of its obligations with respect to the Woodfin Bonds and a portion of the County's installment payments under the 2006 Contract in accordance with the terms of the Second Amendment, which will be a valid, legal and binding obligation of the County in accordance with its terms. The form and content of the Second Amendment are hereby in all respects authorized, approved and confirmed, and the Chairman, the Clerk and the County Manager and their respective designees are hereby authorized, empowered and directed, individually and collectively, to execute and deliver the Second Amendment, including necessary counterparts, in substantially the form and content presented to the Board, but with such changes, modifications, additions or deletions therein as they deem necessary, desirable or appropriate, their execution thereof to constitute conclusive evidence of the County's approval of any and all changes, modifications, additions or deletions therein from the form and content of the Second Amendment presented to the Board. From and after the execution and delivery of the Second Amendment, the Chairman, the Clerk, the County Manager and the Finance Director of the County are hereby authorized, empowered and directed, individually and collectively, to do all such acts and things and to execute all such documents as may be necessary to carry out and comply with the provisions of the Second Amendment as executed.

Section 5. Authorization to Execute the Second Notice of Extension. The County approves the form and content of the Second Notice of Extension, and the Second Notice of Extension is in all respects authorized, approved and confirmed. The Chairman, the Clerk and the County Manager and their respective designees are hereby authorized, empowered and directed, individually and collectively, to execute and deliver the Second Notice of Extension, including necessary counterparts, in substantially the form and content presented to the Board, but with such changes, modifications, additions or deletions therein as they deem necessary, desirable or appropriate. Execution by the Chairman, the Clerk and the County Manager or their respective designees constitutes conclusive evidence of the County's approval of any and all such changes, modifications, additions or deletions therein from the form and content of the Second Notice of Extension presented to the Board, and from and after the execution and delivery of the Second Notice of Extension, the Chairman, the Clerk, the County Manager and the Finance Director of the County are hereby authorized, empowered and directed, individually and collectively, to do all such acts and things and to execute all such documents as may be necessary to carry out and comply with the provisions of the Second Notice of Extension as executed.

Section 6. Approval, Authorization of Escrow Agreement. The County approves the form and content of the Escrow Agreement, and the Escrow Agreement is in all respects authorized, approved and confirmed. The Chairman, the Clerk and the County Manager and their respective designees are hereby authorized, empowered and directed, individually and collectively, to execute and deliver the Escrow Agreement, including necessary counterparts, in substantially the form and content presented to the Board, but with such changes, modifications, additions or deletions therein as they deem necessary, desirable or appropriate. Execution by the Chairman, the Clerk and the County Manager or their respective designees constitutes conclusive evidence of the County's approval of any and all such changes, modifications, additions or deletions therein from the form and content of the Escrow Agreement presented to the Board, and from and after the execution and delivery of the Escrow Agreement, the Chairman, the Clerk, the County Manager and the Finance Director of the County are hereby authorized, empowered and directed, individually and collectively, to do all such acts and things and to execute all such documents as may be necessary to carry out and comply with the provisions of the Escrow Agreement as executed.

Section 7. Approval, Authorization of Interlocal Agreement. The County approves the form and content of the Interlocal Agreement, and the Interlocal Agreement is in all respects authorized, approved and confirmed. The Chairman, the Clerk and the County Manager and their respective designees are hereby authorized, empowered and directed, individually and collectively, to execute and deliver the Interlocal Agreement, including necessary counterparts, in substantially the form and content presented to the Board, but with such changes, modifications, additions or deletions therein as they deem necessary, desirable or appropriate. Execution by the Chairman, the Clerk and the County Manager or their respective designees constitutes conclusive evidence of the County's approval of any and all such changes, modifications, additions or deletions therein from the form and content of the Interlocal Agreement presented to the Board, and from and after the execution and delivery of the Interlocal Agreement, the Chairman, the Clerk, the County Manager and the Finance Director of the County are hereby authorized, empowered and directed, individually and collectively, to do all such acts and things and to execute all such documents as may be necessary to carry out and comply with the provisions of the Interlocal Agreement as executed.

Section 8. Letter of Representation. The form and content of the Letter of Representation are hereby in all respects approved, and the Chairman, the County Manager or the Finance Director is authorized to execute the Letter of Representation for the purposes stated therein.

Section 9. County Representative. The Chairman, the County Manager and the Finance Director of the County are hereby designated as the County's representative to act on behalf of the County in connection with the transactions contemplated by the Instruments and the Official Statement, and the Chairman, the County Manager and the Finance Director are authorized to proceed with the financing of the 2014A Projects, the 2014B Project, and the refinancing of all or a portion of its obligations with respect to the Woodfin Bonds and a portion of the County's installment payments under the 2006 Contract in accordance with the Instruments and to seek opinions as a matter of law from the Senior Staff Attorney, which the Senior Staff Attorney is authorized to furnish on behalf of the County, and opinions of law from such other attorneys for all documents contemplated hereby as required by law. The County's representative and/or designee or designees are in all respects authorized on behalf of the County to supply all information pertaining to the County for use in the Official Statement and the transactions contemplated by the Instruments or the Official Statement. The County's representatives or their respective designees are hereby authorized, empowered and directed, individually and collectively, to do any and all other acts and to execute any and all other documents, which they, in their discretion, deem necessary and appropriate to consummate the transactions contemplated by the Instruments or the Official Statement or as they deem necessary or appropriate to implement and carry out the intent and purposes of this Resolution.

Section 10. Severability. If any section, phrase or provision of this Resolution is for any reason declared to be invalid, such declaration will not affect the validity of the remainder of the sections, phrases or provisions of this Resolution.

Section 11. Repealer. All motions, orders, resolutions and parts thereof, in conflict herewith are hereby repealed.

Section 12. Effective Date. This Resolution is effective on the date of its adoption.

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

I, *Kathy Hughes*, Clerk to the Board of Commissioners of the County of Buncombe, North Carolina ***DO HEREBY CERTIFY*** that the foregoing is a true and exact copy of a resolution entitled **“RESOLUTION OF THE BOARD OF COMMISSIONERS OF THE COUNTY OF BUNCOMBE, NORTH CAROLINA, MAKING CERTAIN FINDINGS OF FACT, APPROVING A CONTRACT AMENDMENT AND A SECOND NOTICE OF EXTENSION TO A DEED OF TRUST AND THE DELIVERY THEREOF AND PROVIDING FOR CERTAIN OTHER RELATED MATTERS”** adopted by the Board of Commissioners of the County of Buncombe, North Carolina, at a meeting held on January 7, 2014 and continued to January 14, 2014.

WITNESS my hand and the corporate seal of the County of Buncombe, North Carolina, this the ___ day of January, 2014.

Kathy Hughes
Clerk to the Board
County of Buncombe, North Carolina