

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 200 College Street, Suite 326, Asheville, North Carolina, at 5:00 p.m. on February 20, 2018.

* * *

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, 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, existing as such under and by virtue of the Constitution, statutes and laws of the State of North Carolina (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 County has previously entered into an Installment Financing Contract dated as of April 1, 2015 (the "*2015 Contract*") with the Buncombe Financing Corporation (the "*Corporation*") under Section 160A-20 of the General Statutes of North Carolina in order to (a) pay the capital costs of (1) the construction of an addition to the County's Health & Human Services Campus, including a parking deck adjacent to the addition (the "*HHS Facilities*"), (2) the construction of Enka Intermediate School in Candler (the "*Enka IS*"); (3) the construction of a new indoor firearms training facility (the "*Firearms Training Facility*"); (4) the construction of a new swimming pool in Woodfin (the "*Woodfin Pool*"); (5) the renovation of the Sheriff Detention Center (the "*Sheriff Facility*"); (6) the relocation of the evidence room to 339 New Leicester Highway (the "*Evidence Room Facility*"); (7) the renovation of the facility housing the Permits and Inspections Department (the "*Permits and Inspection Facility*"); and (8) acquisition of certain election systems and software and other capital equipment (the "*Equipment*" and collectively with the HHS Facilities, the Enka IS, the Firearms Training Facility, the Woodfin Pool, the Sheriff Facility, the Evidence Room Facility, and the Permits and Inspection Facility, the "*2015 Project*") and (b) refinance a portion of the County's installment payment obligations under (1) an Installment Financing Contract dated as of December 1, 2003 (as amended, the "*2003 Contract*"), as amended by

Amendment Number One to the 2003 Contract dated as of January 1, 2005 and Amendment Number Two to the 2003 Contract dated as of August 1, 2007, each with the Corporation, (2) an Installment Financing Contract dated as of March 1, 2006 with the Corporation, (3) an Installment Financing Contract dated as of November 15, 2009 with the Corporation and (4) the County's General Obligation Public Improvement Bonds, Series 2005A;

WHEREAS, the Corporation has previously executed and delivered Limited Obligation Bonds, Series 2015, evidencing proportionate undivided interests in rights to receive certain Revenues under the 2015 Contract, all executed and delivered under an Indenture of Trust dated as of April 1, 2015 (the "2015 Indenture");

WHEREAS, to secure its obligations under the 2015 Contract, the County executed and delivered a deed of trust (the "2015 Deed of Trust") granting a security interest in the HHS Facilities and the Enka IS, including the sites on which they are located;

WHEREAS, the Board of Commissioners of the County (the "Board") hereby determines that it is in the best interest of the County to pay the capital costs of (a) improvements to Asheville High School, Ira B. Jones Elementary School, and Montford North Star Academy and other school facilities located within the County and (b) improvements to and construction of an addition at Community High School (collectively, the "2018 Project");

WHEREAS, the County hereby determines that it would be in the best interest of the County to enter into Amendment Number One to the 2015 Contract (the "First Amendment" and collectively with the 2015 Contract, the "Contract") between the County and the Corporation in order to pay the capital costs of the 2018 Project;

WHEREAS, in order to further secure the County's obligations under the Contract, the County will enter into a notice of extension to the 2015 Deed of Trust (the "Notice of Extension") in connection with the execution and delivery of the First Amendment relating to the County's fee simple interest in the sites on which Asheville High School and Montford North Star Academy are located as may be required to secure the financing;

WHEREAS, the Corporation will execute and deliver its Limited Obligation Bonds, Series 2018 (the "Bonds") in an aggregate principal amount not to exceed \$65,000,000, evidencing proportionate undivided interests in rights to receive certain Revenues (as defined in the 2015 Contract) pursuant to the Contract;

WHEREAS, in connection with the sale of the Bonds by the Corporation to Robert W. Baird & Co. Incorporated and Wells Fargo Bank, National Association (collectively, the "Underwriters"), the Corporation will enter into a Contract of Purchase to be dated on or about March 15, 2018 (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 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 First Amendment;
- (2) the Notice of Extension;

- (3) a Supplemental Indenture, Number 1 dated as of March 15, 2018 between the Corporation and Regions Bank, as trustee, supplementing the 2015 Indenture;
- (4) the Contract of Purchase; and
- (5) the Letter of Representation;

WHEREAS, to make an offering and sale of the Bonds, there will be prepared a Preliminary Official Statement with respect to the 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 County hereby determines that construction of the 2018 Project is essential to the County's proper, efficient and economic operation and to the general health and welfare of its inhabitants; that the 2018 Project 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 First Amendment is necessary and expedient for the County by virtue of the findings presented herein;

WHEREAS, the County hereby determines that the First Amendment would allow the County to purchase the 2018 Project 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 construction of the 2018 Project is an amount not to exceed \$65,000,000 and that such cost 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 construction of the 2018 Project pursuant to the First Amendment is expected to exceed the cost thereof pursuant to a bond financing for the same undertaking, the County hereby determines that the cost of construction of the 2018 Project pursuant to the First Amendment and the 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 constructing the 2018 Project; and (3) no revenues are produced by the 2018 Project so as to permit a revenue bond financing;

WHEREAS, the County has determined and hereby determines that the estimated cost of construction of the 2018 Project pursuant to the First 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 First Amendment;

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

WHEREAS, Parker Poe Adams & Bernstein LLP, as bond counsel, will render an opinion to the effect that entering into the First 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 First 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 money due under the First 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 First Amendment, the Notice of Extension and the projects to be financed thereby after publication of a notice with respect to such public hearing must be held and the Board conducted such public hearing at this meeting;

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

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

Section 1. Ratification of Instruments. All actions of the County, the Chairman of the Board (the "Chairman"), the Vice Chairman of the Board (the "Vice 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, specifically including making application to the LGC, are hereby approved, ratified and authorized pursuant to and in accordance with the transactions contemplated by the Instruments.

Section 2. Financing Team. The financing team of Parker Poe Adams & Bernstein LLP, as bond counsel; Davenport & Company LLC, as financial advisor; Regions Bank, as trustee; Robert W. Baird & Co. Incorporated and Wells Fargo Bank, National Association, as underwriters; and McGuireWoods LLP, as counsel to the underwriters, is hereby approved.

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 Vice 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 First Amendment. The County hereby approves the financing of the 2018 Project in accordance with the terms of the First Amendment, which will be a valid, legal and binding obligation of the County in accordance with its terms. The form and content of the First Amendment are hereby in all respects authorized, approved and confirmed, and the Chairman, the Vice 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 First 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 First Amendment presented to the Board. From and after the execution and delivery of the First Amendment, the Chairman, the Vice 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 First Amendment as executed.

Section 5. Authorization to Execute the Notice of Extension. The County approves the form and content of the Notice of Extension, and the Notice of Extension is in all respects authorized, approved and confirmed. The Chairman, the Vice 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 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 Vice 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 Notice of Extension presented to the Board, and from and after the execution and delivery of the Notice of Extension, the Chairman, the Vice 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 Notice of Extension as executed.

Section 6. Letter of Representation. The form and content of the Letter of Representation are hereby in all respects approved, and the Chairman, the Vice Chairman, the County Manager or the Finance Director is authorized to execute the Letter of Representation for the purposes stated therein.

Section 7. County Representative. The Chairman, the Vice 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 Preliminary Official Statement, and the Chairman, the Vice Chairman, the County Manager and the Finance Director are authorized to proceed with the financing of the 2018 Project 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 Preliminary 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 Preliminary Official Statement or as they deem necessary or appropriate to implement and carry out the intent and purposes of this Resolution.

Section 8. 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 9. Repealer. All motions, orders, resolutions and parts thereof, in conflict herewith are hereby repealed.

Section 10. 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, 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”** adopted by the Board of Commissioners of the County of Buncombe, North Carolina, at a meeting held on the 20th day of February, 2018.

WITNESS my hand and the corporate seal of the County of Buncombe, North Carolina, this the 20th day of February, 2018.

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