

**EXTRACTS FROM MINUTES OF THE BOARD**

A regular meeting of the Board of Commissioners of the County of Buncombe, North Carolina, was duly held on August 20, 2019 at 5:00 p.m. in the Commission Chambers, 200 College Street, Suite 326, Asheville, North Carolina. Chairman Brownie Newman presiding.

The following members were present:

The following members were absent:

\* \* \* \* \*

Commissioner \_\_\_\_\_ moved that the following resolution, copies of which having been made available to the Board, be adopted:

**A RESOLUTION OF THE COUNTY OF BUNCOMBE, NORTH CAROLINA,  
APPROVING AN INSTALLMENT PURCHASE CONTRACT AND DELIVERY  
THEREOF AND PROVIDING FOR CERTAIN OTHER RELATED MATTERS.**

**WHEREAS**, the County of Buncombe, North Carolina (the “*County*”) is a duly and regularly created, organized and 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 Section 160A-20 of the General Statutes of North Carolina, as amended, to (a) purchase real and personal property, (b) enter into installment purchase contracts in order to finance the purchase of real and personal property used, or to be used, for public purposes, and (c) grant a security interest in some or all of the property purchased to secure repayment of the purchase price;

**WHEREAS**, the Board of Commissioners of the County (the “*Board*”), hereby determines that it is in the best interests of the County to receive an advance of funds in an aggregate principal amount of not more than \$1,700,000 by entering into an installment purchase contract (the “*Contract*”) with Banc of America Public Capital Corp (the “*Lender*”) in order to finance the acquisition of motor vehicles (the “*Equipment*”) and provide the Lender a security interest therein;

**WHEREAS**, the Equipment is or will be owned and operated by the County to serve the citizens of the County;

**WHEREAS**, the County hereby determines that the acquisition of the Equipment is essential to the County’s proper, efficient and economic operation and to the general health and welfare of its inhabitants; that the acquisition of the Equipment has or will provide an essential use and has or will permit the County to carry out public functions that it is authorized by law to perform; and that entering into the Contract is necessary and expedient for the County by virtue of the findings presented herein;

**WHEREAS**, the County hereby determines that the estimated cost of the acquisition of the Equipment is an amount not to exceed \$1,700,000 and that such cost of the Equipment exceeds the total 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 acquiring the Equipment pursuant to the Contract is expected to exceed the cost of acquiring the Equipment pursuant to a bond financing for the same undertaking, the County hereby determines that the cost of acquiring the Equipment pursuant to the Contract 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: (a) 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; (b) the time required for a general obligation bond election would cause an unnecessary delay which would thereby decrease the financial benefits of acquiring the Equipment; and (c) insufficient revenues are produced by the operation of the Equipment so as to permit a revenue bond financing;

**WHEREAS**, the County hereby determines that the estimated cost of acquiring the Equipment pursuant to the Contract 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 obligation of the County to make Installment Payments under the Contract is a limited obligation of the County payable solely from currently budgeted appropriations of the County and does not constitute a pledge of the faith and credit of the County within the meaning of any constitutional debt limitation;

**WHEREAS**, the County will grant a security interest in the Equipment under the Contract and will deliver a North Carolina Uniform Commercial Code Financing Statement (the "*Financing Statement*") for the benefit of the Lender relating to the Equipment;

**WHEREAS**, the County does not anticipate future property tax increases solely to pay installment payments falling due under the Contract in any fiscal year during the term of the Contract;

**WHEREAS**, Parker Poe Adams & Bernstein LLP, as special counsel ("*Special Counsel*"), will render an opinion to the effect that entering into the Contract and the transactions contemplated thereby are authorized by law and constitute a purpose for which public funds may be expended pursuant to the Constitution and laws of the State;

**WHEREAS**, no deficiency judgment may be rendered against the County in any action for its breach of the Contract, 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 Contract;

**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 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**, there has been presented to the Board the form of the Contract, a copy of which is attached hereto, which the County proposes to approve, enter into and deliver, as applicable, to effectuate the proposed financing at the Interest Rate (as defined in the Contract) and for a maximum principal amount of \$1,700,000 as specified in the Contract; and

**WHEREAS**, it appears that the Contract is in appropriate form and is an appropriate instrument for the purposes intended;

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

**Section 1. Ratification of Prior Actions.** All actions of the County Manager, the Finance Director of the County and the Clerk to the Board of Commissioners and their respective designees in effectuating the proposed financing are hereby approved, ratified and authorized pursuant to and in accordance with the transactions contemplated by the Contract.

**Section 2. Approval, Authorization and Execution of Contract.** The County hereby approves the acquisition of the Equipment in accordance with the terms of the Contract, which will be a valid, legal

and binding obligation of the County in accordance with its terms. The County hereby approves the amount to be advanced by the Lender to the County pursuant to the Contract in an aggregate principal amount not to exceed \$1,700,000, such amount to be repaid by the County to the Lender as provided in the Contract. The form, terms and content of the Contract are in all respects authorized, approved and confirmed, and each of the Chairman of the Board, the County Manager, the Finance Director of the County and the Clerk to the Board of Commissioners or their respective designees are authorized, empowered and directed to execute and deliver the Contract for and on behalf of the County, including necessary counterparts, in substantially the form attached hereto, but with such changes, modifications, additions or deletions therein as shall to them seem necessary, desirable or appropriate, their execution thereof to constitute conclusive evidence of their approval of any and all such changes, modifications, additions or deletions, and that from and after the execution and delivery of the Contract, each of the Chairman of the Board, the County Manager, the Finance Director of the County and the Clerk to the Board of Commissioners or their respective designees are hereby authorized, empowered and directed 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 Contract as executed.

*Section 3. Further Actions.* Each of the Chairman of the Board, the County Manager, and the Finance Director of the County are hereby designated as the County's representatives to act on behalf of the County in connection with the transactions contemplated by the Contract, and each of the Chairman of the Board, the County Manager, and the Finance Director of the County are authorized and directed to proceed with the acquisition of the Equipment in accordance with the terms of the Contract, to file the Financing Statement, if required, and to seek opinions on matters of law from the County Attorney, which the County 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. Each of the Chairman of the Board, the County Manager, and the Finance Director of the County are hereby authorized to designate one or more employees of the County to take all actions which each of the Chairman of the Board, the County Manager, and the Finance Director of the County are authorized to perform under this Resolution, and each of the Chairman of the Board, the County Manager, the Finance Director of the County or their designees are in all respects authorized on behalf of the County to supply all information pertaining to the transactions contemplated by the Contract. Each of the Chairman of the Board, the County Clerk, the County Manager, and the Finance Director of the County are authorized to execute and deliver for and on behalf of the County any and all additional certificates, documents, opinions or other papers and perform all other acts as may be required by the Contract or as they may deem necessary or appropriate in order to implement and carry out the intent and purposes of this Resolution.

*Section 4. Related Actions.* All acts and doings of officers, employees and agents of the County, whether taken prior to, on, or after the date of this Resolution, that are in conformity with and in furtherance of the purposes and intents of this Resolution as described above shall be, and the same hereby are, in all respects ratified, approved and confirmed.

*Section 5. Repealer.* All motions, orders, resolutions, ordinances and parts thereof, in conflict herewith are hereby repealed.

*Section 6. Severability.* If any section, phrase or provision of this Resolution is for any reason declared to be invalid, such declaration shall not affect the validity of the remainder of the sections, phrases or provisions of this Resolution.

*Section 7. Effective Date.* That this Resolution is effective on the date of its adoption.

*Yeas*

*Nays*

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

I, Lamar Joyner, duly appointed Clerk to the Board of Commissioners of the County of Buncombe, North Carolina, *DO HEREBY CERTIFY*, that the foregoing is a true and accurate copy of the resolution entitled “A RESOLUTION OF THE COUNTY OF BUNCOMBE, NORTH CAROLINA, APPROVING AN INSTALLMENT PURCHASE CONTRACT AND DELIVERY THEREOF AND PROVIDING FOR CERTAIN OTHER RELATED MATTERS” which was adopted by the Board of Commissioners of the County of Buncombe, North Carolina, at its regular meeting held on August 20, 2019, to become effective on August 20, 2019, and that such resolution has been duly recorded in the minutes of the County.

*WITNESS* my hand and the corporate seal of the County of Buncombe, North Carolina, this \_\_\_day of August, 2019.

(SEAL)

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Lamar Joyner  
Clerk to the Board of Commissioners  
County of Buncombe, North Carolina