

**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 May 3, 2022 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:

**RESOLUTION OF THE COUNTY OF BUNCOMBE, NORTH CAROLINA, AUTHORIZING THE  
NEGOTIATION OF AN AMENDMENT TO AN INSTALLMENT FINANCING CONTRACT AND  
PROVIDING FOR CERTAIN OTHER RELATED MATTERS THERETO**

*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) grant a security interest in some or all of the property purchased to secure repayment of the purchase price;

*WHEREAS*, the Buncombe Financing Corporation (the “*Corporation*”) has previously executed and delivered (1)(a) Limited Obligation Bonds (County of Buncombe, North Carolina), Series 2010A (the “*2010A Bonds*”), 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 (the “*2010B Bonds*”), 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 Regions Bank, as successor trustee to U.S. Bank National Association, (the “*Trustee*”) in order to finance the 2010 Projects (as defined therein); (2) Limited Obligation Bonds, Series 2012A (the “*2012A Bonds*”), 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; (3) 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*”), evidencing proportionate undivided interests in rights to receive certain revenues pursuant to the 2010 Contract, as amended by Amendment Number Two to the 2010 Contract, dated as of February 15, 2014 (the “*Second Amendment*”) in the aggregate principal amounts of \$151,590,000 and \$28,725,000, respectively, under Supplemental Indenture Number 2, dated as of February 15, 2014 (the “*Second Supplement*”) to the 2010 Indenture in order to finance the 2014 Projects (as defined therein) and refinance certain of the County’s prior installment payment obligations and (4) Limited Obligation Bonds (County of Buncombe, North Carolina), Series 2020A (the “*2020A Bonds*”) and Taxable Limited Obligation Bonds (County of Buncombe, North Carolina), Series 2020B (the “*2020B Bonds*”), evidencing proportionate undivided interests in rights to receive certain revenues pursuant to the 2010 Contract, as amended by Amendment Number Three to the 2010 Contract, dated as of April 1, 2020 (the “*Third Amendment*”) in the aggregate principal amounts of \$56,495,000 and \$32,235,000, respectively, under Supplemental Indenture Number 3, dated as of April 1, 2020 (the “*Third Supplement*”) to the 2010 Indenture in order to finance the 2020 Projects (as defined therein) (collectively, the “*Prior Projects*”);

*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, a Notice of Extension granting a security interest in the Courts Building (as defined in the First Amendment), including the site on which it is located, and a Second

Notice of Extension granting a security interest in Asheville Middle School and the Allied Health Building on the campus of Asheville-Buncombe Technical Community College, including the respective sites on which they are located (as defined in the Second Amendment and collectively, the “*Deed of Trust*”);

*WHEREAS*, the Board of Commissioners (the “*Board*”) hereby determines that it is in the best interest of the County to enter into Amendment Number Four to the 2010 Contract (the “*Fourth Amendment*” and, together with the 2010 Contract, the First Amendment, the Second Amendment and the Third Amendment, the “*Contract*”) with the Corporation in order to pay (1) the capital costs of the acquisition, construction and equipping of improvements to (a) public school facilities located in the County, including, but not limited to (i) classroom replacement at Asheville High School, (ii) installation of building code, security and K3 class size reduction at Haw Creek Elementary School, (iii) re-roofing of Avery Creek Elementary School, Candler Elementary School and Enka Middle School, (iv) replacement of the track and stadium light upgrades at North Buncombe High School, and (v) energy management and HVAC systems upgrades and (b) County facilities, including, but not limited to (i) the expansion of a solid waste landfill cell, (ii) solar panel installation and (iii) fleet and general services complex upgrades (collectively, the “*2022 Project*”) and (2) the refinancing of certain of the County’s prior installment financing obligations (collectively, the “*Prior Obligations*”);

*WHEREAS*, the County hereby determines that the acquisition, construction and equipping of the 2022 Project and the refinancing of the Prior Obligations are essential to the County’s proper, efficient and economic operation and to the general health and welfare of its inhabitants; that the 2022 Project and the projects financed with the proceeds of the Prior Obligations, including the Prior Projects, have or will provide an essential use and permit or will permit the County to carry out public functions that it is authorized by law to perform; and that entering into the Fourth Amendment is necessary and expedient for the County by virtue of the findings presented herein;

*WHEREAS*, the County hereby determines that the 2010 Contract, as amended by the Fourth Amendment, allows the County to acquire the 2022 Project and refinance the Prior Obligations 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 financing the acquisition, construction and equipping of the 2022 Project and refinancing the Prior Obligations in an amount not to exceed \$155,000,000, and that such cost of the acquisition, construction, equipping and refinancing 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 financing the acquisition, construction and equipping of the 2022 Project and refinancing the Prior Obligations pursuant to the Contract is expected to exceed the cost of financing the same pursuant to a bond financing for the same undertaking, the County hereby determines that the cost of financing the acquisition, construction and equipping of the 2022 Project and refinancing the Prior Obligations pursuant to the Contract and the Deed of Trust 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 and equipping the 2022 Project and refinancing the Prior Obligations; and (3) insufficient revenues are produced by the 2022 Project and the Prior Projects so as to permit a revenue bond financing;

*WHEREAS*, the County has determined and hereby determines that the estimated cost of financing the acquisition, construction and equipping of the 2022 Project and refinancing the Prior Obligations 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 County does not anticipate a future property tax increase to pay installment payments falling due under the Contract;

*WHEREAS*, Parker Poe Adams & Bernstein LLP, as bond counsel ("*Bond Counsel*"), will render an opinion to the effect that entering into the Contract 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 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 money 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

*WHEREAS*, the County believes, to the best of its knowledge, 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;

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

Section 1.       ***Authorization to Negotiate the Fourth Amendment.*** That the County Manager and the Finance Director, with advice from the Senior Staff Attorney and Bond Counsel, are hereby authorized and directed to proceed and negotiate on behalf of the County for the financing of the acquisition, construction and equipping of the 2022 Project and the refinancing of the Prior Obligations for a principal amount not to exceed \$155,000,000 under the Fourth Amendment to be entered into in accordance with the provisions of Section 160A-20 of the General Statutes of North Carolina.

Section 2.       ***Application to LGC.*** That the Finance Director or his designee is hereby directed to file with the LGC an application for its approval of the Fourth Amendment and all relevant transactions contemplated thereby on a form prescribed by the LGC and to state in such application such facts and to attach thereto such exhibits regarding the County and its financial condition as may be required by the LGC.

Section 3.       ***Direction to Retain Professionals.*** That the Finance Director, with advice from the Senior Staff Attorney, is hereby authorized and directed to retain the assistance of Parker Poe Adams & Bernstein LLP, Raleigh, North Carolina, as bond counsel; Davenport & Company, LLC, Charlotte, North Carolina, as financial advisor; Regions Bank, Atlanta, Georgia, as trustee. The Finance Director is hereby authorized to retain such other professionals as he deems necessary in his judgment to carry out the transaction contemplated in this Resolution.

Section 4. ***Other Acts Authorized.*** That the Finance Director is hereby authorized to do any and all other things necessary to complete the steps necessary for the execution and delivery of the Fourth Amendment and the transactions described in this Resolution.

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

Section 6. ***Effective Date.*** This Resolution is effective on the date of its adoption.

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 “**RESOLUTION OF THE COUNTY OF BUNCOMBE, NORTH CAROLINA, AUTHORIZING THE NEGOTIATION OF AN AMENDMENT TO AN INSTALLMENT FINANCING CONTRACT AND PROVIDING FOR CERTAIN OTHER RELATED MATTERS THERETO**” which was adopted by the Board of Commissioners of the County of Buncombe, North Carolina, at its regular meeting held on May 3, 2022, to become effective on May 3, 2022, 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 3<sup>rd</sup> day of May, 2022.

(SEAL)

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