

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 June 7, 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 BOARD OF COMMISSIONERS OF THE COUNTY OF
BUNCOMBE, NORTH CAROLINA, APPROVING AN AMENDMENT TO AN INSTALLMENT
FINANCING AGREEMENT 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 County and the Buncombe Financing Corporation (the “*Corporation*”) have previously entered into the an Installment Financing Contract dated as of December 1, 2010 (the “*2010 Contract*”), as amended by Amendment Number One to the 2010 Contract dated as of July 1, 2012 (the “*First Amendment*”), Amendment Number Two to the 2010 Contract dated as of February 15, 2014 (the “*Second Amendment*”), Amendment Number Three to the 2010 Contract, dated as of April 1, 2020 (the “*Third Amendment*”) and Amendment Number Four to the 2010 Contract, dated as of October 1, 2020 (the “*Fourth Amendment*,” and together with the 2010 Contract, the First Amendment, the Second Amendment, the Third Amendment, the Fourth Amendment and the Fifth Amendment, as defined herein, the “*Contract*”) for the purposes outlined therein;

WHEREAS, 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 the 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 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 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, the successor to which is Regions Bank (the “*Trustee*”), as trustee, (2) Limited Obligation Bonds (County of Buncombe, North Carolina), Series 2012A, Evidencing Proportionate Undivided Interests in Rights to Receive Certain Revenues Pursuant To the Contract (as amended) 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, (3)(a) Limited Obligation Bonds, Series 2014A, Evidencing Proportionate Undivided Interests in Rights to Receive Certain Revenues Pursuant To the Contract (as amended) in the aggregate principal amount of \$151,590,000 and (b) Taxable Limited Obligation Bonds, Series 2014B, Evidencing Proportionate Undivided Interests in Rights to Receive Certain Revenues Pursuant To the Contract (as amended) in the aggregate principal amount of \$28,725,000, both under Supplemental Indenture Number 2 dated as of February 15, 2014 (the “*Second Supplement*”) to the 2010 Indenture, (4)(a) Limited Obligation Bonds, Series 2020A, Evidencing Proportionate Undivided Interests in Rights to Receive Certain Revenues Pursuant To the Contract (as amended) in the aggregate principal amount of \$56,495,000 and (b) Taxable Limited Obligation Bonds, Series 2020B, Evidencing Proportionate Undivided Interests in Rights to Receive Certain Revenues Pursuant To the Contract (as amended), in the aggregate principal amount of \$32,235,000, respectively, both under Supplemental Indenture Number 3, dated as of April 1, 2020 (the

“*Third Supplement*”) to the 2010 Indenture and (5) Limited Obligation Bond, Series 2020C, evidencing proportionate undivided interests in rights to receive certain Revenues pursuant to the Contract (as amended), in the aggregate principal amount of \$10,096,000, under Supplemental Indenture Number 4 dated as of October 1, 2020 (the “*Fourth Supplement*”) to the 2010 Indenture;

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 (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 and a Second Notice of Extension (as defined in the Second Amendment) granting a security interest in the Allied Health Building and Asheville Middle School (as each are defined in the Second Amendment);

WHEREAS, the County hereby determines that it would be in the best interest of the County to enter into Amendment Number Five to the 2010 Contract (the “*Fifth Amendment*”) between the County and 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 (the “*Prior Obligations*”);

WHEREAS, the Corporation will issue its Limited Obligation Bond (County of Buncombe, North Carolina), Series 2022A (the “*2022A Bond*”) and Taxable Limited Obligation Bond (County of Buncombe, North Carolina), Series 2022B (the “*2022B Bond*” and together with the 2022A Bond, the “*2022 Bonds*”) in an aggregate principal amount not to exceed \$155,000,000, evidencing proportionate undivided interests in rights to receive certain Revenues (as defined in the 2010 Contract) pursuant to the Contract, in order to finance the 2022 Project and to refinance all or a portion of its installment financing obligations with respect to the Second Amendment;

WHEREAS, in connection with the sale of the 2022 Bonds by the Corporation to Truist Bank (the “*Purchaser*”), the Corporation, the County and the Purchaser will enter into a Bond Purchase Agreement to be dated as the date of delivery thereof (the “*Bond Purchase Agreement*”);

WHEREAS, pursuant to the terms and conditions of the Fifth Supplement (as defined below) and the Forward Purchase Agreement (as defined below), the County also desires to authorize the execution and delivery and sale to the Purchaser of a tax-exempt limited obligation bond in the principal amount equal to the outstanding principal amount of the 2022B Bond at the time of execution and delivery thereof (the “*2024 Bond*”) for the purpose of refunding the 2022B Bond;

WHEREAS, the County has filed with the LGC an application for the approval and private sale without advertisement of the 2022 Bonds and the 2024 Bond in accordance with Section 159-85 of the General Statutes of North Carolina, as amended;

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

- (1) the Fifth Amendment;
- (2) a Supplemental Indenture, Number 5 dated as of June 1, 2022 (the “*Fifth Supplement*”) between the Corporation and Regions Bank, as trustee, supplementing the 2010 Indenture;
- (3) the Bond Purchase Agreement;
- (4) an Escrow Agreement dated as of June 1, 2022 (the “*Escrow Agreement*”) between the County and Regions Bank, as escrow agent; and
- (5) the Forward Purchase Agreement to be dated on or about June 22, 2022 (the “*Forward Purchase Agreement*”) among the Corporation, the County and the Purchaser related to the sale of the 2024 Bond.

WHEREAS, in the initial resolution adopted by the Board on May 3, 2022 and the notice of public hearing published in the Asheville Citizen Times on April 22, 2022, the documentation mistakenly referenced the Fourth Amendment and the Fourth Supplement instead of the Fifth Amendment and Fifth Supplement, respectively;

WHEREAS, the Board conducted a public hearing on May 3, 2022 to receive public comment on the proposed Fifth Amendment and the projects to be financed and refinanced thereby and approval of the LGC with respect to entering into the Fifth Amendment must be received;

WHEREAS, the County has filed an application to the LGC for approval of the Fifth 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 and Clarification of Prior Approvals. 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. All approvals that inadvertently referenced the Fourth Supplement and the Fourth Amendment should hereafter be read to reference the Fifth Supplement and the Fifth Amendment, respectively.

Section 2. Authorization to Execute the Fifth Amendment. The County hereby approves the financing of the 2022 Project and the refinancing of all or a portion of its obligations with respect to the Second Amendment in accordance with the terms of the Fifth Amendment, which will be a valid, legal and binding obligation of the County in accordance with its terms. The form and content of the Fifth Amendment are hereby in all respects authorized, approved and confirmed, and the Chairman, the Clerk, the County Manager and the Finance Director of the County and their respective designees (the “*Authorized Officers*”) are hereby authorized, empowered and directed, individually and collectively, to execute and deliver the Fifth 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 Fifth Amendment presented to the Board. From and after the execution and delivery of the Fifth Amendment, the Authorized Officers 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 Fifth Amendment as executed.

Section 3. 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 Authorized Officers 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 Authorized Officers 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 Authorized Officers 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 4. Authorization to Execute the Bond Purchase Agreement. The County approves the form and content of the Bond Purchase Agreement and the sale of the 2022 Bonds to the Purchaser as contemplated thereby, and the Bond Purchase Agreement is in all respects authorized, approved and confirmed. The Authorized Officers are hereby authorized, empowered and directed to execute and deliver the Bond Purchase 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 Authorized Officers 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 Bond Purchase Agreement presented to the Board, and from and after the execution and delivery of the Bond Purchase Agreement, the Authorized Officers 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 Bond Purchase Agreement as executed.

Section 5. Authorization to Execute the Forward Purchase Agreement. The County approves the form and content of the Forward Purchase Agreement and the sale of the 2024 Bond to the Purchaser as contemplated thereby, and the Forward Purchase Agreement is in all respects authorized, approved and confirmed. The Authorized Officers are hereby authorized, empowered and directed to execute and deliver the Forward Purchase 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 Authorized Officers 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 Forward Purchase Agreement presented to the Board, and from and after the execution and delivery of the Forward Purchase Agreement, the Authorized Officers 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 Forward Purchase Agreement as executed.

Section 6. County Representative. The Authorized Officers, individually and collectively, are each 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 Authorized Officers are authorized to proceed with the financing of the 2022 Project and the refinancing of all or a portion of its obligations with respect to the 2010 Contract, the First Amendment, the Second Amendment, the Third Amendment and the Fourth

Amendment 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 transactions contemplated by the Instruments. 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 as they deem necessary or appropriate to implement and carry out the intent and purposes of this Resolution.

Section 7. 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 8. Repealer. All motions, orders, resolutions and parts thereof, in conflict herewith are hereby repealed.

Section 9. Effective Date. This Resolution is effective on the date of its adoption.

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

I, *Lamar Joyner*, 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 AN AMENDMENT TO AN INSTALLMENT FINANCING AGREEMENT 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 June 7, 2022.

WITNESS my hand and the corporate seal of the County of Buncombe, North Carolina, this the 7th day of June, 2022.

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