

EXTRACTS FROM MINUTES OF BOARD OF COMMISSIONERS

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A regular meeting of the Board of Commissioners (the “*Board*”) of the County of Rutherford, North Carolina (the “*County*”) was held on Monday, March 6, 2017, at 6:00 p.m. in the Commissioners Room, Rutherford County Office Building, 289 North Main Street, Rutherfordton, North Carolina 28139, Bryan King, Chairman of the Board, presiding and the following Commissioners present:

Commissioners Absent:

Also Present:

* * * * *

Commissioner _____ introduced the following resolution, a summary of which had been provided to each Commissioner, a copy of which was available with the Clerk to the Board and which was read by title:

RESOLUTION OF THE BOARD OF COMMISSIONERS OF THE COUNTY OF RUTHERFORD, NORTH CAROLINA, AUTHORIZING THE NEGOTIATION OF AN INSTALLMENT FINANCING CONTRACT, DIRECTING THE PUBLICATION OF NOTICE WITH RESPECT THERETO AND PROVIDING FOR CERTAIN OTHER RELATED MATTERS THERETO

WHEREAS, the County of Rutherford, 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 Board hereby determines that it is in the best interest of the County (1) to execute and deliver an installment financing contract (the “*Contract*”) under Section 160A-20 of the General Statutes of North Carolina (the “*Act*”) in order to (a) finance all or a portion of the costs to (1) construct, equip and furnish an Applied Science and Technology Building at Isothermal Community College (“*ICC*”), (2) replace roofs on the Business Science Building and the Communications Building at ICC, (3) renovate and improve the Rutherford County Detention Center and (4) acquire land for future County development and expansion (collectively, the “*Project*”) and (b) pay certain costs related to the execution and delivery of the Contract; and (2) to execute and deliver a deed of trust and security agreement (the “*Deed of Trust*”) related to the County’s fee simple interest in all or a portion of the real property on which the Business Science Building and the Communications Building at ICC are or will be located, together with the improvements thereon (collectively, the “*Mortgaged Property*”), to secure the County’s obligations under the Contract;

WHEREAS, the Board hereby determines that (1) the Project will permit the County to carry out public functions that it is authorized by law to perform and (2) entering into the Contract and the Deed of Trust is necessary and expedient for the County by virtue of the findings presented herein;

WHEREAS, the County hereby determines that the Contract would allow the County to purchase the 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 (1) the estimated cost of the Project is an amount not to exceed \$7,500,000 and (2) 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 the Project pursuant to the Contract is expected to exceed the cost of the Project pursuant to a bond financing for the same undertaking, the County hereby determines that the cost of the Project pursuant to the Contract and 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; and (2) the time required for a general obligation bond election would cause an unnecessary delay which would thereby decrease the financial benefits of the Project and (3) no revenues are produced by the Project so as to permit a revenue bond financing;

WHEREAS, the County has determined and hereby determines that the estimated cost of the Project 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 set forth above;

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

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

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;

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 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 Contract after publication of a notice with respect to such public hearing must be held and approval of the LGC with respect to entering the Contract must be received; and

WHEREAS, the County hereby determines that all findings, conclusions and determinations of the County in this Resolution are subject to modification or affirmation after all interested parties have been afforded the opportunity to present their comments at a public hearing regarding the execution and delivery of the Contract and the Project to be financed thereby.

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

Section 1. **Authorization to Negotiate the Contract.** The County Manager and Finance Director, with advice from the County Attorney and Special Counsel, are hereby authorized and directed, individually and collectively, to negotiate on behalf of the County for the financing of the Project pursuant to the Contract to be entered into in accordance with the provisions of the Act in an aggregate principal amount not to exceed \$7,500,000.

Section 2. **Application to LGC.** The Finance Director or her designee is hereby directed to file with the LGC an application for its approval of the Contract 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. **Financing Team.** The financing team of Parker Poe Adams & Bernstein LLP, as special counsel, and Stephens Inc., as financial advisor, is approved.

Section 4. **Public Hearing.** A public hearing (the “Public Hearing”) shall be conducted by the Board on April 3, 2017 at 6:00 p.m. in the Commissioners Room, Rutherford County Office Building, 289 North Main Street, Rutherfordton, North Carolina, concerning the Contract, the proposed Project and any other transactions contemplated therein and associated therewith.

Section 5. **Notice of Public Hearing.** The Clerk to the Board is hereby directed to cause a notice of the Public Hearing, in the form attached hereto as Exhibit A, to be published once in a qualified newspaper of general circulation within the County no fewer than 10 days prior to the Public Hearing.

Section 6. **Repealer.** All motions, orders, resolutions and parts thereof in conflict herewith are hereby repealed.

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

On motion of Commissioner _____, seconded by Commissioner _____, the foregoing resolution entitled “**RESOLUTION OF THE BOARD OF COMMISSIONERS OF THE COUNTY OF RUTHERFORD, NORTH CAROLINA AUTHORIZING THE NEGOTIATION OF AN INSTALLMENT FINANCING CONTRACT, DIRECTING THE PUBLICATION OF NOTICE WITH RESPECT THERETO**” was duly adopted by the following vote:

AYES:

NAYS:

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

I, HAZEL HAYNES, Clerk to the Board of Commissioners of the County of Rutherford, 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 RUTHERFORD, NORTH CAROLINA AUTHORIZING THE NEGOTIATION OF AN INSTALLMENT FINANCING CONTRACT, DIRECTING THE PUBLICATION OF NOTICE WITH RESPECT THERETO**” adopted by the Board of Commissioners of the County of Rutherford, North Carolina at a meeting held on the 6th day of March, 2017.

WITNESS my hand and the corporate seal of the County of Rutherford, North Carolina, this the ____ day of March, 2017.

HAZEL HAYNES
Clerk to the Board
County of Rutherford, North Carolina

EXHIBIT A

NOTICE OF PUBLIC HEARING

At its March 6, 2017 meeting, the Board of Commissioners (the “*Board*”) of the County of Rutherford, North Carolina (the “*County*”) adopted a resolution authorizing the County to:

1. enter into negotiations for the financing of all or a portion of the costs to (a) construct, equip and furnish an Applied Science and Technology Building at Isothermal Community College (“*ICC*”), (b) replace roofs on the Business Science Building and the Communications Building at ICC, (c) renovate and improve the Rutherford County Detention Center and (d) acquire land for future County development and expansion (collectively, the “*Project*”) pursuant to an installment financing contract with a financial institution to be determined (the “*Contract*”) in a principal amount not to exceed \$7,500,000, under which the County will make installment payments; and

2. execute and deliver a Deed of Trust, Security Agreement and Fixture Filing (the “*Deed of Trust*”), granting to the entity, or its assigns, providing the funds to the County under the Contract a lien and security interest in all or a portion of the real property on which the Business Science Building and the Communications Building at ICC are or will be located (collectively, the “*Sites*”) and any improvements thereon (collectively, together with the Sites, the “*Mortgaged Property*”), in order to secure its obligations under the Contract.

Each of the Sites are located on ICC Loop Road on the campus of ICC located in Spindale, North Carolina. The Mortgaged Property will be mortgaged under the Deed of Trust. On the County’s payment of all installment payments due under the Contract, the Contract and any lien created by the Deed of Trust will terminate, and the County’s title to the Mortgaged Property will be unencumbered.

NOTICE IS HEREBY GIVEN, pursuant to Sections 160A-20 of the General Statutes of North Carolina, that on April 3, 2017 at 6:00 p.m. in the Commissioners Room, Rutherford County Office Building, 289 North Main Street, Rutherfordton, North Carolina, a public hearing will be conducted concerning the Contract, the proposed Project and any other transactions contemplated therein and associated therewith. All interested parties are invited to present comments at the public hearing regarding the execution and delivery of the Contract and the Project to be financed thereby.

/s/ HAZEL HAYNES

Clerk to the Board

County of Rutherford, North Carolina

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