



## **Resolution Approving Financing Terms and Documents For 2017 QZAB School Financing**

**WHEREAS**, County staff members have described to this Board the desirability of undertaking various school improvement projects using financing from the federal “Qualified Zone Academy Bond” program. This program provides zero-interest or very low-interest financing for school projects. The County has determined to pursue up to \$9,000,000 in QZAB financing for the acquisition and construction of improvements to various County schools (together referred to as the “Project”), including Smoky Mountain High School, Blue Ridge School, Fairview School, Cullowhee Valley School, Scotts Creek School, and Smokey Mountain Elementary School; and

**WHEREAS**, the Board of Commissioners desires to proceed with the QZAB financing for these projects in the form of an installment financing, as authorized under Section 160A-20 of the North Carolina General Statutes. Branch Banking and Trust Company (the “Bank”) has submitted a proposal to provide financing for the Project; and

**WHEREAS**, the County’s Finance Officer has made available to this Board the draft agreements listed on Exhibit A (the "Agreements"), which relate to the County's carrying out the financing plan; and

**WHEREAS**, this resolution provides the County Board’s final approval of the financing terms and documents for the Project.

**BE IT THEREFORE RESOLVED** by the Board of Commissioners of Jackson County, North Carolina, as follows:

**1. Determination to Proceed with Financing.** The County confirms its plans to undertake the Project. The County will carry out the Project with financing from the Bank substantially in accordance with a financing proposal dated February 7, 2017.

Under the financing plan, the Bank will make funds available to the County for use on Project costs. The County will repay the amount advanced, with interest, over time. The County’s obligations will be secured by a lien on Smoky Mountain High School in Sylva (and its associated land), as well as the County’s promise to repay the financing, but there would be no recourse against the County or its property (other than the pledged school and the associated land) if there were a default on the financing. The Jackson County Board of Education has transferred title to this school to the County so that the school may be used as collateral.

**2. Approval of Agreements; Direction to Execute Agreements.** The Board approves the forms of the Agreements submitted to this meeting. The Board authorizes the Board's Chairman and the County Manager, or either of them, to execute and deliver the Agreements in their final forms. The Agreements in their respective final forms must be in substantially the forms presented, with such changes as the Chairman or the County Manager may approve. The execution and delivery of any Agreement by an authorized County officer will be conclusive evidence of that officer's approval of any changes.

The Agreements in final form, however, must be consistent with the financing plan described in this resolution and must provide (a) for the amount financed by the County not to exceed \$9,000,000, and (b) for a financing term not to extend beyond December 31, 2032. The Agreements must also provide for the net interest cost to the County to be zero, in the absence of any default by the County or any material change in the QZAB program adverse to the Bank's right to receive expected QZAB tax credits.

**3. Officers to Complete Closing.** The Board authorizes the County Manager, the Finance Officer and all other County officers and employees to take all proper steps to complete the financing in cooperation with the Bank and in accordance with this resolution.

The Board authorizes the Finance Officer to hold executed copies of all financing documents authorized or permitted by this resolution in escrow on the County's behalf until the conditions for their delivery have been completed to such officer's satisfaction, and then to release the executed copies of the documents for delivery to the appropriate persons or organizations.

Without limiting the generality of the foregoing, the Board specifically authorizes the Finance Officer to approve changes to any documents, agreements or certifications previously signed by County officers or employees, provided that the changes do not conflict with this resolution or substantially alter the intent from that expressed in the form originally signed. The Finance Officer's authorization of the release of any document for delivery will constitute conclusive evidence of that officer's approval of any changes.

In addition, the Board authorizes the Finance Officer to take all appropriate steps for the efficient and convenient carrying out of the County's on-going responsibilities with respect to the financing of the Project. This authorization includes, without limitation, contracting with third parties for reports and calculations that may be required under this resolution or otherwise with respect to the Agreements.

**4. Resolutions as to Tax Matters.** The County will not take or omit to take any action the taking or omission of which will cause its obligations to pay principal and interest (the "Obligations") to be "arbitrage bonds," within the meaning of Section 148 of the "Code" (as defined below), or "private activity bonds" within the meaning of Code Section 141, or otherwise cause interest components of the installment payments to be includable in gross income for federal income tax purposes. Without limiting the generality of the foregoing, the County will comply with any Code provision that may require the County at any time to pay to the United States any part of the earnings derived from the investment of the financing proceeds. In this resolution, "Code" means the United States Internal Revenue Code of 1986, as amended, and includes applicable Treasury regulations.

**5. Designation as a QZAB.** The County designates the Obligations as a "qualified zone academy bond" for the purposes of, and within the meaning of, Code Section 54E and related Code provisions. The County and BB&T intend that the financing will qualify as a QZAB.

**6. Miscellaneous Provisions.** The Board authorizes all County officers and employees to take all further action as they may consider appropriate in furtherance of the purposes of this resolution. The Board ratifies all prior actions of County officers and employees in this regard. Upon the absence, unavailability or refusal to act of the County Manager, the Chairman or the Finance Officer, any other of such officers may assume any responsibility or carry out any function assigned in this resolution. In addition, the Vice Chairman or any Deputy or Assistant Clerk to the Board may in any event assume any responsibility or carry out any function assigned to the Chairman or the Clerk, respectively, in this resolution. All other Board proceedings, or parts thereof, in conflict with this resolution are repealed, to the extent of the conflict. This resolution takes effect immediately.

Adopted this 20<sup>th</sup> day of February, 2017.

BY: \_\_\_\_\_  
Brian Thomas McMahan, Chairman

ATTEST:

\_\_\_\_\_  
Angela M. Winchester, Clerk to Board

### **Exhibit A -- Draft Agreements**

(a) A draft dated February 13, 2017, of a Financing Agreement and Deed of Trust to be dated on or about March 14, 2017 (the "Financing Agreement"), granted by the County for the Bank's benefit. This Agreement provides for the advance of funds to the County for the County's undertaking of the project, sets out the County's repayment obligation, and sets out the County's obligations regarding care for the collateral and other matters. This Agreement also provides for a security interest in the Smoky Mountain High School and its associated real property to secure the County's repayment obligation.

(b) A draft dated February 13, 2017, of a Project Fund Agreement to be dated on or about March 14, 2017, between the County and the Bank, providing for the custody and investment of financing proceeds pending their use to pay Project costs.

(c) A draft dated February 13, 2017, of a Lease Modification and Subordination Agreement to be dated on or about March 14, 2017, from the County to The Jackson County Board of Education (the "School Board"), providing for the School Board's continued use of the Smoky Mountain High School property during the financing term. This Agreement modifies an existing lease of the high school property to accommodate this new planned financing.

(d) A draft dated February 13, 2017, of a Project Completion and Agency Agreement to be dated on or about March 14, 2017, between the County and the School Board, setting out their respective responsibilities for carrying out the planned improvements to Smoky Mountain High School.

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I certify as follows: that the foregoing resolution (which includes the accompanying Exhibit A) was properly adopted at a meeting of the Board of Commissioners of Jackson County, North Carolina; that this meeting was properly called and held on February 20, 2017; that a quorum was present and acting throughout the meeting; and that this resolution has not been modified or amended, and remains in full effect as of today.

Dated this 20<sup>th</sup> day of February, 2017.

[SEAL]

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Angela M. Winchester  
Clerk, Board of Commissioners  
Jackson County, North Carolina