

The Town Council of the Town of Apex, North Carolina met in a regular meeting in the Council Chambers of the Town Hall located at 73 Hunter Street in Apex, North Carolina, the regular place of meeting, at 6:00 p.m. on August 24, 2021.

Present: Mayor Jacques Gilbert, presiding, and Council Members

Absent: Council Members

Also present: _____

* * * * *

The Mayor announced that this was the hour and day of the public hearing on a proposed installment financing agreement (the “Agreement”) to be entered into by the Town of Apex, North Carolina (the “Town”) pursuant to Section 160A-20 of the General Statutes of North Carolina, as amended (the “Act”), in a principal amount not to exceed \$8,700,000 for the purpose of providing funds, together with any other available funds, to pay the costs of (a) acquiring, constructing and equipping a new Public Safety Facility and (b) acquiring, constructing and equipping a new office building for use by the Town’s Inspections Department (collectively, the “Project”). To secure its obligations under the Agreement, the Town will grant a lien on all or a portion of the site of the new Public Safety Facility constituting a portion of the Project, together with any improvements or fixtures located or to be located thereon.

Section 160A-20(g) of the General Statutes of North Carolina requires that the Town hold a public hearing prior to entering into the Agreement.

The Mayor acknowledged due publication of the notice of public hearing in a newspaper with a general circulation in said Town and directed the Town Clerk to attach the affidavit showing publication in said paper on a date at least ten (10) days prior to the date hereof as Exhibit A hereto.

The Mayor then announced that the Town Council would immediately hear anyone who might wish to be heard on the proposed Agreement.

A list of any persons making comments and a summary of such comments are attached as Exhibit B hereto.

The public hearing was closed.

All statements and comments by participants of the public hearing were duly considered by the Town Council.

Thereupon, _____ introduced the following resolution the title of which was read and a copy of which had been distributed to each Council Member:

RESOLUTION MAKING CERTAIN FINDINGS AND DETERMINATIONS REGARDING THE FINANCING OF VARIOUS CAPITAL IMPROVEMENTS FOR THE TOWN OF APEX, NORTH CAROLINA PURSUANT TO AN INSTALLMENT FINANCING AGREEMENT, SELECTING THE LENDER AND REQUESTING THE LOCAL GOVERNMENT COMMISSION TO APPROVE THE FINANCING ARRANGEMENT

BE IT RESOLVED by the Town Council (the “Town Council”) of the Town of Apex, North Carolina (the “Town”) as follows:

Section 1. The Town Council does hereby find and determine as follows:

(a) There exists in the Town a need to finance the costs of acquiring, constructing and equipping a new Public Safety Facility and (b) acquiring, constructing and equipping a new office building for use by the Town’s Inspections Department (collectively, the “Project”).

(b) After a public hearing and due consideration, the Town has determined to enter into an installment financing agreement (the “Agreement”) in an aggregate principal amount not to exceed \$8,700,000 to provide funds, together with other available funds, to (i) pay the costs of the Project and (ii) pay certain financing costs in connection therewith.

(c) The Town has solicited and received proposals from various financial institutions to provide the financing for the Project and, upon careful review and consideration thereof, desires to accept the proposal of Pinnacle Bank (the “Lender”);

(d) Pursuant to the Agreement, the Lender will advance to the Town an amount sufficient, together with any other available funds, to pay the costs of the Project and associated financing costs, and the Town will repay the advancement in installments with interest (the “Installment Payments”).

(e) In order to secure its obligations under the Agreement, the Town will execute and deliver a deed of trust (the “Deed of Trust”) granting a lien on all or a portion of the site of the new Public Safety Facility constituting a portion of the Project, together with all improvements and fixtures located or to be located thereon.

(f) It is in the best interests of the Town to enter into the Agreement and the Deed of Trust in that such transaction will result in providing financing for the Project in an efficient and cost effective manner.

(g) Entering into the Agreement is preferable to a general obligation bond and revenue bond issue in that (i) the Town does not have the constitutional authority to issue non-voted general obligation bonds pursuant to Article V, Section 4 of the North Carolina Constitution because the Town has not retired a sufficient amount of debt in the preceding fiscal year to issue a sufficient amount of general obligation bonds for the financing of the Project without an

election; (ii) the nature of the Project does not allow for the issuance of revenue bonds to finance the costs of the Project; (iii) the costs of the Project exceeds the amount to be prudently provided from currently available appropriations and unappropriated fund balances; (iv) the circumstances existing require that funds be available to commence acquisition and construction of the Project as soon as practicable and the time required for holding an election for the issuance of voted general obligation bonds pursuant to Article V, Section 4 of the North Carolina Constitution and the Local Government Bond Act will delay the commencement of acquisition and construction of the Project by several months; and (v) there can be no assurances that the Project would be approved by the voters and the necessity of such Project dictates that the Project be financed by a method that assures that such Project will be acquired and constructed in an expedient manner.

(h) It has been determined by the Town Council that the financing of the Project through the Agreement is reasonably comparable to the costs of issuing general obligation bonds or notes or other available methods of financing and is acceptable to the Town Council.

(i) Counsel to the Town will render an opinion to the effect that the proposed Agreement is authorized by law and is a purpose for which public funds may be expended pursuant to the Constitution and laws of the State of North Carolina.

(j) The debt management policies of the Town have been carried out in strict compliance with law, and the Town is not in default under any obligation for repayment of borrowed money.

(k) The expected tax rate increase necessary to pay the Installment Payments under the Agreement of not more than $\frac{3}{4}$ of 1 cent is reasonable.

Section 2. The proposal of the Lender to provide financing through the Agreement for the purpose of providing funds, together with any other available funds, to pay the costs of the Project and associated financing costs is hereby accepted, subject to further approval of the

particular documentation related thereto by the Town Council. The Town Manager and the Finance Director of the Town are each hereby authorized and directed to execute and deliver such documentation as may be necessary to accept the proposal of the Lender, and any actions heretofore taken by the Town Manager or the Finance Director of the Town with respect to such matters is hereby authorized, ratified and confirmed.

Section 3. The Town Council hereby authorizes and approves the filing of an application with the Local Government Commission for approval of the Agreement and requests the Local Government Commission to approve the Agreement and the proposed financing in connection therewith.

Section 4. This resolution shall take effect immediately upon its adoption.

Upon motion of Council Member _____, the foregoing resolution entitled “RESOLUTION MAKING CERTAIN FINDINGS AND DETERMINATIONS REGARDING THE FINANCING OF VARIOUS CAPITAL IMPROVEMENTS FOR THE TOWN OF APEX, NORTH CAROLINA PURSUANT TO AN INSTALLMENT FINANCING AGREEMENT, SELECTING THE LENDER AND REQUESTING THE LOCAL GOVERNMENT COMMISSION TO APPROVE THE FINANCING ARRANGEMENT” was adopted by the following vote:

Ayes: _____

Noes: _____

* * * * *

I, Donna B. Hosch, Town Clerk of the Town of Apex, North Carolina, DO HEREBY CERTIFY that the foregoing is a true copy of so much of the proceedings of the Town Council of said Town at a regular meeting held on August 24, 2021, as it relates in any way to the holding of a public hearing and the adoption of the foregoing resolution relating to a proposed installment financing agreement and that said proceedings are to be recorded in the minutes of said Town Council.

I DO HEREBY FURTHER CERTIFY that proper notice of such regular meeting was given as required by North Carolina law.

WITNESS my hand and official seal of said Town this 24th day of August, 2021.

Town Clerk

[SEAL]

EXHIBIT A

[Attach publisher's affidavit evidencing publication of Notice of Public Hearing]

EXHIBIT B

[A list of any persons making comments and a summary of such comments to be attached. If no comments are made, please insert "None".]