

Regular Session, January 21, 2014, 7:00 p.m.
Catawba County Board of Commissioners

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The Catawba County Board of Commissioners met in regular session on Tuesday, January 21, 2014, at 7:00 p.m. in the Robert E. Hibbits Meeting Room of the 1924 Courthouse, 30 North College Avenue, Newton, North Carolina.

Present were Chair Katherine W. Barnes, Vice-Chair Randy Isenhower and Commissioners Dan Hunsucker and Barbara G. Beatty. Commissioner Lynn M. Lail participated through teleconferencing.

Also present were County Manager J. Thomas Lundy, Assistant County Managers Dewey Harris and Mary Furtado, County Attorney Debra Bechtel and County Clerk Barbara Morris.

1. Chair Katherine W. Barnes called the meeting to order at 7:00 p.m. She then acknowledged the loss of Commissioner Hunsucker's mother, Lorene, who had made great contributions to the Catawba County Government with years of dedicated service. Chair Barnes also noted that Commissioner Lynn Lail would be participating in the meeting through teleconferencing. Commissioner Lail had all pertinent materials in her possession.
2. Chair Barnes led the Pledge of Allegiance to the Flag.
3. Chair Barnes offered the invocation.

4. Commissioner Beatty made a motion to approve the minutes from the Board's Regular Meeting and Closed Session of December 16, 2013. The motion carried unanimously.
5. Recognition of Special Guests: Assistant County Manager Mary Furtado introduced Randy Cress, the new Chief Information Officer for the County. Chair Barnes recognized Cliff Moon, Chairman of the Democratic Party in Catawba County.
6. Public Comments for Items Not on the Agenda: None.
7. Public Hearings:
Finance Director Rodney Miller came forward and requested the Board conduct a public hearing and consider adopting a resolution to approve amendments to an installment financing agreement, a deed of trust and related documents in connection with the construction of an addition to the County Justice Center that will house additional courtrooms, a 911 telecommunications center, an Emergency Operations Center and office space for Emergency Services, Clerk of Court and District Attorney staff.

In 2007, the Board approved, after a countywide referendum, the addition of a 1/4 cent sales tax that would generate funds for additional courtrooms, a new Communications Center, an Emergency Operations Center, water and sewer needs and school operating costs. The funding from this revenue source totals approximately \$4.2 million annually, of which \$2,350,000 has been allocated to expand the Justice Center. These funds, along with 911 revenues, have accumulated every year since then and will total approximately \$20 million at the end of the current fiscal year.

In 2013, the Board approved construction bids for the Justice Center Expansion Project, which will consist of an expanded facility of approximately 140,000 square feet, a parking deck to accommodate the additional traffic, multiple utility/maintenance items and renovations to the existing facility. The contract was awarded to Hickory Construction Company and the total cost of the project is anticipated to be \$40 million, leaving a balance of \$20 million that will be financed by the County and repaid with the proceeds from the 1/4 cent sales tax.

All local governments in North Carolina that borrow funds greater than \$500,000, or for longer than five years to maturity, must receive approval from the Local Government Commission (LGC), a division of the North Carolina Department of State Treasurer. With this approval by the Board of Commissioners, the LGC will consider this financing at its February 4, 2014, meeting in Raleigh. The County plans to sell Limited Obligation Bonds (similar to the Certificates of Participation issued for the County Jail expansion in 2005) on February 12, 2014. A notice of the public hearing had been advertised more than ten days in advance of the January 21 meeting of the Board, per state law.

Chair Barnes opened the public hearing, noting it had been duly advertised. No one came forward to speak and Chair Barnes closed the public hearing. Vice-Chair Isenhower asked what the collateral would be for this financing and Mr. Miller indicated it would be the land, the building, the Sheriff's Office and the Jail.

Mr. Miller noted in the resolution that under Section 6, Appointment of New Directors of the Corporation, there was a blank for the third member (Mr. Miller and Mr. Scott Millar were designated as the other two members) and asked that the Board grant Mr. Miller and Mr. Millar authority to determine who would be named for this third member position.

Vice-Chair Isenhower made a motion to adopt the resolution to approve amendments to an installment financing agreement, a deed of trust and related documents in connection with the construction of an addition to the County's Justice Center and grant Mr. Miller and Mr. Millar authority to determine the third member of the Corporation (Section 6 of the Resolution). The motion carried unanimously. The following resolution applies:

EXTRACTS FROM MINUTES OF THE BOARD OF COMMISSIONERS

The Board of Commissioners for the County of Catawba, North Carolina, met in a regular meeting in the Robert E. Hibbitts Meeting Room at the 1924 Courthouse located at 30 North College Avenue in Newton, North Carolina at 7:00 p.m. on January 21, 2014.

Present: Chair Katherine W. Barnes, Vice-Chair Randy Isenhower and Commissioners Dan Hunsucker and Barbara G. Beatty. Commissioner Lynn M. Lail was present by teleconferencing and was in possession of all pertinent documents.

Absent: None. See reference above to Commissioner Lail presence by teleconferencing.

Also present: County Manager J. Thomas Lundy, County Attorney Debra Bechtel, Finance Director Rodney Miller and County Clerk Barbara E Morris.

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Vice-Chair Randy Isenhower moved that the following resolution, copies of which having been made available to the Board of Commissioners, be adopted:

Resolution 20014-01

RESOLUTION OF THE BOARD OF COMMISSIONERS OF THE COUNTY OF CATAWBA, NORTH CAROLINA, APPROVING AN AMENDMENT TO THE INSTALLMENT FINANCING AGREEMENT WITH THE CATAWBA COUNTY PUBLIC FACILITIES FINANCING CORPORATION AND RELATED MATTERS

WHEREAS, the County of Catawba, North Carolina (the "*County*") is a political subdivision validly existing under the Constitution, statutes and laws of the State (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 purchase contracts to finance the purchase or improvement 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 or improved to secure repayment of the purchase price;

WHEREAS, the County has previously executed and delivered an Installment Financing Agreement dated as of May 1, 2005 (the "*2005 Contract*"), between the Catawba County Public Facilities Financing Corporation (the "*Corporation*") and the County, the proceeds of which were used to finance an expansion of the County's Justice Center (the "*2005 Project*"), and Amendment Number One to the Installment Financing Agreement dated as of December 1, 2012 (the "*First Amendment*"), between the County and the Corporation, to refinance a portion of the 2005 Contract;

WHEREAS, the Board of Commissioner of the County (the "*Board*") has determined that it is in the best interest of the County to enter into Amendment Number Two to the Installment Financing Agreement dated as of February 1, 2014 (the "*Second Amendment*" and collectively with the 2005 Contract and the First Amendment, the "*Contract*") between the County and Corporation in order to (a) pay the costs of constructing and equipping an expansion of and addition to the County's Justice Center (the "*2014 Project*"), (b) refinance prior installment financing obligations of the County and (c) pay costs related to entering into the Second Amendment;

WHEREAS, in order to further secure the County's obligations under the Contract, the County will enter into an Amended and Restated Deed of Trust, Security Agreement and Fixture Filing dated as of February 1, 2014 (the "*Deed of Trust*") related to the real property on which County's Justice Center is located and the improvements thereon;

WHEREAS, the Board conducted a public hearing on January 21, 2014 to receive public comments on the 2014 Project and the Second Amendment;

WHEREAS, in order to facilitate the financing of the 2014 Project, the Corporation will execute and deliver Limited Obligation Bonds, Series 2014A (the "*2014A Bonds*"), evidencing proportionate undivided interests in rights to receive Installment Payments pursuant to the Contract, under a Trust Agreement dated as of May 1, 2005, between U.S. Bank National Association, as the successor to Wachovia Bank, National Association, as trustee (the "*Trustee*"), and the Corporation, as supplemented (the "*2005 Trust Agreement*") and Supplemental Indenture, Number 2 dated as of February 1, 2014 between the Trustee and the Corporation (the "*Second Supplement*");

WHEREAS, in connection with the financing of the 2014 Project, the Board has determined to use available funds of the County to defease the remaining outstanding principal amount of the Certificates of Participation (Catawba County Governmental and Public School Facilities Project), Series 2005, the proceeds of which were used to finance the 2005 Project, under an Escrow Agreement dated as of February 1, 2014 (the "*Escrow Agent*") between the County and U.S. Bank National Association, as escrow agent;

WHEREAS, the Board approves the use of Parker Poe Adams & Bernstein LLP as the County's bond counsel and U.S. Bank National Association, as trustee and escrow agent, and retains Robert W. Baird & Co., as the underwriter for the 2014A Bonds (collectively, the "*Financing Team*");

WHEREAS, in connection with the sale of the 2014A Bonds by the Corporation, the County desires to make certain representations and warranties to the underwriter of the 2014A Bonds in the form of the County's Letter of Representations to the underwriter (the "*Letter of Representations*");

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

- (1) the Second Amendment;
- (2) the Second Supplement;
- (3) the Deed of Trust;
- (4) the Escrow Agreement;
- (5) the Letter of Representations; and
- (6) the Preliminary Official Statement related to the 2014A Bonds (the "*Preliminary Official Statement*") containing certain information about the County;

WHEREAS, it appears that each of the Instruments is in an appropriate form and is an appropriate instrument for the purposes intended;

WHEREAS, the County has previously determined and hereby determines that the acquisition of the 2014A Project is essential to the County's proper, efficient and economic operation and to the general health and welfare of its inhabitants; that the 2014A Project provides an essential use and permit the County to carry out public functions that it is authorized by law to perform; and that entering into the Contract and 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 allows the County to finance the 2014A Project 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 2014A Project is an amount not to exceed \$25,000,000 and that such cost of the financing of the 2014A Project 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 of the 2014A Project pursuant to the Contract is expected to exceed the cost of financing the 2014A Project pursuant to a bond financing for the same undertaking, the County hereby determines that the cost of financing the 2014A Project pursuant to the Contract 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 financing the 2014A Project; and (3) insufficient revenues are produced by the 2014A Project so as to permit a revenue bond financing;

WHEREAS, the County hereby determines that the estimated cost of financing the 2014A 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 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, 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, the County has filed an application to the LGC for approval of the Second Amendment;

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

*Section 1. **Ratification of Instruments.*** That all actions of the Chairman of the Board, the County Manager, the Finance Director, the Clerk to the Board and their respective designees (the "Authorized Officers"), whether previously or hereinafter taken, in effectuating the proposed financing are hereby approved, ratified and authorized pursuant to and in accordance with the transactions contemplated by the Instruments.

*Section 2. **Authorization to Execute the Second Amendment, the Deed of Trust, the Escrow Agreement and the Letter of Representations.*** That the County approves the financing of the 2014A

Project as contemplated by the terms of the Instruments and in accordance with the terms of the Contract, which will be a valid, legal and binding obligation of the County in accordance with its terms. The form and content of the Second Amendment, the Deed of Trust, the Escrow Agreement and the Letter of Representations shall be and the same hereby are in all respects authorized, approved and confirmed, and the Authorized Officers, either individually or collectively, shall be and they hereby are authorized, empowered and directed to execute and deliver the Second Amendment, the Deed of Trust, the Escrow Agreement and the Letter of Representations, including necessary counterparts, in substantially the form and content presented to the Board, but with such changes, modifications, additions or deletions therein as shall to them seem 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 Second Amendment, the Deed of Trust, the Escrow Agreement and Letter of Representations presented to the Board, and that from and after the execution and delivery of the Second Amendment, the Deed of Trust, the Escrow Agreement and Letter of Representations, the Authorized Officers, either individually or collectively, 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 Contract.

Section 3. Authorization of the Official Statement. That (a) the form, terms and content of the Preliminary Official Statement are in all respects authorized, approved and confirmed, and the use of the Preliminary Official Statement and the final Official Statement related to the 2014A Bonds substantially in the form of the Preliminary Official Statement (the "*Official Statement*") by the underwriters of the 2014A Bonds in connection with the sale of the 2014A Bonds is hereby in all respects authorized, approved and confirmed and (b) the Authorized Officers, either individually or collectively, are hereby authorized, empowered and directed to execute, if required, and deliver the Official Statement, in substantially the form and content presented to the Board, but with such changes, modifications, additions or deletions therein as they may deem necessary, desirable or appropriate, their delivery 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 Preliminary Official Statement presented to the Board.

Section 4. County Representative. That each of the Authorized Officers are hereby designated as the County's Representative to act on behalf of the County in connection with the transactions contemplated by the Instruments, and they are authorized to proceed with the financing of the 2014A Project in accordance with the Instruments and to seek opinions as to matters of law from attorneys as they deem appropriate for all documents contemplated hereby as required by law. The Authorized Officers, either individually or collectively, are hereby authorized, empowered and directed 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 and the administration thereof after the issuance of the 2014A Bonds or as they deem necessary or appropriate to implement and carry out the intent and purposes of this Resolution.

Section 5. Financing Team. That the Financing Team for the 2014A Bonds is hereby approved. The Finance Director, with advice from the County Attorney, is hereby authorized to retain the assistance of other professionals as he deems necessary and desirable to carry out the intention of this Resolution.

Section 6. Appointment of New Directors of the Corporation. That the Directors of the Corporation appointed pursuant to a resolution of the Board on October 17, 2011 are hereby replaced with Scott Millar, Rodney N. Miller and a third member to be designated by Scott Millar and Rodney Miller, each of whom is hereby appointed as a Director of the Corporation and will serve as Director in accordance with and subject to the direction of the Board and the Corporation's bylaws until his resignation, removal or disqualification, or until his successor is duly appointed and qualified.

Section 7. Severability. That if any section, phrase or provision of this Resolution is for any reason declared to be invalid, such declaration shall not affect the validity of the remainder of the sections, phrases or provisions of this Resolution.

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

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

8. Appointments.

Commissioner Hunsucker recommended the reappointment of Ken Arrowood, Jeff Elmore and Dave McCart for third terms on the Agricultural Advisory Board. These terms will expire on January 20, 2017. Commissioner Hunsucker also recommended the reappointment of Carl Luckadoo and Butch Williams to second terms on the Dangerous Dog Appellate Board. These terms will expire February 2, 2017. Vice-Chair Isenhower recommended the appointment of Karen Harrington, Assistant Social Services Director, as designee for the Social Services Director position on the Juvenile Crime Prevention Council. Ms. Harrington will fill an unexpired term which will expire on June 30, 2015. Commissioner Lail recommended the reappointment of Frederick Pender and Elenor Pender for second terms and Pamela Lowdermilk and Sandra Foster for fourth terms on the Nursing and Rest Home Advisory Board. The Penders' terms will expire February 17, 2017, Ms. Lowdermilk's term will expire January 16, 2017 and Ms. Foster's term will expire April 15, 2017.

Chair Barnes stated that these recommendations came in the form of a motion which carried unanimously.

9. Departmental Reports:

a. Catawba Valley Medical Center.

1. Eloise Bradshaw, Attorney for Catawba Valley Medical Center, came forward and request the Board consider entering into a series of real estate transactions to correct an error in the configuration of a Catawba Valley Medical Center (CVMC) medical office facility located in the Denver Lakes Professional Park, a planned unit development. It consists of two building sites located on Highway 16 in Denver. Because of narrow road frontage and zoning requirements, the development is "townhome" style, with the individual owners owning only the land on which the buildings sit and the balance of the land being common area, intended to be owned by the owner's association. CVMC purchased its lot in 1998 and began construction of the building shortly thereafter. The building was completed in late 2000. For reasons that are unknown to the current management at CVMC, the medical office was not built wholly within the boundary of the lot purchased. This was discovered several months ago, when CVMC had a survey done. To remedy this situation, CVMC contacted the original developer, Hash Howard Sherrill & Associates, Inc. ("Hash Howard") and requested its cooperation. It was also discovered that Hash Howard has never conveyed the common area to an owner's association. Hash Howard has agreed to cooperate with CVMC to address both the lot configuration and the common area issues. An exchange of deeds will essentially correct the recorded real property records to reflect what is and has been the case on the ground. The transactions to correct these errors include: 1) the County will deed the original lot back to Hash Howard with the statement that it is in consideration of a re-conveyance from Hash Howard to correct the error in the legal description; 2) a revised plat will be filed reconfiguring the CVMC lot so that the building is located wholly within the lot (lot remains 8,000 square feet in size); 3) Hash Howard will deed the reconfigured lot to the County; and 4) Hash Howard would deed all common areas within Denver Lakes Professional Park to the owner's association. Commissioner Beatty made a motion to authorize Chair Barnes to execute deeds and any other documents necessary to correct the recorded real property records to reflect what is and has been on the ground. The motion carried unanimously.

2. Eloise Bradshaw, Attorney for Catawba Valley Medical Center, presented a request for the Board to approve the sale of an old medical office property located in Taylorsville to the Town of Taylorsville for the sum of \$50,000. The property in question is a one-half acre lot with a small medical office building located on 2nd Avenue in Taylorsville. CVMC purchased the property in May 1998 as part of the purchase of the assets of a medical practice. The medical building was constructed in the 1960s and was not deemed suitable by CVMC for use. Since its purchase in 1998, the building has been vacant and the hospital has made efforts to sell the property throughout that time. CVMC recently received an offer to purchase the property from the Town of Taylorsville

for the sum of \$50,000. David Odom, manager of the Town of Taylorsville, has advised that the Town intends to purchase the property and lease it to a third party for an urgent care facility.

CVMC has no use for this property and its dilapidated condition makes it difficult to sell. The tax value of this parcel is \$186,419, but CVMC carries the property on its books at \$48,266. The hospital has not had a formal appraisal done, but the offer is within the range of the estimates of values that Paul Gadd, its real estate agent, has provided to the hospital from time to time. CVMC management has considered demolition of the structure, but believes that selling the property for \$50,000 is a better result.

Vice-Chair Isenhower made a motion to authorize Chair Barnes to execute a deed and any other documents necessary to accomplish the sale of the real property to the Town of Taylorsville. The motion carried unanimously.

b. Economic Development Corporation

Economic Development President Scott Millar and VP of HSM Solutions John Mayo presented a request for the Board to approve an economic development agreement by and between Catawba County and HSM (formerly Hickory Springs Manufacturing), and approve the County entering into an agreement with the State of North Carolina under the NC One Fund Grants program in order to provide that funding under terms of the State of North Carolina and the North Carolina Department of Commerce Finance Center. In August 2013, HSM announced the expansion of several Catawba County facilities in the Cities of Hickory and Conover, creating up to 162 new jobs and a target investment of \$3.3 million in new facilities and equipment. The expansion projects were predicated on the subsequent approval of economic development agreement matching funds being provided by the State of North Carolina. The Catawba County Economic Development Corporation (EDC), in conjunction with the legal staff of the County and HSM, brought forward the final agreements for approval as allowed under North Carolina General Statutes. As is typical, the EDC has performed a cost benefits analysis showing the economic benefits of the proposed agreement, the creation of jobs and the net effects of the investment. Key to consideration of this project were the aspects of innovation and the transformation of this company into a high-tech, R&D-oriented global producer, all desired elements under the Innovate Catawba economic transformation process. As is usual, no incentives will be awarded until after the company has already achieved progress on its contractual obligations.

This project represents the total transformation of HSM from a basic supplier of furniture parts into an integrated and global manufacturer and seller of complete product lines, including seats for mass transportation, end-user products such as outdoor and beach seating and many other products. Hickory Springs has changed its name to HSM to reflect this total transformation. HSM is placing a heavy reliance on innovation, research and design, creative product design and marketing as shown by this multi-part project. The project components include creation and investment in two Conover locations (Innovations Center on Debra Herman Road, with a \$500,000 investment and 19 jobs, and the Foam Tech Center on Farrington Street, with a \$1.55 million investment and three jobs) as well as two Hickory locations, which are manufacturing facility investments in a State-recognized Urban Progress Zone. The State has committed to over \$278,000 participation, requiring a local match. Conover has approved its participation and the Hickory City Council approved Hickory's participation following at a January 21 public hearing.

The County's usual incentive grants process of granting a percentage of future receipts based on investment alone is not sufficient in this case to provide the required local match. The EDC recommended a grant from each local governing unit of \$500 for each job created and a 3-year, 50% grant based on the realized income from these investments. Under this proposal, HSM would receive a one-time grant of \$1000 for each job (\$500 from the municipality for the job created within their jurisdiction and \$500 from the County, one time in the year following certification of the creation of that job) in addition to a 50% grant on the income received from the investment in their jurisdiction for each of three years following the investment (if the qualified investment were made in year three, the incentive would pay in the three years following the receipt of the payment of taxes on that

investment). The total maximum payout of incentives for each jurisdiction under this proposal is as follows: Catawba County, \$110,839; Hickory, \$82,690; Conover, \$23,300.

Other considerations include that The Main Avenue, Hickory project is in a State-certified Urban Progress Zone, qualifying it for special treatment for North Carolina-based incentives; that this is an existing Catawba County corporate headquarters with a long standing track record of investment and jobs; that the entire transformation of the company is based on extensive investment in R&D and innovation and the type of jobs that investment requires; that HSM has contractually agreed to exceed Catawba County's average wage by \$6000 for all hires, and that the financial impact modeling for the project, using IMplan Analysis, totals \$69,887,015 for the years 2013-2015.

Chair Barnes stated she was proud of HSM's presence in North Carolina and its innovation. Commissioner Hunsucker made a motion to approve the economic development agreement by and between Catawba County and HSM and to approve the County entering into an agreement with the State of North Carolina under the NC One Fund Grants program in order to provide that funding under terms of the State of North Carolina and the NC Department of Commerce Finance Center. The motion carried unanimously. The following agreement applies:

Prepared by:

Debra Bechtel, Catawba County Attorney

John Mayo, VP, Gen.Counsel &
Corp.Secretary, HSM

P.O. Box 389, Newton, North Carolina 28658

P.O. Box 128, Hickory, NC 28603

STATE OF NORTH CAROLINACATAWBA COUNTY AND HICKORY SPRINGS COUNTY OF CATAWBA
MANUFACTURING COMPANY
ECONOMIC DEVELOPMENT AGREEMENT

This **JOINT ECONOMIC DEVELOPMENT AGREEMENT** (this "Agreement") is made and entered into this 28th day of February, 2014, by and between **Catawba County**, ("County") a North Carolina Body Politic Corporate in Nature, having a mailing address of **P.O. Box 389, Newton, North Carolina 28658**, and **Hickory Springs Manufacturing Company** ("HSM Solutions", or "HSM", or "Company"), a Corporation organized and existing under the laws of the State of North Carolina, having an office address of 235 2nd Avenue NW, Hickory, North Carolina 28601, and a mailing address of PO Box 128, Hickory, North Carolina 28603.

WITNESSETH:

WHEREAS, North Carolina General Statute (NCGS) 158-7.1(a) authorizes Counties to make appropriations for the purpose of aiding and encouraging the location of business enterprises and industrial and commercial plants in or near its boundaries and Company is engaged in manufacturing furniture components and assemblies within the meaning of NCGS 158-7.1; and

WHEREAS, Company intends to up-fit and equip existing manufacturing facilities ("Improvements") at multiple locations in the cities of Conover and Hickory in Catawba County at 1545 Debra Herman Road and 1115 Farrington Street, Conover, NC 28613, and at 2200 Main Avenue SE and 235 2nd Avenue NW, Hickory, NC 28601, (the "Property" or the "Properties"), at a cost in excess of Three Million, Nine Hundred Forty Two Thousand Hundred Dollars (**\$3,942,000**) and intends to create One Hundred Fifty Nine (159) new jobs, with the improvements to be constructed between January 1, 2013 and December 31, 2015 and jobs created between January 1, 2013 and December 31, 2015 (the "Improvement Period"); and

WHEREAS, in an effort to encourage and maintain the highest educational attainment, Company will enroll and actively participate in the Catawba County Education Matters ("Education Matters") program; and will agree to require a minimum of a high school diploma or its equivalent (GED, Adult HS Diploma, etc.) for anyone 25 years of age or below; and

WHEREAS, HSM Solutions expects to be a community-oriented Company and intends to participate in philanthropy, community events and programs intended to increase the health and happiness of their employees and the greater community as a whole; and

WHEREAS, Company is encouraged, to the reasonable extent possible, to purchase local services and supplies, such as, but not limited to, locally produced products, local hotel, motel and hospitality services, local building and construction services, and other products and services;

NOW, THEREFORE, in consideration of the promises contained herein and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereto agree as follows:

County and Company agree that this Agreement shall apply only with respect to Improvements undertaken or payments for such Improvements by Company between January 1, 2013 and December 31, 2015 (the "Improvement Period").

SECTION I – COMPANY

1. On or before February 28, 2014 HSM Solutions shall:

1.1 Deliver to County a certificate confirming that Company owns the Property and that the up-fit, and/or installation of the Improvements will result in the creation, maintenance and availability of a minimum of 159 new jobs with the intention to create 159 new jobs prior to December 31, 2015, and that the overall average wage of Company will equal or exceed the average wage requirement in Catawba County under North Carolina Department of Commerce contractual requirements. Job requirements will include a minimum of a high school diploma or its equivalent (GED, Adult HS Diploma, etc.) for anyone 25 years of age or younger. Company affirms understanding of, and agrees to comply with, the Calendar of Responsibilities as outlined in Exhibit "A". Such certificate shall be in the form or substantially in the form of the certificate attached to this Agreement as Exhibit "A".

1.2 Provide an Opinion of Counsel for Company, in form and substance reasonably satisfactory to County, that this Agreement has been duly authorized, executed and delivered by Company; and

1.3 Provide an Opinion of Counsel for Company, in form and substance reasonably satisfactory to County, stating that this Agreement is binding upon and enforceable against Company, in North Carolina, in accordance with its terms.

2. In order to induce County to enter into this Agreement and to appropriate and expend monies for payment of economic development incentives, Company represents and warrants to County that as of the execution date hereof:

2.1 HSM is a Corporation duly organized and existing under the laws of the State of North Carolina, has a place of business within the State of North Carolina, and is in good standing and authorized to do business in the State of North Carolina;

2.2 Company has the corporate power and authority to own its properties and assets and to carry on its business as now being conducted and has the corporate power and authority to execute and perform this Agreement;

2.3 The undersigned President and CEO of HSM Solutions has the right, authority and duty to execute this Agreement in the name and on behalf of HSM;

2.4 This Agreement (i) is the valid and binding instrument and agreement of Company, enforceable against Company in accordance with its terms; (ii) does not violate any order of any court or other agency of government binding on Company, the charter documents or operating agreement of Company or any provision of any indenture, agreement or other instrument to which Company is a party; and (iii) does not conflict with, result in a breach of, or constitute an event of default, or an event which, with notice or lapse of time, or both, would constitute an event of default, under any indenture, agreement or other instrument to which Company is a party;

2.5 There is no suit, claim, action or litigation pending, or to the best knowledge of Company threatened, relating to the Improvements, the use of the Improvements for their intended purpose, or any other matter contained herein;

2.6 To the best of Company's knowledge, there is no impediment to the use of the Property for the purposes contemplated by this Agreement.

2.7 Company is not engaged in a business that would be exempt from property taxes.

3. Company shall make investments to the Properties and Improvements during the Improvement Period. Cumulative expenditures will meet or exceed Three Million Nine Hundred Forty Two Thousand Dollars (\$3,942,000) by December 31, 2015, all of which will qualify and result in additional value for ad valorem tax purposes as determined by the Catawba County Tax Office, and Company further agrees to maintain in place, in good condition (ordinary wear and tear excepted), said Improvements through December 31, 2019.

4. Company shall create a minimum of 159 new jobs at the Properties by December 31, 2015 and maintain or make available these jobs in place through December 31, 2019. A job is defined as employment that provides 1600 hours or more of work in any 12 month period.

SECTION II – COUNTY

5. On or before February 28, 2014 County shall deliver to Company an Opinion of Counsel for County, in form and substance reasonably satisfactory to Company, that this Agreement has been duly authorized, executed and delivered by County; and stating that this Agreement complies with the terms and requirements of NCGS 158-7.1(a) and is binding upon and enforceable against County with its terms; and evidence in the form of a Resolution or Resolutions, or official minutes, which County duly adopted authorizing the economic development incentives set forth in this Agreement.

6. Payment of economic development incentives for Real and Personal Investments and for Job Creation in accordance with this Agreement shall be made as follows:

a. For Real and Personal Property Investments: County will provide annual payments equal to 50% of the ad valorem taxes associated with the additional value (exclusive of rolling stock) as paid to County for a three year period, commencing with the taxes payable for the tax values on January, 2013, and January 1 of the succeeding eligible years. Eligible investments during a single year of the Investment Period will qualify for three years of grants based on the actual assessed value for improvements made in that particular year. Eligible investments may be considered for a maximum of three years. By way of example only, eligible investments in CY1 would qualify for grants based on the taxes paid on those eligible investments for the years specific to CY1, CY2, and CY3. Eligible investments in CY2 would qualify for grants in CY2, CY3, and CY4; and eligible grants in CY3 would qualify for grants in CY3, CY4 and CY5.

b. Upon payment of ad valorem taxes by Company to County for each of CY 1 through CY 6, and certification by Company in the form or substantially in the form of the certificate attached hereto as Exhibit B, of Improvements made and proof of payment of taxes and verification that Company has created and maintained jobs as agreed herein, County will, within sixty (60) days, pay to Company an economic development incentive payment, the amount of which is calculated by multiplying by .5 times the total ad valorem tax revenue received by County attributable to the value of the improvements made by Company pursuant to this Agreement in excess of the amount attributable to improvements already in place and taxed on the site as of December 31, 2012. This same process will be followed by County and Company in each of the immediately following five (5) years.

c. For Creation of Jobs: Upon certification of the creation of the job position and the placement of personnel within each of those positions satisfactory to meet the legal and contractual requirements of the NC Department of Commerce, as further defined in Exhibit C attached and incorporated herein by reference, County will, within sixty (60) days, pay to Company a one-time economic development incentive payment of \$500 for each position created. Company agrees to maintain and fill such positions through December 31, 2019.

d. Inclusive of grants for real and personal property improvements and positions created, in no event will the cumulative payments by County exceed One Hundred Ten Thousand Eight Hundred and Thirty Nine dollars (\$110,839) for the years 2014-2019, or Twenty Two Thousand Five Hundred dollars (\$22,500) in year 1, Twenty Seven Thousand Two Hundred Fifty Two dollars (\$27,252) in year 2, Forty Six Thousand One Hundred Fifty One dollars (\$46,151) in year 3, Ten Thousand Four Hundred Forty Six dollars (\$10,446) in year 4, Three Thousand Six Hundred Ninety Four dollars (\$3,694) in year 5, and Seven Hundred Ninety Five dollars (\$795) in year 6.

Grant Year	Maximum Payment By County
1	\$22,500
2	\$27,252
3	\$46,151
4	\$10,446
5	\$3,694
6	<u>\$795</u>
Total	\$110,839

e. Said amounts shall be payable annually, beginning in CY1 and payable through CY6. For the purposes of this Agreement, "CY 1" means calendar year 2014 and "CY 2" through "CY 6" means the succeeding five (2015-2019) calendar years.

f. Company shall furnish to County on or before March 5th of each calendar year, following and corresponding to the previous July 1st when taxes are billed, the certification required by this Section 6, proof of payment of all applicable taxes, and documentation of the creation and maintenance of the jobs created under this Agreement. If requested, Company shall provide County, at County's expense, independent certification as to such expenditures and number of existing jobs.

SECTION III – OTHER

7. Force Majeure. Notwithstanding the provisions of Paragraph 8, in the event Company is unable to meet the requirements of Paragraphs 3, 4 and 6 as a result of (i) an event of force majeure, including but not limited to fires, explosions, acts of God, acts of public enemy, insurrections, riots, terrorism, embargoes, labor disputes, including strikes, lockouts and job actions, or boycotts; (ii) the inability to obtain the governmental permits or approvals (including zoning) necessary for the acquisition of the land or undertaking and operating the Improvements after a good faith effort to obtain same has been made; (iii) shortages of materials or energy; (iv) changes in laws; or (v) other causes beyond the control of and arising without the fault or negligence of Company; then, in such event, the Improvement Period shall be extended for a period equal to the delay caused by any of the foregoing events so long as Company shall (a) have furnished County on a timely basis, upon the occurrence of such event, a notice thereof, and (b) take all commercially reasonable steps necessary to relieve the effect of such event and to resume completion of the Improvements.

8. It shall be an Event of Default if any one or more of the following events shall occur for any reason whatsoever (and whether such occurrence shall be voluntary or involuntary or come about or be effected by operation of law or pursuant to or in compliance with any judgment, decree or order of any court or any order, rule or regulation of any administrative or governmental body):

a. If Company, except in the event of force majeure, shall commit a material breach of a material obligation hereunder (including without limitation, the obligation to meet the investment goals and maintaining a minimum of 90% of the number (159) of newly created jobs as set forth herein) and such breach shall continue for a period of sixty (60) or more days following the receipt of written notice from County;

b. If Company shall fail to qualify and/or maintain the requirements for eligibility and participation in agreements for State of North Carolina incentives applied for and awarded specific to this project as further defined in Exhibit C attached and incorporated herein by reference;

c. If Company fails to timely file Exhibit A, or Exhibit B on or before March 5 of each year, following and corresponding to the previous July 1st when taxes are billed, and any qualifying incentive would be due to Company, this shall be deemed a breach of the Agreement and, notwithstanding Section 9, below, the sole remedy will be that County will not owe Company any incentive that may have otherwise been due had that filing properly been made;

d. If any material representation, warranty or other statement of fact contained in this Agreement or in any writing, certificate, report or statement furnished by Company to County in connection with the transaction described in this Agreement, shall be false or misleading in any material respect when given;

e. If Company shall be unable to pay their debts generally as they become due; file a petition to take advantage of any insolvency statute; make an assignment for the benefit of creditors; commence a proceeding for the appointment of a receiver, trustee, liquidator or conservator of themselves or of the whole or any substantial part of their property; file a petition or answer seeking reorganization or arrangement of similar relief under the federal bankruptcy laws or any other applicable law or statute of the United States of America or any state;

f. If a Court of competent jurisdiction shall enter an order, judgment, or decree appointing a custodian, receiver, trustee, liquidator, or conservator of Company or of the whole or any substantial part of their properties, or approve a petition filed against Company seeking reorganization or arrangement of similar relief under the federal bankruptcy laws or any other applicable law or statute; or if, under the provisions of any other law for the relief or aid of debtors, a court of competent jurisdiction shall assume custody or control of Company or of the whole or any substantial part of their properties; or

g. If Company shall allow its taxable assets, employment and average wage amounts to fall below the minimum values agreed upon in this Agreement, as each of the same pertain to the facility contemplated by this Agreement.

9 Remedy: If an Event of Default occurs, the obligation of County as set out herein shall terminate, and Company shall immediately refund to County all economic development incentive payments paid to Company prior to the date of the Event of Default plus interest at the rate of prime plus one percent (1%). The date the prime interest rate shall be determined shall be the date the County sends to Company notice of the Event of Default.

7. 10. Company and County acknowledge that any monies appropriated and expended by County for economic development incentives, as provided in this Agreement, are for a bona fide public purpose and are expended in good faith reliance on NCGS 158-7.1. In the event a Court of competent jurisdiction, after final appeal, rules to which either Company or County is a party, that all monies expended by County pursuant to this Agreement were not offered and accepted in good faith and in compliance with NCGS 158-7.1 and, further, that such monies must be repaid, Company will make such repayment to County. In the event one or more lawsuits are brought against County or any County elected official, officer, agent or employee, or Company, challenging the legality of this Agreement, then County and Company shall exercise their best efforts to defend against any and all such lawsuits. In any event, if Company is required to repay funds to County pursuant to this Section 9, the benefit of this Agreement to Company will have been lost and all further obligation of the Company hereunder shall terminate.

8. 11. All notices, certificates or other communications required or permitted to be given or served hereunder shall be deemed given or served in accordance with the provisions of this Agreement if the notice is (i) mailed in a sealed wrapper and is deposited in the United States mail, certified mail, return receipt requested, postage prepaid, or (ii) deposited with a national overnight courier service that retains receipts for its deliveries, properly addressed as follows:

Catawba County:	Catawba County Attn: J. Thomas Lundy, County Manager PO Box 389, 100-A S.W. Blvd. Newton, NC 28658
Copy to:	Catawba County Attorney's Office Attn: Debra Bechtel, County Attorney PO Box 389, 100-A S.W. Blvd. Newton, NC 28658
Company:	Hickory Springs Manufacturing Company Attn: David E. Colburn, President and CEO PO Box 128 Hickory, NC 28603

County or Company may, by notice given to the other, designate any further or different addresses to which notices, certificates, requests or other communications shall be sent.

12. This Agreement shall inure to the benefit of, and is binding upon, County and Company and their respective successors and assigns. However, neither this Agreement, nor any rights, privileges, or claims created by this Agreement may be transferred by Company without the prior, written approval of County, which approval will not be unreasonably withheld.

13. Except as otherwise provided in this Agreement, this Agreement may not be amended, changed, modified or altered except by written agreement of the parties.

14. If any provision of this Agreement is held invalid or unenforceable by any court of competent jurisdiction, such holding shall not invalidate or render unenforceable any other provisions of this Agreement.

15. This Agreement may be executed in any number of counterparts, each of which when so executed and delivered shall be deemed an original, and it shall not be necessary in making proof of this Agreement to produce or account for more than one such fully-executed counterpart.

16. Controlling Law and Venue. This Agreement is governed by and shall be construed in accordance with the laws of the State of North Carolina; venue of any action shall be in the general courts of justice in Catawba County, or if in Federal court in the Western District of North Carolina.

17. The term of this Agreement shall commence on the date of execution and expire upon payment by County of all payments due to Company hereunder, unless earlier terminated as provided herein.

18. Both Company and County acknowledge and stipulate that this Agreement is the product of mutual negotiation and bargaining and that it has been drafted by Counsel for both Company and County. As such, the doctrine of construction against the drafter shall have no application to this Agreement.

IN WITNESS WHEREOF the parties hereto have set their hands and seals as of the day and year first above written.

c. Social Services

Social Services Director John Eller and Health Services Manager Jennifer McCracken presented the annual report of the work of the Community Child Protection & Fatality Prevention Team. This annual report is to update and keep the Board informed on activities to date. With the Board's approval, the Annual Plan will be submitted to the State.

The Catawba County Child Protection Team was established in 1992 as the result of an executive order by Governor James Martin. North Carolina later mandated a Child Fatality Review Team and Catawba County elected to combine the two into a single team as allowed under State guidelines, which first met in 1995. The combined teams have met quarterly since inception, except for specially called meetings.

This report addresses the work of the Community Child Protection and Fatality Prevention Team. The Child Protection Team has the legal responsibilities for reviewing cases of child fatalities when the family is known to Social Services and identification of areas in Protective Services needing improvement in order to maximize the safety of the community's children. The Child Fatality Team's purpose is to provide a multi-agency, multi-disciplinary approach to study cases of childhood death in Catawba County in order to attempt to reduce child fatalities. The local directors of Social Services and Public Health have specific responsibilities for each team. Efforts continue to be made for the group to review additional individual Child Protective Services issues and satisfy the State's agreement with the federal government to use Child Protection Teams as a review mechanism in the Child Protective Services arena.

The Community Child Protection and Child Fatality Prevention Team has worked diligently in 2013 on fatality reviews; promoting Signs of Safety Training for case planning and engagement with families that have histories of maltreatment; supporting the Children's Advocacy and Protection Center's effort to reach 6000 citizens by 2016 regarding sexual abuse prevention; awareness regarding the dangers of distracted driving among teens; promoting a "Neglect with Injury" protocol with law enforcement and Social Services; implementing an Infant Safe Sleeping Campaign to educate about the dangers of unsafe sleeping among parents with young children; and supporting the Project Lazarus initiative to curb drug overdose with prescribed drugs. Commissioner Beatty made a motion to accept and approve this report. The motion carried unanimously. Commissioner Beatty then asked Ms. McCracken to update those present on the status of the flu virus in the area and the availability and importance of getting the flu vaccine.

10. Other Items of Business: Assistant County Manager Mary Furtado presented a request for the Board to adopt a resolution in support of filling vacant North Carolina Cooperative Extension positions in Catawba County. For many years, Catawba County has had a long-standing partnership with North Carolina State University (NCSU) in funding and delivering programs of Cooperative Extension Services to the community. While the County and NCSU each fund approximately 50% of the salary and benefits expense associated with employees in the County's local Extension Office, technically, these staff are employees of NCSU.

In recent years, Catawba County's local Extension Office has been plagued by vacancies in a number of key positions. Most recently, vacancies in the Cooperative Extension Director, Family & Consumer Sciences and Livestock/Agriculture program areas have gone unaddressed. In the interest of maintaining program continuity and continuing to deliver these critical services to the public, the County has consistently pledged to contribute its share of the salaries associated with filling these positions and has requested through administrative channels – on numerous occasions – that NCSU commit to do the same. To date, these efforts have not yielded the desired results, as the vacancies remain unfilled. This situation is not unique to Catawba County. Recently, Perquimans County passed a resolution affirming the value of Cooperative Extension Services to the local community and supporting the filling of existing vacancies within Perquimans County's local office as well as in neighboring counties. Commissioner Hunsucker made a motion to adopt the following resolution and thanked staff for their efforts in this matter. The motion carried unanimously.

RESOLUTION NO: 2014 –

**RESOLUTION OF SUPPORT OF FILLING VACANT NORTH CAROLINA COOPERATIVE
EXTENSION POSITIONS**

WHEREAS, North Carolina Cooperative Extension Service serves all 100 counties in North Carolina, including Catawba County; and

WHEREAS, North Carolina Cooperative Extension Service's mission is to empower people and provide solutions in the areas of Agricultural Services, Family and Consumer Sciences, 4-H Youth Development, and Environment / Natural Resources; and

WHEREAS, Agriculture provides an estimated direct financial impact of \$52,021,012 from 71,906 acres of farmland that supports crops and livestock in Catawba County; and

WHEREAS, the services provided in the Family and Consumer Sciences are integral to maintaining food safety in Catawba County as well as in equipping citizens with essential knowledge related to maintaining proper nutrition and managing chronic diseases; and

WHEREAS, the leadership of Cooperative Extension has historically provided a key bridge between Catawba County Government and the citizens it serves; and

WHEREAS, North Carolina Cooperative Extension Service has had long-standing vacancies in several key positions in Catawba County, including Livestock / Row Crops, Family and Consumer Sciences, Cooperative Extension Director, with additional vacancies in surrounding counties.

NOW, THEREFORE, BE IT RESOLVED that the Catawba County Board of Commissioners hereby fully supports the North Carolina Cooperative Extension Service and the work the Extension Service does to make our communities better places in which to live and work.

BE IT FURTHER RESOLVED that the Board of Commissioners requests that North Carolina State University fill the vacant positions of Agricultural / Livestock Agent, Family and Consumer Sciences Agent, and Cooperative Extension Director in Catawba County.

11. Attorney's Report: None.
12. Manager's Report: None
13. Adjournment. The Board adjourned the meeting at 8:07 p.m.

Katherine W. Barnes, Chair
Catawba County Board of Commissioners

Barbara E. Morris
County Clerk