

## AGENDA

Catawba County Board of Commissioners Meeting  
Monday, August 15, 2016, 7:00 P.M.  
2<sup>nd</sup> Floor Meeting Room, Catawba County Government Center  
100A Southwest Boulevard, Newton

1. Call to Order.
2. Pledge of Allegiance to the Flag.
3. Invocation.
4. [Approval of the Minutes from the Board's Regular Meeting and Closed Session of August 1, 2016.](#)
5. Recognition of Special Guests.
6. Public Comments.
7. Public Hearings.
  - a. [Peoples Bank Headquarters Expansion. Presented by Scott Millar, President, Catawba County Economic Development Corporation.](#)
  - b. [Federal 5310 Urban Grant Application for Enhanced Mobility of Seniors and Individuals with Disabilities Program. Presented by Social Services Director John Eller.](#)
  - c. [Financing Agreement for Catawba Valley Community College and Three School Districts. Presented by Chief Financial Officer Bob Miracle.](#)
8. Appointments.
9. Departmental Reports.  
Technology.  
[Bid Award for Audio Visual – Justice/Public Safety Center Expansion. Presented by Chief Information Officer Rick Pilato and Purchasing Manager Debbie Anderson.](#)
10. Other Items of Business.
11. Attorneys' Report.
12. Manager's Report.
13. Adjournment.

**PERSONS WITH DISABILITIES:** Individuals needing assistance should contact the County Clerk at 828-465-8990 within a reasonable time prior to the meeting. Access to the 1924 Courthouse for individuals with disabilities is at the south side ("A" Street). The elevator is located at the north end of the building. Participation in public meetings is without regard to race, creed, religion, national origin, sex, age, color, or disability.

**INFOTALK/INTERNET:** The Catawba County Telephone Information System will allow you to use your touch tone telephone to obtain current information on Catawba County 24 hours a day. Information is updated on a regular basis. Dial 465-8468 and INFOTALK will direct your questions with easy to understand instructions. Reach Catawba County on the Internet at <http://www.catawbacountync.gov>.

**CALENDAR:** The September Board of Commissioners Meetings will take place on Tuesday, September 6, 2016, at 9:30 a.m. (this is due to the Labor Day Holiday on Monday, September 5, 2016), and on Monday, September 19, 2016, at 7:00 p.m.

## MEMORANDUM

To: Catawba County Board of Commissioners  
From: Scott Millar, Catawba EDC  
Date: August 15, 2016  
RE: Peoples Bank HQ Expansion

### REQUEST

Staff requests the Board of Commissioners hold a public hearing to receive citizen comments, approve the Economic Development Agreement between the County and Peoples Bank, adopt the related resolution, and authorize the Chair to execute these, along with any other needed documents.

### BACKGROUND

The EDC has been contacted by representatives of Peoples Bank regarding the consideration of their HQ facility expansion and renovation in Newton. Peoples Bank has been in the HQ location at US Hwy 321 Business for 20 years. Peoples is considering the demolition of the rental spaces on the south end and complete renovation of the building, with estimates totaling \$4.0 million (\$2.6M construction, \$1.1M new equipment, \$275,000 contingency). It would retain 75 current employees and add 25 new professionals averaging \$50,000/year. The jobs would range from bankers to IT/technical staff to various administrative staff, but the average wage of the new jobs is significantly higher than the county average wage.

**Cost/Incentive Issues:** Peoples Bank considers it fairly unlikely to move a significant distance from Newton, but mentioned the strong tug to Charlotte for the high level of bank support staff opportunities.

**Economic Impact Analysis:** The EDC has completed 2016 ImPlan economic modeling specific to the project, finding the impact of the new project to be 107 jobs and \$21M, and the retained HQ to have the impact of 209 additional jobs and \$48M in impacts.

**Economic Development Agreement Overview and Clawbacks:** The proposed economic development agreement is based on a contract with obligations requiring satisfactory performance by Peoples Bank under NC General Statutes. The contract requires a minimum investment of \$3,500,000, the creation of 25 new positions and the maintenance of 75 current positions at the headquarters. The proposed incentive would be an amount equal to 50% of the new ad valorem tax receipts generated as a result of the project after Peoples submits an annual proof of performance. Subject to County contractual commitments, the grant amount would be a maximum of \$50,313, payable in annual maximum amounts of \$10,063 for five years. Clawbacks are included in the agreement should the investment and job requirements not be met or sustained. The City of Newton approved a similar agreement in Open Session on August 2, 2016.

In accordance with NC General Statute, a public hearing regarding this project was advertised in the newspaper.

### RECOMMENDATION

Staff recommends the Board of Commissioners hold a public hearing to receive citizen comments, approve the Economic Development Agreement between the County and Peoples Bank, adopt the related resolution, and authorize the Chair to execute these, along with any other needed documents.

Resolution No. 2016-

Resolution Authorizing Economic Development Incentives for Peoples Bank

**WHEREAS**, Peoples Bank (herein referred to as “the Company”) requested incentives to cause a minimum investment of \$3,500,000 including construction, upfit, and equipping of a facility at 510 West C Street in Newton, Catawba County by December 31, 2017, and the creation and maintenance of a minimum of 25 new jobs by December 31, 2017, which must be maintained for a minimum of three years following the payment of the final incentive, with a requirement to not hire anyone 25 years of age or below without a minimum of a high school diploma, and that all jobs will pay in excess of the Catawba County average wage.

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

The Board of Commissioners approves a performance based grant, based on the minimum investment and maintenance of \$3,500,000 and 25 new jobs, with a maximum payment of \$10,063 per year for five years, with a maximum total incentive of \$50,313. This grant will be used to reimburse the Companies’ expenditures as eligible under North Carolina General Statute 158-7.1. The Board of Commissioners also directs the County to execute a contract and any necessary resolutions or addenda between the Company and the County under these terms and conditions and authorizes the Chair to execute these documents.

This the \_\_\_\_\_ day of \_\_\_\_\_, 2016.

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C. Randall Isenhower, Chair  
Catawba County Board of Commissioners

Prepared by:

Debra Bechtel, Catawba County Attorney  
PO Box 389, Newton, NC 28658

**STATE OF NORTH CAROLINA  
COUNTY OF CATAWBA**

**CATAWBA COUNTY AND PEOPLES BANK  
ECONOMIC DEVELOPMENT AGREEMENT**

This **JOINT ECONOMIC DEVELOPMENT AGREEMENT** (this "Agreement") is made and entered into this \_\_\_ day of \_\_\_\_, 2016, by and between **Catawba County** ("County"), a North Carolina Body Politic Corporate in Nature, having a mailing address of **Post Office Box 389, Newton, NC, 28658**, and **PEOPLES BANK** ("Peoples Bank" or "Company"), a North Carolina corporation qualified to do business in the State of North Carolina, having a mailing address of 510 West C Street, Newton, North Carolina, 28658.

**WITNESSETH:**

**WHEREAS**, North Carolina General Statute (NCGS) 158-7.1 authorizes County 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 **PEOPLES BANK** is engaged in business enterprise within the meaning of NCGS 158-7.1; and

**WHEREAS**, **PEOPLES BANK** intends to equip and up-fit a headquarters facility ("Improvements") at 510 West C Street, Newton, North Carolina, 28658, Parcel ID # 373016728618 (the "Property"), at a cost of not less than Three Million Five Hundred Thousand Dollars (**\$3,500,000**) and intends to create a minimum of twenty-five (25) new jobs at the facility and retain seventy-five (75) permanent jobs, with the improvements to be made and new jobs to be created between May 1, 2016 and December 31, 2017 (the "Improvement Period"); and

**WHEREAS**, in an effort to encourage and maintain the highest educational attainment, Company agrees to require a minimum of a high school diploma or its equivalent (GED, Adult HS Diploma, etc.) for any permanent full-time employee 25 years of age or below; and

**WHEREAS**, **PEOPLES BANK** 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 its employees and the greater community as a whole; and to consider participation in the Catawba EDC's corporate Committee of 100 501(c)(3) non-profit sponsorship; and

**WHEREAS**, **PEOPLES BANK** 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:

**SECTION I – PEOPLES BANK, INC.**

**Joint Economic Development Agreement  
Between CATAWBA COUNTY and PEOPLES BANK, INC.**

**August, 2016  
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1. On or before September 30, 2016, PEOPLES BANK shall:
  - 1.1 Deliver to County a certificate confirming that PEOPLES BANK owns the real Property on which it intends to install the Improvements that will result in the creation, maintenance and future availability of a minimum of 25 new jobs prior to December 31, 2017, and that the overall average weekly wage will equal or exceed 100% of the Average Weekly Wage established for Catawba County by the North Carolina Department of Commerce's Wage Standards for each year that County pays PEOPLES BANK the economic development incentive provided for herein. PEOPLES BANK 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". It is understood and agreed the 25 new jobs referred to above means additional new jobs over and above the 75 existing jobs employed by PEOPLES BANK on May 1, 2016.
  - 1.2 Provide an Opinion of Counsel for PEOPLES BANK, in form and substance reasonably satisfactory to County, that this Agreement has been duly authorized, executed and delivered by PEOPLES BANK; and
  - 1.3 Provide an Opinion of Counsel for PEOPLES BANK, in form and substance reasonably satisfactory to County, stating that this Agreement is binding upon and enforceable against PEOPLES BANK, 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, PEOPLES BANK represents and warrants that, as of the execution date hereof:
  - 2.1 PEOPLES BANK is a North Carolina corporation qualified to do business in 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 PEOPLES BANK 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 representative of PEOPLES BANK has the right, authority and duty to execute this Agreement in the name and on behalf of PEOPLES BANK;
  - 2.4 This Agreement (i) is the valid and binding instrument and agreement of PEOPLES BANK, enforceable against PEOPLES BANK in accordance with its terms; (ii) does not violate any order of any court or other agency of government binding on PEOPLES BANK, the charter documents or operating agreement of PEOPLES BANK or any provision of any indenture, agreement or other instrument to which PEOPLES BANK 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 PEOPLES BANK is a party;

- 2.5 There is no suit, claim, action or litigation pending, or to the knowledge of PEOPLES BANK threatened, relating to the Improvements, the use of the Improvements for their intended purpose, or any other matter contained herein;
  - 2.6 There is no impediment to the use of the Property for the purposes contemplated by this Agreement.
  - 2.7 PEOPLES BANK is not engaged in a business that would be exempt from property taxes.
3. PEOPLES BANK shall make or cause to be made investments to the Property and Improvements during the Improvement Period. Cumulative expenditures will meet or exceed Three Million Five Hundred Thousand Dollars (**\$3,500,000**) by December 31, 2017, all of which will qualify and result in additional value for ad valorem tax purposes as determined by the Catawba County Tax Office, and PEOPLES BANK further agrees to maintain in place, in good condition (ordinary wear and tear excepted), said Improvements for three years after the final incentive payment.
  4. In addition to the 75 existing jobs employed by PEOPLES BANK on May 1, 2016, PEOPLES BANK shall create a minimum of 25 new jobs at the Property in Newton by December 31, 2017 and maintain or make available all jobs in place until three years after the final incentive payment. For the 25 new jobs, no jobs that are existing as of May 1, 2016 and are transferred from another Peoples Bank facility shall be included in the calculation. 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 September 30, 2016 County shall deliver to PEOPLES BANK an Opinion of Counsel for County, in form and substance reasonably satisfactory to PEOPLES BANK, 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. In order to induce PEOPLES BANK to enter into this Agreement and to appropriate and expend monies for payment of economic development incentives, County represents and warrants that, to the best of County's knowledge that, as of the execution date hereof:

- a. County is a North Carolina Body Politic Corporate in Nature existing under North Carolina law;
  - b. County has the power and authority to carry on its business as now being conducted and has the power and authority to execute and perform this Agreement;
  - c. The undersigned authorized representative of County has the right, authority and duty to execute this Agreement in the name and on behalf of County;
  - d. This Agreement (i) is the valid and binding instrument and agreement of County, enforceable against County in accordance with its terms; (ii) does not violate any order of any court or other agency of government binding on County, the charter documents of County or any provision of any indenture, agreement or other instrument to which County 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 County is a party; and
  - e. There is no suit, claim, action or litigation pending, or to the knowledge of County threatened, relating to the Improvements, the use of the Improvements for their intended purpose, or any other matter contained herein.
7. 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. County will provide annual payments equal to fifty percent (50%) of the ad valorem taxes associated with the additional value (exclusive of rolling stock) as paid to County for a five (5) year period, commencing with the taxes payable for the tax values on January 1, 2017, and January 1 of the succeeding four (4) years for investments made pursuant to paragraph 3 above with maximum payments as reflected in the chart below.
  - b. In no event will the payments by County exceed Ten Thousand and Sixty Three Dollars (\$10,063) per year, or the cumulative amount of Fifty Thousand Three Hundred Thirteen Dollars (\$50,313).

<b>Grant Year</b>	<b>Maximum Payment By County by Year</b>
1	\$ 10,063
2	\$ 10,063
3	\$ 10,063
4	\$ 10,063
5	\$ 10,063
<b>Total</b>	<b>\$ 50,313</b>

- c. Said amounts shall be payable annually, beginning in 2018 (Grant Year 1) payable through 2022.

Upon payment of ad valorem taxes by Company to County for each of 2017 through 2021 and certification by Company in the form or substantially in the

form of the certificate attached hereto as Exhibit B, of Improvements made, proof of payment of taxes, 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 fifty percent (.50) 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 assessed tax value on the site and PEOPLES BANK's personal property values as of January 1, 2017.

- d. 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 certifications required by this Section 7 and proof of payment of all applicable taxes. If requested, Company shall provide County, at County's expense, independent certification as to such expenditures and number of existing jobs.

### **SECTION III - OTHER**

8. Force Majeure. Notwithstanding the provisions of Paragraph 9, in the event PEOPLES BANK is unable to meet the requirements of this agreement 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 PEOPLES BANK; 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 PEOPLES BANK 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. In accord with the foregoing, should the PEOPLES BANK be unable to meet the requirements as described above as a result of a force majeure, the obligation of the County to pay as provided in Section II above, shall be suspended until such time as the PEOPLES BANK is relieved from the effect of an event of force majeure and resumes completion of the improvements.
9. 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 PEOPLES BANK, 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, maintain a minimum of 75 permanent jobs as of May 1, 2016 and, in addition, the creation and maintenance of an additional minimum of 25 jobs as set forth herein) and such breach shall continue for a period of sixty (60) or more days following receipt of written notice from County;

- b. If PEOPLES BANK 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 PEOPLES BANK, this shall be deemed a breach of the Agreement and notwithstanding paragraph 10 below, the sole remedy will be that County will not owe PEOPLES BANK any incentive that may have otherwise been due had those filings properly been made when due.
- c. If any material representation, warranty or other statement of fact contained in this Agreement or in any final writing, certificate, report or statement furnished by PEOPLES BANK to County in connection with the transaction described in this Agreement, shall, to PEOPLES BANK's knowledge, be false or misleading in any material respect at the time given;
- d. If PEOPLES BANK shall be unable to pay its debts generally as they become due; files a petition to take advantage of any insolvency statute; makes an assignment for the benefit of creditors; commences 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; files 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;
- e. If County, except in the event of force majeure, fails to pay PEOPLES BANK when such payment is due or is otherwise unable to pay its debts generally as they become due; files a petition to take advantage of any insolvency statute; makes an assignment for the benefit of creditors; commences a proceeding for the appointment of an emergency manager, receiver, trustee, liquidator or conservator or any similar entity; files 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 North Carolina;
- f. If a Court of competent jurisdiction shall enter an order, judgment, or decree appointing a custodian, receiver, trustee, liquidator, or conservator of PEOPLES BANK or of the whole or any substantial part of their properties, or approves a petition filed against PEOPLES BANK 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 PEOPLES BANK or of the whole or any substantial part of their properties;
- g. If a Court of competent jurisdiction shall enter an order, judgment, or decree appointing an emergency manager, custodian, receiver, trustee, liquidator, or conservator or any similar entity for County, or approves a petition filed against County 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 County; or

- h. If PEOPLES BANK 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.
10. County Remedy: If PEOPLES BANK fails to cure an Event of Default for which it receives written notice from County, the obligation of County as set out herein shall terminate, and PEOPLES BANK shall immediately refund to County all economic development incentive payments paid to PEOPLES BANK 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 PEOPLES BANK receives the notice of the Event of Default and prime will be the prime rate as published in the *Wall Street Journal (WSJ)*. PEOPLES BANK shall, as it relates to an Event of Default, have sixty (60) days after receipt of the notice required above, or such longer period to which the parties agree in writing to cure the Event of Default.
11. PEOPLES BANK Remedy: If County fails to cure an Event of Default for which it receives written notice from PEOPLES BANK, the obligations of PEOPLES BANK as set out herein shall terminate. County shall, as it relates to an Event of Default, have sixty (60) days after receipt of the notice required above, or such longer period to which the parties agree in writing to cure the Event of Default.
12. PEOPLES BANK 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 rules to which either PEOPLES BANK 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, PEOPLES BANK 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 PEOPLES BANK, challenging the legality of this Agreement, then County and PEOPLES BANK shall exercise their best efforts to defend against any and all such lawsuits, at their own cost and expense. In any event, if PEOPLES BANK is required to repay funds to County pursuant to this paragraph 12, the benefit of this Agreement to PEOPLES BANK will have been lost and all further obligations of PEOPLES BANK hereunder shall terminate.
13. 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:

County of Catawba: Catawba County  
Attn: County Manager  
PO Box 389  
Newton, NC 28658

Copy to: County Attorney  
Attn: Debra Bechtel, County Attorney  
PO Box 389  
Newton, NC 28658

Company: PEOPLES BANK, INC.  
Attn: Lance Sellers, \_\_\_\_\_(Title)  
\_\_\_\_\_  
Newton, NC 28658

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

14. This Agreement shall inure to the benefit of, and is binding upon, County and PEOPLES BANK and their respective successors and assigns. However, neither this Agreement, nor any rights, privileges, nor claims created by this Agreement may be transferred by PEOPLES BANK without the prior, written approval of County, which approval will not be unreasonably withheld.
15. Except as otherwise provided in this Agreement, this Agreement may not be amended, changed, modified or altered except by written agreement of the parties.
16. 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.
17. 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.
18. 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.
19. The term of this Agreement shall commence on the date of execution and expire upon payment by County of all payments due to PEOPLES BANK and PEOPLES BANK fulfilling all of its requirements including real and personal property investments and the creation and maintenance of jobs, unless earlier terminated as provided herein.

20. Both PEOPLES BANK 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 PEOPLES BANK 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.

**Catawba County**  
A North Carolina Body Politic Corporate in Nature

**Attest:**  
**(SEAL)**

By: \_\_\_\_\_ **(Seal)**  
C. Randall Isenhower, Chairman

\_\_\_\_\_  
Barbara Morris, Clerk

**PEOPLES BANK, INC.**

By: \_\_\_\_\_ **(Seal)**  
\_\_\_\_\_  
\_\_\_\_\_(Title)

**STATE OF NORTH CAROLINA**  
**COUNTY OF CATAWBA**

I, \_\_\_\_\_ a Notary Public of said county and state, certify that Barbara Morris personally came before me this day and acknowledged that she is County Clerk of Catawba County, a North Carolina Body Politic Corporate in Nature and that by authority duly given and as the act of the County the foregoing instrument was signed in its name by its Chairman, sealed with its seal, and attested by herself as County Clerk.

Witness my hand and seal this \_\_\_\_\_ day of \_\_\_\_\_, 2016.

[Seal]

\_\_\_\_\_  
Notary Public

My commission expires: \_\_\_\_\_

**STATE OF NORTH CAROLINA  
COUNTY OF CATAWBA**

I, \_\_\_\_\_ a Notary Public of said County and State, do certify that \_\_\_\_\_, \_\_\_\_\_(Title) of, PEOPLES BANK, INC. personally appeared before me this day and acknowledged on behalf of PEOPLES BANK, INC. the voluntary due execution of the foregoing document, all for the purposes therein expressed.

Witness my hand and seal this \_\_\_\_\_ day of \_\_\_\_\_, 2016.

[Seal]

\_\_\_\_\_  
Notary Public

My commission expires: \_\_\_\_\_

This document has been pre-audited in the manner required by the Local Government Budget and Fiscal Control Act.

\_\_\_\_\_  
Robert Miracle, County Finance Director

Approved as to form on behalf of Catawba County only:

\_\_\_\_\_  
Debra Bechtel, County Attorney

Recorded for County Budgeting Purposes:

\_\_\_\_\_  
Jennifer Mace, Catawba County Budget Manager

**EXHIBIT A**  
Joint Economic Development Agreement  
Between CATAWBA COUNTY and PEOPLES BANK, INC.

**CERTIFICATE**

**TO: CATAWBA COUNTY**

This Certificate is delivered pursuant to Paragraph 1.1 and Paragraph 9 of the Joint Economic Development Agreement (the "Agreement"), dated \_\_\_\_\_, 2016, between CATAWBA COUNTY ("County") and PEOPLES BANK, INC. ("PEOPLES BANK"). Any capitalized term not otherwise defined herein shall have the meaning assigned to such term in the Agreement.

I, \_\_\_\_\_, do hereby certify, for and on behalf of PEOPLES BANK, that:

- (a) PEOPLES BANK has, or has caused to be, acquired the real property necessary for the construction of the Facility and the Improvements; and
- (b) PEOPLES BANK will create, maintain and make available a minimum of 25 new net jobs (in addition to the 75 jobs as of May 1, 2016) prior to December 31, 2017 and the overall average weekly wage will equal or exceed the 100% Average Weekly Wage established for Catawba County by the North Carolina Department of Commerce's Wage Standards for each year that County pays PEOPLES BANK the economic development incentive provided for herein.; and
- (c) PEOPLES BANK agrees to comply with the Calendar of Responsibilities listed below.

**Calendar of Responsibilities:**

- By January 5: PEOPLES BANK make payment to County according to Tax Listing filed by January 31<sup>st</sup> of the previous year unless extension is requested and approved for April 15<sup>th</sup>. Any extension request must be filed by January 31<sup>st</sup>.
- By March 5: PEOPLES BANK must provide Exhibit A and Exhibit B and, supporting documents and proof of payment and/or compliance as required within Agreement.
- By April 15: PEOPLES BANK must provide Real/Personal Property Tax listings to Catawba County Tax Office.
- By April 22: Catawba County Tax Office to provide Tax Listing on Specified Accounts.\*

\*Note: This is not a company responsibility.

Dated at CATAWBA COUNTY, North Carolina, this \_\_\_\_\_ day of \_\_\_\_\_, 201\_\_.

**PEOPLES BANK, INC.**

BY: \_\_\_\_\_

TITLE: \_\_\_\_\_

**EXHIBIT B**  
Joint Economic Development Agreement  
Between CATAWBA COUNTY and PEOPLES BANK, INC.

**CERTIFICATE**

**TO: County of Newton**

This Certificate is delivered pursuant to Paragraph 7 and Paragraph 9 of the Joint Economic Development Agreement (“the “Agreement”) dated \_\_\_\_\_, 2016, between Catawba County (“County”) and PEOPLES BANK, INC. (“PEOPLES BANK”). Any capitalized term not otherwise defined herein shall have the meaning assigned to such term in the Agreement.

PEOPLES BANK does hereby certify that:

- (a) The following improvements were made during the 20\_\_ Calendar Year: \_\_\_\_\_;
- (b) The following jobs were created during the 20\_\_ Calendar Year: \_\_\_\_\_ (please attach the most recent quarterly Form NCUI 101);
- (c) The average wage of all of those employed at the \_\_\_\_\_ Newton facility during the 20\_\_ Calendar Year is as follows: (Wage Forms Total Payroll divided by number of employees) \_\_\_\_\_;
- (d) Total cumulative personal property valuation installed at the \_\_\_\_\_ facility during the 20\_\_ Calendar Year \_\_\_\_\_; and
- (e) Proof of taxes paid is attached to this certificate.

Dated at Catawba County, North Carolina, this \_\_\_\_ day of \_\_\_\_\_, 20\_\_.

**PEOPLES BANK, INC.**

BY: \_\_\_\_\_

TITLE: \_\_\_\_\_

**Attachments (required):**

Current Year Catawba County personal and real property Tax Listing information as reported to Catawba County Tax Office, Most recent quarterly Form NCUI 101, Proof of taxes paid in full and documentation as required by (f).

**Calendar of Responsibilities:**

- By January 5: PEOPLES BANK makes payment to County according to Tax Listing filed by January 31<sup>st</sup> of the previous year unless extension is requested and approved for April 15<sup>th</sup>. Any extension request must be filed by January 31<sup>st</sup>.
- By March 5: PEOPLES BANK must provide Exhibit B proof of payment of taxes and supporting documentation as required the Agreement and this Exhibit B.
- By April 15: PEOPLES BANK must provide Real/Personal Property Tax listings to Catawba County Tax Office.
- By April 22: County Tax Office to provide Tax Listing on Specified Accounts.\*

\*Note: This is not a Company responsibility.

## MEMORANDUM

To: Catawba County Board of Commissioners

FROM: John Eller, Director, Catawba County Social Services

DATE: August 15, 2016

RE: Section 5310, Enhanced Mobility of Seniors and Individuals with Disabilities Program (Urban)

### **REQUEST**

It is requested the Board of Commissioners hold a public hearing in consideration of the submission of a Federal 5310 Urban grant application, to the Greater Hickory Metropolitan Planning Organization, for the Enhanced Mobility of Seniors and Individuals with Disabilities Program.

### **BACKGROUND**

The Section 5310 program requires two grant applications, one for trips originating in urban areas, and one for trips originating in rural areas.

Social Services has applied for, and received funds for this grant the past three years. The request for urban funds will be submitted to the Greater Hickory Metropolitan Planning Organization, and is due no later than August 26, 2016. Staff will apply for the rural funds, as soon as they are made available by the Department of Transportation, which is expected to be within the next two - three months.

For both FY 15/16 and 16/17, Social Services received \$150,000 in urban funds (including 20% match) and \$125,000 (including 10% local match) for rural funds. Staff will be requesting the same amounts for next fiscal year.

Catawba County will continue to contract with Western Piedmont Regional Transit Authority (WPRTA), dba Greenway, to provide transportation funded by Section 5310. The funds will allow seniors and individuals with disabilities, to primarily attend the congregate nutrition program, have access to essential shopping, medical appointments, pharmacy, banking, and other essential services. Additionally, as funds allow, transportation will be provided for individuals to access education and employment opportunities, volunteer activities, senior centers, and Adult Day Care/Day Health programs when no other transportation is available.

A total of \$300,000 will be requested for trips originating in urban areas in FY July 1, 2017-June 30, 2019, a two year grant period. The grant requires a 20% local match. There is no state match available for the 5310 urban grant. Social Services will provide the match utilizing current local funding allocated for senior transportation. There will be no increased cost to the County.

Approximately 100-180 individuals will receive transportation for the period of the grant (July 1, 2017-June 30, 2019). Many of the seniors will utilize transportation for multiple purposes and a large percentage of the target population will utilize transportation daily. Providing transportation will allow older adults the opportunity and the choice to remain active and involved in the community.

#### **RECOMMENDATION**

Staff recommends the Board of Commissioners:

- a) Conduct a public hearing in consideration of submitting a Federal 5310 Urban grant to the Greater Hickory Metropolitan Planning Organization, to provide transportation assistance for elderly individuals and individuals with disabilities residing in urban areas.
- b) Authorize the submission of the grant.
- c) Adopt the Public Transportation Program Resolution regarding the Federal 5310 grant.
- d) Authorize John Eller, Director of Catawba County Social Services, to submit the grant application as outlined in the Resolution.

**PUBLIC HEARING RECORD**

Public Hearing Notice was published on this date:

**APPLICANT:** Catawba County

**DATE:** August 15, 2016

**PLACE:** Catawba County Government Center 2<sup>nd</sup> floor meeting room

**TIME:** 7:00 pm

**How many of the Board Members or Commissioners attended the public hearing?** \_\_\_\_\_

**How many members of the PUBLIC attended the public hearing?** \_\_\_\_\_

I, the undersigned, representing (*Legal Name of Applicant*) \_\_\_\_\_ do hereby certify to the North Carolina Department of Transportation that a Public Hearing was held as indicated above and:

**During the Public Hearing**

**Section 5310 Program**

(NO public comments)

(Public Comments were made and meeting minutes will be submitted after board approval)

The estimated date for board approval of meeting minutes is: \_\_\_\_\_

\_\_\_\_\_  
Signature of Clerk/Secretary to the Board

\_\_\_\_\_  
Printed Name and Title

\_\_\_\_\_  
Date

*Affix Seal*

## **PUBLIC TRANSPORTATION PROGRAM RESOLUTION**

WHEREAS, Article 2B of Chapter 136 of the North Carolina General Status and the Governor of North Carolina have designated the North Carolina Department of Transportation (NCDOT) as the agency responsible for administering federal and state public transportation funds; and

WHEREAS, the North Carolina Department of Transportation will apply for a grant from the US Department of Transportation, Federal Transit Administration and receives funds from the North Carolina General Assembly to provide assistance for public transportation projects; and

WHEREAS, the purpose of the Section 5310 program is to improve mobility for seniors and individuals with disabilities throughout the country, by removing barriers to transportation services and expanding the transportation mobility options available. Toward this goal, FTA provides financial assistance for transportation services planned, designed, and carried out to meet the special transportation needs of seniors and individuals with disabilities in all area.

WHEREAS, WPRTA has been designated as the agency with principle authority and responsibility for administering the Section 5310 Program for the Hickory Urbanized area; and

WHEREAS, Catawba County hereby assures and certifies that it will comply with the federal and state statutes, regulations, executive orders, and all small administrative requirements related to the applications made to and grants received from the Federal Transit Administration, as well as the provisions of Section 1001 of Title 18, U.S.C.

NOW, THEREFORE, be it resolved that (John Eller, Director, Catawba County Department of Social Services, on behalf of Catawba County Board of Commissioners, is hereby authorized to submit a grant for federal and state funding, provide the required local match, make the necessary assurances and certifications and be empowered to enter into an agreement with the NCDOT to provide public transportation services.

I ( Certifying Official's Name)\*Barbara Morris, (Certifying Official's Title) County Clerk do hereby certify that the above is true and correct copy of an excerpt from the minutes of a meeting of the (Name of Applicant's Governing Board) Catawba County Board of Commissioners duly held on the 15<sup>th</sup> day of August, 2016.

\_\_\_\_\_  
Signature of Certifying Official

\_\_\_\_\_  
Date

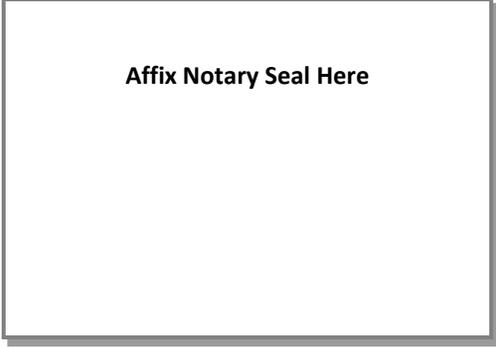
**\*Note that the authorized official, certifying official, and notary public should be three separate individuals.**

Seal Subscribed and sworn to me (date) \_\_\_\_\_

Notary Public Signature \_\_\_\_\_

\_\_\_\_\_  
Printed Name and Address

My commission expires (date) \_\_\_\_\_



**MEMORANDUM**

**TO:** Catawba County Board of Commissioners  
**FROM:** Bob Miracle, Chief Financial Officer  
**DATE:** August 15, 2016  
**SUBJECT:** Financing agreement for Catawba Valley Community College (CVCC) and three school districts

**Requested:**

The Board of Commissioners is requested to hold a public hearing to receive citizen comments and approve a resolution authorizing the installment financing contract with TD Bank of up to \$55,000,000 and related documents for various construction projects at CVCC and the three school districts and the refunding of debt.

**Background:**

CVCC and the three school districts have various capital needs that require financing. Those projects total \$38,000,000 and include:

- i. constructing, equipping and furnishing the Workforce Solutions Complex (to support business and industry) and renovating certain facilities and acquiring and installing equipment at Catawba Valley Community College,
- ii. constructing a fieldhouse at Fred T. Foard High School,
- iii. acquiring and installing technology improvements for the Hickory City School System, and
- iv. constructing bleachers at Newton-Conover High School, replacing the roof at North Newton Elementary School, and renovating Conover School.

The County also has the opportunity to refinance prior financing obligations of up to \$17,000,000 that would result in a Net Present Value (PV) Savings on the Series 2009 bonds of \$571,759 or 6.40% of refunded bonds and a Net PV Savings on the Series 2010 bonds of \$176,195 or 3.37% of refunded bonds.

The County hired First Tryon Advisors for its financial advisor for this transaction and issued a Request for Proposals for financing. After negotiations, the County received the best offer from TD Bank that provided a fixed interest rate of 1.76% over 15 years. This is the lowest fixed interest rate the County has ever received for this term.

All local governments in North Carolina that borrow funds greater than \$500,000 or longer than five years to maturity must receive approval by the Local Government Commission (LGC), a division of the NC Department of State Treasurer. The notice for this public hearing was advertised at least ten days in advance of the meeting, per state law. If approved by the Board of Commissioners, the LGC will consider this financing at its September 6<sup>th</sup> meeting in Raleigh. The closing with TD Bank will take place on September 27<sup>th</sup>.

**Recommendation:**

Staff recommends the Board of Commissioners hold a public hearing to receive citizen comments and approve a resolution authorizing the installment financing contract with TD Bank of up to \$55,000,000 and related documents for various constructions projects at CVCC and the three school districts and the refunding of debt. A budget revision for the refunding is below:

Proceeds from installment financing	110-930600-690425	\$17,000,000
Capital financing costs	110-930600-856910	\$95,000
Payment to refunded escrow agent	110-930600-973500	\$16,905,000



June 21, 2016

Re: Up to \$55,000,000 Direct Purchase Limited Obligation Bond (the "Loan")

Please accept this letter as TD Bank, N.A.'s commitment for the Loan as follows:

**Borrower:** Catawba County, North Carolina (the "County")

**Purchaser:** TD Bank, N.A. (the "Bank")

**Purpose:** 1) finance the Workforce Solutions Project and renovations/equipment at Catawba Valley Community College; and to finance various projects for Catawba County, Hickory and Newton-Conover public schools and 2) refundings not to exceed \$15,000,000.

**Amount:** Up to \$55,000,000

**Drawdown:** All at closing.

**Security:** The 2016 LOB will be secured by a single deed of trust on the site of the Workforce Solutions Project at Catawba Valley Community College and on Fred T. Foard High School.

**Term:** 15 year fully amortizing

**Principal Payments:** Level annual payments for new money, refundings to amortize based on existing maturities

**Interest Payments:** Semi-annually

**Fixed Interest Rate:**

<b>Fixed Interest Rate Options</b>	<u>Closed</u> <sup>1</sup>	<u>Open</u> <sup>2</sup>
<b>15 Years</b>	1.76%	1.99%

<sup>1</sup> Subject to Break Funding Fee as described in Prepayment Penalty section.

<sup>2</sup> No prepayment penalty.

These rates are applicable for a closing on or before September 30, 2016.

**Interest Rate Adjustment Options:**

The Bank expressly reserves the right and option, exercisable at its discretion, to adjust the Interest Rate to a fixed rate of interest to be adjusted as described in the table below. The Bank must provide written notice of its election to adjust the Interest Rate not less than ninety (90) days prior to the Interest Rate Adjustment Date, such notice to include the new fixed rate of interest (the "Adjusted Interest Rate"). In the event of such written notice, the interest will accrue at the Adjusted Interest Rate commencing on the Interest Rate Adjustment Date and continuing to and including the Maturity Date.

	<b>Credit Ratings (Moody's/S&amp;P)</b>	<b>Increase in Interest Rate</b>	<b>Cumulative Change</b>
Level 1	A2/A	10 bps	10 bps
Level 2	A3/A-	15 bps	25 bps
Level 3	Baa1/BBB+	20 bps	45 bps
Level 4	Baa2/BBB	25 bps	70 bps
Level 5	Any Rating below Baa3/BBB-	Prime + 6%	Prime + 6%

Credit Rating shall be based on the County's long-term debt rating (GO). The County shall maintain a public debt rating on its long-term debt during the term of the Bond. Upon the event of a downgrade of the County's long term rating, the lowest of the ratings from the bond rating agencies will be used at the Interest Rate Adjustment Date.

**Prepayment Penalty:**

The Loan may be prepaid in whole or in part upon thirty (30) days prior written notice to the Bank. The prepayment shall be subject to the following based on the Fixed Interest Rate chosen by the Borrower:

"Closed" Fixed Interest Rate

Any partial prepayment shall be applied in the inverse order of scheduled maturities. In the event of any prepayment of the Loan on or before the Maturity Date by voluntary prepayment, the County shall, at the option of the Bank, pay a "fixed rate prepayment charge" equal to the greater of (i) 1.0% of the principal balance being prepaid multiplied by the "Remaining Term," as hereinafter defined, in years or (ii) a "Break Funding Fee" in an amount computed as follows:

The current cost of funds, specifically the "U.S. Dollar Par Swap Rate" as hereinafter defined, shall be subtracted from the original cost of funds, specifically the U.S. Dollar Par Swap Rate effective on the day that the above stated interest rate was fixed. If the result is zero or a negative number, there shall be no Break Funding Fee due and payable. If the result is a positive number, then the resulting percentage shall be multiplied by the amount being prepaid times the number of days in the "Remaining Term" divided by 360. The resulting amount is the Break Funding Fee due to the Bank upon prepayment of the principal of this Loan plus any accrued interest due as of the prepayment date and is expressed in the following calculation:

Break Funding Fee = [Amount Being Prepaid x (Original Cost of Funds - Current Cost of Funds) x Days in the Remaining Term/360 days] + any accrued interest due.

"Remaining Term" as used herein shall mean the shorter of (i) the remaining term of the Loan, or (ii) the remaining term of the then current fixed interest rate period.

"U.S. Dollar Par Swap Rate" as used herein shall mean the US Dollar Swap Rate with a maturity closest to the "Remaining Term" as published in the Federal Reserve Board H.15 Daily Update or another recognized electronic source two (2) "Federal Reserve Banking Days" prior to the determination date.

"Federal Reserve Banking Day" means any day other than a Saturday or Sunday that is neither a legal holiday nor a day on which Federal Reserve is authorized or required by law, regulation or executive order to close.

"Open" Fixed Interest Rate

The Loan may be repaid in full or in part at any time without prepayment charge or premium.

**Default Rate:** A 4% premium to existing rate.

**Closing Date:** On or before September 30, 2016.

**Bank Fees:** None.

**Legal Fees:** It will be the responsibility of the County to compensate counsel. The County will further be responsible for Bank legal fees in the amount not to exceed \$12,500. The Bank proposes to use Nexsen Pruet, PLLC.

**Tax Status:** The proposal is subject to the County being qualified as a governmental entity or "political subdivision" within the meaning of the appropriate sections of the Internal Revenue Code. The County agrees to provide evidence as deemed necessary or desirable by the Bank to substantiate such tax status. The County will take all actions necessary to maintain its tax-exempt status. If at any time the Loan loses its tax exempt status due to action or inaction by the County, then the Bank is entitled to increase the rate to offset the increased cost and expense as well as collect back interest and other costs and expenses in order to make the Bank whole for such an event.

**Conditions Precedent:**

A. Opinion of County's Counsel:

The Bank shall receive a written opinion of Counsel as to (1) the existence of the County; (2) the due enactment of all ordinances or resolutions relating to the Loan; (3) the due authorization, execution, validity, and enforceability of the Loan and the related financing documents; (4) the absence of litigation against the County relating to its existence or powers, or the proceedings for the authorization of the Loan, in form and substance satisfactory to the Bank; (5) the obtaining of all consents, approvals, authorizations and orders in connection with the Loan and the enactment of the above-referenced ordinances and/or resolutions; and (6) such other matters as the Bank may reasonably request, in form and substance satisfactory to the Bank.

B. Opinion of Bond Counsel:

The Bank shall receive one or more written opinions of Counsel as to (1) the validity of the issuance of the Loan under the Constitution and laws of the State of North Carolina and (2) designation the Loan will be a "tax-exempt obligation."

C. Loan Documentation:

All financing documentation will be prepared by the County's bond counsel and will be subject to final satisfactory review and approval by the Bank and Bank's counsel.

D. Financial Reporting:

The County shall deliver to the Bank within 180 days of each fiscal year end, audited financial statements carrying an unqualified opinion of a Certified Public Accountant, prepared according to GAAP and presented on a consistent basis, including grant related program audits and/or notes to management. The County shall deliver to the Bank within 30 days of approval a copy of its annual budget.

E. Expiration:

In the event the Bank is the successful bidder, the County must accept this term sheet by having it signed by an authorized County representative on or before June 24, 2016. The terms herein shall expire if not timely accepted or if the transaction is not closed on or before September 30, 2016.

F. Bank and Banker Information:

TD Bank, America's Most Convenient Bank, is one of the 10 largest banks in the U.S., with approximately 26,000 employees and deep roots in the community dating back more than 150 years. The Bank offers a broad array of retail, small business, commercial, wealth, and corporate and investment products and services to more than 8.5 million customers through its extensive network of approximately 1,300 convenient locations throughout the Northeast, Mid-Atlantic, Metro D.C., the Carolinas and Florida.

<b>Credit Rating as of May 26, 2016</b>			
	<b>DBRS</b>	<b>Moody's</b>	<b>S&amp;P</b>
<b>The Toronto-Dominion Bank</b>	AA	Aa1	AA-

Ross Sloan, Senior Middle Market Relationship Manager, has 30 years of banking experience in North Carolina (including two years in Catawba County).

If this commitment is accepted by the County, please sign below and return this letter to TD Bank, N.A. on or before June 24, 2016 with the desired rate option circled. Upon receipt of acceptance, the Bank and its Counsel will promptly review the documentation prepared by Parker Poe Adams & Bernstein LLP. If the anticipated transaction does not close on or before September 30, 2016 through no fault of the Bank, the County shall be responsible for legal fees and other costs incurred by the Bank.

If you have any questions or comments regarding this commitment, please do not hesitate to call me at 828-225-5657. TD Bank, N.A. sincerely appreciates this opportunity to provide a proposal to Catawba County.

Sincerely,



Ross Sloan  
Vice President and Senior Relationship Manager  
TD Bank, N.A.  
200 College Street  
Asheville, North Carolina 28801  
(828) 225-5657  
(828) 225-2573 (fax)  
[ross.sloan@td.com](mailto:ross.sloan@td.com)

The above terms are hereby accepted this \_\_\_\_\_ day of June, 2016.

Catawba County:

By: Robert Miracle

Robert Miracle  
Print Name

Chief Financial Officer  
Title

**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 Second Floor Meeting Room at the Catawba County Government Center at 100A Southwest Boulevard in Newton, North Carolina at 7:00 p.m. on August 15, 2016.

Present:

Absent:

Also present:

\* \* \* \* \*

Commissioner \_\_\_\_\_ moved that the following resolution, copies of which having been made available to the Board of Commissioners, be adopted:

**RESOLUTION OF THE BOARD OF COMMISSIONERS OF THE COUNTY OF CATAWBA, NORTH CAROLINA, APPROVING AN INSTALLMENT FINANCING CONTRACT AND A DEED OF TRUST WITH RESPECT THERETO AND DELIVERY THEREOF AND PROVIDING FOR CERTAIN OTHER 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 and refinance 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 Board of Commissioners of the County (the “*Board*”) has previously determined that it is in the best interest of the County to (1) finance all or a portion of the costs of (i) constructing, equipping and furnishing a workforce solutions complex (the “*Workforce Solutions Complex*”) at Catawba Valley Community College (“*CVCC*”) and renovating certain facilities and acquiring and installing equipment at Catawba Valley Community College, (ii) constructing a fieldhouse at Fred T. Foard High School, (iii) acquiring and installing technology improvements for the Hickory City School System and (iv) constructing bleachers at Newton-Conover High School, replacing the roof at North Newton Elementary School and renovating Conover School ((i) through (iv) are collectively referred to as the “*2016 Projects*”) and (2) refinance prior installment financing obligations of the County, the proceeds of which financed capital projects of the County (the “*Prior Projects*” and collectively with the 2016 Projects, the “*Projects*”), that would result in debt service savings;

*WHEREAS*, the Board hereby determines that it is in the best interest of the County to enter into an Installment Financing Contract dated as of September 1, 2016 (the “*Contract*”) between the County and TD Bank, N.A. (the “*Bank*”) in order to (1) finance all or a portion of the costs of the 2016 Projects,

refinance the Prior Projects and (3) pay certain costs incurred in connection with the execution and delivery of the Contract;

WHEREAS, the Board hereby further determines that it is in the best interest of the County to execute and deliver a Deed of Trust, Security Agreement and Fixture Filing dated as of September 1, 2016 (the “*Deed of Trust*”) to the deed of trust trustee named therein for the benefit of the Bank, granting a lien on the County’s fee simple interest in the real property on which the Workforce Solutions Complex will be located and on which Fred T. Foard High School is located, as more particularly described in the Deed of Trust, and the improvements thereon (collectively, the “*Mortgaged Property*”), in order to secure the County’s obligations under the Contract;

WHEREAS, the Board adopted a resolution on June 20, 2016 making certain findings with respect to the Contract, the Deed of Trust and the financing and refinancing of the Projects;

WHEREAS, the Board conducted a public hearing on August 15, 2016 to receive public comments on the Contract, the Deed of Trust and the financing and refinancing of the Projects and on the acquisition of the property related to the Workforce Solutions Complex from CVCC;

WHEREAS, the County has filed an application with the LGC for approval of the LGC with respect to the County entering into the Contract in an aggregate principal amount of not to exceed \$55,000,000, and the County hereby determines that all findings, conclusions and determinations of the County in this Resolution are subject to such approval by the LGC;

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 Contract;
- (2) the Deed of Trust;
- (3) a Lease dated as of September 1, 2016 (the “*Lease*”) between the County and CVCC; and
- (4) a Construction and Acquisition Agreement dated as of September 1, 2016 (together with the Lease, the “*College Documents*”) between the County and CVCC; and

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

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

Section 1. ***Ratification of Prior Actions.*** All actions of the County, the County Manager, the Chief Financial Officer and the Clerk to the Board and their respective designees (the “*Authorized Officers*”) in effectuating the proposed financing and refinancing of the Projects and the acquisition of the property related to the Workforce Solutions Complex from CVCC are hereby approved, ratified and authorized pursuant to and in accordance with the transactions contemplated by the Instruments.

Section 2. ***Approval, Authorization and Execution of Contract.*** The County hereby approves the financing and refinancing of the Projects 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 County hereby approves the amount advanced by the Bank to the County pursuant to the Contract in an aggregate principal amount not to exceed \$55,000,000, such amount to be repaid by the County to the Bank as provided in the Contract. The form, terms and content of the Contract are in all respects authorized, approved and confirmed, and the Authorized Officers are authorized, empowered and directed, individually and collectively, to execute and deliver the Contract for and on behalf of the County, including necessary counterparts, in substantially the form presented to the Board, but with such changes, modifications, additions or deletions therein as they may deem necessary, desirable or appropriate, their execution thereof to constitute conclusive evidence of their approval of any and all such changes, modifications, additions or deletions. From and after the execution and delivery of the Contract, 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 Contract as executed.

Section 3. ***Acquisition of Property and Approval, Authorization of Deed of Trust.*** The Authorized Officers are authorized, empowered and directed, individually and collectively, to take all actions and execute and deliver the documentation necessary to acquire the property related to the Workforce Solutions Complex from CVCC. The form, terms and content of the Deed of Trust are in all respects authorized, approved and confirmed, and the Authorized Officers are authorized, empowered and directed, individually and collectively, to execute and deliver the Deed of Trust for and on behalf of the County, including necessary counterparts, in substantially the form presented to the Board, but with such changes, modifications, additions or deletions therein as they may deem necessary, desirable or appropriate, their execution thereof to constitute conclusive evidence of their approval of any and all such changes, modifications, additions or deletions. From and after the execution and delivery of the Deed of Trust, 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 Deed of Trust as executed.

Section 4. ***Approval, Authorization of College Documents.*** The form, terms and content of each of the College Documents are in all respects authorized, approved and confirmed, and the Authorized Officers are authorized, empowered and directed, individually and collectively, to execute and deliver each College Document for and on behalf of the County, including necessary counterparts, in substantially the form presented to the Board, but with such changes, modifications, additions or deletions therein as they may deem necessary, desirable or appropriate, their execution thereof to constitute conclusive evidence of their approval of any and all such changes, modifications, additions or deletions. From and after the execution and delivery of each College Document, 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 such College Document as executed.

Section 5. ***Further Actions.*** The Authorized Officers are each hereby designated as the County's representatives to act on behalf of the County in connection with the transactions contemplated by the Instruments. The Authorized Officers are authorized and directed, individually and collectively, to proceed with the financing and refinancing of the Projects in accordance with the terms of the Instruments and to seek opinions on matters of law from the County Attorney, which the County 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 Authorized Officers are hereby authorized to designate one or more employees of the County to take all actions which the Authorized Officers are authorized to perform under this Resolution, and are in all respects authorized on behalf of the County to

supply all information pertaining to the transactions contemplated by the Instruments. The Authorized Officers are authorized, individually and collectively, to execute and deliver for and on behalf of the County any and all additional certificates, documents, opinions or other papers and perform all other acts as may be required by the Instruments or as they may deem necessary or appropriate to implement and carry out the intent and purposes of this Resolution and for the on-going administration of the Instruments.

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

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

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

I, BARBARA E. MORRIS, Clerk to the Board of Commissioners of the County of Catawba, 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 CATAWBA, NORTH CAROLINA, APPROVING AN INSTALLMENT FINANCING CONTRACT AND A DEED OF TRUST WITH RESPECT THERETO AND DELIVERY THEREOF AND PROVIDING FOR CERTAIN OTHER RELATED MATTERS”** adopted by the Board of Commissioners of the County of Catawba, North Carolina at a meeting held on the 15th day of August, 2016.

*WITNESS* my hand and the corporate seal of the County of Catawba, North Carolina, this the \_\_\_ day of August, 2016.

\_\_\_\_\_  
Barbara E. Morris  
Clerk to the Board of Commissioners  
County of Catawba, North Carolina

## MEMORANDUM

To: Catawba County Board of Commissioners

From: Rick Pilato, Chief Information Officer  
Debbie Anderson, Purchasing Manager

Date: August 15, 2016

Re: Bid Award for Audio Visual – Justice /Public Safety Center Expansion

### Requested

The Catawba County Board of Commissioners is requested to award the bid for audio visual for the Justice /Public Safety Center expansion to Technical Innovations, Charlotte, in the amount of \$1,340,970.18. Sufficient funds are available within the project.

### Background

The expansion of the Justice Center currently underway includes the build-out of five (5) additional courtrooms, judges' chambers, jury deliberation rooms, attorney and witness conference rooms, Clerk of Court and Community Corrections office space, District Attorney's office space, and meeting room space. The Public Safety expansion includes an updated Emergency Operations Center (EOC), E-911 Call Center, Veterans Services office, and space for Public Safety Administration. There are significant audio visual needs throughout all of these areas.

Major elements of audio/ video equipment and functionality planned for the new space include:

- Technology to accommodate information display and sharing. One system will link the E-911 Call Center, the EOC, and Emergency Services Administration. This same software will be leveraged on a separate system for the courtrooms and various meeting rooms;
- Integrated audio systems for each of the five courtrooms as well as the Commissioners' meeting room. This system will have the flexibility to be controlled by designated personnel and will include integrated wireless assisted hearing devices, and microphones;
- Building-wide Internet Protocol-based (IP) intercom system that enables partitioning of messages throughout the building;
- Podiums / lecterns wired to support the installation of DVD/Blue Ray players, document cameras, and document annotators (which allow real-time viewing of changes, comments, highlighting, etc. to documents);
- Digital signage in central lobbies to share information (such as court rosters) and direct building patrons as needed;
- Integrated touch panel control systems for all video, audio, and lighting system components;
- Building-wide upgraded wireless connection points to ensure reliable connection speeds, enabling staff and visitors to work effectively;

Audio visual drawings and specifications were prepared by the County's technology consultant (Federal IT) and issued as a Request for Proposal for technology goods and services. Proposals were received on July 14, 2016 from three vendors:

AVI-SPL, Greensboro	\$1,033,004.60*
Seedcomm, Winston-Salem	\$1,080,665.35
Technical Innovations, Charlotte	\$1,717,658.59

\*AVI-SPL missed pricing some components in its original submittal, which added \$141,962.12 to their proposal.

All three vendors made presentations and were interviewed by the evaluation committee. The evaluation committee consisted of IT staff, purchasing staff and the technology consultant. Each independently reviewed and ranked the proposals.

**AVI- SPL:**

AVI’s proposal was similar in scope to Technical Innovations and met the minimum requirements of the RFP. However, this company did not submit all the documents requested in the bid package; nor did they provide per-room pricing as requested. Further, the bid documents asked for references for projects completed with similar scopes of work. AVI-SPL did not provide references for an Emergency Operations Center or any E-911 projects. The bid documents also requested a resume from the project manager; AVI-SPL provided several staff resumes (with varying degrees of comparable project experience), stating that a specific project manager would not be assigned until the bid is awarded. The evaluation committee seriously considered AVI-SPL and asked them to come for a second interview. This interview provided a comfort level that they understood and were capable of completing the scope of work, but resulted in them providing more information that should have been provided with the original bid package. This firm also omitted some components in the proposal, as noted above.

**Seedcomm:**

Seedcomm submitted a completely different technology solution than what was specified. The solution was intriguing; however, the evaluation committee did not feel comfortable using a product unproven in critical emergency response functions like the EOC and E-911 Center. Further, the bid required the vendor and proposed project manager to have experience with similar scopes of work. Seedcomm did not have this experience, which makes them a non-responsive bidder and disqualifies them from consideration.

**Technical Innovations:**

Technical Innovations submitted the most thorough proposal to the County, and they were well-prepared for the presentation and interview process. The County has positive past experience with Technical Innovations. Technical Innovations has supported the County in various A/V implementations including the 1924 Courthouse meeting room up-fit, the recent Agricultural Resources Center up-fit project, and upgrading the audio equipment in the current Justice Center Courtrooms. Additionally, the technology consultant recently worked with the firm on a large audio visual project for the City of Raleigh. Technical Innovations has experience in all areas of this project (i.e., audio visual for the courtrooms and the Emergency Operations Center/E-911 Center), with good references. The review committee rated all three vendors, and Technical Innovations scored the highest. Since the proposal from Technical Innovations was higher than the other responsive bid, County staff negotiated with the firm and came to agreement on a contract price of \$1,340,970.18, a reduction of \$391,288.41.

**Recommendation**

Staff requests the Board of Commissioners award the bid for audio visual systems for the Justice / Public Safety Center expansion to Technical Innovations in the amount of \$1,340,970.18.