

REQUEST FOR BOARD ACTION

HENDERSON COUNTY

BOARD OF COMMISSIONERS

MEETING DATE: 16 February 2022

SUBJECT: Reimbursement Resolution for Edneyville sewer system potential financing

ATTACHMENT(S): Draft resolution

PRESENTER: Charles Russell Burrell
Samantha Reynolds

SUMMARY OF REQUEST:

Attached is a proposed reimbursement resolution for your consideration. The purpose of a reimbursement resolution is to allow construction project and planning costs for the system incurred prior to the closing of any (tax-free) financing to be reimbursed from the financing proceeds.

NOTE: The “not to exceed” figures in the resolution are *not* intended to accurately state the project costs, but rather to act as a safe harbor number for the purpose of these resolutions only and to allow any project to go forward when needed rather than awaiting the closing of the financing.

County staff will present further information on this matter.

BOARD ACTION REQUESTED:

Adoption of the resolutions.

If the Board is so inclined, the following motion is suggested:

I move that the Board approve the reimbursement resolution attached to this agenda item for the Edneyville sewer system.

Extract of Minutes of a regular meeting of the Board of Commissioners of the County of Henderson, North Carolina, was duly held on February 16, 2022 at 9.30 a.m. in the Commissioners' Meeting Room, Henderson County Historic Courthouse, 1 Historic Courthouse Square, Hendersonville, North Carolina. Chairman William Lapsley presiding.

* * *

The following members were present:

Chairman William Lapsley, Vice Chairman Rebecca McCall, Commissioner J. Michael Edney, Commissioner Daniel Andreotta, and Commission David Hill.

The following members were absent:

None

* * *

Commissioner _____ moved that the following resolution (the "*Resolution*"), a copy of which was available with the Board and which was read by title:

**RESOLUTION OF THE COUNTY OF HENDERSON, NORTH CAROLINA
DECLARING THE INTENT OF THE COUNTY OF HENDERSON, NORTH
CAROLINA TO REIMBURSE ITSELF FOR CAPITAL EXPENDITURES
INCURRED IN CONNECTION WITH THE CONSTRUCTION OF A SEWER
SYSTEM SERVING THE EDNEYVILLE SCHOOL, THE NORTH CAROLINA
JUSTUS JUSTICE ACADEMY, AND CERTAIN OF THE SURROUNDING
AREA FROM THE PROCEEDS OF CERTAIN TAX-EXEMPT OBLIGATIONS**

WHEREAS, the Board of Commissioners of the County of Henderson, North Carolina ("*County*") has determined that it is in the best interests of County to finance the construction of a sewer system serving the Edneyville School, the North Carolina Justus Justice Academy, and certain of the surrounding area (the "*Project*");

WHEREAS, the County presently intends, at one time or from time to time, to finance all or a portion of the costs of the Project with proceeds of tax-exempt obligations and reasonably expects to execute and deliver its tax-exempt obligations (the "*Obligations*") to finance, or to reimburse itself for, all or a portion of the costs of the Project; and

WHEREAS, the County desires to proceed with the Project and will incur and pay certain expenditures in connection with the Project prior to the date of execution and delivery of the Obligations (the "*Original Expenditures*"), such Original Expenditures to be paid for originally from a source other than the proceeds of the Obligations, and the County intends, and reasonably expects, to be reimbursed for such Original Expenditures from a portion of the proceeds of the Obligations to be executed and delivered at a date occurring after the dates of such Original Expenditures;

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

Section 1. **Official Declaration of Intent.** The County presently intends, and reasonably expects, to reimburse itself for the Original Expenditures incurred and paid by the County on or after the date

occurring 60 days prior to the date of adoption of this Resolution from a portion of the proceeds of the Obligations. The County reasonably expects to execute and deliver the Obligations to finance all or a portion of the costs of the Project and the principal amount of Obligations is currently expected to be executed and delivered by County to pay for the costs of the Project is approximately \$35,000,000.

Section 2. ***Compliance with Regulations.*** The County adopts this Resolution as a declaration of official intent under Section 1.150-2 of the Treasury Regulations promulgated under Section 103 of the Internal Revenue Code of 1986, as amended, to evidence the County's intent to reimburse itself for the Original Expenditures from proceeds of the Obligations.

Section 3. ***Itemization of Capital Expenditures.*** The Finance Officer of the County, with advice from special counsel, is hereby authorized, directed and designated to act on behalf of the County in determining and itemizing all of the Original Expenditures incurred and paid by the County in connection with the Project during the period commencing on the date occurring 60 days prior to the date of adoption of this Resolution and ending on the date of execution and delivery of the Obligations.

Section 4. ***Effective Date.*** This Resolution is effective immediately on the date of its adoption.

On motion of Commissioner _____, the foregoing **“RESOLUTION OF THE COUNTY OF HENDERSON, NORTH CAROLINA DECLARING THE INTENT OF THE COUNTY OF HENDERSON, NORTH CAROLINA TO REIMBURSE ITSELF FOR CAPITAL EXPENDITURES INCURRED IN CONNECTION WITH THE CONSTRUCTION OF A SEWER SYSTEM SERVING THE EDNEYVILLE SCHOOL, THE NORTH CAROLINA JUSTUS JUSTICE ACADEMY, AND CERTAIN OF THE SURROUNDING AREA FROM THE PROCEEDS OF CERTAIN TAX-EXEMPT OBLIGATIONS.”** was duly adopted by the following vote:

AYES:

ALL COMMISSIONERS

NAYS:

NONE

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

I, *Denisa Lauffer*, Clerk to the Board of Commissioners of the County of Henderson, North Carolina, ***DO HEREBY CERTIFY*** that the foregoing is a true and exact copy of a resolution entitled “**RESOLUTION OF THE COUNTY OF HENDERSON, NORTH CAROLINA DECLARING THE INTENT OF THE COUNTY OF HENDERSON, NORTH CAROLINA TO REIMBURSE ITSELF FOR CAPITAL EXPENDITURES INCURRED IN CONNECTION WITH THE CONSTRUCTION OF A SEWER SYSTEM SERVING THE EDNEYVILLE SCHOOL, THE NORTH CAROLINA JUSTUS JUSTICE ACADEMY, AND CERTAIN OF THE SURROUNDING AREA FROM THE PROCEEDS OF CERTAIN TAX-EXEMPT OBLIGATIONS**” adopted by the Board of Commissioners of the County of Henderson, North Carolina, at a meeting held on the 16th day of February, 2022.

WITNESS my hand and the corporate seal of the County of Henderson, North Carolina, this the 16th day of February 2022.

Denisa Lauffer
Clerk to the Board
County of Henderson, North Carolina