
INSTALLMENT FINANCING CONTRACT

between

COUNTY OF CHATHAM, NORTH CAROLINA
as the County

and

PNC BANK, NATIONAL ASSOCIATION
as the Bank

Dated: July 12, 2019

TABLE OF CONTENTS

	<u>Page</u>
SECTION 1. DEFINITIONS	3
SECTION 2. ADVANCE OF LOAN AMOUNT	4
SECTION 3. INSTALLMENT PAYMENTS AND OTHER PAYMENTS	5
SECTION 4. NATURE OF CONTRACT	5
SECTION 5. RESPONSIBILITIES AND COVENANTS OF THE COUNTY	6
SECTION 6. DEED OF TRUST.....	8
SECTION 7. INSURANCE AND UNFORESEEN LOSSES.....	8
SECTION 8. WARRANTIES AND REPRESENTATIONS OF THE COUNTY.....	11
SECTION 9. INDEMNIFICATION	12
SECTION 10. DISCLAIMER OF WARRANTIES.....	12
SECTION 11. DEFAULT AND REMEDIES.....	12
SECTION 12. ASSIGNMENT.....	13
SECTION 13. LIMITED OBLIGATION OF THE COUNTY	14
SECTION 14. TAX-EXEMPT INTEREST.....	15
SECTION 15. MISCELLANEOUS.....	16
 EXHIBITS:	
EXHIBIT A PAYMENT SCHEDULE	A-1
EXHIBIT B INCUMBENCY AND AUTHORIZATION CERTIFICATE.....	B-1
EXHIBIT C OPINION OF COUNTY ATTORNEY	C-1
EXHIBIT D OPINION OF SPECIAL COUNSEL.....	D-1
EXHIBIT E CONTINUOUS INSURANCE COVERAGE DECLARATION	E-1

INSTALLMENT FINANCING CONTRACT

THIS INSTALLMENT FINANCING CONTRACT, dated as of July 12, 2019 (the “*Contract*”), by and between the **COUNTY OF CHATHAM, NORTH CAROLINA**, a political subdivision of the State of North Carolina (the “*County*”) and **PNC BANK, NATIONAL ASSOCIATION**, a national banking association existing under the laws of the United States of America (the “*Bank*”);

WITNESSETH:

WHEREAS, the County is a duly and validly created, organized and existing political subdivision, duly created and existing under and by virtue of the Constitution and laws of the State of North Carolina; and

WHEREAS, the County has the power, pursuant to Section 160A-20 of the General Statutes of North Carolina, to enter into installment contracts to finance and refinance the acquisition of and improvements to real property; and

WHEREAS, the Bank desires to advance certain funds to enable the County to refinance an existing installment financing, the proceeds of which were used to pay the costs of the acquisition, construction and equipping of the Project (as hereinafter defined); and

WHEREAS, the County desires to obtain such advance from the Bank pursuant to the terms and conditions hereinafter set forth; and

WHEREAS, the obligation of the County to make Installment Payments, as hereinafter defined, and other payments required under Section 3 hereof shall constitute a limited obligation payable solely from currently budgeted appropriations of the County and shall not constitute a pledge of the faith and credit of the County within the meaning of any constitutional debt limitation or as otherwise prohibited by the North Carolina Constitution; and

WHEREAS, the County has received approval of this Contract and the refinancing from the North Carolina Local Government Commission; and

WHEREAS, the County has held a public hearing with respect to the contract providing for the refinancing of the Project; and

WHEREAS, in order to further secure the obligations of the County hereunder, the County has executed the Deed of Trust, as hereinafter defined, to a trustee named therein, for the benefit of the Bank; and

WHEREAS, no deficiency judgment may be rendered against the County in any action for breach of a contractual obligation under this 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 this Contract; and

WHEREAS, the Bank and the County each have duly authorized the execution and delivery of this Contract;

NOW, THEREFORE, for and in consideration of the premises and of the covenants hereinafter contained, and other valuable consideration, the parties hereto agree as follows:

SECTION 1. DEFINITIONS

For purposes of this Contract, the following definitions will apply:

1.1 “*County*” means the County of Chatham, North Carolina, a political subdivision of the State of North Carolina, acting through its Board of Commissioners.

1.2 “*Deed of Trust*” means the Deed of Trust and Security Agreement dated as of the date hereof from the County to the deed of trust trustee named therein securing its obligations hereunder for the prepayment of the Prior Debt and refinancing of the Project.

1.3 “*Environmental Laws*” means any federal, state or local law, rule, regulation, permit, order or ordinance relating to the protection of the environment or human health or safety now or hereafter in effect, including, without limitation, the Comprehensive Environmental Response, Compensation, and Liability Act, as amended (42 U.S.C. Section 9601, *et seq.*) (together with the regulations promulgated thereunder, “*CERCLA*”), the Resource Conservation and Recovery Act, as amended (42 U.S.C. Section 6901, *et seq.*) (together with the regulations promulgated thereunder, “*RCRA*”), the Oil Pollution Act of 1990 (33 U.S.C. Section 2701, *et seq.*) (together with the regulations promulgated thereunder, “*OPA*”), the Emergency Planning and Community Right-to-Know Act, as amended (42 U.S.C. Section 11001, *et seq.*) (together with the regulations promulgated thereunder, “*Title III*”), the Clean Water Act, as amended (33 U.S.C. Section 1321, *et seq.*) (together with the regulations promulgated thereunder, “*CWA*”), the Clean Air Act, as amended (42 U.S.C. Section 7401, *et seq.*) (together with the regulations promulgated thereunder, “*CAA*”) and the Toxic Substances Control Act, as amended (15 U.S.C. Section 2601 *et seq.*) (together with the regulations promulgated thereunder, “*TSCA*”), and any state or local similar laws and regulations and any so-called local, state or federal “superfund” or “superlien” law.

1.4 “*Federal Funds Open Rate*” means, for any day, the rate per annum (based on a year of 360 days and actual days elapsed) which is the daily federal funds open rate as quoted by ICAP North America, Inc. (or any successor) as set forth on the Bloomberg Screen BTMM for that day opposite the caption “OPEN” (or on such other substitute Bloomberg Screen that displays such rate), or as set forth on such other recognized electronic source used for the purpose of displaying such rate as selected by the Bank (an “Other Source”) (or if such rate for such day does not appear on the Bloomberg Screen BTMM (or any substitute screen) or on any Other Source, or if there shall at any time, for any reason, no longer exist a Bloomberg Screen BTMM (or any substitute screen) or any Other Source, a comparable replacement rate determined by the Bank at such time (which determination shall be conclusive absent manifest error); provided however, that if such day is not a Business Day, the Federal Funds Open Rate for such day shall be the “open” rate on the immediately preceding Business Day. The rate of interest charged shall be adjusted as of each Business Day based on changes in the Federal Funds Open Rate without notice to the County.

1.5 “*Board of Commissioners*” means the Board of Commissioners of the County.

1.6 “*Hazardous Materials*” means any flammable explosives, radioactive materials, hazardous materials, hazardous wastes, hazardous or toxic substances, or related materials, asbestos or any materials containing asbestos or petroleum, petroleum hydrocarbons, or any other substance or material as defined by (or for purposes of) any federal, state or local environmental law, ordinance, rule or regulation including, without limitation, the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, as amended (42 U.S.C. sections 9601 *et seq.*), the Hazardous Materials

Transportation Act, as amended (49 U.S.C. sections 1801 *et seq.*), the Resource Conservation and Recovery Act, as amended (42 U.S.C. sections 9601 *et seq.*), and the regulations adopted and publications promulgated pursuant thereto. Hazardous Materials shall not include materials used by the County in connection with its operation of any of its public works or water/sewer system, provided such materials are properly handled and contained in accordance with applicable federal and state laws.

1.7 “*Installment Payments*” means those payments made by the County to the Bank as described in Section 3 of this Contract and in the Payment Schedule.

1.8 “*LGC*” means the Local Government Commission of North Carolina established pursuant to Chapter 159 of the North Carolina General Statutes.

1.9 “*Loan Amount*” means \$7,150,000, as described in **Exhibit B** hereto, which will be advanced by the Bank to enable the County to prepay the Prior Debt and refinance the Project.

1.10 “*Mortgaged Property*” means that portion of the Project identified in the Deed of Trust.

1.11 “*Net Proceeds*,” when used with respect to any proceeds from policies of insurance required hereunder or proceeds of any condemnation award arising out of the condemnation of all or any portion of the Property, means the amount remaining after deducting from the gross proceeds thereof all expenses (including, without limitation, attorneys’ fees and costs) incurred in the collection of such proceeds.

1.12 “*Payment Schedule*” means the document labeled “*Payment Schedule*” attached hereto as **Exhibit A** and incorporated herein by reference, which describes the County’s Installment Payments.

1.13 “*PNC Base Rate*” means the greater of (a) the Prime Rate or (b) the Federal Funds Open Rate plus 0.50% per annum.

1.14 “*Prime Rate*” means the rate publicly announced by the Bank from time to time as its prime rate. The Prime Rate is determined from time to time by the Bank as a means of pricing some loans to its borrowers. The Prime Rate is not tied to any external rate of interest or index and does not necessarily reflect the lowest rate of interest actually charged by the Bank to any particular class or category of customers.

1.15 “*Prior Debt*” means the Installment Financing Contract dated as of July 1, 2009 between the County and Capital Bank to finance the Project.

1.16 “*Project*” means acquisition, construction and equipping of improvements to multiple campuses of Central Carolina Community College and a library for the County and Central Carolina Community College.

SECTION 2. ADVANCE OF LOAN AMOUNT

The Bank agrees to advance the Loan Amount to the County and the County agrees to borrow the Loan Amount from the Bank to be applied in accordance with the terms and conditions of this Contract. The proceeds of the Loan Amount shall be used to prepay the Prior Debt and refinance the Project. The Loan Amount may be invested pending disbursement. The County shall pay any additional sums necessary to prepay the Prior Debt and shall provide evidence of the payment of such additional sums to the Bank upon request.

SECTION 3. INSTALLMENT PAYMENTS AND OTHER PAYMENTS

3.1 **Amounts and Times of Installment Payments and Other Payments.** Subject to the provisions of Section 13 hereof entitled “Limited Obligation of the County,” the County shall repay the Loan Amount in installments as provided in **Exhibit A** to this Contract. Each installment shall be deemed to be an Installment Payment and shall be paid in the amount and at the time set forth in the Payment Schedule except as provided herein. Installment Payments shall be sufficient in the aggregate to repay the Loan Amount together with interest thereon at a per annum rate equal to the rate per annum described in **Exhibit A** hereto. A portion of each Installment Payment is interest.

Interest on the Loan Amount as set forth on **Exhibit A** is based upon a 360-day year, with twelve (12) thirty (30) day months. The amortization schedule is based on all payments being received by the Bank on the scheduled due date. Interest shall continue to accrue on any payment that is not paid when due until such payment is made.

3.2 **Place of Payments.** All payments required to be made to the Bank hereunder shall be made at the Bank’s principal office or as may be otherwise directed by the Bank or its assignee.

3.3 **Abatement of Installment Payments.** Subject to Section 13 hereof entitled “Limited Obligation of the County,” there shall be no abatement or reduction of the Installment Payments or other payments by the County for any reason, including but not limited to, any defense, recoupment, setoff, counterclaim, or any claim (real or contingent) arising out of or related to the Mortgaged Property. The County assumes and shall bear the entire risk of loss and damage to the Mortgaged Property from any cause whatsoever, it being the intention of the parties that the Installment Payments and other payments shall be made in all events unless the obligation to make such Installment Payments and other payments is terminated as otherwise provided herein.

3.4 **Prepayment of Installment Payments.** The County may prepay the Loan Amount in whole at its option at any time upon giving the Bank not less than thirty (30) days written notice thereof, upon payment of the principal amount of the Loan Amount to be prepaid, interest accrued to the prepayment date and, if the Bank elects, an amount equal to the Cost of Prepayment. “*Cost of Prepayment*” means an amount equal to present value, if positive, of the product of (a) the difference between (i) the yield, on the beginning date of the applicable interest period, of a U.S. Treasury obligation with a maturity similar to the applicable interest period, minus (ii) the yield on the prepayment date, of a U.S. Treasury obligation with a maturity similar to the remaining maturity of the applicable interest period, and (b) the principal amount to be prepaid, and (c) the number of years, including fractional years, from the prepayment date to the end of the applicable interest period. The yield on any U.S. Treasury obligation shall be determined by reference to Federal Reserve Statistical Release H.15 (519) “*Selected Interest Rates*.” For purposes of making present value calculations, the yield to maturity of a similar maturity U.S. Treasury obligation on the prepayment date shall be deemed the discount rate. The Cost of Prepayment may also apply to any prepayments made after acceleration of the Installment Payments.

The Bank shall provide the County with a written statement explaining the calculation of the premium due, which statement shall, in absence of manifest error, be conclusive and binding on the County.

SECTION 4. NATURE OF CONTRACT

This Contract is an installment contract pursuant to Section 160A-20 of the General Statutes of North Carolina and a security agreement pursuant to Article 9 of Chapter 25 (the “*Uniform Commercial Code - Secured Transactions*”) of the General Statutes of North Carolina.

SECTION 5. RESPONSIBILITIES AND COVENANTS OF THE COUNTY

5.1 ***Maintenance, Care and Use.*** The County shall use the Mortgaged Property in a careful and proper manner, in compliance with all applicable laws and regulations, and shall take no action to adversely affect the Mortgaged Property, and shall take all reasonable action to preserve the Mortgaged Property in good condition, repair, appearance and working order for the purposes intended, ordinary wear and tear excepted, including, without limitation, at its sole cost and expense, to repair and maintain the Mortgaged Property, and to replace any part of the Mortgaged Property as may from time to time become worn out, lost, stolen, destroyed or damaged or unfit for use. Any and all additions to or replacements of the Mortgaged Property and all parts thereof shall constitute accessions to the Mortgaged Property and shall be subject to all terms and conditions of this Contract and the Deed of Trust.

5.2 ***Inspection.*** The Bank shall have the right upon reasonable prior notice to the County to enter into and upon the Mortgaged Property to inspect the Mortgaged Property or any part thereof during normal business hours.

5.3 ***Encumbrances.*** Except as permitted by the Deed of Trust, the County shall not directly or indirectly create, incur, assume or suffer to exist any mortgage, pledge, lien, charge, encumbrance or claim on or with respect to the Mortgaged Property, or the rights of the County and the Bank therein, except with the prior written consent of the Bank.

5.4 ***Utilities.*** The County shall pay, when due, all charges for utility services used in connection with the Mortgaged Property. There shall be no abatement of the Installment Payments on account of interruption of any such services.

5.5 ***Taxes.*** The County shall pay, when due, any and all taxes levied by any governmental body as a result of the County's ownership, possession, or use of the Mortgaged Property or as a direct or indirect result of the acquisition or renovation of the Mortgaged Project by the County.

5.6 ***Risk of Loss.*** Subject to the provisions of Section 13 hereof entitled "Limited Obligation of the County," the County shall bear all risk of loss to and condemnation of the Mortgaged Property. In the event of loss or damage to the Mortgaged Property, the County shall either (a) continue to make the Installment Payments due hereunder and repair, reconstruct and restore the applicable portion of the Mortgaged Property to the satisfaction of the Bank, or (b) prepay in full the principal components of the outstanding Installment Payments in accordance with Section 3.5 hereof.

5.7 ***Performance by the Bank of the County's Responsibilities.*** Any performance required of the County or any payments required to be made by the County may, if not timely performed or paid, be performed or paid by the Bank, and, in that event, the Bank shall be immediately reimbursed by the County for such payments and for any costs and expenses, legal or otherwise, associated with the payments or other performance by the Bank, with interest thereon at a per annum rate equal to the Prime Rate in effect on the last business day of the calendar month preceding the payment (but not exceeding the maximum rate, if any, permitted by applicable law).

5.8 ***Financial Statements.*** The County agrees that it will furnish to the Bank current audited financial statements within 210 days of the end of such fiscal year and the County's annual budget as submitted or approved, and permit the Bank or its agents and representatives to inspect the County's books and records and make extracts therefrom at its own expense during regular business hours and in a manner which will not disrupt the normal business routine of the County. The County shall furnish to the Bank current financial statements at such reasonable times as the Bank may request. The County represents and warrants to the Bank that all financial statements which have been delivered to the Bank in connection with this Contract fairly and accurately reflect the County's financial condition and there has

been no material adverse change in the County's financial condition as reflected in the financial statements since the date thereof.

5.9 **Environmental Covenants.** To the best of the County's knowledge, the Mortgaged Property is not now and has not ever been used to generate, manufacture, refine, transport, treat, store, handle, dispose, transfer, produce or process Hazardous Materials and that no Hazardous Materials have ever been installed on the Mortgaged Property. The County covenants that the Mortgaged Property shall be kept free of Hazardous Materials and shall not be used to generate, manufacture, refine, transport, treat, store, handle, dispose, transfer, produce or process Hazardous Materials, except in connection with the normal construction, maintenance and operation of the Mortgaged Property and in compliance with all Environmental Laws. The County shall not cause or permit as a result of any intentional or unintentional act or omission on the part of the County or any lessee, tenant, subtenant, licensee, guest, invitee, employee, agent or contractor, the installation of Hazardous Materials on the Mortgaged Property or a release of Hazardous Materials onto the Mortgaged Property or suffer the presence of Hazardous Materials on the Mortgaged Property, except in connection with the normal construction, maintenance and operation of the Mortgaged Property and in compliance with all Environmental Laws. The County shall comply with and ensure compliance by all sublessees, tenants, subtenants, licensees, guests, invitees, employees, agents and contractors with all applicable federal, state and local laws, ordinances, rules and regulations with respect to Hazardous Materials and shall keep the Mortgaged Property free and clear of any liens imposed pursuant to such laws, ordinances, rules and regulations. The County has not received any notice from any governmental agency, entity or any other person who receives any notices from any governmental agency, entity or any other person with regard to Hazardous Materials on, from or affecting the Mortgaged Property. In the event the County does receive any such notices, the County shall immediately notify the Bank. The County, at no expense to the Bank, shall conduct and complete all investigations, studies, sampling and testing and all remedial, removal and other actions necessary to comply with all applicable Environmental Laws.

5.10 **Special Tax Covenants.** The County covenants that: (a) it will make no use of the monies advanced by the Bank (the "*Proceeds*") which would cause this Contract to be an "arbitrage bond" within the meaning of Section 148 of the Internal Revenue Code of 1986, as amended (the "*Code*"), or the Treasury Regulations promulgated thereunder; (b) so long as the Contract remains in effect, the County will comply with the requirements of the Code and the applicable Treasury Regulations promulgated thereunder and will not take or omit to take any action which will cause the interest paid or payable under this Contract to be includible in the gross income of the registered owner hereof; (c) the Project shall be used exclusively for essential governmental purposes of the County and no use shall be made of the proceeds or of the Project, directly or indirectly, which would cause this Contract to be a "private activity bond" within the meaning of Section 141 of the Code; (d) no part of the payment of principal or interest under this Contract is or shall be guaranteed, in whole or in part, by the United States or any agency or instrumentality thereof; (e) no portion of the proceeds shall be used, directly or indirectly, in making loans the payment of principal or interest with respect to which are to be guaranteed, in whole or in part, by the United States or any agency or any instrumentality thereof; and (f) the County shall not lease or otherwise make any of the Project available to any entity if such lease or other availability would cause the interest portion of the Installment Payments to be included in the gross income of the Bank under the Code for income tax purposes.

The County shall file on or before its due date IRS Form 8038-G. The County shall not take or omit to take any action that may cause a loss of the federal, state or local tax-exempt status of this Contract or the interest thereon.

5.11 **Appropriations of Payments.** (a) The County reasonably believes that funds sufficient to make all Installment Payments during the term of this Contract can be obtained. While recognizing that it is not empowered to make any binding commitment to make Installment Payments or any other

payments beyond its current fiscal year, the Board of Commissioners of the County in authorizing the execution of this Contract has stated its intent to make annual appropriations sufficient to make the Installment Payments and has recommended that future governing bodies continue to do so during the term of this Contract.

(b) The County Manager or Finance Director shall include in the initial proposal for each of the County's annual budgets the amount of all Installment Payments coming due during the fiscal year to which such budget is applicable. Notwithstanding that the County Manager or Finance Director includes an appropriation for Installment Payments in a proposed budget, the County may terminate all its obligations hereunder by not appropriating sufficient funds to make the scheduled Installment Payments. In the event the Board of Commissioners determines not to appropriate in its budget an amount sufficient to pay all Installment Payments coming due in the applicable fiscal year, the Board of Commissioners shall adopt a resolution specifically deleting such appropriation from the proposed budget for that fiscal year. Such resolution shall state the reasons for such deletion, shall be adopted by a vote identifying those voting for and against and abstaining from the resolution, and shall be recorded in the minutes of the Board of Commissioners. A copy of such resolution shall be promptly sent to the Bank. Such failure to appropriate shall constitute an Event of Default.

(c) If the amount equal to the Installment Payments which will be due during the next fiscal year has not been appropriated by the County in its budget, the County Manager or Finance Director shall deliver to the Bank, within ten (10) days after the adoption of the County's budget for such fiscal year, but not later than fifteen (15) days after the start of such fiscal year, a certificate from the Finance Officer of the County stating that the County did not make such appropriation.

SECTION 6. DEED OF TRUST

6.1 **Deed of Trust.** In order to secure its obligations hereunder, the County shall deliver to the Bank the Deed of Trust. The County shall cause to be filed, at the County's expense, financing statements and other related documents that are necessary under Article 9 of Chapter 25 (the "*Uniform Commercial Code - Secured Transactions*") of the General Statutes of North Carolina to perfect a first lien security interest in the fixtures that are part of the Mortgaged Property by filing and to maintain that first lien security interest in perfected form.

6.2 **Liens.** The County shall not directly or indirectly create, incur, assume or suffer to exist any lien, charge, security interest, encumbrance or claim on or with respect to the Mortgaged Property except as otherwise permitted herein or by the Bank. The County shall promptly, at its own expense, take such action as may be necessary to duly discharge any such lien, security interest, charge, encumbrance or claim if the same shall arise at any time. The County shall reimburse the Bank for any expense incurred by it in order to discharge or remove any such lien, security interest, encumbrance or claim.

SECTION 7. INSURANCE AND UNFORESEEN LOSSES

7.1 **Insurance.** The County shall obtain and maintain, at its expense, at all times until termination of this Contract a policy of insurance covering the Mortgaged Property and providing the insurance protection described in this Section. The County shall maintain at its own expense fire, casualty, public liability, property damage and theft insurance, and such other insurance in such amounts and with such deductibles, if permitted, as required by the Bank from time to time. The Mortgaged Property shall be insured in an amount equal to the total replacement value or the Loan Amount, whichever is less. All such insurance shall be maintained with an insurance company or companies licensed to do business in North Carolina and shall contain a standard mortgagee clause designating the Bank as additional insured as its interest may appear. The County shall deliver to the Bank the policies of insurance or duplicates thereof or other evidence satisfactory to the Bank of such insurance coverage.

Each insurer shall agree by endorsement upon the policy or policies issued by it that it will give thirty (30) days prior written notice to the Bank of the cancellation or material modification of such policy. The County agrees to cooperate fully in all accident insurance investigations, claims and litigation proceedings. The County shall cooperate fully with the Bank in filing any proof of loss with respect to any insurance policy described above. In no event shall the County voluntarily settle, or consent to the settlement of, any proceeding arising out of any insurance claim with respect to the Mortgaged Property without the written consent of the Bank.

In lieu of policies of insurance written by commercial insurance companies meeting the requirements of this Section, the County may maintain a program of self-insurance or participate in group risk financing programs, risk pools, risk retention groups, purchasing groups and captive insurance companies, and in state or federal insurance programs.

7.2 **Damage or Destruction.** (a) The County shall notify the Bank immediately in the event (i) of any damage to or destruction from fire or other casualty of any portion of the Mortgaged Property or (ii) that a material defect in the construction of the Mortgaged Property becomes apparent, if the County determines in good faith that such damage, destruction or loss will cost more than \$250,000 to repair, replace and restore.

(b) If any portion of the Mortgaged Property is damaged or destroyed as provided herein, to an extent that the County determines in good faith that the cost of repairing, replacing and restoring such damage or destruction will exceed \$250,000, then the County shall deposit the Net Proceeds with the Bank and shall, within 90 days after the date such damage or destruction occurs, elect one of the following two options by giving notice of such election to the Bank, and the Bank shall disburse such Net Proceeds in accordance with the option so elected:

(i) **Option A – Repair and Restoration.** The County may elect to repair, reconstruct and restore that portion of the Mortgaged Property so lost, damaged or destroyed. If the County elects this Option A, then the County shall proceed forthwith to repair, reconstruct and restore the applicable portion of the Mortgaged Property to substantially the same condition as had existed prior to the event causing such damage or destruction, with such alterations and additions as the County may determine to be necessary or desirable and as will not impair the capacity or character of the applicable portion of the Mortgaged Property for the purposes for which it had been used prior to such damage or destruction or is intended to be used. So long as no Event of Default has occurred and is continuing under this Contract, the Bank, upon receipt of a request made by the County, shall apply so much as may be necessary of such Net Proceeds to payment of the cost of such repair, reconstruction and restoration, either on completion thereof or as the work progresses. Any such request may provide for Net Proceeds to be paid directly to third-party vendors or to be paid to the County for reimbursement of costs incurred in such repair, replacement or restoration. If such Net Proceeds are not sufficient to pay in full the cost of such repair, replacement and restoration, the County shall, subject to Section 5.11, pay so much of the cost thereof as may be in excess of such Net Proceeds. The County shall not by reason of the payment of such excess cost be entitled to any (A) reimbursement from the Bank, or (B) abatement or diminution of the Installment Payments.

(ii) **Option B – Prepayment of Installment Payments.** The County may elect to have the Net Proceeds of insurance payable as a result of such loss, damage or destruction, together with other monies provided by the County, applied to the prepayment of Installment Payments in accordance with Section 3.4. Notwithstanding anything to the contrary, in the event that the County elects to make partial prepayment under this Option B, the County shall first provide to the Bank a certificate signed by the County Manager to the effect that (A) the

Mortgaged Property has been restored to its condition prior to the damage, or (B) such damage will not impair the County's use of the Property for its intended purposes.

(c) If the County determines in good faith that such cost will not exceed \$250,000, the County shall (1) retain the Net Proceeds with respect to such damage or destruction, (2) forthwith repair, reconstruct and restore the Mortgaged Property so damaged or destroyed to substantially the same condition as it had existed prior to the event causing such damage or destruction, and (3) apply Net Proceeds retained by it to the payment or reimbursement of the costs of such repair, replacement and restoration. If such Net Proceeds are not sufficient to pay in full the cost of such repair, replacement and restoration, the County shall, subject to Section 5.11, pay so much thereof as is in excess of such Net Proceeds.

7.3 Condemnation; Loss of Title. (a) In the case of a taking of all or any part of the Property or any right therein under the exercise of the power of eminent domain or any loss of all or any part of the Property because of loss of title thereto, or the commencement of any proceedings or negotiations which might result in such a taking or loss, the party upon whom notice of such taking is served or with whom such proceedings or negotiations are commenced or who learns of a loss of title shall give prompt notice to the other. Each such notice shall describe generally the nature and extent of such condemnation, taking, loss, proceedings or negotiations. All obligations of the County under this Contract (except obligations to make Installment Payments when due) shall terminate as to the portion of the Mortgaged Property as to which there is a loss of title or which is condemned or taken when such loss of title is finally adjudicated or when title thereto vests in the party condemning or taking the same, as the case may be (hereinafter referred to as the "*Takings Date*"). The County shall pay over to the Bank (and hereby irrevocably assigns, transfers and sets over to the Bank) all right, title and interest of the County in and to any Net Proceeds (up to the amount of its outstanding obligations hereunder) payable as to any such loss of title, condemnation or taking during the term of this Contract.

(b) In the event of any such loss of title, condemnation or taking, the County shall deliver the Net Proceeds from the condemnation proceeding to the Bank, and, within 90 days after the Takings Date for such proceeding, elect either or both of the following two options by giving notice of such election to the Bank, and the Bank shall disburse the Net Proceeds in accordance with the option so elected:

(i) **Option A – Restoration.** The County may elect to have the Net Proceeds as to such loss of title, condemnation or taking used to restore the applicable portion of the Property as to which there has been a loss of title, condemnation or taking to substantially its condition prior to such loss of title, condemnation or taking. So long as no Event of Default has occurred and is continuing under this Contract, the Bank, upon receipt of a request made by the County, shall apply so much as may be necessary of such Net Proceeds to payment of the cost of such restoration, either on completion thereof or as the work progresses. If such Net Proceeds are not sufficient to pay in full the cost of such restoration, the County shall, subject to Section 5.11, pay so much of the cost thereof as may be in excess of such Net Proceeds. The County shall not, by reason of the payment of such excess cost, be entitled to any (A) reimbursement from the Bank, or (B) abatement or diminution of the Installment Payments.

(ii) **Option B – Prepayment of Installment Payments.** The County may elect to have the Net Proceeds payable as to any such loss of title, condemnation or taking, together with other monies provided by the County, applied to the prepayment of the Installment Payments in accordance with Section 3.4. Notwithstanding anything to the contrary, in the event that the County elects to make partial prepayment pursuant to this Option B, the County shall first provide to the Bank a certificate signed by the Manager to the effect that such loss of title, condemnation or taking has not impaired the County's use of the Mortgaged Property for its intended purpose.

(c) The Bank shall, at the expense of the County, cooperate fully with the County in the contest of any prospective or pending condemnation proceedings or in any contest over title with respect to the Mortgaged Property or any part thereof and shall, to the extent it may lawfully do so, permit the County to litigate, at the expense of the County, in any such proceeding in the name and on behalf of the Bank. In no event shall the Bank voluntarily settle, or consent to the settlement of, any prospective or pending condemnation proceedings, or proceedings as to title, with respect to the Property or any part thereof without the consent of the County.

SECTION 8. WARRANTIES AND REPRESENTATIONS OF THE COUNTY

The County warrants and represents to the Bank (all such representations and warranties being continuing) as follows:

(a) The County is a political subdivision duly created and existing under the laws of the State of North Carolina as a political subdivision of the State of North Carolina, and has all powers necessary to enter into the transactions contemplated by this Contract and to carry out its obligations hereunder;

(b) This Contract and all other documents relating hereto, have been duly and validly authorized, approved, executed and delivered by the County, and the performance by the County of its obligations under such documents has been approved and authorized under all laws, regulations and procedures applicable to the County, including, but not limited to, compliance with all applicable public meeting and bidding requirements, and the transactions contemplated by this Contract and all other documents relating hereto constitute a public purpose for which public funds may be expended pursuant to the Constitution and laws of the State of North Carolina, and, assuming due authorization, execution and delivery hereof by the Bank, constitute valid, legal and binding obligations of the County, enforceable in accordance with their respective terms, except as enforcement thereof may be limited by general principles of equity or by bankruptcy, insolvency and other laws affecting the enforcement of creditors' rights generally and as those other laws may be further limited by the provisions of Section 160A-20 of the General Statutes of North Carolina, as amended;

(c) No approval or consent is required from any governmental authority with respect to the entering into or performance by the County of this Contract and the transactions contemplated hereby, or, if any such approval is required, it has been duly obtained, including any applicable approval of the LGC as evidenced by the Secretary's certificate hereon;

(d) There is no action, suit, proceeding or investigation at law or in equity before or by any court, public board or body pending or, to the best of the County's knowledge, threatened, against or affecting the County challenging the validity or enforceability of this Contract or any other documents relating hereto, or the performance of the County's obligations hereunder, and compliance with the provisions hereof, under the circumstances contemplated hereby, does not and will not in any material respect conflict with, constitute on the part of the County a breach of or default under, or result in the creation of a lien or other encumbrance on any property of the County (except as contemplated herein) pursuant to any agreement or other instrument to which the County is a party, or any existing law, regulation, court order or consent decree to which the County is subject;

(e) Following the prepayment of the Prior Debt, there will be no liens or encumbrances on the Mortgaged Property other than the Deed of Trust and any encumbrances permitted under this Contract;

(f) A resolution relating to the performance by the County of this Contract and the transactions contemplated hereby has been duly adopted, is in full force and effect, and has not been in any respect amended, modified, revoked or rescinded; and

(g) The Project is essential to the proper, efficient and economical operation of the County and the delivery of its service; the Project provides an essential use; and the Project permits the County to carry out public functions that it is authorized by law to perform.

SECTION 9. INDEMNIFICATION

To the extent permitted by applicable law, the County hereby agrees to indemnify protect and save the Bank and the LGC (if LGC approval of this Contract is required) and the members and employees of each of the foregoing harmless from all liability, obligations, losses, claims, damages, actions, suits, proceedings, costs and expenses, including attorney's fees, arising out of, connected with, or resulting directly or indirectly from the Project, including without limitation, the possession, condition or use thereof. The indemnification arising under this section shall continue in full force and effect notwithstanding the payment in full of all obligations under this Contract.

SECTION 10. DISCLAIMER OF WARRANTIES

10.1 ***No Representations by the Bank.*** The County acknowledges that it has inspected the Project and found the Project to be satisfactory and acknowledges and agrees that it selected the Project based upon its own judgment and disclaims any reliance upon any statements or representations made by the Bank with respect thereto.

10.2 ***Disclaimer By the Bank.*** THE BANK MAKES NO WARRANTIES OR REPRESENTATIONS, EXPRESS OR IMPLIED, AS TO THE CONDITION, MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE OF THE PROJECT OR ANY OTHER REPRESENTATION OR WARRANTY WITH RESPECT TO THE PROJECT.

SECTION 11. DEFAULT AND REMEDIES

11.1 ***Definition of Event of Default.*** The County shall be deemed to be in default hereunder upon the happening of any of the following events of default (each, an "*Event of Default*"):

(a) The County shall fail to make any Installment Payment or fail to pay any other sum hereunder when due, in either case, within ten (10) days after receipt of written notice of such failure; or

(b) The County shall fail to perform or observe any term, condition or covenant of this Contract or shall breach any warranty by the County herein or therein contained; or

(c) Proceedings under any bankruptcy, insolvency, reorganization or similar litigation shall be instituted by or against the County, or a receiver, custodian or similar officer shall be appointed for the County or any of its property, and such proceedings or appointments shall not be vacated or fully stayed after the institution or occurrence thereof; or

(d) Any warranty, representation or statement made by the County herein or in any other document executed or delivered in connection herewith is found to be incorrect or misleading in any material respect on the date made; or

(e) An attachment, levy or execution of a security interest or lien, except for the lien and security interest of the Bank or any encumbrances permitted by Section 5.3, is levied upon or with respect to the Property.

11.2 **Remedies on Default.** Subject to Section 13 hereof entitled “Limited Obligation of the County,” upon the occurrence of any Event of Default, the Bank may exercise any one or more of the following remedies as the Bank in its sole discretion shall elect:

(a) Declare the entire principal amount of the Installment Payments and all accrued interest and other charges (which shall include the Cost of Prepayment, determined in accordance with Section 3.4 hereof) immediately due and payable without notice or demand to the County;

(b) Proceed by appropriate court action to enforce performance by the County of the applicable covenants of this Contract or to recover for the breach thereof;

(c) Exercise all the rights and remedies of a secured party or creditor under the Deed of Trust, Uniform Commercial Code of the State of North Carolina and the general laws of the State of North Carolina with respect to the enforcement of the security interest granted or reserved hereunder and under the Deed of Trust, including, without limitation, to the extent permitted by law, take possession of any collateral without any court order or other process of law and without liability for entering the Mortgaged Property and sell, lease, sublease or make other disposition of the same in a commercially reasonable manner for the account of the County, and apply the proceeds of any such sale, lease, sublease or other disposition, after deducting all costs and expenses, including court costs and attorneys’ fees, incurred with the recovery, repair, storage and other sale, lease, sublease or other disposition costs, toward the balance due under this Contract and, thereafter, shall pay any remaining proceeds to the County;

(d) Take possession of any proceeds of the Mortgaged Property, including Net Proceeds; or

(e) Pursue any other remedy available at law or equity to the Bank.

11.3 **Further Remedies.** All remedies of the Bank are cumulative and may be exercised concurrently or separately. The exercise of any one remedy shall not be deemed an election of such remedy or preclude the exercise of any other remedy. The County agrees to pay to the Bank all court costs and reasonable attorney fees incurred by Bank in enforcing the Bank’s rights and remedies under this Contract.

SECTION 12. ASSIGNMENT

12.1 **Assignment by the County.** The County agrees not to sell, assign, lease, sublease, pledge or otherwise encumber or suffer a lien or encumbrance upon or against any interest in this Contract or the Mortgaged Property (except for the lien and security interest of the Bank or as permitted by Section 5.3) without the Bank’s prior written consent, which consent shall not be unreasonably delayed, conditioned or denied.

12.2 **Assignment by the Bank.** (a) The Bank may, at any time and from time to time, assign all or any part of its interest in the Mortgaged Property or this Contract, including, without limitation, Bank’s rights to receive Installment Payments payable to Bank hereunder or thereunder, in accordance with this Section 12.2. Any assignment made by the Bank or any subsequent assignee shall not purport to convey any greater interest or rights than those held by the Bank pursuant to this Contract. The Bank or its assignees may assign or reassign all or any part of this Contract, including the assignment or

reassignment of any partial interest through the use of certificates evidencing participation interests in this Contract, or making this Contract part of a pool of obligations without the consent of the LGC, so long as such assignment or reassignment is to (i) a bank, insurance company or similar institution or any other entity approved by the LGC; or (ii) a trustee for the purpose of issuing certificates of participation or other forms of certificates evidencing an undivided interest in the Contract, provided such certificates are sold only to a bank, insurance company or similar financial institution or other entity approved by the LGC. Notwithstanding the foregoing, unless to an affiliate controlling, controlled by or under common control with Bank, no assignment or reassignment of the Bank's interest in the Contract shall be effective unless and until the County shall receive notice of such assignment or reassignment disclosing the name and address of each such assignee.

(b) The County further agrees that the Bank's interest in this Contract may be assigned in whole or in part (subject to the limitations on assignment contained in Section 12.2(a)) upon terms which provide in effect that the assignor or assignee will act as a collection and paying agent for any holders of certificates of participation in this Contract, provided the County receives notice of such assignment and such collection and paying agent covenants and agrees to maintain for the full remaining term of this Contract a written record of each assignment and reassignment of such certificates of participation.

(c) The County agrees to execute any document reasonably required in connection with any assignment. Any assignor must provide notice of any assignment to the County and the LGC, and the County shall keep a complete and accurate record of all assignments as required by the Code. After the giving of any such notice, the County shall thereafter make all payments in accordance with the notice to the assignee named therein and shall, if so requested, acknowledge such assignment in writing, but such acknowledgment shall in no way be deemed necessary to make the assignment effective.

(d) The Bank represents and warrants that it is familiar with federal and North Carolina legislation, rules and regulations as to limitations upon the public distribution of securities that have not been registered under the Securities Act of 1933, as amended, and that it is entering into this Contract for its own account and has no present intention of making any sale or other distribution of this Contract in violation of such legislation, rules or regulations. The Bank represents that it is familiar with the operations and financial condition of the County, based upon information furnished to the Bank by the County, and has made such inquiries as it deems appropriate in connection with the Loan Amount.

SECTION 13. LIMITED OBLIGATION OF THE COUNTY

NO PROVISION OF THIS CONTRACT SHALL BE CONSTRUED OR INTERPRETED AS CREATING A PLEDGE OF THE FAITH AND CREDIT OF THE COUNTY WITHIN THE MEANING OF ANY CONSTITUTIONAL DEBT LIMITATION. NO PROVISION OF THIS CONTRACT SHALL BE CONSTRUED OR INTERPRETED AS CREATING A DELEGATION OF GOVERNMENTAL POWERS NOR AS A DONATION BY OR A LENDING OF THE CREDIT OF THE COUNTY WITHIN THE MEANING OF THE CONSTITUTION OF THE STATE OF NORTH CAROLINA. THIS CONTRACT SHALL NOT DIRECTLY OR INDIRECTLY OR CONTINGENTLY OBLIGATE THE COUNTY TO MAKE ANY PAYMENTS BEYOND THOSE APPROPRIATED IN THE SOLE DISCRETION OF THE COUNTY FOR ANY FISCAL YEAR IN WHICH THIS CONTRACT IS IN EFFECT; PROVIDED, HOWEVER, ANY FAILURE OR REFUSAL BY THE COUNTY TO APPROPRIATE FUNDS, WHICH RESULTS IN THE FAILURE BY THE COUNTY TO MAKE ANY PAYMENT COMING DUE HEREUNDER WILL IN NO WAY OBLIVATE THE OCCURRENCE OF THE EVENT OF DEFAULT RESULTING FROM SUCH NONPAYMENT. NO DEFICIENCY JUDGMENT MAY BE RENDERED AGAINST THE COUNTY IN ANY ACTION FOR BREACH OF A CONTRACTUAL OBLIGATION UNDER THIS CONTRACT, AND THE TAXING POWER OF THE COUNTY IS NOT AND MAY NOT BE PLEDGED DIRECTLY OR INDIRECTLY OR CONTINGENTLY TO SECURE ANY MONEYS DUE UNDER THIS CONTRACT.

No provision of this Contract shall be construed to pledge or to create a lien on any class or source of the County's moneys other than monies in the account of the County held at the Bank and related to this Contract. To the extent of any conflict between this Section and any other provision of this Contract, this Section shall take priority.

SECTION 14. TAX-EXEMPT INTEREST

14.1 ***Intent of Parties.*** It is the intention of the parties hereto that the interest portion of the Installment Payments paid by the County to the Bank under this Contract shall be tax-exempt under Section 103 of the United States Internal Revenue Code.

14.2 ***Determination or Event of Taxability.*** If at any time there is a Determination of Taxability or Event of Taxability, as such terms are hereinafter defined, the principal portion of the indebtedness of the County to the Bank which is represented by the Installment Payments shall, from and after the Date of Taxability, as hereinafter defined, bear interest at a taxable rate that give the Bank the same rate of return as contemplated under this Contract (the "*Alternative Rate of Interest*") payable from the Date of Taxability to such time. In such event, the County also shall be required to pay to the Bank all amounts, if any, which may be necessary to reimburse the Bank for any interest, penalties or other charges assessed by the Internal Revenue Service and the Department of Revenue of the State of North Carolina against the Bank by reason of the Bank's failure to include the interest portion of the Installment Payments (hereinafter called "*Interest*") in its gross income for income tax purposes. Installment Payment amounts under this Contract shall be increased as a result of the increased interest rate and additional interest as a result of said rate increase on all previous payments shall be paid to the Bank upon demand therefor. The County shall pay to the Bank the Interest calculated at the above-mentioned Alternative Rate of Interest notwithstanding any transfer by the Bank or payment or prepayment by the County prior to the date such Determination of Taxability was made.

An Event of Taxability shall mean any event, occurrence or situation, resulting from an action, or failure to act, by the County, the effect of which is to cause the interest portion of the Installment Payments to be includible in the gross income of the Bank for federal income tax purposes. A Determination of Taxability shall mean a determination that the Interest is included in gross income of the Bank for federal income tax purposes, which determination shall be deemed to have been made upon the occurrence of the first to occur of the following: (a) the date on which the Bank is advised in writing by the Commissioner or any District Director of the Internal Revenue Service that, as a consequence of an action, or failure to act, by the County, the Interest is included in the gross income of the Bank for federal income tax purposes; (b) the date on which the County receives notice from the Bank that the Bank has been advised (i) in writing that the Internal Revenue Service has issued a statutory notice of deficiency or similar notice to the Bank which asserts, in effect, that Interest received by the Bank is included in the gross income of the Bank for federal income tax purposes, as a result of an action, or failure to act, by the County, or (ii) by an opinion of nationally recognized tax counsel received by the Bank which concludes, in effect, that Interest is included in the gross income of the Bank for federal income tax purposes as a result of an action, or failure to act, by the County; (c) the day on which the County is advised in writing by the Commissioner or any District Director of the Internal Revenue Service that there has been issued a public or private ruling of the Internal Revenue Service that the Interest is included in the gross income of the Bank for federal income tax purposes as a result of an action, or failure to act, by the County; or (d) the day on which the County is advised in writing by counsel to the Bank that a final determination, from which no further right of appeal exists, has been made by a court of competent jurisdiction in the United States of America in a proceeding with respect to which the County has been given written notice and an opportunity to participate and defend that the Interest is included in the gross income of the Bank for federal income tax purposes, as a result of an action, or failure to act, by the County.

The Date of Taxability shall mean the first date upon which Interest is included in the gross income of the Bank for federal income tax purposes as a result of an Event of Taxability or a Determination of Taxability.

14.3 **Duty to Notify the Bank.** The County agrees to give prompt written notice to the Bank upon the County's receipt of any oral or written notice or information from any source whatsoever to the effect that an Event of Taxability or a Determination of Taxability has occurred.

SECTION 15. MISCELLANEOUS

15.1 **Waiver.** No covenant or condition of this Contract can be waived except by the written consent of the Bank. Any failure of the Bank to require strict performance by the County or any waiver by the Bank of any terms, covenants or conditions herein shall not be construed as a waiver of any other breach of the same or any other term, covenant or condition herein.

15.2 **Severability.** In the event any portion of this Contract shall be determined to be invalid under any applicable law, such provision shall be deemed void and the remainder of this Contract shall continue in full force and effect.

15.3 **Governing Law.** This Contract shall be construed, interpreted and enforced in accordance with the laws of the State of North Carolina.

15.4 **Notices.** Any and all notices, requests, demands, and other communications given under or in connection with this Contract shall be effective only if in writing and either personally delivered or mailed by registered or certified United States mail, postage prepaid, return receipt requested, addressed to the address of the recipient as described below, and shall be deemed to be received on the third day after the day it was deposited in the United States mail or on the day it was actually received, whichever is earlier.

County: County of Chatham, North Carolina
12 East Street
Pittsboro, North Carolina 27312
Attention: Finance Director

Bank's Address: PNC Bank, National Association
301 Fayetteville Street, Suite 2100
Raleigh, North Carolina 27601
Attn: Casey Turner

15.5 **Section Headings.** All section headings contained herein are for convenience of reference only and are not intended to define or limit the scope of any provision of this Contract.

15.6 **Entire Contract.** This Contract, together with the Exhibits and attachments hereto, constitutes the entire Contract between the parties and this Contract shall not be modified, amended, altered or changed except by written agreement signed by the parties.

15.7 **Binding Effect.** Subject to the specific provisions of this Contract, this Contract shall be binding upon and inure to the benefit of the parties and their respective successors and assigns.

15.8 **Time.** Time is of the essence of this Contract and each and all of its provisions.

15.9 ***Execution in Counterparts.*** This Contract may be executed in any number of counterparts, each of which shall be an original and all of which shall constitute but one and the same instrument.

15.10 ***E-Verify.*** The Bank understands that “E-Verify” is a federal program operated by the United States Department of Homeland Security and other federal agencies, or any successor or equivalent program used to verify the work authorization of newly hired employees pursuant to federal law and in accordance with NCGS Section 64-25(5), as amended. The Bank uses E-Verify to verify the work authorization of its employees in accordance with NCGS Section 64-26(a), as amended. The Bank will require that any subcontractor that in uses in connection with the transactions contemplated by this Contract certify to such subcontractor’s compliance with E-Verify.

15.11 ***No Advisory Services.*** The County acknowledges and agrees that: (i) the transaction contemplated by this Agreement is an arm’s length, commercial transaction between the County and the Bank in which the Bank is acting solely as a principal and is not acting as a municipal advisor, financial advisor or fiduciary to the County; (ii) Bank has not assumed any advisory or fiduciary responsibility to the County with respect to the transaction contemplated hereby and the discussions, undertakings and procedures leading thereto (irrespective of whether Bank has provided other services or is currently providing other services to the County on other matters); (iii) the only obligations Bank has to the County with respect to the transaction contemplated hereby expressly are set forth in this Contract; and (iv) the County has consulted its own legal, accounting, tax, financial and other advisors, as applicable, to the extent it has deemed appropriate.

IN WITNESS WHEREOF, the parties hereto have caused this Contract to be executed as of the day and year first above written.

COUNTY OF CHATHAM, NORTH CAROLINA

By: _____
County Manager

(SEAL)

Attest: _____
Clerk to the Board of Commissioners

PNC BANK, NATIONAL ASSOCIATION

By: _____
Senior Vice President

Local Government Commission
Signature page for Installment Financing Contract in the
amount of \$7,150,000 by and between PNC Bank, National Association and
the County of Chatham, North Carolina dated July 12, 2019

This Contract has been approved under
the provisions of Article 8, Chapter 159
of the General Statutes of North Carolina.

By: _____
Greg C. Gaskins, Secretary
Local Government Commission

EXHIBIT A

PAYMENT SCHEDULE

Installment Financing Contract Date: July 12, 2019

County: County of Chatham, North Carolina

Loan Amount: \$7,150,000

Interest Rate/Payment Terms

Fixed Rate

The interest rate is 2.16% per annum fixed. Interest is calculated and imposed on the unpaid balance of the Loan Amount based on the payment schedule below. The Loan Amount plus interest shall be repaid by County to Bank in annual installments of principal and semiannual installments of interest, commencing on June 1, 2020. All remaining principal and accrued but unpaid interest shall be due and payable on June 1, 2029.

In the event of an Event of Default, the default interest rate is the PNC Base Rate plus 3% per annum.

Principal Amortization Schedule:

\$715,000 every June 1, commencing June 1, 2020 and ending June 1, 2029.

COUNTY OF CHATHAM, NORTH CAROLINA

By: _____
Vicki McConnell, Finance Director

EXHIBIT B

INCUMBENCY AND AUTHORIZATION CERTIFICATE

In connection with the execution and delivery by the County of Chatham, North Carolina (the “County”) of an Installment Financing Contract dated July 12, 2019 (the “Contract”) with PNC Bank, National Association, I, Lindsay K. Ray, do hereby certify that I am the duly appointed Clerk to the Board of Commissioners of the County of Chatham, North Carolina, a political subdivision existing under the laws of the State of North Carolina, and that I have custody of the official minutes and other pertinent records of that body.

I further certify that:

(1) As of the date of this certificate, the persons named below are duly elected, qualified and acting incumbents of their respective offices of the County and as such are familiar with its books and corporate records.

(2) The County was duly established. At all times since its establishment the County has continually exercised the powers given to cities by the Constitution and laws of North Carolina.

(3) The persons named below were authorized by resolutions of the Board of Commissioners of County passed in a regular meeting held on June 17, 2019, to execute and deliver on behalf of the County the Contract and the Deed of Trust to evidence the obligation of the County in connection with the refinancing of the Prior Debt (as defined in the Contract), together with all other documents and instruments required and contemplated by the Contract, and to carry out the terms of all of the foregoing, all under and pursuant to the provisions of Section 160A-20 of the General Statutes of North Carolina, as amended. Such resolution was adopted at a meeting duly called and held on such date, at which meeting a quorum was present and acting throughout. Such resolution has not been amended, rescinded, terminated or otherwise revoked and is in full force and effect.

(4) The persons named below were on the date or dates of the execution of the Contract and the Deed of Trust and are on the date hereof the duly elected and qualified incumbents of the offices of the County appearing at the right of their respective names and the signatures appearing at the right of their respective names are their genuine signatures:

(5) The signatures set opposite the names and positions of the persons named below are such persons’ true and authentic signatures.

<u>NAME</u>	<u>POSITION</u>	<u>SIGNATURE</u>
Dan LaMontagne	County Manager	_____
Vicki McConnell	Finance Director	_____

(6) The seal of the County is the same seal of which an impression appears below and on the Contract.

(7) No litigation of any kind is now pending or, to the best of my information, knowledge and belief, threatened to restrain or enjoin the execution or delivery of the Contract or the Deed of Trust, or in any manner questioning the proceedings and authority under which the Contract and the Deed of Trust have been executed and delivered, or affecting the validity of such documents.

(8) The County has obtained the proper authorization to execute and deliver the Contract, the Deed of Trust and all related documents necessary to complete the transaction contemplated thereby.

(9) Each of the Contract and the Deed of Trust has been duly authorized, executed and delivered by the County. Assuming the due authorization, execution and delivery of each such agreements by the Bank, each such agreement constitutes a legal, valid and binding agreement of the County enforceable against the County in accordance with its terms. Such obligation does not constitute a pledge of the faith and credit of the State of North Carolina or of any county, County or other political subdivision of the State, including the County. The rights and enforceability of the obligations of the County under such agreements may be limited or otherwise affected by (a) bankruptcy, insolvency, reorganization, moratorium or other laws affecting the rights of creditors generally and (b) principles of equity, whether considered at law or in equity.

There has been no material adverse change in the financial condition of the County since the date of the last annual financial statement of the County provided to the Bank.

IN WITNESS WHEREOF, I have duly executed this certificate and have affixed to it the seal of the County of Chatham, North Carolina on this 12th day of July, 2019.

Lindsay K. Ray
Clerk to the Board of Commissioners
County of Chatham, North Carolina

[SEAL]

EXHIBIT C

[TO BE PLACED ON LETTERHEAD]

OPINION OF COUNSEL TO THE COUNTY

July 12, 2019

PNC Bank, National Association
Raleigh, North Carolina

County of Chatham,
Pittsboro, North Carolina

Parker Poe Adams & Bernstein LLP
Raleigh, North Carolina

Re: Installment Financing Contract between the County of Chatham, North Carolina (the “*County*”) and PNC Bank, National Association (the “*Bank*”)

We have acted as Counsel to the County of Chatham, North Carolina (the “*County*”), in connection with the authorization, execution and delivery by the County of the Installment Financing Contract, dated as of July 12, 2019 (the “*Contract*”), between PNC Bank, National Association (the “*Bank*”) and the County. We have reviewed (1) the constitution and laws of the State of North Carolina, (2) certain proceedings taken by the Board of Commissioners for the County, (3) an executed copy of the Contract, (4) an executed copy of the Deed of Trust, Security Agreement and Fixture Filing dated as of July 12, 2019 (the “*Deed of Trust*”), from the County, as grantor, to the deed of trust trustee named therein, and (5) such other information and documents as we have deemed relevant in order to render the opinions hereinafter expressed.

Pursuant to the Contract, the Bank has agreed to advance to the County an aggregate principal amount of \$7,150,000. The County has entered into the Contract under the authority of the General Statutes and other laws of North Carolina, as amended, to pay the costs of prepaying the Prior Debt, the proceeds of which were used to provide funds to pay the costs of the construction, acquisition and equipping of the Project. A portion of the Project is located on certain real property owned by the County as more particularly described in Exhibit A of the Deed of Trust (together with all improvements thereon, the “*Mortgaged Property*”). All capitalized undefined terms used herein have the meanings given thereto in the Contract.

On the basis of the foregoing, we are of the opinion, under existing law, that:

1. The County is a political subdivision of the State of North Carolina, validly existing under and by virtue of the Constitution, statutes and laws of the State of North Carolina, and has full legal right, power and authority to enter into and perform its obligations under the Contract, the Deed of Trust, to prepay the Prior Debt, and to conduct its operations.

2. The Contract and the Deed of Trust (collectively, the “*Financing Documents*”) have been duly authorized, executed and delivered by the County and, assuming due authorization, execution and delivery by the other parties thereto, constitute valid and binding agreements of the County, enforceable

in accordance with their terms, except as such enforceability may be limited by applicable bankruptcy, insolvency, reorganization, moratorium or other laws relating to or affecting the enforcement of creditors' rights generally, now or hereafter in effect, or by equitable principles.

3. The obligation of the County to make payments under the Contract is a limited obligation of the County payable solely from currently budgeted appropriations of the County and does not constitute a pledge of the faith and credit of the County within the meaning of any constitutional debt limitation, as more particularly described in the Contract.

4. All consents, approvals or authorizations of any governmental entity and all filings required on the part of the County in connection with the authorization, execution and delivery of the Financing Documents and the consummation of the transactions contemplated thereby have been obtained and are in full force and effect.

5. To the best of our knowledge after reasonable investigation, the execution and delivery of the Financing Documents and compliance with the provisions thereof, under the circumstances contemplated thereby, do not and will not in any material respect conflict with, constitute on the part of the County a breach of or default under, or result in the creation of a lien on any property of the County (except as contemplated therein) pursuant to, any agreement or other instrument to which the County is a party, or any existing law, regulation, court order or consent decree to which the County is subject.

6. There is no action, suit, proceeding or governmental investigation at law or in equity before or by any court, public board or body, pending of which the County has been served with a summons, summons and complaint or other notice of commencement, or, to the best of our knowledge after reasonable investigation, threatened against the County challenging the validity of the Financing Documents or contesting the power and authority of the County to execute and deliver the Financing Documents or to consummate the transactions contemplated therein.

7. The Deed of Trust has been recorded in accordance with North Carolina law.

Respectfully submitted,

EXHIBIT D

[TO BE PLACED ON LETTERHEAD]

OPINION OF SPECIAL COUNSEL

July 12, 2019

PNC Bank, National Association
Raleigh, North Carolina

County of Chatham,
Pittsboro, North Carolina

Re: Installment Financing Contract between the County of Chatham, North Carolina (the “*County*”) and PNC Bank, National Association (the “*Bank*”)

Ladies and Gentlemen:

We have acted as Special Counsel in connection with the execution and delivery of the Installment Financing Contract, dated as of July 12, 2019 (the “*Contract*”), between PNC Bank, National Association (the “*Bank*”) and the County of Chatham, North Carolina (the “*County*”), and have examined the record of proceedings relating thereto. Pursuant to the Contract, the Bank will make available an aggregate principal amount of \$7,150,000 to the County, such amount representing the Loan Amount under the Contract. The County has entered into the Contract and the Deed of Trust to pay the costs of prepaying the Prior Debt, the proceeds of which were used to provide funds to pay the costs of the construction, acquisition and equipping of the Project. A portion of the Project is located on certain real property owned by the County as more particularly described in Exhibit A of the Deed of Trust (together with all improvements thereon, the “*Mortgaged Property*”). All capitalized undefined terms used herein have the meanings given thereto in the Contract.

In such capacity, we have examined executed copies of the Contract, the Deed of Trust and such law, certified proceedings, instruments, opinions and other documents as we have deemed necessary to render the opinions hereinafter expressed. As to questions of fact material to the opinions hereinafter expressed, we have relied on representations of the County contained in the Contract, the Deed of Trust and the related documents thereto, the certified proceedings and other certifications of public officials and others furnished to us, including certifications furnished to us by or on behalf of the County, without undertaking to verify the same by independent investigation. We have also relied upon the opinion of Gunn & Messick, LLP, County Attorney, dated the date hereof, as to the due authorization, execution and delivery of the Contract and the Deed of Trust by the County, without undertaking to verify the same by independent investigation. We have assumed the accuracy and truthfulness of all public records and of all certifications, documents and other proceedings examined by us that have been executed or certified by public officials acting within the scope of their official capacities and have not verified the accuracy or truthfulness thereof. We have also assumed the genuineness of the signatures appearing on such public records, certifications, and documents and proceedings.

On the basis of the foregoing, we are of the opinion, under existing law, that:

1. The Contract has been duly authorized, executed and delivered and constitutes a valid and legally binding obligation of the County, enforceable against the County in accordance with its terms.
2. The Deed of Trust has been duly authorized, executed and delivered and constitutes a valid and legally binding obligation of the County, enforceable against the County in accordance with its terms.
3. The interest component of each Installment Payment paid under the Contract will be treated as ordinary income for federal income tax purposes under the Internal Revenue Code of 1986, as amended.
4. The interest component of each Installment Payment paid under the Contract is exempt from all present State of North Carolina income taxation.

It is to be understood that the rights of the owners of the Contract and the enforceability of the Contract and the Deed of Trust may be limited by applicable bankruptcy, insolvency, fraudulent conveyance, reorganization, moratorium, liquidation, readjustment of debt, and other similar laws affecting creditors' rights and remedies generally, and by general principles of equity, whether such principles are considered in a proceeding at law or in equity.

In rendering the opinions expressed above, we express no opinions herein relating to the financial resources of, or the creditworthiness of, the County, or any other matters relating to an evaluation of the likelihood or the ability of the County to make the Installment Payments under the Contract.

We are furnishing the opinions expressed above to you solely for your benefit and no other person is entitled to rely on such opinions without our prior written consent. Such opinions are not to be used, circulated, quoted or otherwise referred to for any other purpose without our prior written consent.

Very truly yours,

PARKER POE ADAMS & BERNSTEIN LLP

EXHIBIT E

CONTINUOUS INSURANCE COVERAGE DECLARATION

Installment Financing Contract dated: July 12, 2019

County: County of Chatham, North Carolina
12 East Street
Pittsboro, North Carolina 27312
Attention: Finance Director

Bank's Address: PNC Bank, National Association
301 Fayetteville Street, Suite 2100
Raleigh, North Carolina 27601
Attn: Casey Turner

Insurance Co: _____
Policy #: _____
Agency: _____

Phone: _____

Whereas, the County has entered into an Installment Financing Agreement with PNC Bank, National Association (the "*Contract*") to prepay the Prior Debt (as defined in the Contract) and insurance coverage is required by the Bank to protect the security interest in the Mortgaged Property, the County agrees to maintain insurance coverage on the Mortgaged Property with the above designated company or another company of its selection during the term of financing. If coverage is not renewed or never acquired, and a loss occurs while the collateral is uninsured, the County agrees to indemnify the Bank. The indemnification can be accomplished by the mutual agreement of the parties as follows:

* The principal balance and accrued interest may be paid in full in satisfaction of the obligation as provided in Section 3.5 of the Contract.

* The Mortgaged Property repaired to its original condition or replaced with equal value property, at the expense of the County.

* A replacement or substitution of collateral satisfactory to the Bank is acquired by the County, at the County's expense.

The County pledges to notify the Bank of a loss in whole or in part within ten (10) days of any loss and agrees to cooperate with the Bank in obtaining insurance proceeds or through indemnification for any losses. The County further certifies that the County takes full responsibility of notifying the insurance agency/company and maintaining continuous coverage on the collateral.

COUNTY OF CHATHAM, NORTH CAROLINA

By: _____
Title: _____
Date: _____