

A regular meeting of the Board of Commissioners for the County of Durham, North Carolina, was held in the Commissioners' Chambers on the 2<sup>nd</sup> Floor of the Durham County Government Administrative Complex at 200 East Main Street, in Durham, North Carolina, the regular place of meeting, at 7:00 P.M. on August 13, 2018.

Present: Chairman Wendy Jacobs, presiding, and Commissioners: \_\_\_\_\_

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Absent: \_\_\_\_\_.

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RESOLUTION APPROVING THE PROPOSED SALE BY DURHAM CAPITAL FINANCING CORPORATION OF LIMITED OBLIGATION BONDS PAYABLE FROM CERTAIN INSTALLMENT PAYMENTS TO BE MADE BY THE COUNTY OF DURHAM, NORTH CAROLINA PURSUANT TO A PROPOSED INSTALLMENT FINANCING AGREEMENT TO FINANCE AND REFINANCE A PORTION OF THE COST OF VARIOUS PROJECTS, APPROVING CERTAIN DOCUMENTS AND ACTIONS RELATING THERETO AND AUTHORIZING CERTAIN ACTIONS IN CONNECTION THEREWITH.

WHEREAS, the County of Durham, North Carolina (the "County") previously entered into an Installment Financing Contract dated March 30, 2017 (the "2017 Contract") with PNC Bank, National Association and used the proceeds thereof to finance a portion of the cost of (a) reconstructing and renovating the Judicial Building of the County, (b) reconstructing and renovating the Judicial Annex of the County, (c) reconstructing and renovating certain facilities used by Durham County Emergency Medical Services and (d) constructing and otherwise accomplishing five projects relating to the redevelopment of Park Center in the Research Triangle Park (collectively the "2017 Project"); and

WHEREAS, the County has determined to (a) refinance a portion of its obligations pursuant to the 2017 Contract and (b) finance a portion of the cost of (i) reconstructing and

renovating the County's existing Detention Center POD, (ii) reconstructing and renovating a portion of the County's existing Administration Building II, (iii) constructing of Emergency Communications Center in the new Police Headquarters, (iv) acquiring, replacing and installing emergency radio communication equipment (v) acquiring, replacing and installing the Detention Center Elevators and (vi) acquiring firefighting vehicles and other equipment (collectively, the "2018 Project" and together with the 2017 Project, the "Project"); and

WHEREAS, to effectuate such purposes, the County and Durham Capital Financing Corporation (the "Corporation") have been negotiating certain documents and arranging for the negotiated sale of limited obligation bonds payable from certain installment payments to be made by the County pursuant to an Installment Financing Agreement (hereinafter defined) to be entered into by and between the County and the Corporation, pursuant to the authority granted to the County under G.S. § 160A-20, as amended; and

WHEREAS, the County has determined that it is in the best interests of the County that the County and the Corporation enter into the Installment Financing Agreement to make available to the County funds with which to effectuate such purposes; and

WHEREAS, the County and the Corporation have retained underwriters for the purpose of underwriting such limited obligation bonds; and

WHEREAS, such limited obligation bonds are expected to be marketed pursuant to a contract of purchase with the underwriters and to be delivered on or about August 23, 2018; and

WHEREAS, to effectuate such purposes, it is necessary for the County to approve the sale of such limited obligation bonds by the Corporation and the Installment Financing Agreement, to approve certain other documents and actions relating thereto and to authorize certain actions in connection therewith; and

WHEREAS, there have been presented at this meeting copies of the following documents relating to the delivery of such limited obligation bonds:

(a) a draft of a Contract of Purchase for such limited obligation bonds (the “Contract of Purchase”), between the Corporation and PNC Capital Markets LLC, on its own behalf and on behalf of Merrill Lynch, Pierce, Fenner & Smith Incorporated (collectively, the Underwriters”), relating to the underwriting by the Underwriters of the 2018 Bonds (hereinafter defined), which Contract of Purchase includes a Letter of Representation (the “Letter of Representation”) to be executed by the County;

(b) a draft of an Installment Financing Agreement (the “Installment Financing Agreement”), between the County and the Corporation, under which the Corporation would make available to the County funds to be derived from the sale of the 2018 Bonds and the County would be obligated to make Installment Payments (as defined in the Installment Financing Agreement) and certain other payments, among other requirements;

(c) a draft of a Trust Agreement (the “Trust Agreement”), between U.S. Bank National Association, as trustee (the “Trustee”), and the Corporation, under which the Corporation would assign its right to receive the Installment Payments, any Prepayments (as defined in the Installment Financing Agreement), certain additional payments and certain other rights to the Trustee and the Trustee would make available to the County the proceeds of not exceeding \$60,000,000 Durham Capital Financing Corporation Limited Obligation Bonds (Durham County, North Carolina), Series 2018 (the “2018 Bonds”) evidencing proportionate undivided interests in the Installment Payments to be made by the County with respect thereto under the Installment Financing Agreement;

(d) a draft of a Deed of Trust and Security Agreement (the “Deed of Trust”), from the County to a deed of trust trustee for the benefit of the Corporation, by which the County would secure its obligations to the Corporation under the Installment Financing Agreement;

(e) a draft of a First Amendment to Installment Financing Contract (the “Amendment”) between the County and PNC Bank, National Association (the “Bank”) amending the 2017 Contract in order to release the site and improvements of the Administration Building II (formerly known as the Judicial Building) as collateral for the 2017 Contract and substitute the site and improvements of the Judicial Annex therefor;

(f) a draft of a Modification of Deed of Trust (the “Modification”) between the County and the Bank, amending the Deed of Trust in order to release the site and improvements of the Administration Building II as collateral for the 2017 Contract and substitute the site and improvements of the Judicial Annex therefor; and

(g) a draft of a Preliminary Official Statement relating to the public offering of the 2018 Bonds (the “Preliminary Official Statement”);

NOW, THEREFORE, BE IT RESOLVED by the Board of Commissioners for the County as follows:

Section 1. The Board of Commissioners for the County (the “Board”) hereby approves the sale of the 2018 Bonds by the Corporation. The 2018 Bonds shall mature in such amounts at such times and shall bear interest at such rates as shall be determined by the President of the Corporation or provided in the Trust Agreement; provided, however, that the aggregate principal amounts of the 2018 Bonds shall not exceed \$60,000,000 and the final maturity of the 2018 Bonds shall not extend beyond 2048.

The 2018 Bonds shall be issued in fully registered form in such denominations as set forth in the Trust Agreement and payments of principal and interest with respect to the 2018 Bonds shall be made by the Trustee to the registered owners of the 2018 Bonds at such times and in such manner as is set forth in the Trust Agreement.

Section 2. The 2018 Bonds shall be subject to prepayment at the times, upon the terms and conditions, and at the prices set forth in the Trust Agreement.

Section 3. The proceeds of the 2018 Bonds shall be applied as provided in the Trust Agreement.

Section 4. The forms, terms and provisions of the Installment Financing Agreement, the Deed of Trust, the Letter of Representation, the Amendment and the Modification are hereby approved in all respects and, insofar as they are applicable to the County, the terms and provisions of the Trust Agreement and the information concerning the County in the Preliminary Official Statement are hereby approved in all respects. The Chairman of the Board, the Vice-Chairman of the Board, the County Manager, the Chief Financial Officer of the County, the Clerk to the Board and the County Attorney are hereby authorized and directed to execute and deliver the Installment Financing Agreement, the Deed of Trust, the Letter of Representation, the Amendment and the Modification in substantially the forms presented, together with such additions, changes, modifications and deletions as they, with the advice of counsel, may deem necessary or appropriate, including, but not limited to, additions, changes, modifications and deletions necessary to incorporate the final terms of the 2018 Bonds as shall be set forth in the Contract of Purchase, and such execution and delivery shall be conclusive evidence of the approval and authorization thereof by the Board and the County. The Board hereby also approves the execution and delivery of the Trust Agreement by the Corporation.

Section 5. The Board hereby approves the award of the 2018 Bonds to the Underwriters pursuant to the Contract of Purchase, provided that the effective interest cost shall not exceed 4.00% per annum.

Section 6. The Board hereby approves the Preliminary Official Statement in substantially the form presented, together with such additions, changes, modifications and deletions as the Chairman of the Board, the County Manager and the Chief Financial Officer of the County, with the advice of counsel, may deem necessary or appropriate, and approves and authorizes the distribution and use of the Preliminary Official Statement by the Corporation and the Underwriters in connection with the public offering of the 2018 Bonds. The Board hereby also approves and authorizes the preparation of an official statement, in substantially the form of the Preliminary Official Statement, with such changes as are necessary to reflect the maturities and interest rates of the 2018 Bonds and other information required by Rule 15c2-12 of the Securities and Exchange Commission (the "Official Statement"); and, if required, the Chairman of the Board, the County Manager and the Chief Financial Officer of the County are hereby authorized to execute, on behalf of the County, the Official Statement in substantially such form, together with such additions, changes, modifications and deletions as they, with the advice of counsel, may deem necessary or appropriate. Such execution shall be conclusive evidence of the approval thereof by the Board and the County, and the Board hereby approves and authorizes the distribution and use of copies of the Official Statement by the Corporation and the Underwriters in connection with the public offering of the 2018 Bonds.

Section 7. The Board hereby approves, ratifies and confirms the actions of the County Manager, the Chief Financial Officer of the County and the County Attorney in connection with this matter and approves and authorizes the distribution and use of copies of the

Installment Financing Agreement, the Trust Agreement, the Deed of Trust, the Contract of Purchase, the Amendment and the Modification by the Corporation and the Underwriters in connection with the public offering of the 2018 Bonds.

Section 8. The officers and employees of the County are authorized and directed (without limitation except as may be expressly set forth herein) to take such other actions and to execute and deliver any other documents, certificates, undertakings, agreements or the instruments as they, with the advice of counsel, may deem necessary or appropriate to effectuate the transactions contemplated by the documents approved hereby.

Section 9. The County covenants that, to the extent permitted by the Constitution and laws of the State of North Carolina, it will comply with the requirements of the Internal Revenue Code of 1986, as amended, as applicable to the Installment Financing Agreement with respect to the 2018 Bonds, except to the extent that the County obtains an opinion of nationally-recognized bond counsel to the effect that noncompliance would not result in interest with respect to the 2018 Bonds being includable in the gross income of the owners of the 2018 Bonds for purposes of federal income taxation.

Section 10. This resolution shall take effect immediately upon its passage.

Upon consideration of the foregoing resolution and motion duly made and seconded, the foregoing resolution was passed by the following vote:

Ayes: Commissioners \_\_\_\_\_

\_\_\_\_\_.

Noes: \_\_\_\_\_.

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I, V Terri Lea Hugie, Clerk to the Board of Commissioners for the County of Durham, North Carolina, DO HEREBY CERTIFY that the foregoing is a true copy of so much of the proceedings of said Board at a regular meeting held on August 13, 2018 as relates in any way to the matters described therein and that said proceedings are recorded in Minute Book No. \_\_\_\_ of the minutes of said Board, beginning on page \_\_\_\_ and ending on page \_\_\_\_.

I DO HEREBY FURTHER CERTIFY that notice of said meeting was duly given in accordance with G.S. §143-318.12.

WITNESS my hand and the corporate seal of said County, this \_\_\_\_ day of August 2018.

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Clerk to the Board of Commissioners