

\$70,000,000
County of Durham, North Carolina
General Obligation Bond
Series 2019

BOND PURCHASE AND ADVANCE AGREEMENT

June 12, 2019

Local Government Commission of North Carolina
4505 Fair Meadow Lane
Raleigh, North Carolina 27607

County of Durham, North Carolina
200 E. Main Street
Durham, North Carolina 27701

Ladies and Gentlemen:

The undersigned, PNC Bank, National Association (the “Lender”), hereby offers to enter into this Bond Purchase and Advance Agreement (the “Purchase Agreement”) with the Local Government Commission of North Carolina (the “LGC”) concerning the sale by the LGC and the purchase by the Lender of the above-described issue which, upon acceptance of such offer by the LGC and approval of such offer by the County of Durham, North Carolina (the “County”), will be in full force and effect in accordance with its terms and binding upon the LGC, the County and the Lender. This offer is made subject to acceptance by the LGC and approval of this Purchase Agreement by the County on or before noon. (North Carolina time) on the date hereof.

Section 1.

Upon the terms and conditions and upon the basis of the representations and warranties herein set forth, the LGC hereby agrees to sell and the Lender hereby agrees to purchase up to \$70,000,000 aggregate principal amount of the County’s General Obligation Bond, Series 2019 (the “2019 Bond”). The 2019 Bond will be a general obligation bond of the County, and the full faith and credit of the County will be pledged for the payment of principal and interest on the 2019 Bond. The 2019 Bond is issued in accordance with and under and pursuant to (a) the Registered Public Obligations Act, Chapter 159E of the General Statutes of North Carolina, as amended, (b) The Local Government Finance Act, Chapter 159 of the General Statutes of North Carolina, as amended, (c) the bond orders adopted by the Board of Commissioners of the County on August 6, 2016 and made effective on the affirmative vote of a majority of the qualified voters at a referendum held on November 8, 2016 (the “Bond Orders”) and (d) a resolution adopted on May 28, 2019 by the Board of Commissioners of the County authorizing and approving the issuance, sale, execution and delivery of the 2019 Bond (as amended or supplemented from time to time, the “Resolution”). The 2019 Bond is being issued to provide funds to pay the capital costs of the Projects as described and authorized under the Bond Orders. Reference is hereby made to the

Resolution for the rights, duties and obligations of the County and the rights of the Lender, as the Owner (as defined in the Resolution) of the 2019 Bond.

The 2019 Bond will mature as set forth in the Resolution. The 2019 Bond is subject to prepayment prior to maturity as set forth in the Resolution. The 2019 Bond will bear interest at the rates and have such other terms and provisions as are described in the Resolution.

Section 2.

All expenses and costs of the LGC incident to the performance of its obligations in connection with the authorization, issuance and sale of the 2019 Bond shall be paid from available funds of the County at or prior to Closing (as hereinafter defined).

No recourse shall be had by the Lender for any claims based on this Purchase Agreement or otherwise against any member, officer or agent of the LGC in his or her individual capacity, all such liabilities, if any, being waived by the Lender.

Section 3.

The County acknowledges and agrees that: (a)(i) the arranging, structuring and other services regarding this Purchase Agreement provided by the Lender and any affiliate thereof are arm's length commercial transactions between the County on the one hand, and the Lender and any affiliates thereof on the other hand, (ii) the County has consulted its own legal, accounting, regulatory and tax advisors to the extent it has deemed appropriate, and (iii) the County is capable of evaluating and understands and accepts, the terms, risks and conditions of the transactions; (b)(i) the Lender and each affiliate thereof is and has been acting solely as a principal and has not been, is not, and will not be acting as an advisory, agent or fiduciary for the County or any other person, whether natural or legal, and (ii) neither the Lender nor any affiliate thereof has any obligation to the County with respect to the transactions herein, except those obligations expressly set forth herein; and (c) the Lender and each affiliate thereof may be engaged in a broad range of transactions that involve interests that differ from those of the County, and neither the Lender, nor any affiliate thereof has any obligation to disclose any of such interests to the County. To the fullest extent permitted by applicable laws, the County hereby waives and releases any claims that it may have against the Lender and each affiliate thereof with respect to any breach or alleged breach of agency or fiduciary duty in connection with any aspect of the transactions related to the 2019 Bond.

Section 4.

The LGC represents and warrants that:

(a) it is duly organized and validly existing as a division of the Department of the Treasurer of the State of North Carolina, vested with the rights and powers conferred upon it pursuant to Article 7, as amended, of Chapter 159 of the General Statutes of North Carolina (the "Local Government Bond Act");

(b) it has full power and authority to approve the issuance and provide for the sale of the 2019 Bond as provided in this Purchase Agreement and the LGC has taken or will take all action required by the Local Government Bond Act and other applicable laws in connection therewith;

(c) it has duly authorized the execution and delivery of this Purchase Agreement and has taken or will take all action necessary or appropriate to carry out the sale and delivery of the 2019 Bond to the Lender;

(d) the execution and delivery of this Purchase Agreement and the performance by the LGC of its obligations hereunder are within the powers of the LGC;

(e) no consent, approval, authorization or order of any governmental or regulatory authority is required to be obtained by the LGC as a condition precedent to the issuance or sale of the 2019 Bond or the execution and delivery of this Purchase Agreement or the performance by the LGC of its obligations hereunder; and

(f) there is no litigation at law or in equity or any proceeding before any governmental agency pending against or involving the LGC or, to the knowledge of the LGC, threatened, to restrain or enjoin the issuance or delivery of the 2019 Bond or the execution or delivery by the LGC of this Purchase Agreement and the performance of its obligations hereunder.

Section 5.

The County represents and warrants that:

(a) the County is a political subdivision, validly organized and existing under the laws of the State of North Carolina with the powers and authority, among others, to accept and agree to this Purchase Agreement, enter into the Resolution, carry out and consummate the transactions contemplated by the aforesaid document and issue and provide for the sale of the 2019 Bond as provided in this Purchase Agreement, and the County has taken or will take all action required under the Constitution and laws of the State of North Carolina in connection with such issuance and sale;

(b) since June 30, 2018, there has been no material adverse change in the financial position, results of operations or condition, financial or otherwise, of the County, and the County has not incurred liabilities that would materially affect the ability of the County to discharge its obligations under the Bond Orders or the Resolution, direct or contingent;

(c) the County has received and there remain currently in full force and effect, or will receive prior to the delivery of the 2019 Bond, all governmental consents and approvals that would constitute a condition precedent to, or the absence of which would materially adversely affect, the performance by the County of its obligations under the Bond Orders or the Resolution;

(d) at a meeting of the Board of Commissioners that was duly called and at which a quorum was present and acting throughout, the County duly authorized the issuance of the 2019 Bond and approved the execution and delivery by the County of the Resolution and this Purchase Agreement (collectively, the "County Documents");

(e) there is no claim, action, suit, proceeding, inquiry or investigation, at law or in equity, before or by any court, governmental agency or public board or body, pending or, to this best of its knowledge, threatened (i) contesting the corporate existence or powers of the County or the titles of the officers of the County to their respective offices, (ii) seeking to prohibit, restrain or enjoin the collection of revenues by the County or the application of the proceeds of the 2019 Bond wherein an unfavorable decision, ruling or finding would materially adversely affect the financial position of the County or the

operation of its facilities or the validity or enforceability of the Bond Orders or the Resolution, or (iii) contesting or affecting the validity of the County Documents; and

(f) the County is not in violation of any applicable constitutional provision, law or administrative regulation of the State of North Carolina or the United States of America or in default under any agreement, resolution, indenture or instrument to which the County is a party or by which the County is bound, the effect of which violation or default would be material to the County, and no event has occurred or is continuing that, with the lapse of time or the giving of notice, or both, would constitute such a violation or default hereunder or thereunder.

Section 6.

At 10:00 A.M., New York City time, on June 12, 2019, or at such other time or on such earlier or later date as mutually agreed upon by the County, the LGC and the Lender (the "Closing"), the LGC will deliver or cause to be delivered to the Lender the 2019 Bond in typewritten form duly executed and authenticated, and at the offices of the County, or in such other place as mutually acceptable to the County and the Lender, the other documents hereinafter mentioned. The Lender will accept delivery of the 2019 Bond and make the initial Advance of \$_____ in accordance with the terms of the Resolution.

Section 7.

The County may request additional Advances in an amount not to exceed the Stated Principal Amount (as defined in the Resolution) until the Advance Termination Date (as defined in the Resolution). For each request for an Advance, the County shall submit to the Lender, at least five Business Days prior to the requested date of disbursement, a complete written disbursement request (an "Advance Request") substantially in the form set forth in Exhibit A hereto, together with the documents or other items reasonably requested by the Lender. The Chief Financial Officer and each designee (each, an "Authorized Officer") shall deliver each Advance Request by regular mail or facsimile or electronic communication. The County shall use its best efforts to submit no more than one Advance Request per month to the Lender. The Lender shall make an Advance to the County in accordance with instructions to be provided to the Lender by the County in the Advance Request and send a written confirmation thereof (which may be delivered by electronic mail) to the County within four Business Days of the receipt by it of an Advance Request. The Advances shall not exceed the Stated Principal Amount on a cumulative basis. The Lender is not obligated to make any Advances to the County following the failure to pay debt service on the 2019 Bond or any other general obligation bonds of the County. Any amount prepaid by the County in accordance with the terms of the Resolution shall be deducted from the Stated Principal Amount.

Section 8.

At or prior to the Closing, the Lender must receive the following:

- (1) the unqualified approving opinion of Bond Counsel with respect to the 2019 Bond, dated the date of Closing, addressed to the County, together with a reliance letter addressed to the Lender;
- (2) an opinion of the County Attorney, dated the date of Closing and addressed to the Lender and the County, in form satisfactory to the Lender;

(3) a certified copy of the necessary resolutions, proceedings and certificates relating to the approval and sale of the 2019 Bond;

(4) certified copies of the Bond Orders and the Resolution; and

(5) such additional legal opinions, certificates, proceedings, instruments and other documents as the Lender or Bond Counsel may reasonably request.

All of the opinions, letters, certificates, instruments and other documents mentioned in this Purchase Agreement will be deemed to be in compliance with the provisions of this Purchase Agreement if, but only if, in the reasonable judgment of the Lender and counsel to the Lender, they are satisfactory in form and substance

Section 9.

The County will pay any expenses incident to the performance of its obligations hereunder, including (without limitation): (i) the cost of the preparation of the Resolution and this Purchase Agreement; (ii) the cost of the preparation, printing and delivery of the 2019 Bond; and (iii) the fees and disbursements of any other experts or consultants retained by the County, including DEC Associates, Inc.

Section 10.

Any notice or other communication to be given under this Purchase Agreement may be given by delivering the same in writing as follows:

LGC: Local Government Commission of North Carolina
4505 Fair Meadow Lane, Suite 102
Raleigh, North Carolina 27607
Attention: Secretary

CITY: County of Durham, North Carolina
200 East. Main Street
Durham, North Carolina 27701
Attn: Chief Financial Officer

LENDER: PNC Bank, National Association
301 Fayetteville Street, Suite 2100
Raleigh, NC 27601
Attn: Casey Turner

Section 7.

This Purchase Agreement is made solely for the benefit of the Lender, the LGC and the County (including their successors or assigns) and no other person, partnership, association or corporation will acquire or have any right hereunder or by virtue hereof.

Section 8.

This Purchase Agreement will be governed by and construed in accordance with the laws of the State of North Carolina.

Section 9.

This Purchase Agreement may be executed in any number of counterparts, each of which will be deemed an original, but all of which together will constitute one and the same agreement.

Section 10.

All representations, warranties and agreements in this Purchase Agreement shall survive regardless of (a) any investigation or any statement in respect thereof made by or on behalf of the Lender, and (b) delivery of any payment by the Lender for the 2019 Bond hereunder.

Section 15.

The Lender understands that “E-Verify” is defined by Section 64-25(5) of the General Statutes of North Carolina, as amended, as 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. The Lender uses E-Verify to verify the work authorization of their employees in accordance with Section 64-26(a) of the General Statutes of North Carolina, as amended. Any entity to which any of the Lender’s obligations under this Purchase Agreement are subcontracted will comply with the requirements of E-Verify.

[Signatures on Next Page.]

Very truly yours,

PNC BANK, NATIONAL ASSOCIATION

By: _____
Casey L. Turner
Senior Vice President

Accepted and confirmed as of
the date first above written:

LOCAL GOVERNMENT COMMISSION
OF NORTH CAROLINA

By: _____
Timothy L. Romocki
Deputy Secretary

Accepted and confirmed as of
the date first above written:

COUNTY OF DURHAM, NORTH CAROLINA

By: _____
Name:
Title:

Purchase Agreement
County of Durham, North Carolina
General Obligation Bond, Series 2019

EXHIBIT A

ADVANCE REQUEST

[To be placed on County's Letterhead]

[Date]

PNC Bank, National Association
301 Fayetteville Street
Suite 2100
Raleigh, NC 27601
Attention: Casey L. Turner

Re: Request for disbursement of funds under a Bond Purchase and Advance Agreement, dated as of June 12, 2019 (the "*Purchase Agreement*"), among the Local Government Commission of North Carolina, County of Durham, North Carolina (the "*County*") and PNC Bank, National Association (the "*Lender*")

Pursuant to the terms and conditions of the Purchase Agreement, the County hereby requests the disbursement of funds to the County as an Advance under the Purchase Agreement for the costs described below. Terms used herein but not defined herein shall have the meanings given to such terms in the Purchase Agreement.

This is request number _____ for funds under the Purchase Agreement in the amount of _____. The requested disbursement should be made to the credit of the County's account in accordance with the following instructions:

[Insert wire transfer or other instructions.]

The County makes the following representations in connection with this request:

The requested disbursement, together with outstanding Advances, does not exceed the Stated Principal Amount.

The requested disbursement will be used by the County to reimburse itself for costs of the Projects (as authorized and described in the Bond Orders) previously paid by it.

The requested disbursement has not been the subject of any previous request by the County.

The undersigned is an Authorized Officer.

COUNTY OF DURHAM, NORTH CAROLINA

By: _____

Printed name: _____

Title: _____