

A regular meeting of the Town Council of the Town of Apex, North Carolina was held remotely by electronic means at 6:00 p.m. on September 28, 2021.

Present: Mayor Jacques K. Gilbert, presiding, and Council Members

Absent: Council Members

Also present: _____

_____ introduced the following resolution, the title of which was read and a copy of which had been previously distributed to each Council Member:

RESOLUTION AUTHORIZING THE EXECUTION AND DELIVERY OF AN INSTALLMENT FINANCING AGREEMENT, A DEED OF TRUST AND RELATED DOCUMENTS IN CONNECTION WITH THE FINANCING OF VARIOUS CAPITAL IMPROVEMENTS FOR THE TOWN OF APEX, NORTH CAROLINA

BE IT RESOLVED by the Town Council (the “Town Council”) of the Town of Apex, North Carolina (the “Town”):

Section 1. The Town Council does hereby find and determine as follows:

(a) There exists in the Town a need to finance the costs of (i) acquiring, constructing and equipping a new Public Safety Facility and (ii) acquiring, constructing and equipping a new office building for use by the Town’s Inspections Department (collectively, the “Project”).

(b) After a public hearing and due consideration, the Town Council has determined that the most efficient manner of financing the Project will be through entering into an Installment Financing Agreement, to be dated the date of delivery thereof (the “Agreement”), between the Town and Pinnacle Bank (the “Lender”), pursuant to which the Lender will advance to the Town an amount sufficient, together with any other available funds, to (i) pay the costs of the Project

and (ii) pay the financing costs associated therewith, and the Town will repay the advancement in installments, with interest thereon (the "Installment Payments").

(c) In order to secure the Town's obligations under the Agreement, the Town will execute and deliver a Deed of Trust, to be dated the date of delivery thereof (the "Deed of Trust"), from the Town to the deed of trust trustee named therein for the benefit of the Lender, granting a lien of record on the site of the new Public Safety Facility constituting a portion of the Project, together with all buildings, improvements and fixtures located or to be located thereon (the "Mortgaged Property").

(d) There has been presented to the Town Council at this meeting drafts of the Agreement and the Deed of Trust.

Section 2. In order to provide for the financing of the Project and the payment of the financing costs associated therewith, the Town is hereby authorized to enter into the Agreement and receive an advancement pursuant thereto in the principal amount not to exceed \$8,700,000. The Town shall repay the advancement in installments due in the amounts and at the times set forth in the Agreement. The payments of the Installment Payments shall be designated as principal and interest as provided in the Agreement. The interest rate payable under the Agreement shall be 1.50% per annum, and the final Installment Payment due under the Agreement shall not be later than September 1, 2036.

Section 3. The Town Council hereby approves the Agreement and the Deed of Trust in substantially the forms presented at this meeting. The Mayor, the Town Manager (or Interim Town Manager) and the Finance Director of the Town are each hereby authorized to execute and deliver on behalf of the Town such documents in substantially the forms presented at this meeting, containing such modifications as the person executing such documents, with the advice

of counsel, shall approve, such execution to be conclusive evidence of approval by the Town Council of any such changes. The Town Clerk or any Deputy or Assistant Town Clerk of the Town is hereby authorized and directed to affix the corporate seal of the Town to each of such documents and to attest the same as may be required.

Section 4. No deficiency judgment may be rendered against the Town in any action for breach of any contractual obligation under the Agreement or the Deed of Trust, and the taxing power of the Town is not and may not be pledged directly or indirectly to secure any moneys due under the Agreement or the Deed of Trust.

Section 5. The Mayor, the Town Manager (or Interim Town Manager), the Finance Director, the Town Attorney and the Town Clerk, and any other officers, agents and employees of the Town, are hereby authorized and directed to execute and deliver such other documents, instruments, closing certificates, opinions and other items of evidence as shall be deemed necessary to consummate the transactions described above. Any such actions heretofore taken by such persons prior to the date hereof that is within the authority conferred herein is hereby ratified, confirmed and approved.

Section 6. This resolution shall take effect immediately upon its adoption.

Upon motion of Council Member _____, seconded by Council Member _____, the foregoing resolution entitled "RESOLUTION AUTHORIZING THE EXECUTION AND DELIVERY OF AN INSTALLMENT FINANCING AGREEMENT, A DEED OF TRUST AND RELATED DOCUMENTS IN CONNECTION WITH THE FINANCING OF VARIOUS CAPITAL IMPROVEMENTS FOR THE TOWN OF APEX, NORTH CAROLINA" was adopted by the following vote:

Ayes: _____

Noes: _____

* * * * *

I, Tesa Silver, Deputy Town Clerk of the Town of Apex, North Carolina, DO HEREBY CERTIFY that the foregoing is a true copy of so much of the proceedings of the Town Council of said Town at a regular meeting held on September 28, 2021, as it relates in any way to the adoption of the foregoing resolution and that said proceedings are to be recorded in the minutes of said Town Council.

I DO HEREBY FURTHER CERTIFY that proper notice of such regular meeting was given as required by North Carolina law, including the notice of the holding of such meeting by electronic means as required by Section 143-318.13 of the General Statutes of North Carolina, as amended.

WITNESS my hand and the official seal of said Town this 28th day of September, 2021.

Deputy Town Clerk

[SEAL]