

INSTALLMENT FINANCING CONTRACT

BETWEEN

STI INSTITUTIONAL & GOVERNMENT, INC.

AND

TOWN OF PINEVILLE, NORTH CAROLINA

DATED AS OF
JANUARY 1, 2021

INSTALLMENT FINANCING CONTRACT

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and is not part of the Installment Financing Contract.)

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INSTALLMENT FINANCING CONTRACT

This **INSTALLMENT FINANCING CONTRACT**, dated as of January 1, 2021 (this “*Contract*”), is between **STI INSTITUTIONAL & GOVERNMENT, INC.**, a Delaware general purpose corporation (the “*Purchaser*”) and the **TOWN OF PINEVILLE, NORTH CAROLINA** (the “*Town*”), a political subdivision of the State of North Carolina (the “*State*”), validly existing under and by virtue of the Constitution, statutes and laws of the State.

PREAMBLES

WHEREAS, the Town has the power, pursuant to Section 160A-20 of the General Statutes of North Carolina, as amended, to (1) purchase real and personal property, (2) enter into installment financing contracts in order to finance the purchase of real and personal property used, or to be used, for public purposes, and (3) finance the construction of fixtures or improvements on real property by contracts that create in the fixtures or improvements and in the real property on which such fixtures or improvements are located a security interest to secure repayment of money advanced or made available for such construction;

WHEREAS, the Town Council of the Town (the “*Town Council*”) has determined that it is in the Town’s best interests to receive an advance of funds in an aggregate principal amount of \$_____ (the “*Advance*”) under this Contract in order to finance all or a portion of the costs of Project (as defined below), in exchange for which the Town will make Installment Payments and Additional Payments (as each term is defined below) on the terms set forth below;

WHEREAS, the Town Council has authorized, approved and directed the Town’s execution, performance and delivery of this Contract by resolutions passed and adopted by the Town Council on November 10, 2020 and December 8, 2020, respectively (the “*Resolutions*”);

WHEREAS, the Purchaser’s execution, delivery and performance of this Contract have been authorized, approved and directed by all necessary and appropriate action of the Purchaser;

WHEREAS, the Town’s obligation to make the Installment Payments and Additional Payments constitutes a limited obligation of the Town, payable solely from currently budgeted appropriations of the Town; does not constitute a general obligation or other indebtedness of the Town within the meaning of the Constitution of the State; and does not constitute a direct or indirect pledge of the faith and credit or taxing power of the Town within the meaning of the Constitution of the State;

WHEREAS, in order to secure the Town’s obligations under this Contract, the Town has executed and delivered a Deed of Trust, Security Agreement and Fixture Filing dated as of January 1, 2021 (the “*Deed of Trust*”) to the deed of trust trustee named therein for the benefit of the Purchaser, creating a lien on all of the Town’s right, title and interest in the real property on which the Project will be located and all improvements thereon (collectively, the “*Mortgaged Property*”); and

WHEREAS, no deficiency judgment may be rendered against the Town in any action for breach of a contractual obligation under this Contract, and the taxing power of the Town is not and may not be pledged in any way directly or indirectly or contingently to secure any money due under this Contract;

NOW, THEREFORE, for and in consideration of the premises and the mutual covenants in this Contract contained, the parties hereto agree as follows:

ARTICLE I DEFINITIONS

Section 1.1. **Definitions.** The following terms have the meanings specified below unless the context clearly requires otherwise:

“*Additional Payments*” means the reasonable and customary expenses and fees of the Purchaser, any expenses of the Purchaser in defending an action or proceeding in connection with this Contract and any taxes or any other expenses, including, but not limited to, licenses, permits, state and local income, sales and use or ownership taxes or property taxes which the Purchaser is expressly required to pay as a result of this Contract (together with interest that may accrue thereon in the event that the Town shall fail to pay the same, as set forth in this Contract).

“*Advance*” means the original aggregate principal amount equal to \$_____ advanced by the Purchaser for the purposes provided in this Contract, as such amount advanced may be adjusted by amendment to this Contract.

“*Bank*” means Truist Bank and its successors and assigns.

“*Business Day*” means a day other than a Saturday or Sunday on which the Purchaser, at its principal corporate offices, is not required or authorized by law to remain closed.

“*Closing Date*” means January [13], 2021.

“*Code*” means the Internal Revenue Code of 1986, as amended, including regulations promulgated thereunder.

“*Completion Date*” means the date on which completion of the Project has occurred, as evidenced by a certificate provided for in Section 5.3.

“*Construction Contracts*” means the contracts between the Town and contractors selected and hired by the Town relating to the acquisition and construction of the Project.

“*Costs of the Project*” shall be deemed to include the payment of, or reimbursement to the Town for, the following items:

(1) obligations incurred or assumed for the Project in connection with the acquisition and construction of the Project;

(2) the cost to construct, improve, equip and furnish the Project; including, without limitation, the Purchaser’s fees and expenses incurred in connection with the delivery of the Advance to the Town, fees and expenses of the LGC, if any, legal fees and expenses, taxes, inspection costs, the cost of permit fees, filing and recording costs and survey expenses in connection with the granting of any lien on, or security interest in, the Mortgaged Property;

(3) all other costs which are considered to be a part of the costs of the construction, improvement, equipping and furnishing of the Project in accordance with generally accepted accounting principles and which will not affect the tax status for federal income tax purposes of the designated interest component of the Installment Payments payable by the Town under this Contract, including sums required to reimburse the Town

for advances made by the Town that are properly chargeable to the construction, improvement, equipping and furnishing of the Project; and

(4) payment or prepayment of the principal components of the Installment Payments from any funds remaining in the Project Fund after the Completion Date.

“*Deed of Trust*” means the Deed of Trust, Security Agreement and Fixture Filing dated as of January 1, 2021 from the Town to the deed of trust trustee named therein, for the benefit of the Purchaser and its successor and assignees, creating a lien in and to the Mortgaged Property, and as the same may be amended and supplemented from time to time as provided in the Deed of Trust, all of the terms, definitions, conditions and covenants of which are incorporated herein by reference and are made a part of this Contract as if fully set forth herein.

“*Deed of Trust Trustee*” means Southland Associates, Inc., as the trustee named in the Deed of Trust, and any successor trustee thereto.

“*Event of Default*” means any of the events of default as defined in Section 13.1.

“*Fiscal Year*” means a twelve-month period commencing on July 1 of any year and ending on June 30 of the immediately succeeding year, or such other twelve-month period which may subsequently be adopted as the Fiscal Year of the Town.

“*Installment Payment Date*” means each date that an Installment Payment is due and payable to the Purchaser in accordance with the terms of this Contract.

“*Installment Payments*” means, collectively, the payments made by the Town to the Purchaser as described in Article III and in the Payment Schedule attached hereto.

“*Interest Rate*” means 1.73% per annum, calculated on an actual/360-day basis.

“*LGC*” means the Local Government Commission of North Carolina or any successor to its functions.

“*Mortgaged Property*” means the Mortgaged Property as more particularly described in Exhibit A to the Deed of Trust, which includes only those tract(s) of real property that are subject to the lien of the Deed of Trust and all buildings, structures, additions and improvements of every nature whatsoever thereon, such as the Town Hall/Library Facility, that are now or hereafter situated on such tract(s) of real property that are subject to the lien of the Deed of Trust, including fixtures, as the same may be amended and supplemented from time to time so as to add real property thereto or to release real property therefrom.

“*Net Proceeds*” when used with respect to any proceeds from policies of insurance or construction bonds required under this Contract, proceeds of any condemnation award arising out of the condemnation of all or any portion of the Mortgaged Property, or the proceeds from any sale or lease of the Mortgaged Property pursuant to this Contract, the Deed of Trust or otherwise, 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.

“*Payment Schedule*” means the document setting forth the Town’s Installment Payments which is attached hereto and incorporated herein by reference.

“*Plans and Specifications*” means the plans and specifications, if any, to be prepared by an architect selected and hired by the Town relating to the construction, improving, equipping and furnishing of the Project.

“*Project*” means, collectively, (a) the acquisition, construction, installation and equipping of the Town Hall/Library Facility, including, without limitation, the architectural, engineering, surveying and soil testing expenses related thereto, (b) parking infrastructure for the Town Hall/Library Facility, (c) telephone and internet infrastructure for the Town Hall/Library Facility, including, without limitation, relocation of telephone and/or internet lines and related costs and (d) road infrastructure improvements related to the Town Hall/Library Facility.

“*Project Fund*” means the fund of that name created in Article IV of this Contract into which the Purchaser shall deposit the Advance.

“*Purchaser*” means STI Institutional & Government, Inc., a Delaware general purpose corporation, and its successors and assigns.

“*Purchaser Representative*” means any person or persons at the time designated to act on behalf of the Purchaser for purposes of performing any act on behalf of the Purchaser under this Contract by a written certificate furnished to the Town containing the specimen signatures of such person or persons and signed on behalf of the Purchaser by any vice president.

“*Revenues*” means all revenues derived from this Contract, including all Installment Payments and all Net Proceeds not applied to the replacement of the Mortgaged Property.

“*State*” means the State of North Carolina.

“*Tax Certificate*” means collectively (a) the Certificate as to Non-Arbitrage and Other Matters and (b) the Tax Compliance Agreement, each dated as of the Closing Date and executed by the Town in connection with the execution and delivery of this Contract.

“*Town*” means the Town of Pineville, North Carolina, a political subdivision of the State, validly existing under and by virtue of the Constitution, statutes and laws of the State, and any successor to its functions.

“*Town Council*” means the duly elected governing Town Council of the Town, or any successor to its functions.

“*Town Hall/Library Facility*” means the new multi-story building or buildings to be located at 315 Jack Hughes Lane, Pineville, NC, containing approximately 43,088 square feet, which will be used by the Town as a new town hall and library facility, including the related surface parking area(s).

“*Town Representative*” means (1) the person or persons at the time designated to act on behalf of the Town for the purpose of performing any act under this Contract by a written certificate furnished to the Purchaser containing the specimen signatures of such person or persons and signed on behalf of the Town by the Mayor or the Finance Director of the Town, or (2) if any or all of the Town’s rights and obligations are assigned under this Contract, the person or persons at the time designated to act on behalf of the Town and the assignee by a written certificate similarly furnished and of the same tenor.

[END OF ARTICLE I]

ARTICLE II THE ADVANCE

Section 2.1 ***Advance.*** The Purchaser hereby makes an advance to the Town of the Advance, and the Town hereby accepts from the Purchaser the Advance to be applied in accordance with the terms and conditions of this Contract. The Town will use the proceeds of the Advance (1) to complete the Project in accordance with the Plans and Specifications, if any, and (2) to pay certain costs incurred in connection with the execution and delivery of this Contract.

[END OF ARTICLE II]

ARTICLE III INSTALLMENT PAYMENTS; ADDITIONAL PAYMENTS

Section 3.1. ***Amounts and Times of Installment Payments and Additional Payments.***

(a) Subject to the provisions of Article XV, the Town shall repay the Advance in Installment Payments consisting of an interest component and a principal component, as applicable, on each Installment Payment Date in the amounts set forth in this Contract and the Payment Schedule attached to this Contract. The Town hereby approves the Advance by the Purchaser to the Town pursuant to this Contract in the amount of \$_____ to be repaid by the Town in Installment Payments at an interest rate per annum equal to the Interest Rate.

(b) Each Installment Payment shall be paid in the amounts and at the times set forth in the attached Payment Schedule, except as otherwise provided in this Contract. If an Installment Payment is due on any day which is not a Business Day, such Installment Payment shall be due on the next succeeding Business Day and the Town shall make such Installment Payment on such Business Day with no additional interest due thereon. Installment Payments shall be sufficient in the aggregate to repay the principal amount of the Advance, together with interest thereon, as the same shall become due and payable. The Town shall pay any Additional Payments on a timely basis directly to the person or entity to which such Additional Payments are owed. All payments shall be made in lawful currency of the United States.

Section 3.2. ***Place of Payments.*** All payments required to be made to the Purchaser hereunder shall be made (1) by wire transfer in immediately available funds on the payable date to the address specified in writing by the Purchaser prior to the payable date or (2) as may be otherwise directed in writing by the Purchaser prior to the payable date.

Section 3.3. ***Late Charges.*** An Installment Payment that is not paid within ten (10) days of the due date thereof is subject to a late payment charge of 4.0% of the amount of the past due Installment Payment. Interest with respect to the principal component of such unpaid Installment Payment shall continue to accrue at the Interest Rate until paid.

Section 3.4. ***No Abatement.*** There will be no abatement or reduction of the Installment Payments or Additional Payments by the Town for any reason, including but not limited to, any failure by the Town to appropriate sufficient funds for the payment of the Installment Payments or Additional Payments, any defense, recoupment, setoff, counterclaims or any claim (real or imaginary) arising out of or related to the Mortgaged Property or the completion of the Project. The Town assumes and shall bear the entire risk of loss and damage to the Project from any cause whatsoever, it being the intention of the parties that the Installment Payments shall be made in all events unless the obligation to make such Installment Payments is terminated as otherwise provided herein.

Section 3.5. **Prepayment of the Advance.** The Advance may be optionally prepaid, on or after January 1, 2031, in whole or in part, at any time on 30 days prior written notice to the Purchaser. The Advance may be prepaid at a prepayment price equal to 100% of the par amount of the Advance to be prepaid, plus accrued interest to the prepayment date. If the principal component of the Installment Payments then outstanding are prepaid in part, then such prepayment shall be deemed a prepayment on the principal component of the Installment Payments then outstanding in inverse order of maturity.

[END OF ARTICLE III]

ARTICLE IV PROJECT FUND

Section 4.1. **Project Fund.** There is hereby created a separate fund to be held by the Purchaser, on behalf of the Town, designated as the “*Town of Pineville 2021 Installment Financing Project Fund.*” On the Closing Date, the Purchaser will cause the Advance to be deposited in the Project Fund. The funds in the Project Fund will be disbursed in accordance with the provisions of Section 4.3 herein.

Section 4.2. **Investment.** The Town shall invest and reinvest the money, and any interest thereon, held in the Project Fund as permitted under Section 159-30 of the General Statutes of North Carolina, as amended.

Section 4.3. **Disbursements.** Money held in the Project Fund shall be disbursed by the Town for payment of the Costs of the Project. The Form of Requisition from the Project Fund is attached hereto as Exhibit A. Any written requisition against the Project Fund shall also include copies of any AIA Document G-702, Application and Certificate for Payment, if applicable to any Costs of the Project which are the subject of such requisition, when submitted by the Town to the Bank; and a copy thereof will also be submitted by the Town to the Purchaser. No more than two (2) requisitions against the Project Fund may be submitted by the Town during any calendar month period.

If amounts held to the credit of the Project Fund are insufficient to pay the Costs of the Project, then the Town shall provide any balance of funds necessary to complete the Project. The Town shall consult with its bond counsel regarding the disposition of any money remaining in the Project Fund after completion of the Project or the earlier termination of the Project Fund, and, if so permitted by the Code, such amount shall be used to pay future Installment Payments coming due under this Contract in the order of their due dates.

Section 4.4. **Termination.** The Project Fund shall be terminated at the earlier of (1) the final distribution of amounts held in the Project Fund and (2) the termination of this Contract.

[END OF ARTICLE IV]

ARTICLE V CONSTRUCTION OF THE PROJECT

Section 5.1. **Construction.** The Town shall comply with the provisions of Article 8 of Chapter 143 of the General Statutes of North Carolina and enter into Construction Contracts in accordance with Section 143-128.1 of the General Statutes of North Carolina. The Town shall cause the Project to be carried on expeditiously in accordance with the Plans and Specifications, if any, all applicable ordinances and statutes, and in accordance with the requirements of all regularly constituted authorities having

jurisdiction over the same. The Town shall ensure (1) that the Project does not impermissibly encroach on nor impermissibly overhang any easement or right of way and (2) that the Project, when completed, (a) will, if applicable, be wholly within the real property on which the Project is located and any building restriction lines, however established, and (b) will not violate applicable use or other restrictions contained in prior conveyances or applicable protective covenants or restrictions. The Town shall cause all utility lines, septic systems and streets serving the Project to be completed in accordance with health department standards and other applicable regulations of any governmental agency having jurisdiction. The Town will promptly correct any structural defect in the improvements or any departure from the Plans and Specifications, if any. [The general contractor or the construction manager at risk for the Project shall be subject to satisfactory review and approval (which shall not be unreasonably withheld) by the Purchaser].

Section 5.2. ***Right of Entry and Inspection.*** The Purchaser and its representatives and agents have the right to enter on and inspect the Project from time to time, during and after any construction, and the Town will cause the contractor, the construction manager at risk or any first-tier contractor to cooperate with the Purchaser and its representatives and agents during such inspections; provided, however, that Purchaser shall notify the Town not less than one (1) business day in advance of such entry and inspection, and such entry and inspection shall only take place during reasonable hours. No right of inspection or approval contained in this Contract imposes on the Purchaser any duty or obligation whatsoever to undertake any inspection or to give any approval.

Section 5.3. ***Completion of Construction.*** The Town shall use its best efforts to cause the Project to be completed within three years from the date hereof, unforeseen delays beyond the reasonable control of the Town only excepted. On completion of the Project, a Town Representative shall deliver to the Purchaser (1) a certificate of the Town stating the fact and date of such completion and stating that all of the Costs of the Project have been determined and paid (or that all of such Costs have been paid less specified claims which are subject to dispute and for which a retention in the Project Fund is to be maintained in the full amount of such claims until such dispute is resolved), and (2) proof of the insurance coverage required by the Deed of Trust and Section 6.5 of this Contract.

Section 5.4. ***Payment and Performance Bonds.*** Each contractor entering into a Construction Contract, or the construction manager at risk or any first-tier subcontractor entering into a construction contract with the construction manager at risk for the construction of the Project, shall be required to furnish a performance bond and a separate labor and material payment bond as required by Article 3, Chapter 44A of the General Statutes of North Carolina, as amended, each naming the Purchaser as a dual obligee, copies of which shall be provided to the Purchaser. In lieu of furnishing a performance bond and a separate labor and material payment bond, each contractor, or the construction manager at risk or any first-tier subcontractor entering into a construction contract with the construction manager at risk, may furnish collateral in an amount of its construction contract securing the Town, copies of the evidence of such collateral which shall be provided to the Purchaser, if the Purchaser so requests.

In the event of any material default by a contractor, or the construction manager at risk or any first-tier subcontractor entering into a construction contract with the construction manager at risk, under any Construction Contract, or in the event of a material breach of warranty with respect to any materials, workmanship or performance, the Town shall promptly proceed, either separately or in conjunction with others, to pursue diligently its remedies against such contractor and/or against each surety of any bond securing the performance of the Construction Contracts. The Net Proceeds of any amounts recovered by way of damages, refunds, adjustments or otherwise in connection with the foregoing, remaining after deduction of expenses incurred in such recovery (including, without limitation, attorneys' fees and costs), and after reimbursement to the Town of any amounts theretofore paid by the Town and not previously reimbursed to the Town for correcting or remedying the default or breach of warranty which gave rise to the proceedings against the contractor or surety, shall be paid to the Purchaser for deposit into the Project Fund if received before the Completion Date therefor or if received thereafter, shall be deposited as

otherwise provided in Section 8.2 or otherwise applied as provided in Section 8.3. The Net Proceeds of any performance or payment bond or insurance policy required by this Section shall likewise be paid into the Project Fund if received before the Completion Date, or, if received thereafter, shall either be deposited as provided in Section 8.2 or otherwise applied as provided in Section 8.3.

Section 5.5. ***Contractor's General Public Liability and Property Damage Insurance.*** Each contractor entering into a Construction Contract for the construction of the Project, or the construction manager at risk or any first-tier subcontractor entering into a construction contract with the construction manager at risk for the construction of the Project shall be required by the Town to procure and maintain standard form (1) comprehensive general public liability and property damage insurance, at its own cost and expense, during the duration of such contractor's construction contract, in the amount of at least \$1,000,000 bodily injury and property damage liability combined single limit each occurrence/annual aggregate, and (2) comprehensive automobile liability insurance on owned, hired and non-owned vehicles for limits not less than \$1,000,000 each accident bodily injury and property damage liability. Such policies shall include the Town and the Purchaser as additional named insureds, and shall include a provision providing that if such policies are cancelled or terminated that the issuing insurer will endeavor to mail 30 days prior written notice to the named insureds, but failure to mail such notice will impose no liability on the insurer. A certificate evidencing such coverage shall be provided to the Town and the Purchaser or, if such insurance is provided by a private carrier, a completed certificate of insurance, in form acceptable to the Town and the Purchaser, shall be provided to the Town and, if the Purchaser so requests, to the Purchaser with respect to each contractor entering into a Construction Contract or, in the case of a construction manager at risk, the construction manager at risk or any first-tier subcontractor entering into a construction contract with the construction manager at risk. Such insurance shall provide protection from all claims for bodily injury, including death, property damage and contractual liability, products/completed operations, broad form property damage and XCU (explosion, collapse and underground property damage), where applicable.

Section 5.6. ***Contractor's Builder's Risk Completed Value Insurance.*** The Town will procure and maintain, or will require each contractor entering into a Construction Contract for the construction of the Project, or the construction manager at risk or any first-tier subcontractor entering into a construction contract with the construction manager at risk for the construction of the Project, to procure and maintain, property insurance (builder's risk) on all construction, improving, equipping and furnishing of the Project (excluding contractor's tools and equipment) at the full and insurable value thereof. Such insurance will include the interest of the Town and the contractor as additional insureds, and shall insure against "all risk" subject to standard policy conditions and exclusions. Each contractor, or the construction manager at risk or any first-tier subcontractor entering into a construction contract with the construction manager at risk, shall purchase and maintain similar property insurance for portions of the work stored off the real property on which the Project is located or in transit when such portions of the work are to be included in an application for payment. Each contractor, or the construction manager at risk or any first-tier subcontractor entering into a construction contract with the construction manager at risk, is responsible for the payment of any deductible amounts associated with this insurance.

Section 5.7. ***Contractor's Worker's Compensation Insurance.*** Each contractor entering into a Construction Contract for the construction of the Project, or the construction manager at risk or any first-tier subcontractor entering into a construction contract with the construction manager at risk for the construction of the Project, shall be required to procure and maintain, at its own cost and expense, worker's compensation insurance during the term of its Construction Contract, covering its employees working thereunder. Such insurance, if issued by a private carrier, shall contain a provision providing that if such policies are cancelled or terminated that the issuing insurer will endeavor to mail 30 days prior written notice to the named insureds, but failure to mail such notice will impose no liability on the insurer. A certificate evidencing such coverage shall be provided to the Town and, if the Purchaser so requests, to the Purchaser; or, if such insurance is provided by a private carrier, a completed certificate of insurance, in

form acceptable to the Town and the Purchaser, shall be provided to the Town and the Purchaser, if the Purchaser so requests, with respect to each contractor entering into a Construction Contract or, in the case of a construction manager at risk, to the construction manager at risk or any first-tier subcontractor entering into a construction contract with the construction manager at risk.

Section 5.8. **Filing With the Purchaser.** The Town shall cause copies of all performance bonds and insurance contracts or approved certificates thereof, as required under Sections 5.4, 5.5, 5.6 and 5.7, to be delivered to the Purchaser in a timely manner and in such form as to certify compliance with the applicable provisions of this Article V.

[END OF ARTICLE V]

ARTICLE VI COVENANTS OF THE TOWN

Section 6.1. **Care and Use.** The Town shall use, and shall cause the use of, the Mortgaged Property in a careful and proper manner, in compliance with all applicable laws and regulations, and, at its sole cost and expense, shall service, repair and maintain the Mortgaged Property so as to keep the Mortgaged Property in good condition, repair, appearance and working order for the purposes intended, ordinary wear and tear excepted, and shall replace any part of the Mortgaged Property as may from time to time become worn out, unfit for use, lost, stolen, destroyed or damaged. 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 the terms and conditions of this Contract and included in the term “*Mortgaged Property*” as used in this Contract.

Section 6.2. **Inspection.** The Purchaser has the right on reasonable prior notice to the Town to enter into and on the Mortgaged Property to inspect the Mortgaged Property and observe the use of the Mortgaged Property during normal business hours.

Section 6.3. **Utilities.** The Town shall pay all charges for gas, water, steam, electricity, light, heat or power, telephone or other utility services furnished to or used on or in connection with the Mortgaged Property. There shall be no abatement of the Installment Payments on account of interruption of any such services.

Section 6.4. **Title Insurance.** The Town agrees to obtain, at its own cost and expense, a policy of title insurance, or a commitment therefore, from [Chicago Title Insurance Company], in form satisfactory to the Purchaser, at the time of and dated as of the date of execution and delivery of this Contract, in an amount not less than \$[_____], payable to the Purchaser, as its interest may appear, insuring fee title of the Town to the Mortgaged Property.

Section 6.5. **Taxes.** The Town agrees to pay when due any and all taxes relating to the Mortgaged Property and the Town’s obligations under this Contract including, but not limited to, all license or registration fees, gross receipts tax, sales and use tax, if applicable, license fees, documentary stamp taxes, rental taxes, assessments, charges, ad valorem taxes, excise taxes, and all other taxes, licensees and charges imposed on the ownership, possession or use of the Mortgaged Property by any governmental body or agency, together with any interest and penalties.

Section 6.6. **Insurance.** The Town shall maintain, or cause to be maintained, at its own expense, except as hereinafter provided, insurance with respect to its property and business against such casualties and contingencies in amounts not less than is customary in similar activities and similarly

situated. Without limiting the foregoing, the Town shall maintain, or cause to be maintained, except as hereinafter provided, the following insurance:

(a) Insurance against loss and/or damage to the Mortgaged Property under a policy or policies covering such risks as are ordinarily insured against by similar facilities, including without limiting the generality of the foregoing, fire, lightning, windstorm, windblown rain, hail, explosion, riot, riot attending a strike, civil commotion, damage from aircraft, smoke and uniform standard extended coverage and vandalism and malicious mischief endorsements, [and war risk (to the extent obtainable from an agency of the United States Government)]. Such insurance policy shall be in an amount not less than the lesser of (1) the full replacement cost of the Mortgaged Property, or (2) the prepayment price of all outstanding Installment Payments; *provided, however*, that no such insurance policy may have a deductible amount of more than \$100,000. No such insurance policy shall be written such that the proceeds thereof will produce less than the minimum coverage required by the preceding sentence, by reason of co-insurance provisions or otherwise, without the prior written consent thereto by the Purchaser. The term “full insurable value” shall mean the actual replacement cost of the Mortgaged Property (excluding foundation and excavation costs and costs of underground flues, pipes, drains and other uninsurable items), without deduction for physical depreciation, and shall be determined once every three years by an insurance consultant, in any case, selected and paid for by the Town. Each such policy shall contain a replacement cost endorsement.

(b) Comprehensive general liability insurance protecting the Town and the Purchaser as their respective interests may appear, against liability for injuries to persons and/or property, occurring on, in or about the Mortgaged Property, in the minimum amount of \$100,000 liability to any one person for property damage, \$1,000,000 liability for personal injury for any one occurrence and an aggregate annual liability limit of not less than \$2,000,000, with a deductible amount of not more than \$100,000.

(c) Workers’ compensation insurance respecting all employees of the Town working at the Mortgaged Property in such amount as is customarily carried by like organizations engaged in like activities of comparable size and liability exposure; *provided, however*, that the Town may be self-insured with respect to all or any part of its liability for workers’ compensation.

(d) During the course of any construction or repair of improvements on the Mortgaged Property, builder’s risk insurance, covering the total value of work performed and equipment, supplies and materials furnished in connection with such construction or repair of the improvements.

(e) National flood insurance, if applicable, in an amount acceptable to the Purchaser.

Each insurance policy obtained pursuant to this Section shall (1) be issued by a generally recognized and responsible insurance company qualified under the laws of the State to assume the risks covered by such policy, (2) name the Purchaser and the Town as either an insured or a loss payee, as their respective interests may appear, (3) with respect to the policies contained in paragraphs (a) and (d) above, contain standard mortgagee clauses naming the Purchaser as mortgagee, and (4) unless unavailable from the insurer, provide that such policy shall not be cancelled or modified in any way adverse to any insured party without at least 30 days’ prior written notice to each insured party named therein. The Town shall have the right to receive the proceeds from any insurance maintained pursuant to this Section, subject, however, to the limitations of this Article VI.

All such policies shall be deposited with the Purchaser provided that in lieu of such insurance policies there may be deposited with the Purchaser a certificate or certificates of the Town attesting the fact that the insurance required by this Section is in full force and effect. Prior to the expiration of any such policy, the Town shall furnish the Purchaser evidence satisfactory to the Purchaser that such insurance policy has been renewed or replaced or is no longer required by this Contract.

In lieu of separate insurance policies, the Town may maintain blanket or umbrella insurance policies if such policies provide the same coverage required by this Section with protection against each risk not reducible by claims for other risks to amounts less than that specified in this Section and the Town deposits with the Purchaser a certificate or certificates of the respective insurers evidencing such coverage and stating, as required, the amount of coverage with respect to the Mortgaged Property or any part thereof.

In lieu of policies of insurance written by commercial insurance companies meeting the requirements of this Section, the Town 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.

Section 6.7. **Risk of Loss.** The Town shall bear all risk of loss or damage to and condemnation of the Mortgaged Property.

Section 6.8. **Performance by the Purchaser of the Town's Responsibilities.** Any performance required of the Town or any payments required to be made by the Town may, if not timely performed or paid, be performed or paid by the Purchaser, and, in such event, the Purchaser shall be immediately reimbursed by the Town for such payments or other performance by the Purchaser, with interest thereon at a rate equal to the Interest Rate applied to determine the interest component of Installment Payments.

Section 6.9. **Financial Statements.** The Town agrees that it will furnish the Purchaser:

(a) current audited financial statements within 210 days of the end of each Fiscal Year, carrying an unqualified opinion of a certified public accountant and prepared in accordance with generally accepted accounting principles and presented on a consistent basis; and

(b) a copy of the Town's annual budget within 30 days of its adoption.

The Town represents and warrants to the Purchaser that all financial statements which have been delivered to the Purchaser in connection with this Contract fairly and accurately reflect the Town's financial condition and there has been no material adverse change in the Town's financial condition as reflected in the financial statements since the date thereof. The Town will submit to the Purchaser, together with the financial statements submitted under this Section, a certificate from the Finance Director or other responsible official stating that the Town is in compliance with the terms of this Contract and detailing any Events of Default.

[END OF ARTICLE VI]

ARTICLE VII TITLE; LIENS

Section 7.1. **Title.** Title to the Mortgaged Property and any and all additions, repairs, replacements or modifications thereto shall be in the Town from and after the Closing Date. On the Closing

Date, the Deed of Trust will be in full force and effect and no events of default shall have occurred thereunder. On payment or provision for payment in full of all of the Town's obligations hereunder, including the principal components of the Installment Payments then outstanding and all other payments due hereunder, the Purchaser or its assignee, at the Town's expense and request, shall cancel the Deed of Trust and this Contract will terminate.

Section 7.2. ***Liens.*** The Town shall not directly or indirectly create, incur, assume or suffer to exist any mortgage, pledge, lien, charge, security interest, encumbrance or claim on or with respect to the Mortgaged Property or any interest in therein, except for: (1) the lien and security interest of the Purchaser in the Mortgaged Property; (2) utility, access and other easements and rights of way, restrictions and exceptions which do not interfere with or impair the intended use of the Mortgaged Property; (3) any permitted encumbrances as described in Exhibit B to the Deed of Trust; and (4) such minor defects, irregularities, encumbrances and clouds on title as normally exist with respect to property of the general character of the Mortgaged Property and as do not materially impair title thereto or the ability of the Town to construct and operate the Project thereon. The Town shall promptly, at its own expense, take such action as may be necessary duly to discharge any such mortgage, pledge, lien, security interest, charge, encumbrance or claim if the same shall arise at any time. The Town shall reimburse the Purchaser for any expense incurred by the Purchaser in order to discharge or remove any such mortgage, pledge, lien, security interest, charge, encumbrance or claim.

[END OF ARTICLE VII]

ARTICLE VIII DAMAGE, DESTRUCTION, AND CONDEMNATION; USE OF NET PROCEEDS

Section 8.1. ***Damage, Destruction or Condemnation.*** If, during the term of this Contract, (1) the Mortgaged Property or any portion of the Mortgaged Property is destroyed, or is damaged by fire or other casualty; (2) title to or the temporary or permanent use of the Mortgaged Property or any portion thereof or the estate of the Town or the Purchaser or its assignee in the Mortgaged Property or any portion thereof is taken under the power of eminent domain by any governmental authority; (3) a material defect in construction of the Mortgaged Property becomes apparent; or (4) title to or the use of all or any portion of the Mortgaged Property is lost by reason of a defect in title thereto, the Town shall continue to be obligated, subject to the provisions of Section 8.2, to pay the amounts specified in Section 3.1 at the respective times required.

Section 8.2. ***Obligation of the Town to Repair and Replace the Mortgaged Property.*** Subject to the provisions of Section 8.3, the Net Proceeds of any insurance policies, condemnation awards or Net Proceeds made available by reason of any occurrence described in Sections 5.4, 6.5(a) or 8.1, shall be applied to the prompt repair, restoration, modification, improvement or replacement of the damaged or destroyed Mortgaged Property. Any repair, restoration, modification, improvement or replacement paid for in whole or in part out of such Net Proceeds shall be the property of the Town, subject, if located on the Mortgaged Property, to the Deed of Trust, and shall be included as part of the Mortgaged Property under this Contract.

Section 8.3. ***Insufficiency of Net Proceeds; Discharge of the Obligation of the Town To Repair the Mortgaged Property.*** If the Net Proceeds (plus any amount withheld therefrom by reason of any deductible clause) are insufficient to pay in full the cost of any repair, restoration, modification, improvement or replacement of the Mortgaged Property as required under Section 8.2, the Town may elect to proceed under either of the following options:

(a) The Town may complete the work and pay any cost in excess of the amount of the Net Proceeds, and the Town agrees that, if by reason of any such insufficiency of the Net Proceeds, the Town shall make any payments pursuant to this Section, the Town is not entitled to any reimbursement therefor from the Purchaser nor is the Town entitled to any diminution of the amounts payable under Section 3.1; or

(b) The obligation of the Town to repair or replace the Mortgaged Property under Section 8.2 may be discharged by causing the Net Proceeds of such insurance policies, performance bonds or condemnation awards to be applied to the prepayment of all or any part of the then outstanding principal component of the Installment Payments as permitted under Section 3.5 or as otherwise agreed to by the Purchaser. If the Net Proceeds exceed the amount necessary to prepay the then outstanding principal component of the Installment Payments, such excess shall be paid to or retained by the Town.

Within 120 days of the occurrence of an event specified in Section 8.1, the Town shall commence the repair, restoration, modification, improvement or replacement of the Mortgaged Property, or shall elect, by written notice to the Purchaser, to proceed under the provisions of paragraph (b) above. For purposes of this Section, “*commence*” shall include the retention of an architect or engineer in anticipation of repair, restoration, modification, improvement or replacement of the Mortgaged Property. If the Town shall, after commencing the repair, restoration, modification, improvement or replacement of the Mortgaged Property, determine that the Net Proceeds (plus any amount withheld therefrom by reason of any deductible clause) are insufficient for the accomplishment thereof, the Town may elect to proceed under Section 8.3(b).

Section 8.4. ***Cooperation of Purchaser.*** The Purchaser shall cooperate fully with the Town in filing any proof of loss with respect to any insurance policy covering the events described in Section 8.1. In no event shall the Purchaser or the Town 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 other, such written consent not to be unreasonably withheld.

[END OF ARTICLE VIII]

ARTICLE IX REPRESENTATIONS, WARRANTIES AND COVENANTS OF THE TOWN

Section 9.1. ***Representations, Warranties and Covenants of the Town.*** The Town represents, warrants and covenants to and with the Purchaser (all such representations, warranties and covenants to be continuing) that:

(a) The Town is a political subdivision of the State, validly organized and existing under the laws of the State and has all powers necessary to enter into the transactions contemplated by this Contract and the Deed of Trust and to carry out its obligations hereunder;

(b) The Town agrees that during the term of this Contract, it will take no action that would adversely affect its existence as a political subdivision in good standing in the State, cause the Town to be consolidated with or merge into another political subdivision of the State or permit one or more other political subdivisions of the State to consolidate with or merge into it, unless the Town is the surviving entity or the entity created thereby expressly assumes in writing the Town’s obligations hereunder;

(c) This Contract, the Deed of Trust and all other documents relating hereto and thereto, and the performance of the Town's obligations hereunder and thereunder, have been duly and validly authorized, executed and delivered by the Town and approved under all laws, regulations and procedures applicable to the Town including, but not limited to, compliance with public meeting and bidding requirements, and, assuming the due authorization, execution and delivery hereof and thereof by the other parties hereto and thereto, constitute valid, legal and binding obligations of the Town, enforceable in accordance with their respective terms, subject to bankruptcy, insolvency and other laws affecting the enforcement of creditors' rights generally and such principles of equity as a court having proper jurisdiction may impose;

(d) Neither the execution and delivery of this Contract or the Deed of Trust or the consummation of the transactions contemplated hereby or thereby, nor the fulfillment of or compliance with the terms and conditions hereof or thereof conflicts with or results in a breach of the terms, conditions, or provisions of any restriction or any agreement or instrument to which the Town is now a party or by which the Town is bound or constitutes a default under any of the foregoing, nor conflicts with or results in a violation of any provision of applicable law or regulation governing the Town and no representation, covenant and warranty in this Contract is false, misleading or erroneous in any material respect;

(e) 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 Town's knowledge, threatened, against or affecting the Town challenging the validity or enforceability of this Contract, the Deed of Trust or any other documents relating hereto and the performance of the Town's obligations hereunder and thereunder, and compliance with the provisions hereof or thereof, under the circumstances contemplated hereby or thereby, does not and will not in any material respect conflict with, constitute on the part of the Town a breach of or default under, or result in the creation of a lien or other encumbrance on any property of the Town (except as contemplated herein or therein) pursuant to any agreement or other instrument to which the Town is a party, or any existing law, regulation, court order or consent decree to which the Town is subject;

(f) The estimated Costs of the Project are not less than \$[_____] and, other than building permits or other procedural requirements which are a prerequisite to the construction of the Project and the approval of the LGC, which approval has been obtained, no approval or consent is required from any governmental authority with respect to the entering into or performance by the Town of this Contract, the Deed of Trust and all other documents related hereto and thereto and the transactions contemplated hereby and thereby or if such approval is required, such approval has been duly obtained;

(g) The funds in the Project Fund and any investment earnings thereon will be used only for the purposes permitted in Article IV and the Tax Certificate;

(h) There are no liens or encumbrances on the Mortgaged Property other than the lien created by this Contract, the Deed of Trust and the other liens permitted thereby;

(i) The Resolutions relating to the performance by the Town of this Contract, the Deed of Trust and the transactions contemplated hereby and thereby, have been duly adopted, are in full force and effect, and have not been in any respect modified, revoked or rescinded;

(j) The Project is essential to the proper, efficient and economical operation of the Town and the delivery of services and permits the Town to carry out its public functions that it is authorized and required by law to perform;

(k) The Town reasonably believes sufficient funds will be available to satisfy all of its obligations hereunder;

(l) The Town shall (1) cause its Mayor to include the Installment Payments coming due in any Fiscal Year in the corresponding annual budget request and shall require the Mayor to use his or her best efforts to obtain an appropriation therefor and (2) require that the deletion of such funds from the Town's final budget be made only pursuant to an express resolution of the Town Council which explains the reason for such action. This covenant on the part of the Town contained in this Section 9.1(l) shall be deemed to be and shall be construed to impose by law ministerial duties and it shall be the duty of each and every public official of the Town to take such action and do such things as are required by law in the performance of the official duty of such officials to enable the Town to carry out and perform the covenant in this subparagraph and the agreements in this Contract to be carried out and performed by the Town; *provided, however*, that nothing contained in this Section 9.1(l) shall obligate the Town to so appropriate the funds included in such proposed budget;

(m) Funds appropriated by the Town to make Installment Payments due in any Fiscal Year shall be used for no other purpose;

(n) The Town agrees that during the term of this Contract, it will maintain the appropriate insurance required pursuant to this Contract and the Deed of Trust; and

(o) The Town has or will have good and marketable title to the Mortgaged Property.

[END OF ARTICLE IX]

ARTICLE X TAX COVENANTS AND REPRESENTATIONS

Section 10.1. *Tax Covenants and Representations.*

(a) The Town covenants that it will not take any action, or fail to take any action, if any such action or failure to take such action would adversely affect the exclusion from gross income of the interest portion of the obligations created by this Contract for federal income tax purposes. The Town will not directly or indirectly use or permit the use of any proceeds of any fund created under this Contract or any funds of the Town, or take or omit to take any action that would cause the obligations created by this Contract to be an "*arbitrage bond*" within the meaning of Section 148(a) of the Code. The Town will maintain books on which will be recorded (1) the Purchaser, or (2) any assignee of the Installment Payments due under this Contract, as the registered owner of such Installment Payments. To that end, the Town has executed and delivered the Tax Certificate and will comply with all of the requirements of Section 148 of the Code to the extent applicable. The Town further covenants that this Contract is not a "*private activity bond*" as defined in Section 141 of the Code.

(b) Without limiting the generality of the foregoing, the Town agrees that there shall be paid from time to time all amounts required to be rebated to the United States of America pursuant to Section 148(f) of the Code and any temporary, proposed or final Treasury Regulations as may be applicable to the obligation created under this Contract from time to time. This covenant shall survive the termination of this Contract pursuant to Section 7.1.

(c) The Town acknowledges that the Purchaser is advancing the Advance at the Interest Rate based on the premise that the interest components of the Installment Payments received under this Contract is exempt from federal and State taxation and based on other State and federal laws in effect as of the Closing Date. If, as a result of any action or failure to take any action by the Town, the interest received by the Purchaser hereunder shall be deemed to be taxable income to the Purchaser by any governmental agency or court of competent jurisdiction, then, at the sole option of the Purchaser, the Interest Rate and remaining interest components of the Installment Payments will be adjusted upward in order to provide for the payment of interest by the Town at a taxable rate which will preserve the Purchaser's after-tax economic yield with respect to the obligations created by this Contract. In such event, the Town agrees to indemnify and hold harmless the Purchaser from any cost and expense incurred as a result of the loss of the tax-exempt status of the obligation created by this Contract, specifically including without limitation all administrative expenses arising in connection with the amendment of the Purchaser's income tax returns.

(d) Notwithstanding any provision in this Contract to the contrary, if the Town shall provide to the Purchaser an opinion of nationally recognized bond counsel reasonably acceptable to the Purchaser to the effect that any action required under this Article X is no longer required, or to the effect that some further action is required, to maintain tax-exempt status, the Town and the Purchaser may rely conclusively on such opinion in complying with the provisions of this Article X.

(e) The Town hereby agrees to revise the Interest Rate in the event of a breach of any of the representations set forth in this Article X.

[END OF ARTICLE X]

ARTICLE XI INDEMNIFICATION

Section 11.1 ***Indemnification.*** To the fullest extent permitted by applicable law, the Town hereby agrees to indemnify, protect and save the LGC, the Purchaser and their respective officers, employees, directors, members and agents harmless from all liabilities, obligations, losses, claims, damages, actions, suits, proceedings, costs and expenses, including reasonable attorneys' fees that (1) arise in tort, in contract, under 42 U.S. Code §1983 or under the public bidding laws of the State or (2) arise out of, are connected with, or result, directly or indirectly, from the Project or any portion thereof, including, without limitation, the manufacture, selection, acquisition, delivery, possession, condition, construction, improvement, environmental or other condition, lease, use operation or return of the Project or any portion thereof. The indemnification arising under this Article XI shall continue in full force and effect notwithstanding the payment in full of all of the obligations under this Contract.

[END OF ARTICLE XI]

ARTICLE XII DISCLAIMER OF WARRANTIES

Section 12.1. ***No Representations by the Purchaser.*** The Town acknowledges and agrees that the designs for the Project have not been made by the Purchaser, and the Purchaser has not supplied any plans or specifications with respect thereto and that the Purchaser (a) is not a manufacturer of, nor a dealer in, any of the component parts of the Project or similar projects; (b) has not made any recommendation, given any advice nor taken any other action with respect to (i) the choice of any supplier, vendor or designer of, or any other contractor with respect to, the Project or any component part thereof or any property or rights relating thereto, or (ii) any action taken or to be taken with respect to the Project or any component part thereof or any property or rights relating thereto at any stage of the construction thereof; (c) has not at any time had physical possession of the Project or any component part thereof or made any inspection thereof or any property or rights relating thereto; and (d) has not made any warranty or other representation, express or implied, that the Project or any component part thereof or any property or rights relating thereto (i) will not result in or cause injury or damage to persons or property, (ii) has been or will be properly designed, or will accomplish the result which the Town intends therefor, or (iii) is safe in any manner or respect.

Section 12.2. ***Disclaimer by the Purchaser.*** THE PURCHASER MAKES NO EXPRESS OR IMPLIED WARRANTY OR REPRESENTATION OF ANY KIND WHATSOEVER WITH RESPECT TO THE PROJECT OF ANY COMPONENT PART THEREOF TO THE TOWN OR IN REGARD TO ANY OTHER CIRCUMSTANCE WHATSOEVER WITH RESPECT THERETO, INCLUDING BUT NOT LIMITED TO ANY WARRANTY OR REPRESENTATIONS WITH RESPECT TO: THE MERCHANTABILITY OR THE FITNESS OR SUITABILITY THEREOF FOR ANY PURPOSE; THE DESIGN OR CONDITION THEREOF; THE SAFETY, WORKMANSHIP OR QUALITY THEREOF; COMPLIANCE THEREOF WITH THE REQUIREMENTS OF ANY LAW, RULE, SPECIFICATION OR CONTRACT PERTAINING THERETO; ANY LATENT DEFECT; THE TITLE TO OR INTEREST OF THE PURCHASER THEREIN; THE ABILITY THEREOF TO PERFORM ANY FUNCTION; THAT THE ADVANCE WILL BE SUFFICIENT (TOGETHER WITH ANY OTHER AVAILABLE FUNDS OF THE TOWN) TO PAY THE COST OF IMPLEMENTING THE PROJECT; OR ANY OTHER CHARACTERISTICS OF THE PROJECT, IT BEING AGREED THAT ALL RISKS RELATING TO THE PROJECT, THE COMPLETION THEREOF OR THE TRANSACTIONS CONTEMPLATED HEREBY ARE TO BE BORNE BY THE TOWN AND THE BENEFITS OF ANY AND ALL IMPLIED WARRANTIES AND REPRESENTATIONS OF THE PURCHASER ARE HEREBY WAIVED BY THE TOWN.

[END OF ARTICLE XII]

ARTICLE XIII DEFAULT AND REMEDIES

Section 13.1. ***Definition of Event of Default.*** The Town shall be deemed to be in default hereunder on the happening of any of the following events of default (each, an “*Event of Default*”):

- (a) The Town fails to pay any Installment Payment or Additional Payment when due;
- (b) The Town fails to budget and appropriate money sufficient to pay all Installment Payments and the reasonably estimated Additional Payments coming due in the following Fiscal Year of the Town;
- (c) The Town deletes from its duly adopted budget any appropriation for the purposes specified in clause (b) above;

(d) The Town fails to perform or observe any term, condition or covenant of this Contract on its part to be observed or performed, other than as referred to in clauses (a), (b) or (c) above, or of the Deed of Trust on its part to be observed or performed, or breaches any warranty by the Town herein or therein contained, for a period of 30 days, unless the Purchaser shall agree in writing to an extension of such time prior to its expiration;

(e) Any bankruptcy, insolvency or reorganization proceedings or similar litigation, is instituted by the Town, or a receiver, custodian or similar officer is appointed for the Town or any of its property, and such proceedings or appointments are not vacated or fully stayed within 90 days after the institution or occurrence thereof;

(f) Any representation, warranty or statement made by the Town herein, in the Deed of Trust or in any other document executed or delivered in connection herewith or therewith is found to be incorrect or misleading in any material respect on the date made; or

(g) An attachment, levy or execution is levied on or against any portion of the Mortgaged Property.

Section 13.2. **Remedies on Default.** On the occurrence of any Event of Default, the Purchaser may exercise any one or more of the following remedies as the Purchaser, in its sole discretion, shall elect:

(a) Declare the unpaid portion of the then outstanding principal components of the Installment Payments immediately due and payable, without notice or demand to the Town;

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

(c) Exercise or direct the Deed of Trust Trustee to exercise all the rights and remedies of a secured party or creditor under the Uniform Commercial Code of the State and the general laws of the State 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, re-enter and take possession of the Mortgaged Property without any court order or other process of law and without liability for entering the premises and to sell, lease, sublease or make other disposition of the same in a commercially reasonable manner for the account of the Town, 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, toward the balance due under this Contract and, thereafter, to pay any remaining proceeds to the Town;

(d) Enforce its security interest in the Mortgaged Property or direct the Deed of Trust Trustee to institute foreclosure proceedings under the Deed of Trust and sell the Mortgaged Property;

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

NOTWITHSTANDING ANY OTHER PROVISIONS HEREIN, IT IS THE INTENT OF THE PARTIES HERETO TO COMPLY WITH SECTION 160A-20 OF THE GENERAL STATUTES OF NORTH CAROLINA, AS AMENDED. NO DEFICIENCY JUDGMENT MAY BE ENTERED AGAINST THE TOWN IN FAVOR OF THE PURCHASER IN VIOLATION

OF SECTION 160A-20 OF THE GENERAL STATUTES OF NORTH CAROLINA, AS AMENDED, INCLUDING, WITHOUT LIMITATION, ANY DEFICIENCY JUDGMENT FOR AMOUNTS THAT MAY BE OWED HEREUNDER WHEN THE SALE OF ALL OR ANY PORTION OF THE MORTGAGED PROPERTY IS INSUFFICIENT TO PRODUCE ENOUGH MONEY TO PAY IN FULL ALL REMAINING OBLIGATIONS UNDER THIS CONTRACT.

Section 13.3. **Further Remedies.** This Contract shall remain in full force and effect and the Town shall be and remain liable for the full performance of all its obligations under this Contract. All remedies of the Purchaser 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.

Section 13.4. **No Setoff Rights in Deposit Accounts.** Notwithstanding anything in this Contract to the contrary, the Purchaser shall have no right of setoff with respect to any amounts held to the credit of the Project Fund or any other Town deposit account maintained with the Purchaser.

[END OF ARTICLE XIII]

ARTICLE XIV ASSIGNMENT

Section 14.1. **Assignment.** Except pursuant to this Contract and the Deed of Trust, as applicable, the Town will not sell, assign, lease, sublease, pledge or otherwise encumber or suffer a lien or encumbrance on or against any interest in this Contract or the Mortgaged Property (except for the Lease and any other permitted encumbrances under Section 7.2) without the prior written consent of the Purchaser. The Town's interest in this Contract may not be assigned or transferred by operation of law.

The Purchaser may, at any time and from time to time, assign all or any part of its interest in the Mortgaged Property, the Project or this Contract, including, without limitation, the Purchaser's rights to receive Installment Payments payable to the Purchaser hereunder. Any assignment made by the Purchaser or any subsequent assignee shall not purport to convey any greater interest or rights than those held by the Purchaser pursuant to this Contract.

The Town agrees that this Contract may become part of a pool of obligations at the Purchaser's or its assignee's option. The Purchaser 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 without the consent of the LGC, although the Purchaser or any assignee shall give written notice to the LGC of any such assignment. Any assignment by the Purchaser may be only to a bank, insurance company, or similar financial institution or any other entity approved by the LGC. Notwithstanding the foregoing, no assignment or reassignment of the Purchaser's interest in the Deed of Trust or this Contract shall be effective unless and until the Town shall receive a duplicate original counterpart of the document by which such assignment or reassignment is made disclosing the name and address of each such assignee.

The Town further agrees that the Purchaser's interest in this Contract may be assigned in whole or in part on 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 Town receives a copy of such agency contract 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.

The Town agrees to execute any document reasonably required in connection with any assignment. Any assignor must provide notice of any assignment to the Town and the LGC, and the Town shall keep a complete and accurate record of all assignments of which it is provided notice as required by the Code. After the giving of any such notice, the Town 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.

[END OF ARTICLE XIV]

ARTICLE XV LIMITED OBLIGATION OF THE TOWN

Section 15.1. *Limited Obligation of the Town.* NO PROVISION OF THIS CONTRACT SHALL BE CONSTRUED OR INTERPRETED AS CREATING A PLEDGE OF THE FAITH AND CREDIT OF THE TOWN WITHIN THE MEANING OF ANY STATE 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 TOWN WITHIN THE MEANING OF THE CONSTITUTION OF THE STATE. THIS CONTRACT SHALL NOT DIRECTLY OR INDIRECTLY OR CONTINGENTLY OBLIGATE THE TOWN TO MAKE ANY PAYMENTS BEYOND ANY PAYMENTS APPROPRIATED IN THE SOLE DISCRETION OF THE TOWN FOR ANY FISCAL YEAR IN WHICH THIS CONTRACT IS IN EFFECT; *PROVIDED, HOWEVER*, THAT ANY FAILURE OR REFUSAL BY THE TOWN TO APPROPRIATE FUNDS WHICH RESULTS IN ITS FAILURE TO MAKE ANY PAYMENT COMING DUE HEREUNDER WILL IN NO WAY OBTAIN THE OCCURRENCE OF THE EVENT OF DEFAULT RESULTING FROM SUCH NONPAYMENT. NO DEFICIENCY JUDGMENT MAY BE RENDERED AGAINST THE TOWN IN ANY ACTION FOR BREACH OF A CONTRACTUAL OBLIGATION HEREUNDER, AND THE TAXING POWER OF THE TOWN IS NOT AND MAY NOT BE PLEDGED DIRECTLY OR INDIRECTLY OR CONTINGENTLY TO SECURE ANY AMOUNTS DUE HEREUNDER. NO PROVISION OF THIS CONTRACT SHALL BE CONSTRUED TO PLEDGE OR TO CREATE A LIEN ON ANY CLASS OR SOURCE OF THE TOWN'S FUNDS, NOR SHALL ANY PROVISION OF THIS CONTRACT RESTRICT THE FUTURE ISSUANCE OF ANY OF THE TOWN'S BONDS OR OBLIGATIONS PAYABLE FROM ANY CLASS OR SOURCE OF THE TOWN'S FUNDS. TO THE EXTENT OF ANY CONFLICT BETWEEN THIS ARTICLE XV AND ANY OTHER PROVISION OF THIS CONTRACT, THIS ARTICLE XV SHALL TAKE PRIORITY.

[END OF ARTICLE XV]

ARTICLE XVI MISCELLANEOUS

Section 16.1. *Notices.* Any and all notices, requests, demands, and other communications given under or in connection with this Contract are only effective if made in writing and (i) delivered personally, (ii) delivered by Federal Express or other similar reputable overnight delivery service or (iii) mailed by certified or registered mail, postage prepaid, or return receipt requested, and addressed as follows:

IF TO THE TOWN: Town of Pineville, North Carolina
 200 Dover Street
 Pineville, North Carolina 28134
 Attention: Mayor

IF TO THE PURCHASER: STI Institutional & Government, Inc.
Mail Code NC Charlotte 0300
4777 Sharon Road, 4th Floor
Charlotte, NC 28210
Attention: Robert Garofalo, Senior Vice President

The Town and the Purchaser may, by written notice to each other, designate any further or different addresses to which subsequent notices, certificates or other communications shall be sent.

Section 16.2. **Time.** Time is of the essence of this Contract and each and all of its provisions.

Section 16.3. **If Payment or Performance Date not a Business Day.** If the date for making any payment, or the last date for performance of any act or the exercising of any right, as provided in this Contract, is not a Business Day, such payment may be made or act performed or right exercised on the next succeeding Business Day, with the same force and effect as if done on the nominal date provided in this Contract, and no interest shall accrue for the period after such nominal date.

Section 16.4. **Waiver.** No covenant or condition of this Contract can be waived except by the written consent of the Purchaser. Any failure of the Purchaser to require strict performance by the Town or any waiver by the Purchaser of any terms, covenants or contracts in this Contract shall not be construed as a waiver of any other breach of the same or any other term, covenant or contract in this Contract.

Section 16.5. **Section Headings.** All section headings contained in this Contract are for convenience of reference only and are not intended to define or limit the scope of any provision of this Contract.

Section 16.6. **Entire Contract.** This Contract, together with any schedules and exhibits attached to this Contract and Deed of Trust, constitutes the entire agreement between the parties, and this Contract shall not be modified, amended, altered or changed except as the Town and the Purchaser may subsequently agree in writing.

Section 16.7. **Binding Effect.** Subject to the specific provisions of this Contract, this Contract is binding on and inures to the benefit of the parties and their respective successors and assigns (including expressly any successor of the Purchaser).

Section 16.8. **Covenants of Town not Covenants of Officials Individually.** No covenant, stipulation, obligation or agreement contained herein shall be deemed to be a covenant, stipulation, obligation or agreement of any present or future member, agent or employee of the Town in such person's individual capacity, and neither the members of the Town Council nor any other officer of the Town Council or the Town shall be subject to any personal liability or accountability by reason of the execution and delivery of this Contract. No member of the Town Council or any agent or employee of the Town shall incur any personal liability in acting or proceeding or if not acting or not proceeding, in good faith, reasonably and in accordance with the terms of this Contract.

Section 16.9. **Severability.** If any portion of this Contract is 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.

Section 16.10. **Governing Law.** This Contract shall be construed, interpreted and enforced in accordance with, the laws of the State.

Section 16.11. ***Execution in Counterparts.*** This Contract may be executed in any number of counterparts, each of which is an original and all of which constitute but one and the same instrument.

Section 16.12. ***E-Verify.*** The Purchaser 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 in accordance with Section 64-25(5) of the General Statutes of North Carolina, as amended. The Purchaser uses E-Verify to verify the work authorization of its employees in accordance with Section 64-26(a) of the General Statutes of North Carolina, as amended. The Purchaser will not use any subcontractors in connection with this Contract.

Section 16.13. ***Iran Divestment Act Certification.*** As of the date hereof, the Purchaser is not listed on any list created and maintained by the North Carolina Department of State Treasurer pursuant to the Iran Divestment Act of 2015, Article 6E, as amended, of Chapter 147 of the General Statutes of North Carolina.

Section 16.14. ***Companies that Boycott Israel Act Certification.*** As of the date hereof, the Purchaser is not listed on any list created and maintained by the North Carolina Department of State Treasurer pursuant to the Divestment from Companies that Boycott Israel Act, Article 6G, as amended, of Chapter 147 of the General Statutes of North Carolina.

Section 16.15. ***No Advisory Services.*** The Town acknowledges and agrees that: (i) the transaction contemplated by this Contract is an arm’s length, commercial transaction between the Town and the Purchaser in which the Purchaser is acting solely as a principal and is not acting as a municipal advisor, financial advisor or fiduciary to the Town; (ii) the Purchaser and the Bank have not assumed any advisory or fiduciary responsibility to the Town with respect to the transaction contemplated hereby and the discussions, undertakings and procedures leading thereto (irrespective of whether the Purchaser has provided other services or is currently providing other services to the Town on other matters); (iii) the only obligations Purchaser has to the Town with respect to the transaction contemplated hereby expressly are set forth in this Contract; and (iv) the Town has consulted its own legal, accounting, tax, financial and other advisors, as applicable, to the extent it has deemed appropriate.

Section 16.16. ***Patriot Act Notice.*** Purchaser is subject to the requirements of the USA Patriot Act (Title III of Pub. L. 107-56) (signed into law October 26, 2001) (the “Act”) and hereby notifies the Town that pursuant to the requirements of the Act, it is required to obtain, verify and record information that identifies the Town, which information includes the name and address of the Town and other information that will allow Purchaser to identify the Town in accordance with the Act.

[SIGNATURES BEGIN ON THE FOLLOWING PAGE]

IN WITNESS WHEREOF, the Town and the Purchaser have caused this Installment Financing Contract to be executed by their duly authorized officers as of the day and year first above written.

TOWN OF PINEVILLE, NORTH CAROLINA

[SEAL]

By: _____
[John Edwards]
[Mayor]

ATTEST:

Barbara Monticello
Town Clerk

[COUNTERPART SIGNATURE PAGE TO THE INSTALLMENT FINANCING CONTRACT,
DATED AS OF JANUARY 1, 2021, BETWEEN STI INSTITUTIONAL & GOVERNMENT, INC.
AND THE TOWN OF PINEVILLE, NORTH CAROLINA]

STI INSTITUTIONAL & GOVERNMENT, INC.,
as Purchaser

By: _____
Name:
Title:

[SIGNATURES CONTINUED ON THE FOLLOWING PAGE]

[COUNTERPART SIGNATURE PAGE TO THE INSTALLMENT FINANCING CONTRACT,
DATED AS OF JANUARY 1, 2021, BETWEEN STI INSTITUTIONAL & GOVERNMENT, INC.
AND THE TOWN OF PINEVILLE, NORTH CAROLINA]

This Contract has been approved under the provisions of Section 159-152 of the General Statutes of North Carolina, as amended.

By: _____
[Sharon Edmundson]
Secretary
Local Government Commission of North Carolina

PAYMENT SCHEDULE

<u>PAYMENT DATE</u>	<u>INSTALLMENT PAYMENT – PRINCIPAL COMPONENT</u>	<u>INSTALLMENT PAYMENT – INTEREST COMPONENT*</u>	<u>TOTAL INSTALLMENT PAYMENT</u>
07/01/2021	--		
01/01/2022	--		
07/01/2022	--		
01/01/2023			
07/01/2023			
01/01/2024			
07/01/2024			
01/01/2025			
07/01/2025			
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01/01/2033			
07/01/2033			
01/01/2034			
07/01/2034			
01/01/2035			
07/01/2035			
01/01/2036			
TOTAL	_____	_____	_____

*Interest rate of 1.73% calculated on an actual/360-day basis

EXHIBIT A
FORM OF REQUISITION
PROJECT FUND

Truist Bank
Mail Code NC Charlotte 0300
4777 Sharon Road, 4th Floor
Charlotte, NC 28210
Attention: Robert Garofalo, Senior Vice President
Facsimile No: 704 551 0619

Re: Direction to Make Disbursements from the Project Fund

Ladies and Gentlemen:

Pursuant to Section 4.3 of the Installment Financing Contract, dated as of January 1, 2021, (the "*Contract*") between STI Institutional & Government, Inc. (the "*Purchaser*") and the Town of Pineville, North Carolina (the "*Town*"), you are hereby directed to disburse from the Project Fund referred to in the Contract (the "*Project Fund*") the amount indicated below.

The undersigned hereby certifies:

1. This is requisition number _____ from the Project Fund.
2. The name and address of the person, firm or bank to whom the disbursement is due is as follows:

3. The amount to be disbursed is \$_____.
4. The purpose of the disbursement is to _____.
5. The disbursement herein requested is for an obligation properly incurred, is a proper charge against the Project Fund as a Cost of the Project and such obligation has not been the basis of any previous disbursement.
6. A copy of any AIA Document G-702 Application and Certificate for Payment, if applicable to the Costs of the Project which are the subject of this requisition, is also attached hereto.

Dated this _____ day of _____, _____.

TOWN OF PINEVILLE, NORTH CAROLINA

By: _____
Town Representative