

# CABARRUS COUNTY



## BOARD OF COMMISSIONERS WORK SESSION

**April 4, 2022  
4:00 PM**

- 
- 1. CALL TO ORDER - CHAIRMAN**
  - 2. APPROVAL OF WORK SESSION AGENDA - CHAIRMAN**
    - 2.1. BOC - Changes to the Agenda Pg. 3
  - 3. DISCUSSION ITEMS - NO ACTION**
    - 3.1. Infrastructure and Asset Management - Emergency Medical Services Headquarters Project Update Pg. 5
    - 3.2. Innovation and Technology - Innovation Report Pg. 8
  - 4. DISCUSSION ITEMS FOR ACTION**
    - 4.1. Active Living and Parks - Senior Center Grants Pg. 10
    - 4.2. BOC - Appointments to Boards and Committees Pg. 13
    - 4.3. BOC - Resolution Dissolving Advisory Board Pg. 15
    - 4.4. DHS - Transportation Drug and Alcohol Policy Pg. 18
    - 4.5. DHS - Transportation Federal Transit Administration Resolution Pg. 50
    - 4.6. DHS - Transportation System Safety Plan Pg. 53
    - 4.7. Finance - American Rescue Plan Act Funds for Broadband and Nonprofits Pg. 207
    - 4.8. Finance - American Rescue Plan Act Funds for Cooperative Christian Ministry Pg. 210
    - 4.9. Finance - Appropriate Insurance Refund for Ambulance Repair Pg. 212
    - 4.10. Finance - Debt Refunding of Limited Obligations Bonds - 2022A Pg. 215
    - 4.11. Finance - Fire District Property Tax Budget Amendment Pg. 322
    - 4.12. Finance - Resolution Approving Installment Financing Contract 2022B Draw-Down LOBS for Various School and County Projects Up to \$160,000,000 Pg. 325
    - 4.13. Finance - Roberta Road Middle School Road Improvements Pg. 446
    - 4.14. Fire Marshal's Office - Ordinance Approval Pg. 452
    - 4.15. Infrastructure and Asset Management - Courthouse Expansion Public Art Award Pg. 456
    - 4.16. Infrastructure and Asset Management - Mt. Pleasant Library-Senior Center-Park Complex Update Pg. 493
    - 4.17. Planning and Development - Community Development Division- Housing and Home Improvement Budget Amendment Pg. 496

4.18. Proclamation - Week of the Young Child Pg. 499

**5. APPROVAL OF REGULAR MEETING AGENDA**

5.1. BOC - Approval of Regular Meeting Agenda Pg. 501

**6. CLOSED SESSION**

6.1. Closed Session - Pending Litigation and Economic Development Pg. 505

**7. ADJOURN**

*In accordance with ADA regulations, anyone in need of an accommodation to participate in the meeting should notify the ADA coordinator at 704-920-2100 at least 48 hours prior to the meeting.*

# CABARRUS COUNTY



## BOARD OF COMMISSIONERS WORK SESSION

**April 4, 2022  
4:00 PM**

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**AGENDA CATEGORY:**

Approval of Work Session Agenda - Chairman

**SUBJECT:**

BOC - Changes to the Agenda

**BRIEF SUMMARY:**

A list of changes to the agenda is attached.

**REQUESTED ACTION:**

Motion to approve the agenda as amended.

**EXPECTED LENGTH OF PRESENTATION:**

1 Minute

**SUBMITTED BY:**

Lauren Linker, Clerk to the Board

**BUDGET AMENDMENT REQUIRED:**

No

**COUNTY MANAGER'S RECOMMENDATIONS/COMMENTS:**

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**ATTACHMENTS:**

- Changes to the Agenda



**CABARRUS COUNTY BOARD OF COMMISSIONERS  
CHANGES TO THE AGENDA  
APRIL 4, 2022**

**ADDITIONS:**

**Discussion Items for Action**

**4.18 Proclamation - Week of the Young Child**

**Closed Session**

**6.1 Closed Session - Pending Litigation and Economic Development**

**MOVED TO DISCUSSION ITEMS FOR ACTION:**

**4.16 Infrastructure and Asset Management - Mt. Pleasant Library-Senior Center-Park Complex Update**

**UPDATED:**

**4.15 Infrastructure and Asset Management - Courthouse Expansion Public Art Award**

# CABARRUS COUNTY



## BOARD OF COMMISSIONERS WORK SESSION

**April 4, 2022  
4:00 PM**

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**AGENDA CATEGORY:**

Discussion Items - No Action

**SUBJECT:**

Infrastructure and Asset Management - Emergency Medical Services Headquarters Project Update

**BRIEF SUMMARY:**

Staff will provide an update on the Emergency Medical Services Headquarters project.

**REQUESTED ACTION:**

No action required.

**EXPECTED LENGTH OF PRESENTATION:**

5 Minutes

**SUBMITTED BY:**

Kyle Bilafer, Area Manager of Operations

**BUDGET AMENDMENT REQUIRED:**

No

**COUNTY MANAGER'S RECOMMENDATIONS/COMMENTS:**

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**ATTACHMENTS:**

- ▢ Aerial #1
- ▢ Aerial #2





# CABARRUS COUNTY



## BOARD OF COMMISSIONERS WORK SESSION

**April 4, 2022  
4:00 PM**

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**AGENDA CATEGORY:**

Discussion Items - No Action

**SUBJECT:**

Innovation and Technology - Innovation Report

**BRIEF SUMMARY:**

Presentation of innovation and technology services put into place by IT in collaboration with other departments and community stakeholders in alignment with the County's five strategic priorities.

1. Transparent and Accountable Government
2. Healthy and safe Community
3. A Thriving Economy
4. Culture and Recreation
5. Sustainable Growth and Development

**REQUESTED ACTION:**

Receive report.

**EXPECTED LENGTH OF PRESENTATION:**

15 Minutes

**SUBMITTED BY:**

Todd Shanley, Chief Information Officer

**BUDGET AMENDMENT REQUIRED:**

No

**COUNTY MANAGER'S RECOMMENDATIONS/COMMENTS:**

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# CABARRUS COUNTY



## BOARD OF COMMISSIONERS WORK SESSION

**April 4, 2022  
4:00 PM**

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**AGENDA CATEGORY:**

Discussion Items for Action

**SUBJECT:**

Active Living and Parks - Senior Center Grants

**BRIEF SUMMARY:**

Staff will present information regarding the Senior Center General Purpose and Health Promotion and Disease Prevention grant fund updates (state approved budget) and associated budget amendments. The match for both grants is budgeted in the senior center salary accounts 9101 and 9103.

**REQUESTED ACTION:**

Motion to adopt the budget amendment.

**EXPECTED LENGTH OF PRESENTATION:**

1 Minute

**SUBMITTED BY:**

Byron Haigler, Active Living and Parks Assistant Director

**BUDGET AMENDMENT REQUIRED:**

Yes

**COUNTY MANAGER'S RECOMMENDATIONS/COMMENTS:**

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**ATTACHMENTS:**

▣ Budget Amendment

### Budget Revision/Amendment Request

Date: 4/19/2022

Amount: 2,618.00

Dept. Head: Londa Strong

Department: Active Living & Parks

Internal Transfer Within Department     
  Transfer Between Departments/Funds     
  Supplemental Request

Grant fund account updates (state approved budget) and associated budget amendments. The match for both grants are budgeted in salary accounts 00198145-9101 and 00198145-9103.

Fund	Indicator	Department/ Object/ Project	Account Name	Approved Budget	Increase Amount	Decrease Amount	Revised Budget
001	6	8145-6364-SCGP	Senior Center General Purpose - Rev	7,010.00	118.00		7,128.00
001	9	8145-9417-SCGP	Senior Center General Purpose - Exp.	7,010.00	118.00		7,128.00
001	6	8145-6828-HPDP	Health Promotion Disease Prevention Rev.	4,680.00	2,500.00		7,180.00
001	9	8145-9356-WELL	Health Promotion Disease Prevention Exp.	4,500.00	2,500.00		7,000.00
				23,200.00	5,236.00	-	28,436.00

**Budget Officer**

Approved  
 Denied

**County Manager**

Approved  
 Denied

**Board of Commissioners**

Approved  
 Denied

\_\_\_\_\_  
*Signature*

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*Signature*

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*Signature*

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*Date*

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*Date*

# CABARRUS COUNTY



## BOARD OF COMMISSIONERS WORK SESSION

**April 4, 2022  
4:00 PM**

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### **AGENDA CATEGORY:**

Discussion Items for Action

### **SUBJECT:**

BOC - Appointments to Boards and Committees

### **BRIEF SUMMARY:**

The following appointment to Boards and Committees are recommended for April:

Appointments (Removals) - Industrial Facilities and Pollution Control Financing Authority  
Sherrill Laney's term on the Industrial Facilities and Pollution Control Financing Authority ended in January. He is not interested in serving another term. Mr. Laney has served on this board since 1996.

There are no current applications on file. The Authority meets on an as-needed basis and the County Attorney serves as the contact for this Authority.

Appointments - Nursing Home Community Advisory Committee

Karen Thompson's term on the Nursing Home Community Advisory Committee ends April 30th. Mr. Thompson would like to serve another term. She has served on this board since 2009. An exception to the length of service provision of the Appointment Policy will be needed for her.

Representative recommendation is Karen Thompson

### **REQUESTED ACTION:**

Provide information.

### **EXPECTED LENGTH OF PRESENTATION:**

1 Minute

**SUBMITTED BY:**

Lauren Linker, Clerk to the Board

**BUDGET AMENDMENT REQUIRED:**

No

**COUNTY MANAGER'S RECOMMENDATIONS/COMMENTS:**

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# CABARRUS COUNTY



## BOARD OF COMMISSIONERS WORK SESSION

**April 4, 2022  
4:00 PM**

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### **AGENDA CATEGORY:**

Discussion Items for Action

### **SUBJECT:**

BOC - Resolution Dissolving Advisory Board

### **BRIEF SUMMARY:**

The Animal Protection Advisory Board was created via resolution by the Cabarrus County Board of Commissioners in 2015 to review the Animal Shelter's policies and procedures when the Humane Society of Concord and Greater Cabarrus County operated the facility. Since then, the Animal Shelter has shifted under the oversight of the Sheriff. The board served strictly as an advisory board. They do not hold a supervisory role to the Animal Shelter or the Sheriff's Office. The current members were contacted, there was little response and no commitment of leadership. Animal Shelter and Sheriff's Office staff feel under the current organizational structure they are able to achieve the necessary goals without an advisory board.

### **REQUESTED ACTION:**

Motion to adopt the resolution.

### **EXPECTED LENGTH OF PRESENTATION:**

1 Minute

### **SUBMITTED BY:**

Mike Downs, County Manager

### **BUDGET AMENDMENT REQUIRED:**

No

### **COUNTY MANAGER'S RECOMMENDATIONS/COMMENTS:**

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**ATTACHMENTS:**

- Resolution



**A RESOLUTION DISSOLVING THE  
CABARRUS COUNTY ANIMAL PROTECTION ADVISORY BOARD**

**WHEREAS**, the Board of Commissioners established the Animal Protection Advisory Board in Resolution 2015-19 to review the Animal Shelter’s policies and procedures when the Humane Society of Concord and Greater Cabarrus County operated the facility; and

**WHEREAS**, the Board served as a resource for mitigating challenges and a sounding board for new ideas in a non-supervisory nature when the Human Society operated the shelter; and

**WHEREAS**, the Human Society no longer operates the Animal Shelter, which is now under the control and oversight of the Sheriff; and

**WHEREAS**, the Animal Protection Advisory Board met monthly and has not been active since their last meeting in September of 2019; and

**WHEREAS**, the Board of Commissioners may create, change, abolish, and consolidate offices, positions, departments, boards, commissions, and agencies of the county government pursuant to N.C.G.S. § 153A-76, which includes the Animal Protection Advisory Board.

**NOW, THEREFORE BE IT RESOLVED** that the Cabarrus County Board of Commissioners hereby dissolves the Cabarrus County Animal Protection Advisory Board, effective as of April 19, 2022.

**ADOPTED** this 19<sup>th</sup> day of April, 2022.

\_\_\_\_\_  
Stephen M. Morris, Chairman  
Cabarrus County Board of Commissioners

Attest:

\_\_\_\_\_  
Clerk to the Board

# CABARRUS COUNTY



## BOARD OF COMMISSIONERS WORK SESSION

**April 4, 2022  
4:00 PM**

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### **AGENDA CATEGORY:**

Discussion Items for Action

### **SUBJECT:**

DHS - Transportation Drug and Alcohol Policy

### **BRIEF SUMMARY:**

Cabarrus County Transportation provides public transit and paratransit services for the residents of Cabarrus County. Part of our mission is to ensure that this service is delivered safely, efficiently, and effectively by establishing a drug and alcohol-free work environment, and to ensure that the workplace remains free from the effects of drugs and alcohol in order to promote the health and safety of employees and the general public. In keeping with this mission, Cabarrus County Transportation declares that the unlawful manufacture, distribution, dispense, possession, or use of controlled substances or misuse of alcohol is prohibited for all employees.

### **REQUESTED ACTION:**

Motion to approve and adopt the Drug and Alcohol Policy.

### **EXPECTED LENGTH OF PRESENTATION:**

5 Minutes

### **SUBMITTED BY:**

Charles Ratliff, DHS Transportation Operations and Training Supervisor

### **BUDGET AMENDMENT REQUIRED:**

No

### **COUNTY MANAGER'S RECOMMENDATIONS/COMMENTS:**

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**ATTACHMENTS:**

- ▣ Drug & Alcohol Policy
- ▣ Signature Page

# DRUG AND ALCOHOL POLICY

April 19, 2022

## Table of Contents

1. Zero Tolerance Policy.....42

### **Cabarrus County Transportation DOT DRUG AND ALCOHOL TESTING POLICY**

**Adopted March 23, 2020**

**Revised 8/24/2021**

This template was provided by the NC DOT for use by Cabarrus County Transportation on April 24, 2021 for use as a Zero Tolerance Policy.

#### **A. PURPOSE**

1. Cabarrus County Transportation provides public transit and paratransit services for the residents of Cabarrus County. Part of our mission is to ensure that this service is delivered safely, efficiently, and effectively by establishing a drug and alcohol-free work environment, and to ensure that the workplace remains free from the effects of drugs and alcohol in order to promote the health and safety of employees and the general public. In keeping with this mission, Cabarrus County Transportation declares that the unlawful manufacture, distribution, dispense, possession, or use of controlled substances or misuse of alcohol is prohibited for all employees.
2. Additionally, the purpose of this policy is to establish guidelines to maintain a drug and alcohol-free workplace in compliance with the Drug-Free Workplace Act of 1988, and the Omnibus Transportation Employee Testing Act of 1991. This policy is intended to comply with all applicable Federal regulations governing workplace anti-drug and alcohol programs in the transit industry. Specifically, the Federal Transit Administration (FTA) of the U.S. Department of Transportation has published 49 CFR Part 655, as amended, that mandates urine drug testing and breath alcohol testing for safety-sensitive positions, and prohibits performance of safety-sensitive functions when there is a positive test result, or a refusal to test. The U. S. Department of Transportation (USDOT) has also published 49 CFR Part 40, as amended, that sets standards for the collection and testing of urine and breath specimens.
3. Any provisions set forth in this policy that are included under the sole authority of Cabarrus County Transportation and are not provided under the authority of

the above-named Federal regulations are underlined. Tests conducted under the sole authority of Cabarrus County Transportation will be performed on non-USDOT forms and will be separate from USDOT testing in all respects.

## **B. APPLICABILITY**

This Drug and Alcohol Testing Policy applies to all Cabarrus County Transportation safety-sensitive employees (full- or part-time) when performing safety sensitive duties.

A safety-sensitive function is operation of public transit service including the operation of a revenue service vehicle (whether or not the vehicle is in revenue service), maintenance of a revenue service vehicle or equipment used in revenue service, security personnel who carry firearms, dispatchers or persons controlling the movement of revenue service vehicles and any transit employee who operates a non-revenue service vehicle that requires a Commercial Driver's License to operate. Maintenance functions include the repair, overhaul, and rebuild of engines, vehicles and/or equipment used in revenue service. A list of safety-sensitive positions who perform one or more of the above mentioned duties is provided in Attachment A. Supervisors are only safety sensitive if they perform one of the above functions. Volunteers are considered safety sensitive and subject to testing if they are required to hold a CDL, or receive remuneration for service in excess of actual expense.

## **C. DEFINITIONS**

*Accident:* An occurrence associated with the operation of a vehicle even when not in revenue service, if as a result:

- a. An individual dies;
- b. An individual suffers a bodily injury and immediately receives medical treatment away from the scene of the accident; or,
- c. One or more vehicles incur disabling damage as the result of the occurrence and is transported away from the scene by a tow truck or other vehicle. For purposes of this definition, *disabling damage* means damage which precludes departure of any vehicle from the scene of the occurrence in its usual manner in daylight after simple repairs. Disabling damage includes damage to vehicles that could have been operated but would have been further damaged if so operated, but does not include damage which can be remedied temporarily at the scene of the occurrence without special tools or parts, tire disablement without other damage even if no

- spare tire is available, or damage to headlights, taillights, turn signals, horn, or windshield wipers that makes them inoperative.
- d. The purpose of this definition is whether the accident is FTA reportable and will follow the FTA testing process.

*Adulterated specimen:* A specimen that has been altered, as evidenced by test results showing either a substance that is not a normal constituent for that type of specimen or showing an abnormal concentration of an endogenous substance.

*Alcohol:* The intoxicating agent in beverage alcohol, ethyl alcohol, or other low molecular weight alcohols contained in any beverage, mixture, mouthwash, candy, food, preparation or medication.

*Alcohol Concentration:* Expressed in terms of grams of alcohol per 210 liters of breath as indicated by a breath test under 49 CFR Part 40.

*Aliquot:* A fractional part of a specimen used for testing, It is taken as a sample representing the whole specimen.

*Canceled Test:* A drug or alcohol test that has a problem identified that cannot be or has not been corrected, or which is cancelled. A canceled test is neither positive nor negative.

*Confirmatory Drug Test:* A second analytical procedure performed on a different aliquot of the original specimen to identify and quantify the presence of a specific drug or metabolite.

*Confirmatory Validity Test:* A second test performed on a different aliquot of the original urine specimen to further support a validity test result.

*Covered Employee Under FTA Authority:* An employee who performs a safety-sensitive function including an applicant or transferee who is being considered for hire into a safety-sensitive function (See Attachment A for a list of covered employees).

*Designated Employer Representative (DER):* An employee authorized by the employer to take immediate action to remove employees from safety-sensitive duties and to make required decisions in testing. The DER also receives test results and other communications for the employer, consistent with the requirements of 49 CFR Parts 40 and 655.

*DOT, The Department, DOT Agency:* These terms encompass all DOT agencies, including, but not limited to, the Federal Aviation Administration (FAA), the Federal Railroad

Administration (FRA), the Federal Motor Carrier Safety Administration (FMCSA), the Federal Transit Administration (FTA), the National Highway Traffic Safety Administration (NHTSA), the Pipeline and Hazardous Materials Safety Administration (PHMSA), and the Office of the Secretary (OST). For purposes of 49 CFR Part 40, the United States Coast Guard (USCG), in the Department of Homeland Security, is considered to be a DOT agency for drug testing purposes. These terms include any designee of a DOT agency.

*Dilute specimen:* A urine specimen with creatinine and specific gravity values that are lower than expected for human urine.

*Disabling damage:* Damage which precludes departure of any vehicle from the scene of the occurrence in its usual manner in daylight after simple repairs. Disabling damage includes damage to vehicles that could have been operated but would have been further damaged if so operated, but does not include damage which can be remedied temporarily at the scene of the occurrence without special tools or parts, tire disablement without other damage even if no spare tire is available, or damage to headlights, taillights, turn signals, horn, or windshield wipers that makes them inoperative.

*Evidentiary Breath Testing Device (EBT):* A device approved by the NHTSA for the evidential testing of breath at the 0.02 and the 0.04 alcohol concentrations, and appears on ODAPC's Web page for "Approved Evidential Breath Measurement Devices" because it conforms with the model specifications available from NHTSA.

*Initial Drug Test: (Screening Drug Test)* The test used to differentiate a negative specimen from one that requires further testing for drugs or drug metabolites.

*Initial Specimen Validity Test:* The first test used to determine if a urine specimen is adulterated, diluted, substituted, or invalid

*Invalid Result:* The result reported by an HHS-certified laboratory in accordance with the criteria established by the HHS Mandatory Guidelines when a positive, negative, adulterated, or substituted result cannot be established for a specific drug or specimen validity test.

*Laboratory:* Any U.S. laboratory certified by HHS under the National Laboratory Certification program as meeting standards of Subpart C of the HHS Mandatory Guidelines for Federal Workplace Drug Testing Programs; or, in the case of foreign laboratories, a laboratory approved for participation by DOT under this part.

*Limit of Detection (LOD):* The lowest concentration at which a measurand can be identified, but (for quantitative assays) the concentration cannot be accurately calculated.

*Limit of Quantitation:* For quantitative assays, the lowest concentration at which the identity and concentration of the measurand can be accurately established.

*Medical Review Officer (MRO):* A licensed physician (medical doctor or doctor of osteopathy) responsible for receiving laboratory results generated by the drug testing program who has knowledge of substance abuse disorders, and has appropriate medical training to interpret and evaluate an individual's confirmed positive test result, together with his/her medical history, and any other relevant bio-medical information.

*Negative Dilute:* A drug test result which is negative for the five drug/drug metabolites but has creatinine and specific gravity values that are lower than expected for human urine.

*Negative result:* The result reported by an HHS/SAMHSA-certified laboratory to an MRO when a specimen contains no drug or the concentration of the drug is less than the cutoff concentration for the drug or drug class and the specimen is a valid specimen. An alcohol concentration of less than 0.02 BAC is a negative test result.

*Non-negative test result:* A urine specimen that is reported as adulterated, substituted, invalid, or positive for drug/drug metabolites.

*Oxidizing Adulterant:* A substance that acts alone or in combination with other substances to oxidize drugs or drug metabolites to prevent the detection of the drug or metabolites, or affects the reagents in either the initial or confirmatory drug test.

*Performing (a safety-sensitive function):* A covered employee is considered to be performing a safety-sensitive function and includes any period in which he or she is actually performing, ready to perform, or immediately available to perform such functions.

*Positive result:* The result reported by an HHS- Certified laboratory when a specimen contains a drug or drug metabolite equal or greater to the cutoff concentrations.

*Prohibited drug:* Identified as marijuana, cocaine, opioids, amphetamines, or phencyclidine as specified in 49 CFR Part 40, as amended.

*Reconfirmed:* The result reported for a split specimen when the second laboratory is able to corroborate the original result reported for the primary specimen.

*Rejected for Testing:* The result reported by an HHS- Certified laboratory when no tests are performed for specimen because of a fatal flaw or a correctable flaw that has not been corrected.

*Revenue Service Vehicles:* All transit vehicles that are used for passenger transportation service.

*Safety-sensitive functions (Transportation Employees):* Employee duties identified as:

- (1) The operation of a transit revenue service vehicle even when the vehicle is not in revenue service.
- (2) The operation of a non-revenue service vehicle by an employee when the operation of such a vehicle requires the driver to hold a Commercial Drivers License (CDL).
- (3) Maintaining a revenue service vehicle or equipment used in revenue service.
- (4) Controlling the movement of a revenue service vehicle and
- (5) Carrying a firearm for security purposes.

*Split Specimen Collection:* A collection in which the urine collected is divided into two separate bottles, the primary specimen (Bottle A) and the split specimen (Bottle B).

*Substance Abuse Professional (SAP):* A licensed physician (medical doctor or doctor of osteopathy) or licensed or certified psychologist, social worker, employee assistance professional, state-licensed or certified marriage and family therapist, or drug and alcohol counselor (certified by an organization listed at <https://www.transportation.gov/odapc/sap>) with knowledge of and clinical experience in the diagnosis and treatment of drug and alcohol related disorders.

*Substituted specimen:* A urine specimen with creatinine and specific gravity values that are so diminished or so divergent that they are not consistent with normal human urine.

*Test Refusal:* The following are considered a refusal to test for a DOT/FTA employee is they:

- (1) Fail to appear for any test (except a pre-employment test) within a reasonable time, as determined by the employer.
- (2) Fail to remain at the testing site until the testing process is complete. An employee who leaves the testing site before the testing process commences for a pre-employment test has not refused to test.

- (3) Fail to attempt to provide a breath or urine specimen. An employee who does not provide a urine or breath specimen because he or she has left the testing site before the testing process commenced for a pre-employment test has not refused to test.
- (4) In the case of a directly-observed or monitored urine drug collection, fail to permit monitoring or observation of your provision of a specimen.
- (5) Fail to provide a sufficient quantity of urine or breath without a valid medical explanation.
- (6) Fail or decline to take a second test as directed by the collector or the employer for drug testing.
- (7) Fail to undergo a medical evaluation as required by the MRO or the employer's Designated Employer Representative (DER).
- (8) Fail to cooperate with any part of the testing process.
- (9) Fail to follow an observer's instructions to raise and lower clothing and turn around during a directly-observed test.
- (10) Possess or wear a prosthetic or other device used to tamper with the collection process.
- (11) Admit to the adulteration or substitution of a specimen to the collector or MRO.
- (12) Refuse to sign the certification at Step 2 of the Alcohol Testing Form (ATF).
- (13) Fail to remain readily available following an accident.
- (14) As a covered employee, if the MRO reports that you have a verified adulterated or substituted test result, you have refused to take a drug test.

*Vehicle:* A bus, electric bus, van, automobile, rail car, trolley car, trolley bus, or vessel. A public transit vehicle is a vehicle used for public transportation or for ancillary services.

*Verified negative test:* A drug test result reviewed by a medical review officer and determined to have no evidence of prohibited drug use at or above the minimum cutoff levels established by the Department of Health and Human Services (HHS).

*Verified positive test:* A drug test result reviewed by a medical review officer and determined to have evidence of prohibited drug use at or above the minimum cutoff levels specified in 49 CFR Part 40 as revised.

*Validity testing:* The evaluation of the specimen to determine if it is consistent with normal human urine. Specimen validity testing will be conducted on all urine specimens provided for testing under DOT authority. The purpose of validity testing is to determine whether certain adulterants or foreign substances were added to the urine, if the urine was diluted, or if the specimen was substituted.

#### **D. EDUCATION AND TRAINING**

- 1) Every covered employee will receive a copy of this policy and will have ready access to the corresponding federal regulations including 49 CFR Parts 655 and 40, as amended. In addition, all covered employees will undergo a minimum of 60 minutes of training on the signs and symptoms of drug use including the effects and consequences of drug use on personal health, safety, and the work environment. The training also includes manifestations and behavioral cues that may indicate prohibited drug use.
- 2) All supervisory personnel or company officials who are in a position to determine employee fitness for duty will receive 60 minutes of reasonable suspicion training on the physical, behavioral, and performance indicators of probable drug use and 60 minutes of additional reasonable suspicion training on the physical, behavioral, speech, and performance indicators of probable alcohol misuse.

#### **E. PROHIBITED SUBSTANCES**

- 1) Prohibited substances addressed by this policy include the following.
  - a. Illegally Used Controlled Substance or Drugs Under the Drug-Free Workplace Act of 1988 any drug or any substance identified in Schedule I through V of Section 202 of the Controlled Substance Act (21 U.S.C. 812), and as further defined by 21 CFR 1300.11 through 1300.15 is prohibited at all times in the workplace unless a legal prescription has been written for the substance. This includes, but is not limited to: marijuana, amphetamines, opioids, phencyclidine (PCP), and cocaine, as well as any drug not approved for medical use by the U.S. Drug Enforcement Administration or the U.S. Food and Drug Administration. Illegal use includes use of any illegal drug, misuse of legally prescribed drugs, and use of illegally obtained prescription drugs. It is important to note that the use of marijuana in any circumstances remains completely prohibited for any safety-sensitive employee subject to drug testing under USDOT regulations. The use of marijuana in any circumstance (including under state recreational and/or medical marijuana laws) by a safety-sensitive employee is a violation of this policy and a violation of the USDOT regulation 49 CFR Part 40, as amended.

Federal Transit Administration drug testing regulations (49 CFR Part 655) require that all employees covered under FTA authority be tested for marijuana, cocaine, amphetamines, opioids, and phencyclidine as described in

this policy. Illegal use of these five drugs is prohibited at all times and thus, covered employees may be tested for these drugs anytime that they are on duty.

- b. Legal Drugs: The appropriate use of legally prescribed drugs and non-prescription medications is not prohibited. However, the use of any substance which carries a warning label that indicates that mental functioning, motor skills, or judgment may be adversely affected must be reported to a Cabarrus County Transportation supervisor and the employee is required to provide a written release from his/her doctor or pharmacist indicating that the employee can perform his/her safety-sensitive functions. The Transportation Supervisor must report this to Cabarrus County Safety/Risk Management.
- c. Alcohol: The use of beverages containing alcohol (including mouthwash, medication, food, candy) or any other substances containing alcohol in a manner which violates the conduct listed in this policy is prohibited.

#### F. PROHIBITED CONDUCT

- 1) Illegal use of the drugs listed in this policy and as defined in 49 CFR Part 40, as amended is prohibited at all times. All covered employees are prohibited from reporting for duty or remaining on duty if they have used a prohibited drug as defined in 49 CFR Part 40, as amended.
- 2) Each covered employee is prohibited from consuming alcohol while performing safety-sensitive job functions or while on-call to perform safety-sensitive job functions. If an on-call employee has consumed alcohol, they must acknowledge the use of alcohol at the time that they are called to report for duty. The covered employee will subsequently be relieved of his/her on-call responsibilities and subject to discipline for not fulfilling his/her on-call responsibilities.
- 3) The Transit Department shall not permit any covered employee to perform or continue to perform safety-sensitive functions if it has actual knowledge that the employee is using alcohol
- 4) Each covered employee is prohibited from reporting to work or remaining on duty requiring the performance of safety-sensitive functions while having an alcohol concentration of 0.04 or greater regardless of when the alcohol was consumed.
  - a. An employee with a breath alcohol concentration which measures 0.02-0.039 is not considered to have violated the USDOT-FTA drug and alcohol

regulations, provided the employee hasn't consumed the alcohol within four (4) hours of performing a safety-sensitive duty. However, if a safety-sensitive employee has a breath alcohol concentration of 0.02-0.039, USDOT-FTA regulations require the employee to be removed from the performance of safety-sensitive duties until:

- i. The employee's alcohol concentration measures less than 0.02; or
  - ii. The start of the employee's next regularly scheduled duty period, but not less than eight hours following administration of the test.
- 5) No covered employee shall consume alcohol for eight (8) hours following involvement in an accident or until he/she submits to the post-accident drug/alcohol test, whichever occurs first.
  - 6) No covered employee shall consume alcohol within four (4) hours prior to the performance of safety-sensitive job functions.
  - 7) Cabarrus County Transportation, under its own authority, also prohibits the consumption of alcohol at all times the employee is on duty, or anytime the employee is in uniform.
  - 8) Consistent with the Drug-free Workplace Act of 1988, all Cabarrus County Transportation employees are prohibited from engaging in the unlawful manufacture, distribution, dispensing, possession, or use of prohibited substances in the work place including transit system premises and transit vehicles.

#### **G. DRUG STATUTE CONVICTION**

Consistent with the Drug Free Workplace Act of 1998, all employees are required to notify Cabarrus County Transportation management of any criminal drug statute conviction for a violation occurring in the workplace within five days after such conviction. Failure to comply with this provision shall result in disciplinary action as defined in Section Q of this policy – Result of Drug/Alcohol Test.

#### **H. TESTING REQUIREMENTS**

Analytical urine drug testing and breath testing for alcohol will be conducted as required by 49 CFR Part 40 as amended. All employees covered under FTA authority shall be subject to testing prior to performing safety-sensitive duty, for reasonable suspicion, following an accident, and random as defined in Section K, L, M, and N of this policy, and return to duty/follow-up.

- 1) A drug test can be performed any time a covered employee is on duty. A reasonable suspicion, random, or follow-up alcohol test can only be performed just before, during, or after the performance of a safety-sensitive job function. Under Cabarrus County Transportation authority, a non-DOT alcohol test can be performed any time a covered employee is on duty.
- 2) All covered employees will be subject to urine drug testing and breath alcohol testing as a condition of ongoing employment with Cabarrus County Transportation. Any safety-sensitive employee who refuses to comply with a request for testing shall be removed from duty and subject to discipline as defined in Section Q of this policy.

I. **DRUG TESTING PROCEDURES**

- 1) Testing shall be conducted in a manner to assure a high degree of accuracy and reliability and using techniques, equipment, and laboratory facilities which have been approved by the U.S. Department of Health and Human Service (HHS). All testing will be conducted consistent with the procedures set forth in 49 CFR Part 40, as amended. The procedures will be performed in a private, confidential manner and every effort will be made to protect the employee, the integrity of the drug testing procedure, and the validity of the test result.
- 2) The drugs that will be tested for include marijuana, cocaine, opioids, amphetamines, and phencyclidine. After the identity of the donor is checked using picture identification, a urine specimen will be collected using the split specimen collection method described in 49 CFR Part 40, as amended. Each specimen will be accompanied by a DOT Custody and Control Form and identified using a unique identification number that attributes the specimen to the correct individual. The specimen analysis will be conducted at a HHS certified laboratory. An initial drug screen and validity test will be conducted on the primary urine specimen. For those specimens that are not negative, a confirmatory Gas Chromatography/Mass Spectrometry (GC/MS) or Liquid Chromatography/Mass Spectrometry (LC/MS) test will be performed. The test will be considered positive if the amounts of the drug(s) and/or its metabolites identified by the GC/MS or LC/MS test are above the minimum thresholds established in 49 CFR Part 40, as amended.
- 3) The test results from the HHS certified laboratory will be reported to a Medical Review Officer. A Medical Review Officer (MRO) is a licensed physician with detailed knowledge of substance abuse disorders and drug testing. The MRO will

review the test results to ensure the scientific validity of the test and to determine whether there is a legitimate medical explanation for a confirmed positive, substitute, or adulterated test result. The MRO will attempt to contact the employee to notify the employee of the non-negative laboratory result, and provide the employee with an opportunity to explain the confirmed laboratory test result. The MRO will subsequently review the employee's medical history/medical records as appropriate to determine whether there is a legitimate medical explanation for a non-negative laboratory result. If no legitimate medical explanation is found, the test will be verified positive or refusal to test and reported to Cabarrus County Transportation. If a legitimate explanation is found, the MRO will report the test result as negative.

- 4) If the test is invalid without a medical explanation, a retest will be conducted under direct observation. Employees do not have access to a test of their split specimen following an invalid result.
- 5) Any covered employee who questions the results of a required drug test may request that the split sample be tested. The split sample test must be conducted at a second HHS-certified laboratory. The test must be conducted on the split sample that was provided by the employee at the same time as the primary sample. The method of collecting, storing, and testing the split sample will be consistent with the procedures set forth in 49 CFR Part 40, as amended. The employee's request for a split sample test must be made to the Medical Review Officer within 72 hours of notice of the original sample verified test result. Requests after 72 hours will only be accepted at the discretion of the MRO if the delay was due to documentable facts that were beyond the control of the employee. Cabarrus County Transportation will ensure that the cost for the split specimen analysis is covered in order for a timely analysis of the sample, however Cabarrus County Transportation will seek reimbursement for the split sample test from the employee.
- 6) If the analysis of the split specimen fails to confirm the presence of the drug(s) detected in the primary specimen, if the split specimen is not able to be analyzed, or if the results of the split specimen are not scientifically adequate, the MRO will declare the original test to be canceled.
- 7) The split specimen will be stored at the initial laboratory until the analysis of the primary specimen is completed. If the primary specimen is negative, the split will be discarded. If the primary specimen is positive, it will be retained in frozen storage for one year and the split specimen will also be retained for one year. If the primary is positive, the primary and the split will be retained for longer than

one year for testing if so requested by the employee through the Medical Review Officer, or by the employer, by the MRO, or by the relevant DOT agency.

8) Observed collections

- a. Consistent with 49 CFR Part 40, as amended, collection under direct observation (by a person of the same gender) with no advance notice will occur if:
  - i. The laboratory reports to the MRO that a specimen is invalid, and the MRO reports to Cabarrus County Transportation that there was not an adequate medical explanation for the result;
  - ii. The MRO reports to Cabarrus County Transportation that the original positive, adulterated, or substituted test result had to be cancelled because the test of the split specimen could not be performed;
  - iii. The laboratory reported to the MRO that the specimen was negative-dilute with a creatinine concentration greater than or equal to 2 mg/dL but less than or equal to 5 mg/dL, and the MRO reported the specimen as negative-dilute and that a second collection must take place under direct observation (see §40.197(b)(1)).
  - iv. The collector observes materials brought to the collection site or the employee's conduct clearly indicates an attempt to tamper with a specimen;
  - v. The temperature on the original specimen was out of range;
  - vi. Anytime the employee is directed to provide another specimen because the original specimen appeared to have been tampered with.
  - vii. All follow-up-tests; or
  - viii. All return-to-duty tests

**J. ALCOHOL TESTING PROCEDURES**

- 1) Tests for breath alcohol concentration will be conducted utilizing a National Highway Traffic Safety Administration (NHTSA)-approved Evidential Breath Testing device (EBT) operated by a trained Breath Alcohol Technician (BAT). A list of approved EBTs can be found on ODAPC's Web page for "Approved Evidential Breath Measurement Devices". Alcohol screening tests may be performed using a non-evidential testing device (alcohol screening device (ASD)) which is also approved by NHTSA. A list of approved ASDs can be found on ODAPC's Web page for "Approved Screening Devices to Measure Alcohol in Bodily Fluids". If the initial test indicates an alcohol concentration of 0.02 or greater, a second test will be performed to confirm the results of the initial test. The confirmatory test must occur on an EBT. The confirmatory test will be conducted no sooner than fifteen minutes after the completion of the initial test. The confirmatory test will be performed using a NHTSA-approved EBT operated by a trained BAT. The EBT will identify each test by a unique sequential identification number. This number, time, and unit identifier will be provided on each EBT printout. The EBT printout, along with an approved alcohol testing form, will be used to document the test, the subsequent results, and to attribute the test to the correct employee. The test will be performed in a private, confidential manner as required by 49 CFR Part 40, as amended. The procedure will be followed as prescribed to protect the employee and to maintain the integrity of the alcohol testing procedures and validity of the test result.
- 2) A confirmed alcohol concentration of 0.04 or greater will be considered a positive alcohol test and in violation of this policy. The consequences of a positive alcohol test are described in Section Q. of this policy. Even though an employee who has a confirmed alcohol concentration of 0.02 to 0.039 is not considered positive, the employee shall still be removed from duty for at least eight hours or for the duration of the work day whichever is longer and will be subject to the consequences described in Section Q of this policy. An alcohol concentration of less than 0.02 will be considered a negative test.
- 3) Cabarrus County Transportation affirms the need to protect individual dignity, privacy, and confidentiality throughout the testing process. If at any time the integrity of the testing procedures or the validity of the test results is compromised, the test will be canceled. Minor inconsistencies or procedural flaws that do not impact the test result will not result in a cancelled test.
- 4) The alcohol testing form (ATF) required by 49 CFR Part 40 as amended, shall be used for all FTA required testing. Failure of an employee to sign step 2 of the ATF will be considered a refusal to submit to testing.

## **K. PRE-EMPLOYMENT TESTING**

- 1) All applicants for covered transit positions shall undergo urine drug testing prior to performance of a safety-sensitive function.
  - a. All offers of employment for covered positions shall be extended conditional upon the applicant passing a drug test. An applicant will not be allowed to perform safety-sensitive functions unless the applicant takes a drug test with verified negative results.
  - b. An employee shall not be placed, transferred or promoted into a position covered under FTA authority or company authority until the employee takes a drug test with verified negative results.
  - c. If an applicant fails a pre-employment drug test, the conditional offer of employment shall be rescinded and the applicant will be provided with a list of at least two (2) USDOT qualified Substance Abuse Professionals. Failure of a pre-employment drug test will disqualify an applicant for employment for a period of at least one year. Before being considered for future employment the applicant must provide the employer proof of having successfully completed a referral, evaluation and treatment plan as described in section 655.62 of subpart G. The cost for the assessment and any subsequent treatment will be the sole responsibility of the applicant.
  - d. When an employee being placed, transferred, or promoted from a non-covered position to a position covered under FTA authority or company authority submits a drug test with a verified positive result, the employee shall be subject to disciplinary action in accordance with Section Q herein.
  - e. If a pre-employment test is canceled, Cabarrus County Transportation will require the applicant to take and pass another pre-employment drug test.
  - f. In instances where an FTA covered employee does not perform a safety-sensitive function for a period of 90 consecutive days or more regardless of reason, and during that period is not in the random testing pool the employee will be required to take a pre-employment drug test under 49 CFR Part 655 and have negative test results prior to the conduct of safety-sensitive job functions.

- g. Following a negative dilute the employee will be required to undergo another test. Should this second test result in a negative dilute result, the test will be considered a negative and no additional testing will be required unless directed to do so by the MRO.
- h. Applicants are required (even if ultimately not hired) to provide Cabarrus County Transportation with signed written releases requesting USDOT drug and alcohol records from all previous, USDOT-covered, employers that the applicant has worked for within the last two years. Failure to do so will result in the employment offer being rescinded. Cabarrus County Transportation is required to ask all applicants (even if ultimately not hired) if they have tested positive or refused to test on a pre-employment test for a USDOT covered employer within the last two years. If the applicant has tested positive or refused to test on a pre-employment test for a USDOT covered employer, the applicant must provide Cabarrus County Transportation proof of having successfully completed a referral, evaluation and treatment plan as described in section 655.62 of subpart G.

#### **L. REASONABLE SUSPICION TESTING**

- 1) All Cabarrus County Transportation FTA covered employees will be subject to a reasonable suspicion drug and/or alcohol test when the employer has reasonable suspicion to believe that the covered employee has used a prohibited drug and/or engaged in alcohol misuse. Reasonable suspicion shall mean that there is objective evidence, based upon specific, contemporaneous, articulable observations of the employee's appearance, behavior, speech or body odor that are consistent with possible drug use and/or alcohol misuse. Reasonable suspicion referrals must be made by one or more supervisors who are trained to detect the signs and symptoms of drug and alcohol use, and who reasonably concludes that an employee may be adversely affected or impaired in his/her work performance due to possible prohibited substance abuse or alcohol misuse. A reasonable suspicion alcohol test can only be conducted just before, during, or just after the performance of a safety-sensitive job function. However, under Cabarrus County Transportation' authority, a non-DOT reasonable suspicion alcohol test may be performed any time the covered employee is on duty. A reasonable suspicion drug test can be performed any time the covered employee is on duty.
- 2) Cabarrus County Transportation shall be responsible for transporting the employee to the testing site. Supervisors should avoid placing themselves and/or

others into a situation which might endanger the physical safety of those present. The employee shall be placed on administrative leave pending disciplinary action described in Section Q of this policy. An employee who refuses an instruction to submit to a drug/alcohol test shall not be permitted to finish his or her shift and shall immediately be placed on administrative leave pending disciplinary action. Refer to County Policy for non-disciplinary investigatory suspension.

- 3) A written record of the observations which led to a drug/alcohol test based on reasonable suspicion shall be prepared and signed by the supervisor making the observation. This written record shall be submitted to Cabarrus County Transportation. Utilize the form provided with the general County policy.
- 4) When there are no specific, contemporaneous, articulable objective facts that indicate current drug or alcohol use, but the employee (who is not already a participant in a treatment program) admits the abuse of alcohol or other substances to a supervisor in his/her chain of command, the employee shall be referred for assessment and treatment consistent with Section Q of this policy. Cabarrus County Transportation shall place the employee on administrative leave in accordance with the provisions set forth under Section Q of this policy. Testing in this circumstance would be performed under the direct authority of the Cabarrus County Transportation. **Since the employee self-referred to management, testing under this circumstance would not be considered a violation of this policy or a positive test result under Federal authority.** However, self-referral does not exempt the covered employee from testing under Federal authority as specified in Sections L through N of this policy or the associated consequences as specified in Section Q.

#### **M. POST-ACCIDENT TESTING**

- 1) FATAL ACCIDENTS – A covered employee will be required to undergo urine and breath testing if they are involved in an accident with a transit vehicle, whether or not the vehicle is in revenue service at the time of the accident, that results in a fatality. This includes all surviving covered employees that are operating the vehicle at the time of the accident and any other whose performance could have contributed to the accident, as determined by the employer using the best information available at the time of the decision.
- 2) NON-FATAL ACCIDENTS - A post-accident test of the employee operating the public transportation vehicle will be conducted if an accident occurs and at least one of the following conditions is met:

- a. The accident results in injuries requiring immediate medical treatment away from the scene, unless the covered employee can be completely discounted as a contributing factor to the accident.
- b. One or more vehicles incurs disabling damage as a result of the occurrence and must be transported away from the scene, unless the covered employee can be completely discounted as a contributing factor to the accident.
- c. Any other incidents/accidents as required by Cabarrus County. Employee will be under County testing protocol.

In addition, any other covered employee whose performance could have contributed to the accident, as determined by the employer using the best information available at the time of the decision, will be tested.

As soon as practicable following an accident, as defined in this policy, the transit supervisor investigating the accident will notify the transit employee operating the transit vehicle and all other covered employees whose performance could have contributed to the accident of the need for the test. The supervisor will make the determination using the best information available at the time of the decision.

The appropriate transit supervisor shall ensure that an employee, required to be tested under this section, is tested as soon as practicable, within two hours but not longer than eight (8) hours accident for alcohol and drug. If a test is not performed within two hours of the accident, the Supervisor will document the reason(s) for the delay. If the alcohol test is not conducted within (8) eight hours attempts to conduct the test must cease and the reasons for the failure to test documented. Failure to be available within such time will be considered a refusal to submit to testing, unless there is a clear hindrance. For example, an employee with life-threatening injuries or injuries that result in death. It is important to emphasize that **nothing** is to prevent the individual from receiving of required medical attention.

Any covered employee involved in an accident must refrain from alcohol use for eight (8) hours following the accident, or until he/she undergoes a post-accident alcohol test.

An employee who is subject to post-accident testing who fails to remain readily available for such testing, including notifying a supervisor of his or her location if he or she leaves the scene of the accident prior to submission to such test, may be deemed to have refused to submit to testing.

Nothing in this section shall be construed to require the delay of necessary medical attention for the injured following an accident, or to prohibit an employee from leaving the scene of an accident for the period necessary to obtain assistance in responding to the accident, or to obtain necessary emergency medical care.

In the rare event that Cabarrus County Transportation is unable to perform an FTA drug and alcohol test (i.e., employee is unconscious, employee is detained by law enforcement agency), Cabarrus County Transportation may use drug and alcohol post-accident test results administered by local law enforcement officials in lieu of the FTA test. The local law enforcement officials must have independent authority for the test and the employer must obtain the results in conformance with local law.

#### **N. RANDOM TESTING**

All covered employees will be subjected to random, unannounced testing. The selection of employees shall be made by a scientifically valid method of randomly generating an employee identifier from the appropriate pool of Transportation safety-sensitive employees. Employees who may be covered under company authority will be selected from a pool of non-DOT-covered employees.

- 1) The dates for administering unannounced testing of randomly selected employees shall be spread reasonably throughout the calendar year, day of the week and hours of the day.
- 2) The number of employees randomly selected for drug/alcohol testing during the calendar year shall be not less than the percentage rates set each year by the FTA administrator. The current year testing rates can be viewed online at <https://www.transportation.gov/odapc/random-testing-rates>.
- 3) Each covered employee shall be in a pool from which the random selection is made. Each covered employee in the pool shall have an equal chance of selection each time the selections are made. Employees will remain in the pool and subject to selection, whether or not the employee has been previously tested. There is no discretion on the part of management in the selection.
- 4) Covered transit employees that fall under the Federal Transit Administration regulations will be included in one random pool maintained separately from the testing pool of non-safety-sensitive employees that are included solely under Cabarrus County Transportation authority.

- 5) Random tests can be conducted at any time during an employee's shift for drug testing. Alcohol random tests can only be performed just before, during, or just after the performance of a safety sensitive duty. However, under Cabarrus County Transportation authority, a non-DOT random alcohol test may be performed any time the covered employee is on duty. Testing can occur during the beginning, middle, or end of an employee's shift.
- 6) Employees are required to proceed immediately to the collection site upon notification of their random selection.

#### **O. RETURN-TO-DUTY TESTING**

Cabarrus County Transportation will terminate the employment of any employee that tests positive or refuses a test as specified in section Q of this policy. However, in the rare event an employee is reinstated with court order or other action beyond the control of the transit system, the employee must complete the return-to-duty process prior to the performance of safety-sensitive functions. All covered employees who previously tested positive on a drug or alcohol test or refused a test, must test negative for drugs, alcohol (below 0.02 for alcohol), or both and be evaluated and released by the Substance Abuse Professional before returning to work. Following the initial assessment, the SAP will recommend a course of rehabilitation unique to the individual. The SAP will recommend the return-to-duty test only when the employee has successfully completed the treatment requirement and is known to be drug and alcohol-free and there are no undue concerns for public safety. The SAP will determine whether the employee returning to duty will require a return-to-duty drug test, alcohol test, or both.

#### **P. FOLLOW-UP TESTING**

Covered employees that have returned to duty following a positive or refused test will be required to undergo frequent, unannounced drug and/or alcohol testing following their return-to-duty test. The follow-up testing will be performed for a period of one to five years with a minimum of six tests to be performed the first year. The frequency and duration of the follow-up tests (beyond the minimums) will be determined by the SAP reflecting the SAP's assessment of the employee's unique situation and recovery progress. Follow-up testing should be frequent enough to deter and/or detect a relapse. Follow-up testing is separate and in addition to the random, post-accident, reasonable suspicion and return-to-duty testing.

In the instance of a self-referral or a management referral, the employee will be subject to non-USDOT follow-up tests and follow-up testing plans modeled using the process described in 49 CFR Part 40. However, all non-USDOT follow-up tests and all paperwork associated with an employee's return-to-work agreement that was not precipitated by a positive test result (or refusal to test) does not constitute a violation of the Federal regulations will be conducted under company authority and will be performed using non-DOT testing forms.

**Q. RESULT OF DRUG/ALCOHOL TEST**

- 1) Any covered employee that has a verified positive drug or alcohol test, or test refusal, will be removed from his/her safety-sensitive position, informed of educational and rehabilitation programs available, and will be provided with a list of at least two (2) USDOT qualified Substance Abuse Professionals (SAP) for assessment, and will be terminated.
- 2) Following a negative dilute the employee will be required to undergo another test. Should this second test result in a negative dilute result, the test will be considered a negative and no additional testing will be required unless directed to do so by the MRO.
- 3) Refusal to submit to a drug/alcohol test shall be considered equivalent to a positive test result and a direct act of insubordination and shall result in termination and referral to a list of USDOT qualified SAPs. A test refusal is defined as any of the following circumstances:
  - a. Fail to appear for any test (except a pre-employment test) within a reasonable time, as determined by the employer.
  - b. Fail to remain at the testing site until the testing process is complete. An employee who leaves the testing site before the testing process commences for a pre-employment test has not refused to test.
  - c. Fail to attempt to provide a breath or urine specimen. An employee who does not provide a urine or breath specimen because he or she has left the testing site before the testing process commenced for a pre-employment test has not refused to test.
  - d. In the case of a directly-observed or monitored urine drug collection, fail to permit monitoring or observation of your provision of a specimen.
  - e. Fail to provide a sufficient quantity of urine or breath without a valid medical explanation.
  - f. Fail or decline to take a second test as directed by the collector or the employer for drug testing.

- g. Fail to undergo a medical evaluation as required by the MRO or the employer's Designated Employer Representative (DER).
  - h. Fail to cooperate with any part of the testing process.
  - i. Fail to follow an observer's instructions to raise and lower clothing and turn around during a directly-observed test.
  - j. Possess or wear a prosthetic or other device used to tamper with the collection process.
  - k. Admit to the adulteration or substitution of a specimen to the collector or MRO.
  - l. Refuse to sign the certification at Step 2 of the Alcohol Testing Form (ATF).
  - m. Fail to remain readily available following an accident.
- n. As a covered employee, if the MRO reports that you have a verified adulterated or substituted test result, you have refused to take a drug test.
- 4) An alcohol test result of  $\geq 0.02$  to  $\leq 0.039$  BAC shall result in the removal of the employee from duty for eight hours or the remainder or the work day whichever is longer. The employee will not be allowed to return to safety-sensitive duty for his/her next shift until he/she submits to a NONDOT alcohol test with a result of less than 0.02 BAC.
- 5) In the instance of a self-referral or a management referral, disciplinary action against the employee shall include:
- a. Mandatory referral for an assessment by an employer approved counseling professional for assessment, formulation of a treatment plan, and execution of a return to work agreement;
  - b. Failure to execute, or remain compliant with the return-to-work agreement shall result in termination from Cabarrus County Transportation/Cabarrus County employment.
    - i. Compliance with the return-to-work agreement means that the employee has submitted to a drug/alcohol test immediately prior to returning to work; the result of that test is negative; the employee is cooperating with his/her recommended treatment program; and, the employee has agreed to periodic unannounced follow-up testing as described in Section P of this policy; however, all follow-up testing performed as part of a return-to-work agreement required under section Q of this policy is under the sole authority of Cabarrus County Transportation and will be performed using non-DOT testing forms.

- c. Refusal to submit to a periodic unannounced follow-up drug/alcohol test shall be considered a direct act of insubordination and shall result in termination. All tests conducted as part of the return-to-work agreement will be conducted under company authority and will be performed using non-DOT testing forms.
  - d. A self-referral or management referral to the employer's counseling professional that was not precipitated by a positive test result does not constitute a violation of the Federal regulations and will not be considered as a positive test result in relation to the progressive discipline defined in Section Q of this policy.
  - e. Periodic unannounced follow-up drug/alcohol testing conducted as a result of a self-referral or management referral which results in a verified positive shall be considered a positive test result in relation to the progressive discipline defined in Section Q of this policy.
  - f. A Voluntary Referral does not shield an employee from disciplinary action or guarantee employment with Cabarrus County Transportation.
  - g. A Voluntary Referral does not shield an employee from the requirement to comply with drug and alcohol testing.
- 6) Failure of an employee to report within five days a criminal drug statute conviction for a violation occurring in the workplace shall result in termination.

**R. GRIEVANCE AND APPEAL**

The consequences specified by 49 CFR Part 40.149 (c) for a positive test or test refusal is not subject to arbitration.

**S. PROPER APPLICATION OF THE POLICY**

Cabarrus County Transportation is dedicated to assuring fair and equitable application of this substance abuse policy. Therefore, supervisors/managers are required to use and apply all aspects of this policy in an unbiased and impartial manner. Any supervisor/manager who knowingly disregards the requirements of this policy, or who is found to deliberately misuse the policy in regard to subordinates, shall be subject to disciplinary action, up to and including termination.

**T. INFORMATION DISCLOSURE**

- 1) Drug/alcohol testing records shall be maintained by the Cabarrus County Transportation Drug and Alcohol Program Manager (Operations and Training Supervisor) and, except as provided below or by law, the results of any drug/alcohol test shall not be disclosed without express written consent of the tested employee.
- 2) The employee, upon written request, is entitled to obtain copies of any records pertaining to their use of prohibited drugs or misuse of alcohol including any drug or alcohol testing records. Covered employees have the right to gain access to any pertinent records such as equipment calibration records, and records of laboratory certifications. Employees may not have access to SAP follow-up testing plans.
- 3) Records of a verified positive drug/alcohol test result shall be released to the Drug and Alcohol Program Manager, and other transit system management personnel on a need to know basis.
- 4) Records will be released to a subsequent employer only upon receipt of a written request from the employee.
- 5) Records of an employee's drug/alcohol tests shall be released to the adjudicator in a grievance, lawsuit, or other proceeding initiated by or on behalf of the tested individual arising from the results of the drug/alcohol test. The records will be released to the decision maker in the proceeding.
- 6) Records will be released to the National Transportation Safety Board during an accident investigation.
- 7) Information will be released in a criminal or civil action resulting from an employee's performance of safety-sensitive duties, in which a court of competent jurisdiction determines that the drug or alcohol test information is relevant to the case and issues an order to the employer to release the information. The employer will release the information to the decision maker in the proceeding with a binding stipulation that it will only be released to parties of the proceeding.
- 8) Records will be released to the DOT or any DOT agency with regulatory authority over the employer or any of its employees.
- 9) Records will be released if requested by a Federal, state or local safety agency with regulatory authority over Cabarrus County Transportation or the employee.

- 10) If a party seeks a court order to release a specimen or part of a specimen contrary to any provision of Part 40 as amended, necessary legal steps to contest the issuance of the order will be taken
  
- 11) In cases of a contractor or sub-recipient of a state department of transportation, records will be released when requested by such agencies that must certify compliance with the regulation to the FTA.

This Policy was adopted by the Cabarrus County Board of Commissioners on April 19, 2022.

**Attachment A – Safety Sensitive Employee Descriptions**

<b><u>Job Title</u></b>	<b><u>Job Duties</u></b>	<b><u>Testing Authority</u></b>
Driver Supervisor	Operation of a transit revenue service vehicle even when the vehicle is not in revenue service.	FTA
Operations and Training Supervisor	1) Operation of a transit revenue service vehicle even when the vehicle is not in revenue service. 2) Controlling the movement of a revenue service vehicle. 3) Maintaining a revenue service vehicle or equipment used in revenue service.	FTA
Transportation Driver	Operation of a transit revenue service vehicle even when the vehicle is not in revenue service.	FTA
Transportation Driver/Dispatcher	Controlling the movement of a revenue service vehicle.	FTA
Transportation Manager	1) Operation of a transit revenue service vehicle even when the vehicle is not in revenue service. 2) Controlling the movement of a revenue service vehicle. 3) Maintaining a revenue service vehicle or equipment used in revenue service.	FTA

**Attachment B Contacts – Updated 3/9/2022**

Any questions regarding this policy or any other aspect of the substance abuse policy should be directed to the following individual(s).

**Cabarrus County Transportation Drug and Alcohol Program Manager**

Name: Charles Ratliff  
Title: Operations & Training Supervisor  
Address: 1303 S. Cannon Blvd Kannapolis NC  
Telephone Number: (704)920-2925

**Medical Review Officer**

Name: Dr. Owensby  
Title: MRO  
Address: 681 Cabarrus Ave. West  
Concord NC 28027  
Telephone Number: 1(800)451-3743

**HHS Certified Laboratory Primary Specimen**

Name: Clinic Reference Lab  
Address: 8433 Quivira, Lenexa, KS 66215

Name: LabCorp  
Address: 1904 Alexander Dr., RTP NC 27709  
Telephone Number: 1 (800) 336-553-0780 Ext. 304

**Substance Abuse Professional Referral List**

**Substance Abuse Professional #1**

Name: John Trombello  
Title: McLaughlin Young Group  
Address: 5925 Carnegie Blvd  
Suite 350  
Charlotte NC 28209  
Telephone Number: (704)529-1428

**Substance Abuse Professional #2**

Mary Kay Berhalter  
McLaughlin Young Group  
5925 Carnegie Blvd  
Suite 350  
Charlotte NC 28209  
(704)529-1428

## SIGNATURE AND CERTIFICATION PAGE

The Cabarrus County Board of Commissioners has reviewed the Transportation Drug & Alcohol Policy.

Transit Director

Date:

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I hereby certify this Plan for Cabarrus County Public Transportation System.

CHAIR BOARD SIGNATURE

Authorized Representative

Date:

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# CABARRUS COUNTY



## BOARD OF COMMISSIONERS WORK SESSION

**April 4, 2022  
4:00 PM**

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**AGENDA CATEGORY:**

Discussion Items for Action

**SUBJECT:**

DHS - Transportation Federal Transit Administration Resolution

**BRIEF SUMMARY:**

The NCDOT Public Transportation Division will no longer administer the Federal Transit Administration 5307 grant for North Carolina. Cabarrus County will now have to begin applying directly to FTA for this Grant. In order to be set up with the Federal Transit Administration we will need a resolution approved giving the County Manager and Cabarrus County the authority to apply directly to the Federal government for 5307 funds.

**REQUESTED ACTION:**

Motion to approve the Federal Transit Administration resolution.

**EXPECTED LENGTH OF PRESENTATION:**

5 Minutes

**SUBMITTED BY:**

Bob Bushey, Transportation Manager

**BUDGET AMENDMENT REQUIRED:**

No

**COUNTY MANAGER'S RECOMMENDATIONS/COMMENTS:**

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**ATTACHMENTS:**

## ▣ FTA Resolution

FEDERAL TRANSIT ADMINISTRATION RESOLUTION

Resolution authorizing the filing of applications with the Federal Transit Administration, an operating administration of the United States Department of Transportation, for federal transportation assistance authorized by 49 U.S.C. Chapter 53; title 23, United States Code, or other federal statutes administered by the Federal Transit Administration.

WHEREAS, the Federal Transit Administrator has been delegated authority to award federal financial assistance for a transportation project;

WHEREAS, the grant or cooperative agreement for federal financial assistance will impose certain obligation upon the applicant, and may require the applicant to provide the local share of the project cost;

WHEREAS, the applicant has or will provide all annual certifications and assurances to the Federal Transit Administration required for the project;

NOW, THEREFORE, BE IT RESOLVED BY THE CABARRUS COUNTY BOARD OF COMMISSIONERS

1. That The County Manager is authorized to execute and file an application for federal assistance on behalf of Cabarrus County with Federal Transit Administration for federal Transit Administration for federal assistance authorized by 49 U.S.C Chapter 53, title 23, United States Code, or other federal statues authorizing a project administered by the Federal Transit Administration. Cabarrus County has received authority from the City of Concord to apply for Urbanized Area Formula Program Assistance. The City of Concord North Carolina is the designated recipient as defined by 49 U.S.C. 5307(a)(2)
2. That the County Manager is authorized to execute and file with its applications the annual certifications and assurances and other documents the Federal Transportation Administration requires before awarding a federal assistance grant or cooperative agreement.
3. That the County Manager is authorized to execute grant and cooperative agreements with the Federal Transit Administration on behalf of Cabarrus County.

Adopted this 19<sup>th</sup> day of April, 2022.

\_\_\_\_\_  
Stephen M. Morris, Chairman

Attest:

\_\_\_\_\_  
Clerk to the Board

# CABARRUS COUNTY



## BOARD OF COMMISSIONERS WORK SESSION

**April 4, 2022  
4:00 PM**

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### **AGENDA CATEGORY:**

Discussion Items for Action

### **SUBJECT:**

DHS - Transportation System Safety Plan

### **BRIEF SUMMARY:**

This document is a plan to prepare for workplace emergencies. By auditing the workplace, training employees, obtaining and maintaining the necessary equipment, and by assigning responsibilities, human life and company resources will be preserved. The intent of this plan is to ensure all employees a safe and healthful workplace. Those employees assigned specific duties under this plan will be provided the necessary training and equipment to ensure their safety. This plan applies to emergencies that could be reasonably expected in our workplace such as fire/smoke, tornadoes, bomb threats, leaks, etc.

This emergency action plan will be reviewed annually and updated as needed to maintain compliance with applicable regulations and standards and remain up-to-date. Workplace inspection reports and incident reports will be maintained and used to provide corrections and improvements to the plan.

### **REQUESTED ACTION:**

Motion to approve and adopt the System Safety Plan.

### **EXPECTED LENGTH OF PRESENTATION:**

5 Minutes

### **SUBMITTED BY:**

Charles Ratliff, DHS Transportation Operations and Training Supervisor

### **BUDGET AMENDMENT REQUIRED:**

No

**COUNTY MANAGER'S RECOMMENDATIONS/COMMENTS:**

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**ATTACHMENTS:**

- ▣ System Safety Plan



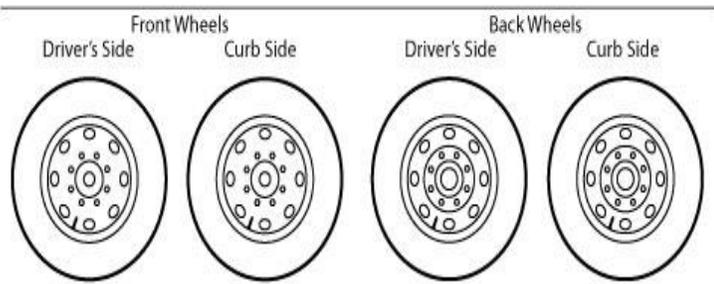
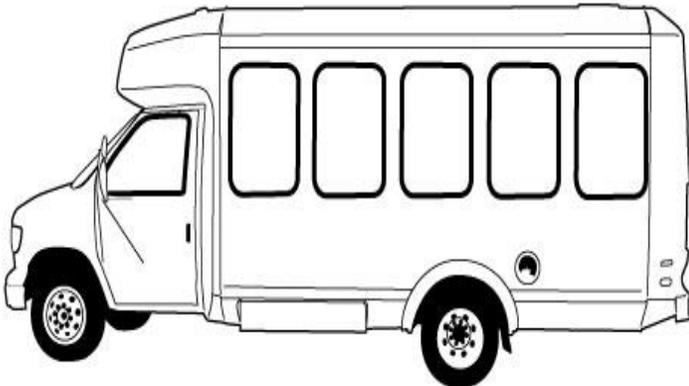
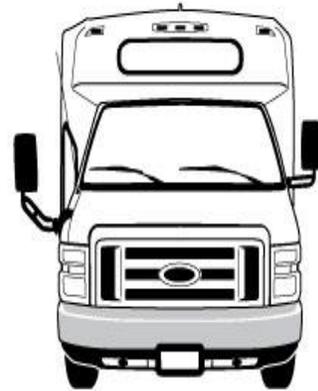
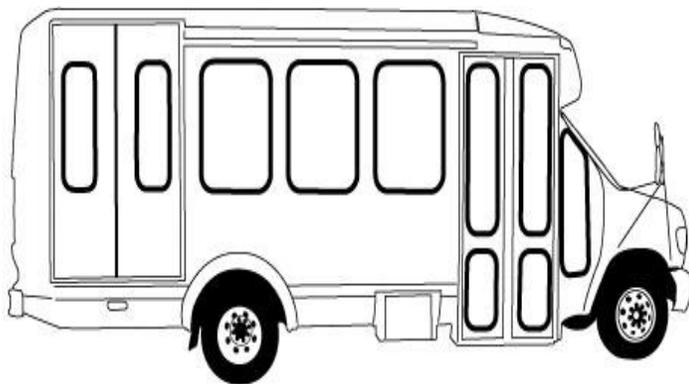
CABARRUS COUNTY TRANSPORTATION  
SERVICE  
PUBLIC  
TRANSPORTATION  
SYSTEM SAFETY PLAN (SSP)



TRANSPORTATION MANAGER- BOB BUSHEY  
OPERATIONS & TRAINING SUPERVISOR-CHARLES RATLIFF  
DRIVER SUPERVISOR-JEFF FREEZE  
DRIVER SUPERVISOR-JAMIE SMITHREVISED: APRIL 19, 2022

Cabarrus County Transportation System reviews and updates the SSP as changes are made to policies, procedures or training, and submits to the Cabarrus County Board of Commissioners annually for approval. Updates are results of employee feedback, management's evaluation of the Plan, or IMD changes in requirements.

**“MAKING A DIFFERENCE”**




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Updated 10 / 2012

## THE SIX PLANS

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# EMERGENCY ACTION PLAN

(Ref: 1910.38)

*April 19, 2022*

**Scope:** It is the policy of Cabarrus County to provide to employees the safest practical workplace free from areas where potential emergency hazards exist. The primary goal of this emergency action program is to reduce or eliminate loss of life and resources in the workplace by heightening the awareness of all employees on emergency procedures. Another goal of this plan is to provide all employees with the information necessary to recognize hazardous conditions and take appropriate action before such conditions result in an emergency.

**INTRODUCTION:**

This document is a plan to prepare for workplace emergencies. By auditing the workplace, training employees, obtaining and maintaining the necessary equipment, and by assigning responsibilities, human life and company resources will be preserved. The intent of this plan is to ensure all employees a safe and healthful workplace. Those employees assigned specific duties under this plan will be provided the necessary training and equipment to ensure their safety. This plan applies to emergencies that could be reasonably expected in our workplace such as fire/smoke, tornadoes, bomb threats, leaks, etc.

This emergency action plan will be reviewed annually and updated as needed to maintain compliance with applicable regulations and standards and remain up-to-date. Workplace inspection reports and incident reports will be maintained and used to provide corrections and improvements to the plan.

**EMERGENCY PLAN COORDINATORS:** Coordinators are responsible for the proper inventory and maintenance of equipment. They may be contacted by employees for further information on this Plan.

Building/Department	Name/Title	Phone #
Safety & Risk Management	Risk Manager	(704) 920-2100
Emergency Management	Emergency Manager	(704) 920-2143
DHS- IAM	Incident Commander	(704) 920-3213
Transportation Dept.	Transportation Manager	(704) 920-2932

**PLAN OUTLINE/DESCRIPTION:**

- I. Means of Reporting Emergencies: All fires and emergencies will be reported by one or more of the following means as appropriate:

- a. Verbally to 911 with the emergency and location.
- b. Verbally to Risk Management (ext. 2218), Infrastructure and Asset Management (ext. 3213), Emergency Management (ext. 2561) during normal working hours.
- c. By telephone if after hours/weekends.
- d. Via the building alarm system.

**Note:** The following emergency numbers will be posted throughout the facility:

**FIRE: 911**

**POLICE: 911**

**AMBULANCE: 911**

Emergencies that require either fire, police or ambulance should first be reported to 911. Risk Management should also be alerted to any fires or emergencies so that proper contact can be made to all entities.

- II. **\*Alarm System Requirements:** Alarm system requirements for notifying employees during an emergency are as follows:
  - a. Provides warning for safe escape.
  - b. Can be perceived by all employees.
  - c. Alarm is distinctive and recognizable.
  - d. Employees have been trained on the alarm system.
  - e. Emergency phone numbers are posted.
  - f. Emergency alarms have priority over all other communications.
  - g. Alarm system is properly maintained.
  
- III. **Sounding the Alarm:** The signal for immediate evacuation of the facility will be an alarm system. The alternate means of notification will be verbal.
  
- IV. **Evacuation Plans:** Emergency evacuation escape route plans are posted in key areas of all County buildings. It should be noted that everyone should exist the building according to the nearest and safest exist available. It is recommended that disabled patrons or employees identify an “evacuation assistant” to assist in locating an on-site emergency personnel and disclosing the location of the disabled person. There are basic evacuation routes to safely remove disabled persons out of the building. Horizontal evacuation entails existing out of the building to gain access to the outside ground level or going to unaffected wings of the building. Vertical evacuation utilizes stairwells to reach the ground level.

Task	Building/Department	Name/Title/Phone#
Fire Extinguisher/Hoses	IAM	(704)920-3212
Evacuation Assistant	DHS- Emergency Coordinator	(704) 920-1400
Emergency Shut-down	IAM	(704) 920-3212

Another option in the event of no imminent danger is to remain in a safe location with an exterior window and telephone to remain in contact with 911.

- V. **Employee Accountability:** In the event of an evacuation, all occupants shall promptly exit the building via the nearest exit. Go to your designated assembly point and report to your supervisor. Each supervisor (or designee) will account for each assigned employee via a head count. All supervisors shall report their head count to their department heads, who should then notify Risk Management at (704) 920-2100
  
- VI. **Building Re-Entry:** Once evacuated, no one shall re-enter the building. There will be signage stating that the building is under evacuation and should not be entered. Once the Fire Department or other responsible agency has notified us that the building is safe to re-enter, then personnel shall return to their work areas.
  
- VII. **Hazardous Weather:** A hazardous weather alert consists of phone alert and emails.  
When a hazardous weather alert is made, all employees shall immediately report to the closest tornado refuge area according to their building. Stay in this area until given the all-clear sign, which is a verbal, all clear from the Building Incident Commander.

Employee training should be provided when:

- this Program is initiated
- the responsibilities of essential employees' changes
- when the Program is revised
- when new employees are hired.

Subjects addressed include:

- a. Emergency escape procedures/routes
- b. Fire extinguisher locations and proper use
- c. Head count procedures
- d. Major facility fire hazards
- e. Fire prevention practices
- f. Means of reporting fires/emergencies (use of alarm systems)
- g. Names/titles of Coordinators
- h. Availability of the plan to employees
- i. Housekeeping practices
- j. No smoking areas
- k. Hazardous weather procedures
- l. Special duties as assigned to Coordinators and those listed above.

Written records shall be maintained of all Emergency Action Plan training.

\*For further information on Employee Alarm Systems, see 1910.165.

# FIRE PREVENTION PLAN

April 19, 2022

9

## I. Policy

Scope: It is the policy of Cabarrus County policy to provide to employees the safest practical workplace, free from areas where potential fire hazards exist. The primary goal of this Fire Prevention Plan is to reduce or eliminate fire in the workplace by heightening the fire safety awareness of all employees. Another goal of this Plan is to provide all employees with the information necessary to recognize hazardous conditions and take appropriate action before such conditions result in a fire emergency.

This Fire Prevention Plan complies with the requirements of 29 CFR 1910.39.

This Plan details the basic steps necessary to minimize the potential for fire occurring in the workplace. Prevention of fires in the workplace is the responsibility of everyone employed by the company, but must be monitored by each supervisor overseeing any work activity that involves a major fire hazard. Every effort will be made by the company to identify those hazards that might cause fires and establish a means for controlling them.

The Fire Prevention Plan will be administered by Safety and Risk Management who will compile a list of all major workplace fire hazards, the names or job titles of personnel responsible for fire control and prevention equipment maintenance, names or job titles of personnel responsible for control of fuel source hazards and locations of all fire extinguishers in the workplace. The Plan administrator, or safety officer, must also be familiar with the behavior of employees that may create fire hazards as well as periods of the day, month, and year in which the workplace could be more vulnerable to fire.

This Plan will be reviewed annually and updated as needed to maintain compliance with applicable regulations and standards and remain up-to-date with best practices in fire protection. Workplace inspection reports and fire incident reports will be maintained and used to provide corrections and improvements to the plan.

This Plan will be available for employees to view at all times during normal working hours.

## II. CLASSIFICATION

Fire is a chemical reaction involving the rapid oxidation or burning of a fuel. It needs four elements to occur as illustrated below in the tetrahedron. This is described by the following illustration:

Heat



The first component of the tetrahedron is fuel. Fuel can be any combustible material such as: solid (such as wood, paper, or cloth), liquid (such as gasoline) or gas (such as acetylene or propane). Solids and liquids generally convert to gases or vapors before they will burn.

Another component of the tetrahedron is oxygen. Fire only needs an atmosphere with at least 16% oxygen.

Heat is also a component of the tetrahedron. Heat is the energy necessary to increase the temperature of the fuel source to a point in which sufficient vapors are emitted for ignition to occur.

The final side of the tetrahedron represents a chemical chain. When these components are brought together in the proper conditions and preparations, fire will develop. Take away any one of these elements, and the fire cannot exist or will be extinguished if it was already burning.

Fires are classified into four groups per sources of fuel: Class A, B, C, and D based on the type of fuel source. Table 1 below describes the classifications of fire which can be used in making hazard assessment.

Class A	Ordinary combustible materials such as paper, wood, cloth and some rubber and plastic materials.
Class B	Flammable or combustible liquids, flammable gases, greases and similar materials, and some rubber and plastic materials.
Class C	Energized electrical equipment and power supply circuits and related materials.
Class D	Combustible metals such as magnesium, titanium, zirconium, sodium, lithium and potassium.

### III. DETERMINING FIRE HAZARDS

Infrastructure and Asset Management is responsible for the maintenance of the equipment and systems installed to prevent or control fires. Material hazards shall be identified, as evident on the specific Material Safety Data Sheets (MSDS), and labeled on containers as soon as they arrive in the workplace.

#### OXYGEN-ENERGIZED ATMOSPHERES

Oxygen-enriched atmospheres involve operating rooms and anesthesia machines, oxygen tents as used by ambulances, fire and police or rescue squads; hospitals and laboratory supply systems; cutting and welding. If practical, nonflammable anesthetic agents will be used. To prevent dangerous adiabatic heating of flammable anesthetic gases, the cylinder valves will be opened very slowly to allow the gradual introduction of the high-pressure gas downstream from the cylinder valve. This will permit a slow buildup of pressure and hence temperature. An aid to the identification of hazards associated with medical agents and gases in NFPA 704, Standard Systems for the Identification of the Fire Hazards of Materials.

#### INDUSTRIAL TRUCKS

The type of industrial truck being used shall be approved for use within any building storing hazardous materials. All refueling operations shall be conducted outside and away from storage of flammable materials. Areas that are used for maintenance and battery charging of electrical trucks should be separated from storage areas.

#### **IV. STORAGE AND HANDLING PROCEDURES**

The storage of material shall be arranged such that adequate clearance is maintained away from heating surfaces, air ducts, heaters, flue pipes, and lighting fixtures. All storage containers or areas shall prominently display signs to identify the material stored within. Storage of chemicals shall be separated from other materials in storage, from handling operations, and from incompatible materials. All individual containers shall be identified as to their contents.

Only containers designed, constructed, and tested in accordance with the U. S. Department of Transportation specifications and regulations are used for storage of compressed or liquefied gases. Compressed gas storage rooms will be areas reserved exclusively for that purpose with good ventilation and at least 1-hour fire resistance rating. The gas cylinders shall be secured in place and stored away from any heat or ignition source. Pressurized gas cylinders shall never be used without pressure regulators.

#### ORDINARY COMBUSTIBLES

- Wooden pallets will not be stacked over 6 feet tall. If feasible, extra pallets will be stored outside or in separate buildings to reduce the risk of fire hazards.
- Piles of combustible materials shall be stored away from buildings and located apart from each other sufficiently to allow firefighting efforts to control an existing fire.

#### FLAMMABLE MATERIALS

- Bulk quantities of flammable liquids shall be stored outdoors and away from buildings. Smaller quantities are subsequently brought into a mixing room where they are prepared for use. The mixing room shall be located next to an outside wall equipped with explosion relief vents. The room shall also have sufficient mechanical ventilation to prevent the accumulation of flammable vapor concentration in the explosive range.
- Small quantities (limited to amount necessary to perform an operation for one working shift) of flammable liquids shall be stored in, and dispensed from, approved safety containers equipped with vapor-tight, self-closing caps, screens or covers.
- Flammable liquids shall be stored away from sources that can produce sparks.
- Flammable liquids shall only be used in areas having adequate and, if feasible, positive ventilation. If the liquid is highly hazardous, the liquid shall only be used in areas with a local exhaust ventilation.
- Flammable liquids shall never be transferred from one container to another by applying air pressure to the original container. Pressurizing such containers may cause them to rupture, creating a serious flammable liquid spill.
- When dangerous liquids are being handled, a warning sign will be posted near the operation, notifying other employees and giving warning that open flames are hazardous and are to be kept away.
- The storage and usage areas will include fire-resistive separations, automatic sprinklers, special ventilation, explosion-relief valves, separation of incompatible materials, and the separation of flammable materials from other materials.

#### V. POTENTIAL IGNITION SOURCES

- Ensure that utility lights always have some type of wire guard over them.

- Don't misuse fuses. Never install a fuse rated higher than specified for the circuit.
- Investigate any appliance or equipment that smells strange. Space heaters, microwave ovens, hot plates, coffee makers and other small appliances shall be rigidly regulated and closely monitored.
- The use of extension cords to connect heating devices to electric outlets shall be prohibited.
- If a hot or under inflated tire is discovered, it should be moved well away from the vehicle. As an alternative, the driver should remain with the vehicle until the tire is cool to the touch, and then make repairs. If a vehicle is left with a hot tire, the tire might burst into flames and destroy the vehicle and load.

Table 2 below lists common sources of ignition that cause fires in the workplace, gives examples in each case, and suggests preventive measures.

Sources of Ignition	Examples	Preventive Measures
Electrical equipment Code. Establish	electrical defects, generally due to poor maintenance, mostly in wiring, motors switches, lamps and hot elements.	Use only approved National Electrical regular maintenance.
Friction schedule of maintenance and	Hot bearings, misaligned or broken machine parts, poor adjustment.	Follow a regular inspection lubrication.
Open flames welding pre- burners clean and not use open combustibles.	Cutting and welding torches, gas oil burners, misuse of gasoline torches.	Follow established cautions. Keep properly adjusted. Do flames near
Smoking and matches permitted areas. Make Use appropriate	Dangerous near flammable liquids and in areas where combustibles are stored or used.	Smoke only in sure matches are out. receptacles.
Static electricity Use static the atmosphere.	Occurs where liquid flows from pipes.	Ground equipment. eliminators. Humidify
Hot surfaces clearances, insulation, air Furnaces, electric lamps or irons unattended.	Exposure of combustibles to circulation. Check heating apparatus prior to leaving it	Provide ample

## WELDING AND CUTTING

Welding and cutting will not be permitted in areas not authorized by management.

If practical, welding and cutting operations shall be conducted in well-ventilated rooms with a fire-resistant floor. If this practice is not feasible, staff should ensure that the work areas have been surveyed for fire hazards; the necessary precautions taken to prevent fires; and issue a hot permit. This hot permit shall only encompass the area, item and time which is specified on it.

If welding is to be performed over wooden or other combustibles type floors, the floors will be swept clean, wetted down, and covered with either fire-retardant blankets, metal or other noncombustible coverings.

Welding will not be permitted in or near areas containing flammable or combustible materials (liquids, vapors, or dusts). Welding will not be permitted in or near closed tanks that contain or have contained flammable liquids unless they have been thoroughly drained, purged and tested free from flammable gases or vapors. Welding shall not begin until all combustible materials have been removed at least 35 feet from the affected areas, or if unable to relocate, covered with a fire-resistant covering. Openings in walls, floors, or ducts shall be covered if located within 35 feet of the intended work area. Welding will not be permitted on any closed containers.

Fire extinguishers will be provided at each welding or cutting operation. A trained watcher will always be stationed during the operation and for at least 30 minutes following the completion of the operation. This person will assure that no stray sparks cause a fire and will immediately extinguish fires that do start.

## OPEN FLAMES

No open flames will be permitted in or near spray booths or spray rooms. If indoor spray-painting work needs to be performed outside of standard spray-painting booths, adequate ventilation will be provided. All potential ignition sources will also be eliminated.

Cabarrus County has a specific policy regarding cigarette/cigar/pipe smoking in the workplace. Policy revised August 26, 2008.

## STATIC ELECTRICITY

The company recognizes that it is impossible to prevent the generation of static electricity in every situation, but the company realizes that the hazard of static sparks can be avoided by preventing the buildup of static charges. One or more of the following preventive methods will be used: grounding, bonding, maintaining a specific humidity level (usually 60-70 percent), and ionizing the atmosphere.

Where a static accumulating piece of equipment is unnecessarily located in a hazardous area, the equipment will be relocated to a safe location rather than attempt to prevent static accumulation.

## VII. HOUSEKEEPING PREVENTATIVE TECHNIQUES

The following are housekeeping techniques and procedures to prevent occurrences of fire.

- Keep storage and working areas free of trash.
- Place oily rags in covered containers and dispose of daily.
- Do not use gasoline or other flammable solvent or finish to clean floors.
- Use noncombustible oil-absorptive materials for sweeping floors.
- Dispose of materials in noncombustible containers that are emptied daily.
- Remove accumulation of combustible dust.
- Don't refuel gasoline-powered equipment in a confined space, especially in the presence of equipment such as furnaces or water heaters.
- Don't refuel gasoline-powered equipment while it is hot.
- Follow proper storage and handling procedures.
- Ensure combustible materials are present only in areas in quantities required for the work operation.

- Clean up any spill of flammable liquids immediately.
- Ensure that if a worker's clothing becomes contaminated with flammable liquids, these individuals change their clothing before continuing to work.
- Post "No Smoking" caution signs near the storage areas.
- Report any hazardous condition, such as old wiring, worn insulation and broken electrical equipment to the supervisor.
- Keep motors clean and in good working order.
- Don't overload electrical outlets.
- Ensure all equipment is turned off at the end of the workday.
- Maintain the right type of fire extinguisher available for use.
- Use the safest cleaning solvents (nonflammable and nontoxic) when cleaning electrical equipment.
- Ensure that all passageways and fire doors are unobstructed. Stairwell doors shall never be propped open, and materials shall not be stored in stairwells.
- Periodically remove over spray residue from walls, floors, and ceilings of spray booths and ventilation ducts.
- Remove contaminated spray booth filters from the building as soon as replaced, or keep immersed in water until disposed.
- Don't allow material to block automatic sprinkler systems, or to be piled around fire extinguisher locations. To obtain the proper distribution of water, a minimum of 18 inches of clear space must be maintained below sprinkler deflectors. If there are no sprinklers, a 3-foot clearance between piled material and the ceiling must be maintained to permit use of hose streams. These distances must be doubled when stock is piled higher than 15 feet.
- Check daily for any discard lumber, broken pallets or pieces of material stored on site and remove properly.
- Remove immediately any pile of material which falls into an aisle or clear space.

- Use weed killers that are not toxic and do not pose a fire hazard.

## FIRE PROTECTION EQUIPMENT

Buildings that are equipped with an electrically managed, manually operated fire alarm system shall be maintained in accordance with NFPA 72 requirements. When activated, the system will sound alarms that can be heard above the ambient noise levels throughout the workplace. The fire alarm will also be automatically transmitted to the fire department. Employees should refer to and follow the safety & Emergency Procedures Guide “Fire Emergency Plan” for evacuations during fire alarm activation.

Buildings that are equipped with automatic sprinklers systems shall be installed and maintained in accordance with NFPA 13, standard for the installation of sprinkler systems. Systems are inspected annually by certified sprinkler contractors to comply with NFPA 13 and state code requirements.

Fire extinguishers must be kept fully charged and in their designated places. The extinguishers will not be obstructed or obscured from view.

The fire extinguishers will be inspected by infrastructure and Asset Management, at least monthly, to make sure that they are in their designated places, have or been tampered with or actuated, and are not corroded or otherwise impaired. Attached inspection tags shall be initialed/dated each month.

The location of all hydrants, hose houses, portable fire extinguishers, or other fire protective equipment should be properly marked with arrows and signs on the pavement.

## VII. TRAINING

All employees shall be instructed on the locations and proper use of fire extinguishers in their work areas. Employees shall also be instructed as to how to operate the building’s fire alarm system and be familiar with evacuation routes. The training of all employees shall include the locations and types of materials and/or processes which pose potential fire hazards.

## APPENDIX B

### INSPECTION LOGS AND FIRE INCIDENT REPORTS

6-14-21

Device Number	Sub Location i.e. room #, Hall, Cube #, etc	Type i.e. Exit, Exit Combo, Emergency	Test Button Y/N	Pass/Fail
HSC 1	Outside of room # 234	Exit	No	✓
HSC 2	Outside of room # 236	2x4	No	✓
HSC 3	Outside of 236	Exit	No	✓
HSC 4	Outside of 236	Exit	No	✓
HSC 5	Outside of 237	2x4	No	✓
HSC 6	Outside of 219	2x4	No	✓
HSC 7	Outside of 226	Exit	Yes	✓
HSC 8	outside of 193	2x4	No	✓
HSC 9	Outside of 193	Exit	No	✓
HSC 10	Outside of 193	Exit	No	✓
HSC 11	Outside of 191	2x4	No	✓
HSC 12	Outside of 189	Exit	No	✓
HSC 13	Cubicle 175P	2x4	No	✓
HSC 14	Cubicle 175U	2x4	No	✓
HSC 15	Cubicle 175R	2x4	No	✓
HSC 16	Cubicle 175C	2x4	No	✓
HSC 17	Cubicle 175D	2x4	No	✓
HSC 18	Cubicle 163L	2x4	No	✓
HSC 19	Cubicle 163D	2x4	No	✓
HSC 20	outside 162	2x4	No	✓
HSC 21	Outside 162	Exit	Yes	✓
HSC 22	At patio exit	Exit	No	✓
HSC 23	Outside 148	Exit	No	✓
HSC 24	Outside 148	2x4	No	✓
HSC 25	At 147	Exit	No	✓
HSC 26	Outside 164	2x4	No	✓
HSC 27	Outside 157	Exit	No	✓
HSC 28	Outside 159	Exit	No	✓
HSC 29	Outside restroom 5	2x4	No	✓
HSC 30	Outside restroom 5	Exit	No	✓
HSC 31	Outside restroom 5	Exit	No	✓
HSC 32	Cubicle 183X	2x4	No	✓

HSC 65	Inside 409	Exit	Yes	✓
HSC 66	Inside 404	Exit	Yes	✓
HSC 67	Outside 412	Exit	No	✓
HSC 68	Inside 412	Exit	No	✓
HSC 69	Outside 417	Exit	No	✓
HSC 70	Outside 419	2x4	No	✓
HSC 71	Outside 445	Exit	No	✓
HSC 72	Outside 445	Exit	No	✓
HSC 73	outside 427	Exit	No	✓
HSC 74	Inside 427	Exit	No	✓
HSC 75	Outside 431	2x4	No	✓
HSC 76	Outsode 424	Exit	No	✓
HSC 77	Outside 424	Exit	No	✓
HSC 78	Outside 426	2x4	No	✓
HSC 79	Outside 437	Exit	No	✓
HSC 80	Outside 437	Exit	No	✓
HSC 81	Outside 435	2x4	No	✓
HSC 82	Outside 443	2x4	No	✓
HSC 83	Outside 448	Exit	No	✓
HSC 84	Outside 448	Exit	No	✓
HSC 85	Outside 447	2x4	No	✓
HSC 86	Outside 445	2x4	No	✓
HSC 87	Inside 456	2x4	No	✓
HSC 88	Inside 456	2x4	No	✓
HSC 89	Outside 455	Exit	No	✓
HSC 90	Outside 454	2x4	No	✓
HSC 91	Outside 461	2x4	No	✓
HSC 92	Outside 465	Exit	No	✓
Hsc 93	Outside 465	Exit	No	✓
HSC 94	Outside 461	Exit	No	✓
HSC 95	Outside 461	2x4	No	✓
HSC 96	Inside 466	Exit	No	✓
HSC 97	Inside 466	2x4	No	✓

HSC 33	Cubicle 183B	2x4	No	✓
HSC 34	Outside 182	Exit	No	✓
HSC 35	Outside 206	2x4	No	✓
HSC 36	Near 197	2x4	No	✓
HSC 37	Outside of 187	Exit	No	✓
HSC 38	Outside of 187	Exit	No	✓
HSC 39	Outside of 187	Exit	No	✓
HSC 40	Outside of 187	Exit	No	✓
HSC 41	At double doors in main hallway	2x4	No	✓
HSC 42	Outside Restroom 3	Exit	No	✓
HSC 43	Between olc CRC and Admin doors	2x4	No	✓
HSC 44	Between Admin doors in hallway	2x4	No	✓
HSC 45	Between Admin doors in hallway	2x4	No	✓
HSC 46	Between Admin doors in hallway	2x4	No	✓
HSC 47	In Admin Hallway	Exit	No	✓
HSC 48	In Admin Hallway	Exit	No	✓
HSC 49	Outside 353	Exit	No	✓
HSC 50	Outside 353	Exit	No	✓
HSC 51	Outside 372	2x4	No	✓
HSC 52	Outside 356	2x4	No	✓
HSC 53	Outside 298	2x4	No	✓
HSC 54	Outside 299	Exit	No	✓
HSC 55	Outside 299	Exit	No	✓
HSC 56	Outside Breakroom	2x4	No	✓
HSC 57	Fitness room	Exit	No	✓
HSC 58	Fitness room	Exit	No	✓
HSC 59	Exterior door by fitness room	Exit	No	✓
HSC 60	Hallway at custodian office	Exit	No	✓
HSC 61	Hallway at custodian office	Exit	No	✓
HSC 62	outside 416	Exit	No	✓
HSC 63	Outside 416	2x4	No	✓
HSC 64	Outside 416	2x4	No	✓

HSC 98	Inside 465	Exit	No	✓
HSC 99	Inside 569	Exit	No	✓
HSC 100	Outside 567	Exit	No	✓
HSC 101	Outside 571	2x4	No	✓
HSC 102	Inside 561	2x4	No	✓
HSC 103	Outside 558	Exit	No	✓
HSC 104	Outside 558	Exit	No	✓
HSc 105	Inside 558	2x4	Yes	✓
HSC 106	Inside 558	2x4	Yes	✓
HSC 107	Outside 496	Exit	No	✓
HSC 108	Outside 496	Exit	No	✓
HSC 109	Outside 496	Exit	No	✓
HSC 110	Inside adult service cubicle area	2x4	No	✓
HSC 111	Inside adult service cubicle area	2x4	No	✓
HSC 112	Inside adult service cubicle area	2x4	No	✓
HSC 113	Inside adult service cubicle area	2x4	No	✓
HSC 114	Inside adult service cubicle area	2x4	No	✓
HSC 115	outside 489	Exit	No	✓
HSC 116	outside 489	Exit	No	✓
HSC 117	Outside 489	Exit	No	✓
HSc 118	Outside 482	2x4	No	✓
HSC 119	Outside 511	2x2	No	✓
HSC 120	Outside 511	Exit	No	✓
HSC 121	Outside 511	Exit	No	✓
HSC 122	Outside 507	Exit	No	✓
HSC 123	Outside 507	Exit	No	✓
HSC 124	Outside 507	2x4	No	✓
HSC 125	Outside 536	Exit	No	✓
HSC 126	Outside 548	Exit	No	✓
HSC 127	Outside 548	Exit	No	✓
HSC 128	Outside 547	2x4	No	✓
HSC 129	Outside 529	Exit	No	✓
HSC 130	inside 555	2x4	Yes	✓

HSC 131	Outside 555	Exit	No	✓
HSC 132	Main lobby	Exit	No	✓
HSC 133	Main lobby	Exit	No	✓
HSC 134	Main lobby	2x4	No	✓
HSC 135	Main lobby	2x4	No	✓
HSC 136	Main lobby	2x4	No	✓
HSC 137	Main lobby	2x4	No	✓
HSC 138	Inside 472	Exit	Yes	✓
HSC 139	Inside 472	Exit	No	✓
HSC 140	Inside 472	2x4	No	✓
HSC 141	Inside 472	2x4	No	✓
HSC 142	Inside 472	2x4	No	✓
HSC 143	Inside 472	2x4	No	✓
HSC 144	Inside 472	2x4	No	✓
HSC 145	Near auditorium	Exit	No	✓
HSC 146	Near auditorium	Exit	No	✓
HSC 147	Near auditorium	2x4	No	✓
HSC 148	Near auditorium	2x4	No	✓
HSC 149	Near auditorium	2x4	No	✓
HSC 150	Inside auditorium	Exit	No	✓
HSC 151	Inside auditorium	Exit	No	✓
HSC 152	Inside auditorium	Exit	No	✓
HSC 153	Inside auditorium	Emergency	Yes	✓
HSC 154	Inside auditorium	Emergency	Yes	✓
HSC 155	Outside 306	Exit	No	✓
HSC 156	Outside 306	Exit	No	✓
HSC 157	Outside 301	4ft fixture	No	✓
HSC 158	Inside 301	Exit	No	✓
HSC 159	Outside 350	2x4	No	✓
HSC 160	Outside 349	2x4	No	✓
HSC 161	Outside 347	Exit	No	✓
HSC 162	Outside 345	2x4	No	✓
HSC 163	Outside 344	Exit	No	✓

HSC 166	Outside 341	Exit	No	✓
HSC 167	Outside 341	2x4	No	✓
HSC 168	Outside 337	Exit	No	✓
HSC 169	Outside 335	Exit	No	✓
HSC 170	Outside 321	2x2	No	✓
HSC 171	Outside 334	2x2	No	✓
HSC 172	Outside 319	2x2	No	✓
HSC 173	Outside 317	22x	No	✓
HSC 174	Near office 317	Exit	No	✓
HSC 175	outside 329	2x2	No	✓
HSC 176	Outside 310	2x2	No	✓
HSC 177	Outside 331	2x2	No	✓
HSC 178	Inside vestibule by MPR econ, service	Exit	No	✓
HSC 179	Outside 113	Exit	No	✓
HSC 180	Outside 113	2x4	No	✓
HSC 181	Outside 111	Exit	No	✓
HSC 182	Outside 116	Exit	No	✓
HSC 183	Outside 136	Exit	No	✓
HSC 184	Outside 136	2x4	No	✓
HSC 185	Outside 138	2x4	No	✓
HSC 186	Outside 141	Exit	No	✓
HSC 187	Outside 141	2x4	No	✓
HSC 188	Cubicle 137Y	2x4	No	✓
HSC 189	Outside 133	2x4	No	✓
HSC 190	Outside 133	Exit	No	✓
HSC 191	outside 132	2x4	No	✓
HSC 192	Outside 142	2x4	No	✓
HSC 193	Outside 126	Exit	No	✓
HSC 194	Old CRC Sleeping quarters 5	Exit	Yes	✓
HSC 195	Old CRC Outside Business office	Exit	No	✓
HSC 196	Old CRC Outside Business office	Exit	No	✓

HSC 197	Old CRC Outside Business office	2x4	No	✓
HSC 198	Old CRC Outside Business office	2x4	No	✓
HSC 199	Old CRC outside sleeping quarters 2a 213	2x4	No	✓
HSC 200	Old CRC near main entrance	Exit	No	✓
HSC 201	Old CRC near main entrance	Exit	No	✓
HSC 202	Old CRC near main entrance	Exit	No	✓
HSC 203	Old CRC Outside clinical director office	2x4	No	✓
HSC 204	Old CRC Outside clinical director office	Exit	No	✓
HSC 205	Old CRC outside Activity room	Exit	No	✓
HSC 206	Old CRC outside Activity room	Exit	No	✓
HSC 207	Old CRC outside Activity room	Exit	No	✓
HSC 208	Old CRC outside Activity room	2x4	No	✓
HSC 209	Old CRC outside Activity room	2x4	No	✓
HSC 210	Old CRC inside activity room	Exit	No	✓
HSC 211	Near restroom #4	Exit	No	✓
HSC 212	Near doubledoors at main breakroom	Exit	No	✓
HSC 213	Near doubledoors at main breakroom	Exit	No	✓
HSC 214	Inside 472	Exit	Yes	✓
HSC 215	Outside of 311	2x4	No	✓
HSC 216	outside of 310	Exit	No	✓

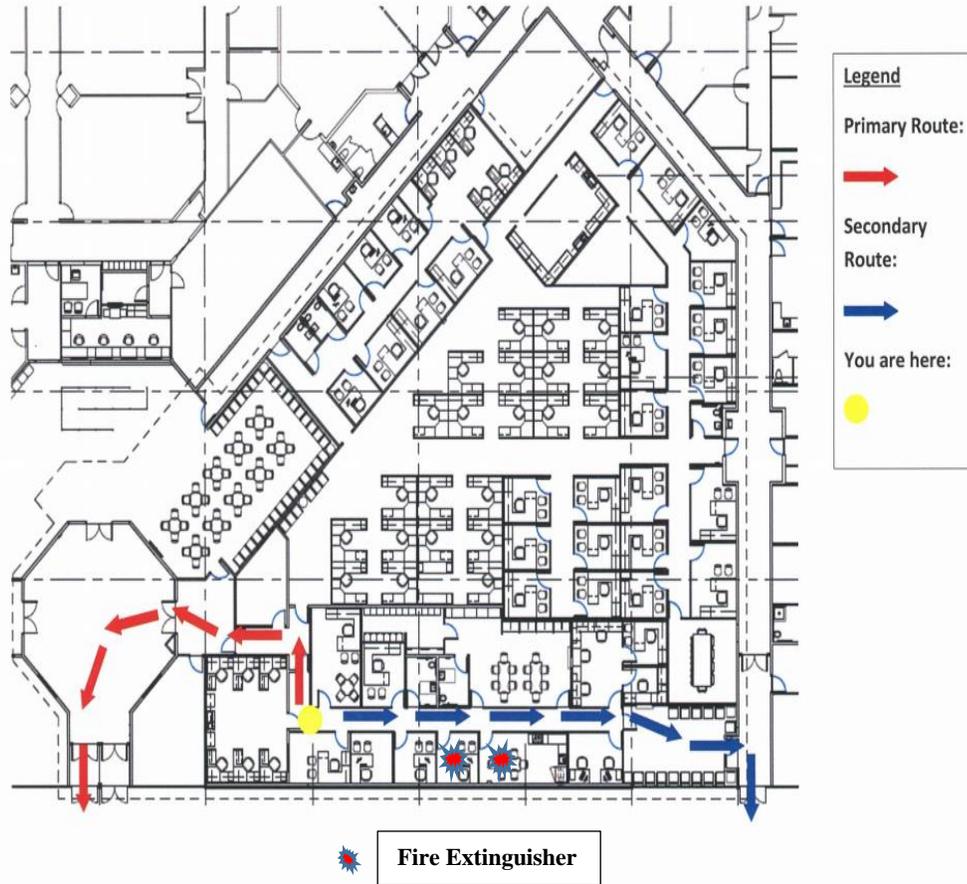
## APPENDIX C

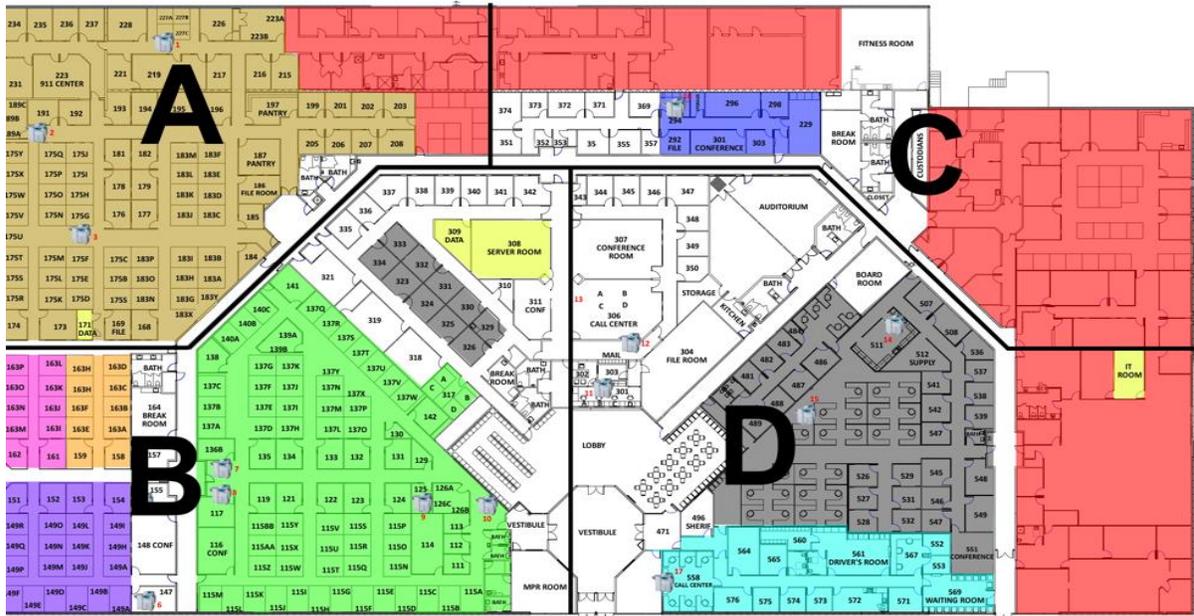
### IDENTIFIED FIRE HAZARDS AND RESPONSIBLE PERSONNEL

Building/Department	Name/Title	Phone #
Safety & Risk Management	Risk Manager	(704) 920-2100
Emergency Management	Emergency Manager	(704) 920-2143
DHS- IAM	Incident Commander	(704) 920-3213
Transportation Dept.	Transportation Manager	(704) 920-2932

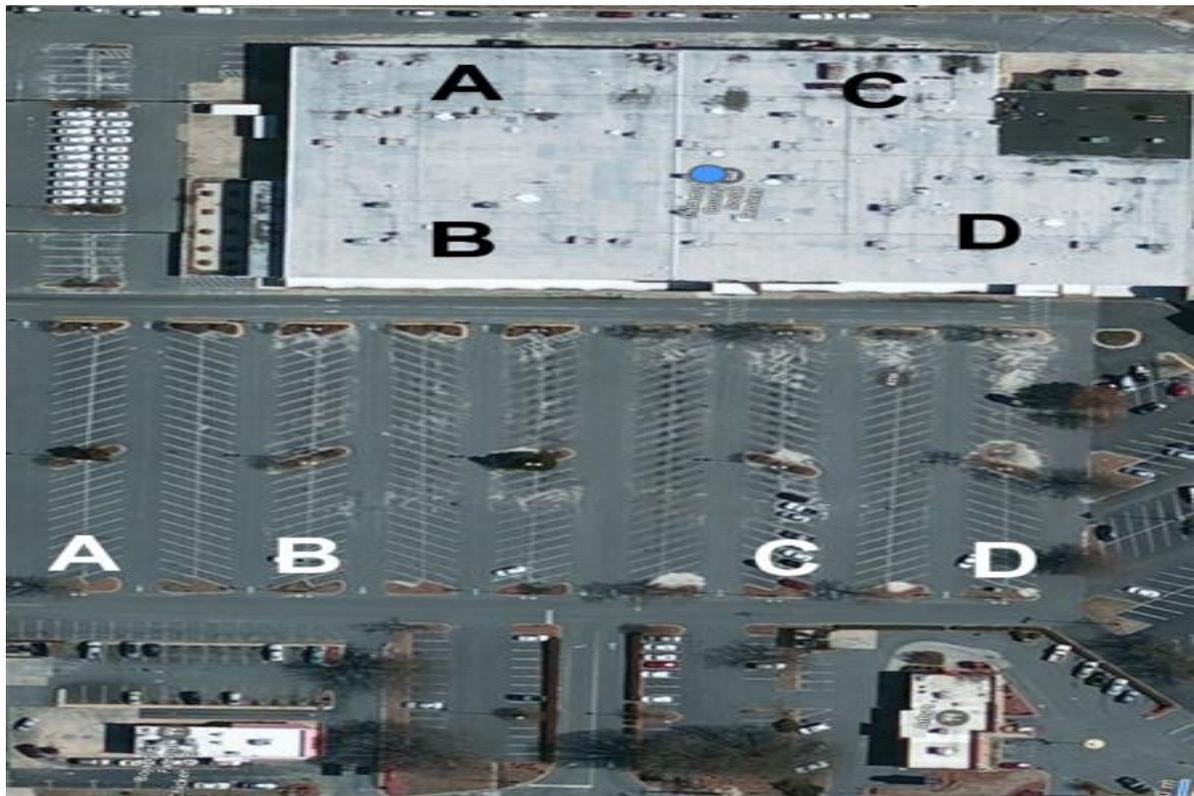
## FIRE EXTINGUISHER LOCATIONS

Insert your map designating fire extinguisher locations behind this tab for your building.





- Legal
- Child Support
- Economic Services
- Work First
- Transportation
- Information Tech
- Adult & Aging
- Unused Space
- Day Care
- Child Welfare



# PREVENTATIVE MAINTENANCE PLAN

*April 19, 2022*

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Preventive maintenance is a term used to describe the performance of regularly scheduled maintenance procedures of a vehicle to prevent the possibility of malfunctions. It is this agency's policy to follow that minimum required maintenance set forth by the manufacturer standards. All preventative maintenance will be reported/completed in a timely manner.

## MAINTENANCE

Each vehicle is assigned a number by the Manager of Transportation, which is affixed to each vehicle in a visible location (Both sides of the front corner of the vehicle, and the back passenger side above the brake light.) The phone number and facility name is placed on the vehicles at the time of purchase.

Every transit driver is responsible for ensuring that periodic maintenance is performed on the vehicle assigned to him/her by performing pre/post inspections. The transit driver will indicate on the Pre-Trip Inspection Form information that helps the Fleet Coordinator to know when the vehicle is within 500 miles of the next scheduled service.

All requests for service and maintenance must be given to the Fleet Coordinator. Repairs are posted on the Maintenance Repair form generated by the AssetWorks program. A copy of the form must be taken with the vehicle to the maintenance provider and a copy of the form is filed with the fleet coordinator and posted in the Vehicle Maintenance Log.

In the event of a mechanical failure while the vehicle is in service, the driver will call the driver supervisor and supervisor will call the Fleet Coordinator to report the need for service. The coordinator will contact the maintenance provider during normal business hours or the wrecker service at other times.

## Preventative Maintenance Schedule

Be alert and ready to make schedule alterations per your specific needs. When making alterations, be sure to document any changes and update this list for reference.

Regularly

Wash vehicle interior and exterior – determine need by the amount of use and road conditions. (Salt used for clearing roads and chloride compounds used to control dust on unpaved roads may require more frequent washes.

Clean the windshield wiper blades as required.

Unscheduled

Replace:

- Alternator
- Starter motor
- Windshield wiper motor
- Windshield wiper blades
- Exhaust components: muffler, manifolds, pipes, hangers and clamps, headlamps, turn signal bulbs, brake lights and marker lights.
- Vehicle interior fittings, seat materials
- Wheelchair lift components
- Wheelchair restraint components

Every Year

Flush radiator  
Replace coolant  
Service air conditioner

Every 2 Years

Replace all hoses; more often if necessary.

Every 2 Years

Replace battery

Mileage Specific

\* In dusty areas, the air filter should be replaced every 10,000 miles.

\*\* PVC value and brake pad replacements and engine tune-ups may need to be performed more often than suggested in this schedule.

- 6,000 Change oil, oil filter, lubricate outer tie rod ends, rotate tires, check transmission fluid level, check coolant level, hoses and clamps, inspect exhaust system and brake hoses, inspect CV joints (if equipped) and front suspension components.
- 12,000 Change oil, oil filter, lubricate outer tie rod ends, lubricate steering linkage, rotate tires, check transmission fluid level, check coolant level, hoses, and clamps, inspect exhaust system and brake hoses.
- 18,000 Change oil, oil filter, lubricate outer tie rod ends, lubricate front suspension ball joints, rotate tires, check transmission fluid level, check coolant level, hoses, and clamps, inspect exhaust system, brake hoses and brake linings, inspect CV joints (if equipped) and front suspension components, inspect front wheel bearing, clean and repack if required.
- 24,000 Change oil, oil filter, lubricate outer tie rod ends, lubricate steering linkage, rotate tires, Check transmission fluid level, check coolant level, hoses and clamps, inspect exhaust system and brake and brake hoses, inspect CV joints (if equipped) and front suspension components.
- 30,000 Change oil, oil filter, lubricate outer tie rod ends, replace engine air cleaner filter, replace spark plugs, rotate tires, check transmission fluid level and fill plug condition, check coolant level, hoses and clamps, check transfer case fluid level, inspect exhaust system and brake hoses, inspect the CV joints (if equipped) and front suspension components.

36,000	Change oil, oil filter, flush and replace engine coolant regardless of mileage, lubricate outer tie rod ends, lubricate front suspension ball joints, lubricate steering linkage, rotate tires, check transmission fluid level, check coolant level, hoses, and clamps, inspect exhaust system, brake hoses and brake linings, inspect CV joints (if equipped) and front suspension components, inspect front wheel bearing, clean and repack if required.
42,000	Change oil, oil filter, lubricate outer tie rod ends, rotate tires, check transmission fluid level, check coolant level, hoses, and clamps, inspect exhaust system and brake hoses. Inspect CV (if equipped) and front suspension components.
48,000	Change oil, oil filter, flush and replace engine coolant, lubricate out tie rod ends, lubricate steering linkage, rotate tires, check transmission fluid level, check coolant level, hoses, and clamps, inspect exhaust system and brake hoses, inspect CV joints (if equipped) and front suspension components.
54,000	Change oil, oil filter, lubricate outer tie rod ends, lubricate front suspension ball joints, rotate tires, check transmission fluid level, check coolant level, hoses, and clamps, inspect exhaust system, brake hoses and brake linings, inspect CV joints (if equipped) and front suspension components, inspect front wheel bearings, clean and repack if required.
60,000	Change oil, oil filter, flush and replace engine coolant, replace ignition cables, replace ignition cables, replace engine air cleaner filter, replace spark plugs, lubricate steering linkage, rotate tires, check transfer case fluid level, check transmission fluid level, and fill plug condition, check coolant level, hoses and clamps, inspect exhaust system and brake hoses, inspect the CV joints (if equipped) and front suspension components, inspect PCV valve, replace as necessary, inspect auto tension drive belt and replace if required.
66,000	Change oil, oil filter, lubricate outer tie rod ends, lubricate steering linkage, rotate tires, check coolant level, hoses and clamps, inspect exhaust system and brake hoses, inspect CV joints (if equipped).

72,000	Change oil, oil filter, lubricate steering linkage, rotate tires, lubricate outer tie rod ends, lubricate front suspension ball joints, check transmission fluid level, check coolant level, hoses and clamps, inspect exhaust system, brake hoses and brake linings, Inspect CV joints (if equipped) and front suspension components, inspect front wheel bearings, clean and repack if required, inspect and replace auto tension drive belt if required.
78,000	Change engine oil, oil filter, flush and replace engine coolant, lubricate outer tie rod ends, rotate tires, check transmission fluid level, check coolant level, hoses and clamps, inspect CV joints (if equipped) and front-end suspension components.
84,000	Change oil, and filter, lubricate outer tie rod ends, lubricate steering linkage, rotate tires, check transmission fluid level, check coolant level, hoses and clamps, inspect exhaust system and brake hoses, inspect CV joints (if equipped) and front suspension components.
90,000	Change oil, oil filter, drain and refill transfer case fluid, lubricate front suspension ball joints, lubricate outer tie rod ends, replace ignition cables, replace engine air cleaner filter, replace spark plugs, rotate tires, check transmission fluid level and fill plug condition, check coolant level, hoses and clamps, inspect exhaust system, brake hoses and brake linings, inspect the CV joints (if equipped) and front suspension components, inspect PCV valve, replace if necessary, inspect auto tension drive belt and replace if required, inspect front wheel bearings, clean and repack if required, inspect auto tension drive belt and replace if required.
96,000	Change oil, oil filter, lubricate outer tie rod ends, lubricate steering linkage, rotate tires, check transmission fluid level, check coolant level, hoses and clamps, inspect exhaust system and brake hoses, inspect CV joints (if equipped) and front suspension components.
100,000	Change oil, oil filter, lubricate outer tie rod ends, rotate tires, check transmission fluid level, check coolant level, hoses and clamps, inspect exhaust system and brake hoses, inspect CV joints (if equipped) and front suspension components. Drain and fill automatic transmission fluid, change filter, and adjust bands, flush and replace engine coolant, flush and replace power steering fluid.

- 106,000 Change oil, oil filter, lubricate outer tie rod ends, rotate tires, check transmission fluid level, check coolant level, hoses and clamps, inspect exhaust system and brake hoses, inspect CV joints (if equipped) and front suspension components.
- 112,000 Change oil, oil filter, lubricate outer tie rod ends, lubricate steering linkage, rotate tires, check transmission fluid level, check coolant level, hoses, and clamps, inspect exhaust system and brake hoses.
- 118,000 Change oil, oil filter, lubricate outer tie rod ends, lubricate front suspension ball joints, rotate tires, check transmission fluid level, check coolant level, hoses, and clamps, inspect exhaust system, brake hoses and brake linings, inspect CV joints (if equipped) and front suspension components, inspect front wheel bearing, clean and repack if required.
- 124,000 Change oil, oil filter, lubricate outer tie rod ends, lubricate steering linkage, rotate tires, Check transmission fluid level, check coolant level, hoses and clamps, inspect exhaust system and brake and brake hoses, inspect CV joints (if equipped) and front suspension components.
- 130,000 Change oil, oil filter, lubricate outer tie rod ends, replace engine air cleaner filter, replace spark plugs, rotate tires, check transmission fluid level and fill plug condition, check coolant level, hoses and clamps, check transfer case fluid level, inspect exhaust system and brake hoses, inspect the CV joints (if equipped) and front suspension components.
- 136,000 Change oil, oil filter, flush and replace engine coolant regardless of mileage, lubricate outer tie rod ends, lubricate front suspension ball joints, lubricate steering linkage, rotate tires, check transmission fluid level, check coolant level, hoses, and clamps, inspect exhaust system, brake hoses and brake linings, inspect CV joints (if equipped) and front suspension components, inspect front wheel bearing, clean and repack if required.
- 142,000 Change oil, oil filter, lubricate outer tie rod ends, rotate tires, check transmission fluid level, check coolant level, hoses, and clamps, inspect exhaust system and brake hoses. Inspect CV (if equipped) and front suspension components.
- 148,000 Change oil, oil filter, flush and replace engine coolant, lubricate out tie rod ends, lubricate steering linkage, rotate tires, check transmission fluid level, check coolant level, hoses, and clamps, inspect exhaust system and

	brake hoses, inspect CV joints (if equipped) and front suspension components.
154,000	Change oil, oil filter, lubricate outer tie rod ends, lubricate front suspension ball joints, rotate tires, check transmission fluid level, check coolant level, hoses, and clamps, inspect exhaust system, brake hoses and brake linings, inspect CV joints (if equipped) and front suspension components, inspect front wheel bearings, clean and repack if required.
160,000	Change oil, oil filter, lubricate outer tie rod ends, rotate tires, check transmission fluid level, check coolant level, hoses and clamps, inspect exhaust system and brake hoses, inspect CV joints (if equipped) and front suspension components.
166,000	Change oil, oil filter, flush and replace engine coolant, replace ignition cables, replace engine air cleaner filter, replace spark plugs, lubricate steering linkage, rotate tires, check transfer case fluid level, check transmission fluid level, and fill plug condition, check coolant level, hoses and clamps, inspect exhaust system and brake hoses, inspect the CV joints (if equipped) and front suspension components, inspect PCV valve, replace as necessary, inspect auto tension drive belt and replace if required.
172,000	Change oil, oil filter, lubricate steering linkage, rotate tires, lubricate outer tie rod ends, lubricate front suspension ball joints, check transmission fluid level, check coolant level, hoses and clamps, inspect exhaust system, brake hoses and brake linings, inspect CV joints (if equipped) and front suspension components, inspect front wheel bearings, clean and repack if required, inspect and replace auto tension drive belt if required.
178,000	Change engine oil, oil filter, flush and replace engine coolant, lubricate outer tie rod ends, rotate tires, check transmission fluid level, check coolant level, hoses and clamps, inspect CV joints (if equipped) and front end suspension components.
184,000	Change oil, and filter, lubricate outer tie rod ends, lubricate steering linkage, rotate tires, check transmission fluid level, check coolant level, hoses and clamps, inspect exhaust system and brake hoses, inspect CV joints (if equipped) and front suspension components.

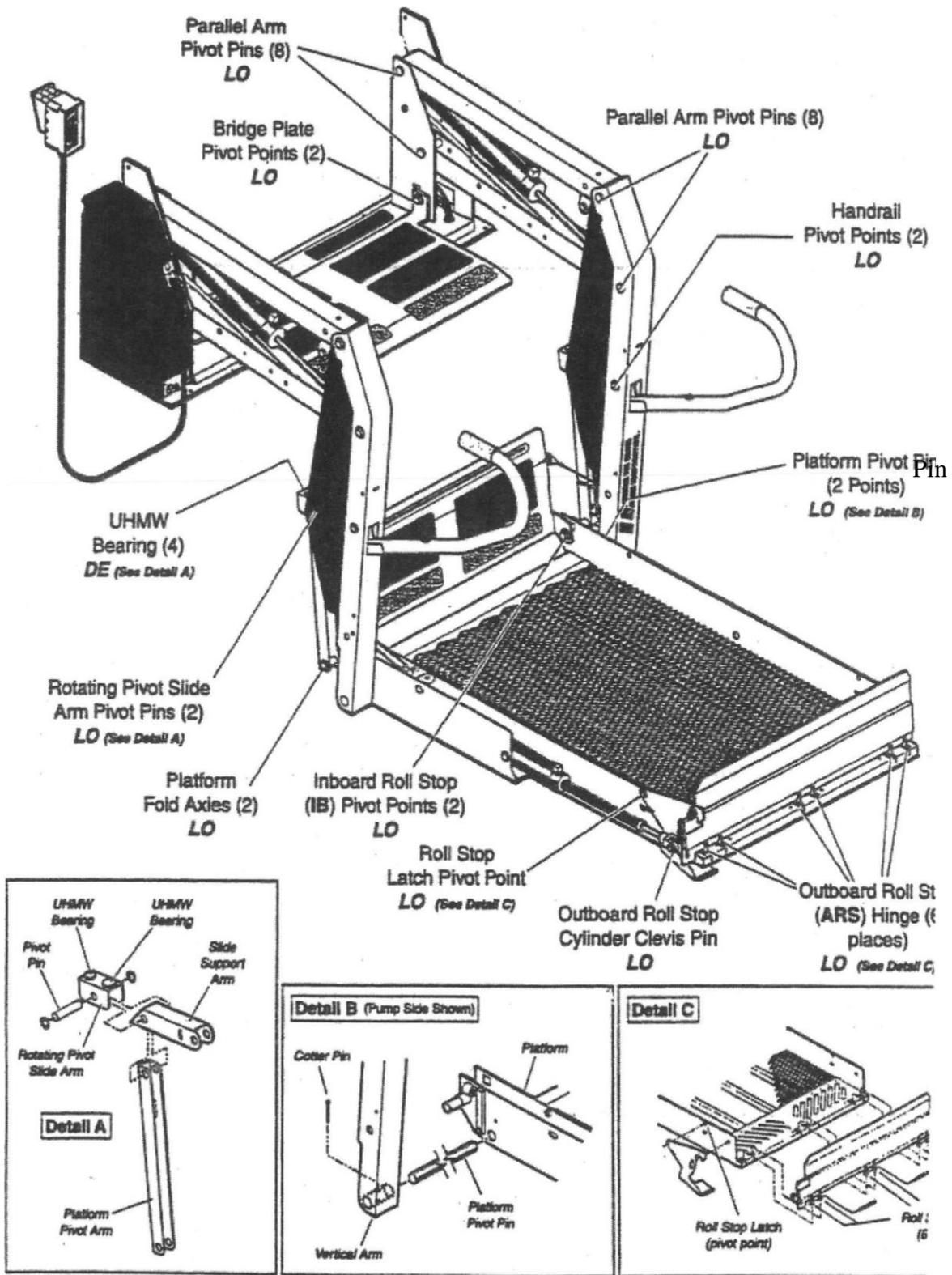
- 190,000 Change oil, oil filter, Drain and refill transfer case fluid, lubricate front suspension ball joints, lubricate outer tie rod ends, replace ignition cables, replace engine air cleaner filter, replace spark plugs, rotate tires, check transmission fluid level and fill plug condition, check coolant level, hoses and clamps, inspect exhaust system, brake hoses and brake linings, inspect the CV joints (if equipped) and front suspension components, inspect PCV valve, replace if necessary, inspect auto tension drive belt and replace if required, inspect front wheel bearings, clean and repack if required, inspect auto tension drive belt and replace if required.
- 196,000 Change oil, oil filter, lubricate outer tie rod ends, lubricate steering linkage, rotate tires, check transmission fluid level, check coolant level, hoses and clamps, inspect exhaust system and brake hoses, inspect CV joints (if equipped) and front suspension components. Drain and fill automatic transmission fluid, change filter, and adjust bands, flush and replace engine coolant, flush and replace power steering fluid.
- 202,000 Change oil, oil filter, lubricate outer tie rod ends, rotate tires, check transmission fluid level, check coolant level, hoses and clamps, inspect exhaust system and brake hoses, inspect CV joints (if equipped) and front suspension components.

### Wheelchair Lift Maintenance Schedule

Perform lift maintenance at scheduled intervals according to number of cycles (750) or elapsed time, whichever comes first. Correct any potentially dangerous situations at once.

See the Maintenance/Lubrication Schedule for recommended applications per number of cycles.

Lubricant	Type	Specified (recommended) Lubricant	Available Amount	Braun Part No.
<b>LO - Light Oil</b>	Light Penetrating Oil (30 weight or equivalent)	LPS2, General Purpose Penetrating Oil	11 oz. Aerosol Can	15807
<b>DE - Door-Ease</b>	Stainless Stick Style (tube)	Door-Ease Stick (tube)	1.68 oz.	15806
<b>LG - Light Grease</b>	Light Grease (Multipurpose)	Lubriplate	14 oz. Can	15805



## Maintenance and Lubrication Schedule

Proper maintenance is necessary to ensure safe, troublefree operation. Inspecting the lift for any wear, damage or other abnormal conditions should be a part of all transit agencies's daily service program. Simple inspections can detect potential problems.

The maintenance and lubrication procedures specified in this schedule **must** be performed by a Braun authorized service representative at the scheduled intervals according to the number of cycles.

Braun dual parallel arm lifts are equipped with hardened pins and self-lubricating bushings to decrease wear, provide smooth operation and extend the service life of the lift.

When servicing the lift at the recommended intervals, inspection and lubrication procedures specified in the previous sections should be repeated. **Clean** the components and the surrounding area **before applying lubricants**. LPS2 General Purpose Penetrating Oil is recommended where Light Oil is called out. Use of improper lubricants can attract dirt or other contaminants which could result in wear or damage to the components. Platform components exposed to contaminants when lowered to the ground may require extra attention.

Lift components requiring grease are lubricated during assembly procedures. When these components are replaced, grease must be applied during installation procedures. Specified lubricants are available from The Braun Corporation (part numbers provided on previous page).

**All** listed inspection, lubrication and maintenance procedures should be repeated at "750 cycle" intervals following the scheduled "4500 Cycles" maintenance. These intervals are a general guideline for scheduling maintenance procedures and will vary according to lift use and conditions. Lifts exposed to severe conditions (weather, environment, contamination, heavy usage, etc.) may require inspection and maintenance procedures to be performed more often than specified.

**Cycle Counter:** NL-2 Series lift models are equipped with a cycle counter located on the top of the pump module. This cycle counter allows the lift attendant/operator to easily track the number of cycles during daily inspections of the lift.

**Discontinue lift use immediately** if maintenance and lubrication procedures are not properly performed, or if there is any sign of wear, damage or improper operation. Contact your sales representative or call The Braun Corporation at 1-800-THE LIFT®. One of our national Product Support representatives will direct you to an authorized service technician who will inspect your lift.

**⚠ WARNING**

**Maintenance and Lubrication procedures must be performed as specified by an authorized service technician. Failure to do so may result in serious bodily injury and/or property damage.**

<b>750 Cycles</b>	Outer barrier pivot points (2)	Apply Light Oil - See Lubrication Diagram
	Outer barrier latch pivot point	Apply Light Oil - See Lubrication Diagram
	Outer barrier latch slot	Apply Light Grease to both sides of slot. See Lubrication diagram
	Outer barrier lever bearings (2)	Apply Light Oil - See Lubrication Diagram
	Lift-Tite™ latches (tower pivot points - 2)	Apply Light Oil - See Lubrication Diagram
	Lift-Tite™ latch gas (dampening) spring pivot points (2 springs - 4 points)	Apply Light Oil - See Lubrication Diagram
	Inspect Lift-Tite™ latches and gas springs for wear or damage (bent, deformed or misaligned), positive securement (lock nuts / external snap rings) and proper operation	Resecure, replace damaged parts or otherwise correct as needed. <b>Note:</b> Apply Light Grease to Lift-Tite™ latch tower pivot point if replacing latch.
	Inspect outer barrier for proper operation	Correct or replace damaged parts.
	Inspect outer barrier latch for proper operation, positive securement, and detached or missing spring	Correct or replace damaged parts and/or relubricate. See Lubrication Diagram
	Inspect lift for wear, damage or any abnormal condition	Correct as needed.

continued

## Maintenance and Lubrication Schedule

<b>750 Cycles</b>	Inspect lift for rattles	Correct as needed.
<b>1500 Cycles</b>	Perform all procedures listed in previous section also	
	Inner/outer fold arms (2)	Apply grease (synthetic) to contact areas between inner/outer fold arms. See Lubrication Diagram
	Platform pivot pin bearings (4)	Apply Light Oil - See Lubrication Diagram
	Outer fold arm bearings (8)	Apply Light Oil - See Lubrication Diagram
	Inner roll stop pivot bearings (2)	Apply Light Oil - See Lubrication Diagram
	Inner roll stop lever bearings (2)	Apply Light Oil - See Lubrication Diagram
	Inner roll stop lever slot (2)	Apply Light Oil - See Lubrication Diagram
	Saddle support bearings (8)	Apply Light Oil - See Lubrication Diagram
	Inner fold arm roller pin bearings (4)	Apply Light Oil - See Lubrication Diagram
	Inner fold arm cam followers (4)	Apply Light Oil - See Lubrication Diagram
	Parallel arm pivot pin bearings (16)	Apply Light Oil - See Lubrication Diagram
	Handrail pivot pin bearings (4)	Apply Light Oil - See Lubrication Diagram
	Hydraulic cylinder pivot bushings (8)	Apply Light Oil - See Lubrication Diagram
	Outer barrier lever guide slot	Apply Light Grease to both sides of slot. See Lubrication Diagram
	Inspect Lift-Tite™ latch rollers for wear or damage, positive securement and proper operation (2)	Correct, replace damaged parts and/or relubricate.
	Inspect inner roll stop for: • Wear or damage • Proper operation. Roll stop should just rest on top surface of the threshold plate. • Positive securement (both ends)	Resecure, replace or correct as needed. See Platform Angle Instructions and Tower Microswitch Adjustment Instructions.
	Inspect handrail components for wear or damage, and for proper operation	Replace damaged parts.
	Inspect microswitches for securement and proper adjustment.	Resecure, replace or adjust as needed. See Microswitch Adjustment Instructions.
	Make sure lift operates smoothly	Realign towers and vertical arms. Lubricate or correct as needed.
	Inspect external snap rings: • Outer fold arm (6) • Lift-Tite™ latch roller (2) • Lift-Tite™ latch gas (dampening) spring (4) • Inner fold arm cam followers (4) • Inner fold arm roller pins (4) • Outer barrier hydraulic cylinder mounting pin (2) • Inner roll stop lever bracket pins (2)	Resecure or replace if needed.
continued	Inspect inner roll stop locks (2) and torsion springs (2) for wear or damage and for proper operation.	Replace damaged parts. Apply Light Oil to inner roll stop lock pivot point.

## Maintenance and Lubrication Schedule

<b>1500 Cycles</b>	Inspect outer fold arm pins (2), axles (2) and bearings (8) for wear or damage and positive securement	Replace damaged parts and resecure as needed. Apply Light Oil.
	Remove pump module cover and inspect: <ul style="list-style-type: none"> <li>• Hydraulic hoses, fittings and connections for wear or leaks</li> <li>• Harness cables, wires, terminals and connections for securement or damage</li> <li>• Relays, fuses, power switch and lights for securement or damage</li> </ul>	Resecure, replace or correct as needed.
<b>4500 Cycles</b>	<b>Perform all procedures listed in previous section also</b>	
	Inspect cotter pins on platform pivot pin (2)	Resecure, replace or correct as needed
	Hydraulic Fluid (Pump) - Check level. <b>Note:</b> Fluid should be changed if there is visible contamination. Inspect the hydraulic system (cylinder, hoses, fittings, seals, etc.) for leaks if fluid level is low.	Use Braun 32840-QT (Exxon® Univis HVI 26) hydraulic fluid ( <b>do not mix</b> with Dextron III or other hydraulic fluids). Check fluid level with <b>platform lowered fully and roll stop unfolded fully</b> . Fill to within 1/2" of the bottom of the 1 1/2" fill tube (neck).
	Inspect cylinders, fittings and hydraulic connections for wear, damage or leaks	Tighten, repair or replace if needed.
	Inspect outer barrier cylinder hose assembly (hose, fasteners, connections, etc.) for wear, damage or leakage	Tighten, repair or replace if needed.
	Inspect parallel arms, bearings and pivot pins for visible wear or damage	Replace if needed.
	Inspect parallel arm pivot pin mounting bolts (8)	Tighten or replace if needed.
	Inspect platform pivot pins, bearings and vertical arms for wear, damage and positive securement	Replace damaged parts and resecure as needed. Apply Light Grease during reassembly procedures.
	Inspect inner/outer fold arms, saddle, saddle support and associated pivot pins and bearings for visible wear or damage	Replace if needed.
	Inspect gas springs (cylinders - 4) for wear or damage, proper operation and positive securement	Tighten, replace or correct as needed
	Inspect saddle bearing (UHMW - 2)	Apply Door-Ease or replace if needed. See Lubrication Diagram.
	Inspect vertical arm plastic covers	Resecure or replace if needed.
	Inspect power cable	Resecure, repair or replace if needed.
Mounting	Check to see that the lift is securely anchored to the vehicle and there are no loose bolts, broken welds, or stress fractures.	
Decals and Antiskid	Replace decals if worn, missing or illegible. Replace antiskid if worn or missing.	
<b>Consecutive 750 Cycle Intervals</b>	<b>Repeat all</b> previously listed inspection, lubrication and maintenance procedures at 750 cycle intervals.	

## Daily Inspections

Pre/Post-trip inspections are crucial to the success of every agency's Preventative Maintenance Program. Each driver will inspect his or her vehicle before leaving the parking area by completing the Pre-Trip Vehicle Inspection Form. The completed checklist must be submitted to the Coordinator at the end of the driver's shift so that necessary maintenance can be noted and scheduled accordingly. Drivers must sign each checklist for each vehicle used that day.

### PRE-TRIP INSPECTION

#### Under the Hood

Check for problems under the hood at the beginning of the inspection before starting the engine. It is easier and safer when the engine is cool.

Check the oil, radiator and battery fluid levels. If low, list this on the inspection checklist. If any fluids are below the safe level, see the Fleet Coordinator for assistance.

Also, check hoses for cracks or possible leaks and belts for any visible damage. Report any wear on the checklist, as soon as it begins to show.

#### Vehicle Interior

Since the vehicle will need to remain started while you conduct the inspection, best practices encourage placing chocks behind the wheels prior to starting the motor.

First, engage the parking brake.

Second, start the vehicle.

Next, check the oil pressure, fuel and alternator gauges.

If the oil pressure light remains on or the gauge shows the oil pressure to be dangerously low, turn the motor off until the problem can be corrected. Alert the F Coordinator and document this information on the pre-trip inspection form.

If the alternator or generator light stays on, the battery may not be charging. To guard against the possibility of becoming stranded along the route by a dead battery, have the problem located and corrected right away.

Check the windshield wipers to make sure they are working and not worn or stripped.

### Vehicle Exterior

Turn on all exterior lights. With the vehicle in park and the emergency brake still on, begin the exterior check from the front of the vehicle.

During the exterior inspection, be sure to note and report any evidence of fresh damage to the vehicle. Reporting such damage now may save you a lengthy and difficult explanation or report later. Space is provided for you on the Daily Vehicle Inspection Checklist to note and describe any exterior damage.

Check the all lights (clearance, head, tail, signal and emergency flashers) to make sure they are working. (You may need a co-worker's assistance).

Check the left front tire for any signs of road damage or under-inflation.

- Check the air pressure with an air pressure gauge.

- Take care to maintain your tires at the recommended pressure.

- A soft tire is very susceptible to severe road damage.

- An over-inflated tire causes a bumpier and less comfortable ride,

- Especially for elderly or disabled passengers.

- Check the condition of the side marker light.

Move to the back of the vehicle and inspect the rear left tire or duals for obvious damage.

Check the air pressure with an air pressure gauge.

While at the back of the vehicle, check the taillights, the brake lights, turn signal lights, emergency flashers and any other clearance lights, reflectors or signs. (This will require assistance).

Make sure tires are free of mud and dirt buildup.

Store a cloth to clean any dirty lights, which may be hard to see even after dark.

Check the right rear tire. If there are any other lights or outside signs for your boarding doors or lifts, make sure they are in place and clean.

Next, look under the vehicle. Make sure there are no foreign or unfamiliar objects hanging down or wedged underneath.

Also, check to see if there are any puddles of vehicle fluids under the vehicle. If the vehicle is leaking fluid, report it to the Transit Coordinator.

Move to the front of the vehicle and examine the right front tire in the same manner as the left tire and check the condition of the side marker light.

Adjust each mirror so that you can see what you need to see from your normal driving position. When adjusting mirrors, keep in mind what you want to be able to see within your safety zone.

Test the horn to make sure it works.

Turn the steering wheel gently to make sure it is not loose.

Depress the brake pedal. If the tension feels spongy or soft, note this on your checklist, the brakes may need to be adjusted.

Check the blower fan to verify it works so the heater, defroster or air conditioner can all be utilized.

Check the interior lights. If any lights are not working, note this on the checklist.

Note on your checklist anything in the interior of the vehicle that needs attention.

### Safety Equipment

Check your emergency equipment to make sure it is in the right location and in working order.

Emergency equipment should include:

- A properly charged fire extinguisher
- Warning devices such as cones, triangles, flares
- A first aid kit
- Extra fuses
- A flashlight with fresh batteries
- Blood Borne Pathogens Kit

Look around the inside of your vehicle to make sure it is clean. Clear out trash, debris or loose items. Trash or debris left in the vehicle can be tossed about by careless passengers and can cause slips, falls and fires. A clean vehicle presents a professional image.

Check any special accessibility equipment if your vehicle is so equipped.

Examine tie downs for signs of damage or excessive wear. Make sure they can be properly secured to the floor.

Check all lifts and ramps by operating them through one complete cycle. Make sure they are functioning properly. (You may have to move the vehicle to ensure proper clearance while performing this part of the inspection.)

Make sure all doors and emergency exits are functional and unobstructed.



## CCTS VEHICLE INSPECTION SHEET Daily Vehicle Report

Van/Vehicle # _____	Lunch (Start Time) _____	Date: _____
Driver ↓ _____		
Miles (Start Yard) _____	Lunch (Start Mileage) _____	Miles (Start Yard) _____
Miles (Start Route) _____		Miles (Start Route) _____
Miles (End Route) _____	Lunch (Ending Time) _____	Miles (End Route) _____
Miles (End Yard) _____		Miles (End Yard) _____
	Lunch (Ending Mileage) _____	<b>Beginning Lift Cycle Count:</b> _____
		<b>Ending Lift Cycle Count:</b> _____

**ACTUAL ARRIVAL TIME:** \_\_\_\_\_ (Time when leaving lot)      **END TIME:** \_\_\_\_\_ (Time when you arrive back in the lot)

Daily Check List	Check (✓)	If Defective, Mark with a X	All defects <u>must be described</u> on bottom of sheet. <b>Turn in daily.</b>
Items to Check	Pre-trip	Post-trip	Items to Check      Pre-trip      Post-trip
<b>Under hood</b>			Web cutter
Oil Level			Triangles
Radiator Level			First Aid kit
Battery Level			Back-up alarm
Windshield washer fluid			Rear door buzzer
Engine hoses/belts			<del>Bloodborne pathogen kit</del>
Transmission Fluid			Hand rails
<b>Exterior</b>			<b>Interior</b>
Tires			Brakes
Turn Signals			Steering
Hazard lights			Horn
Strobe light			Camera Lens/wipes
Headlights			Seat belts
Tail/Brake lights			Mirrors
Windshield wipers			Gauge/Instruments
Vehicle body/Cleanliness			Registration
Clearance light			Insurance Information
Cycle lift			Radio
<b>Accessibility Equipment</b>			Horn
Operable wheelchair lift			Clean Interior
Proper number of belts			Clean Camera Lens
Securement condition			Drivers Seat
<b>Safety Equipment</b>			Passenger Seats
Fire Extinguisher			<b>Log Off Tablet</b>
Wheel Chocks			<b>Main power switch off</b>

Body Damage Description:

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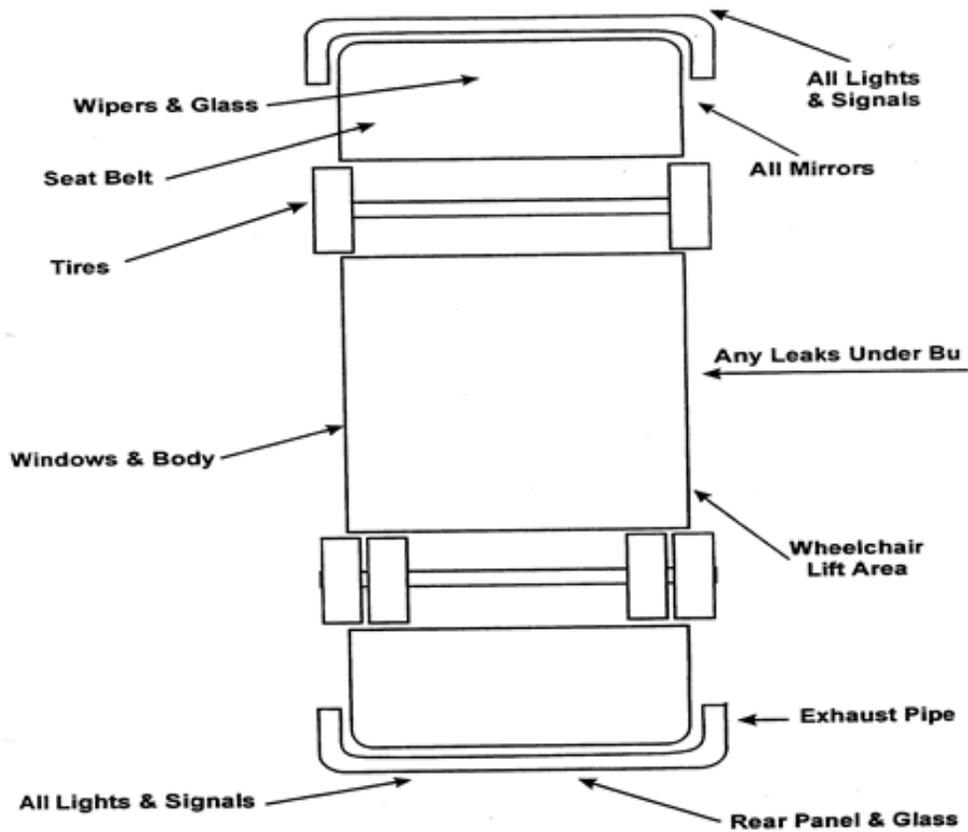


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Please mark areas that need attention below with a circle or X. Any vehicle defects should be noted on this portion of the form.

## VISUAL BUS INSPECTION



MAINTENANCE REPAIR REQUEST FORM

VAN # \_\_\_\_\_ MILEAGE \_\_\_\_\_

- Air Conditioner: \_\_\_\_\_
- Belts & Hoses: \_\_\_\_\_
- Brakes: \_\_\_\_\_
- Battery: \_\_\_\_\_
- Oil Change (Last Oil Change Mileage): \_\_\_\_\_
- Lights: \_\_\_\_\_
- Wheelchair Lift: \_\_\_\_\_
- Radiator: \_\_\_\_\_
- Transmission: \_\_\_\_\_
- Tires: \_\_\_\_\_
- Other: \_\_\_\_\_

Driver \_\_\_\_\_ Date in Garage \_\_\_\_\_

Date \_\_\_\_\_ Date out of Garage \_\_\_\_\_

This form is to be used when attention is needed to be given to a vehicle. It gives room for detailed description of the problem. It is to be completed by the driver of the vehicle and then given to Operations and Training Supervisor and end of the shift. The form will then be given to Fleet Coordinator so he can date when in and out of garage.

# Vehicles Operated by Contractor or Services Outsourced

## PREVENTATIVE MAINTENANCE

Preventive maintenance is a term used to describe the performance of regularly scheduled maintenance procedures of Cabarrus County Transportation Service vehicles to prevent the possibility of malfunctions.

GMAX will maintain all Cabarrus County Transportation Service vehicles and wheelchair lifts in the best possible operational condition. This will be accomplished by adhering to and/or exceeding the manufacturer's recommended minimum maintenance requirements.

## MAINTENANCE SCHEDULE

Each Cabarrus County Transportation Service vehicle is assigned a number by the Public Transportation Director, which is affixed to each vehicle in a visible location along with the phone number of the Cabarrus County Transportation Service office.

### **Preventative Vehicle Maintenance Schedule**

All vehicles will have a preventative maintenance service and inspection at established intervals. (See attachment 1, Vehicle Preventative Maintenance Service Schedule)

### **Wheelchair lift Preventative Maintenance Schedule**

All wheelchair lifts will have a preventative maintenance service and inspection at established intervals. (See attachment 2, Wheelchair Lift Preventative Maintenance Service Schedule)

### **Unscheduled Vehicle Maintenance**

GMAX will ensure all maintenance is performed to meet manufacturer's specification. (See attachment 3, Vehicle/Wheelchair Lift Maintenance Request)

#### DAILY INSPECTION

Pre/Post-Trip inspections are crucial to the success of each transit system's Preventative Maintenance Program. Each driver will inspect his or her vehicle before leaving the parking lot by completing the Pre-Trip Vehicle Inspection Form. The completed checklist must be submitted to the Fleet Coordinator at the end of the driver's shift to maintain a record inspection. At the end of each driver's assigned shift, the driver must also complete a Post-trip Inspection Sheet, found on the same page as the Pre-trip Inspection Sheet. Drivers must sign each Pre-trip and Post-trip checklist for each vehicle used that day. The Fleet Coordinator will review each Pre-trip and Post-Trip inspection sheets daily, schedule any required or necessary maintenance, and sign off on each sheet. (See attachment 4, Pre/Post-Trip Checklist)

#### MANAGEMENT REVIEWS

There must be an effective mechanism to monitor and document the contractor's maintenance activities. An acceptable program would consist of periodic written reports on maintenance activities submitted by the contractor to the grantee, supplemented by periodic inspections by the grantee. The grantee must provide oversight in order to verify the contractor's compliance with FTA and NCDOT regulations and policies.

# DRUG AND ALCOHOL POLICY

April 19, 2022

51

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**Cabarrus County Transportation DOT  
DRUG AND ALCOHOL TESTING POLICY**

**Adopted March 23, 2020  
Revised 8/24/2021**

This template was provided by the NC DOT for use by Cabarrus County Transportation on April 24, 2021 for use as a Zero Tolerance Policy.

**A. PURPOSE**

- 1. Cabarrus County Transportation provides public transit and paratransit services for the residents of Cabarrus County. Part of our mission is to ensure that this service is delivered safely, efficiently, and effectively by establishing a drug and alcohol-free work environment, and to ensure that the workplace remains free from the effects of drugs and alcohol in order to promote the health and safety of employees and the general public. In keeping with this mission, Cabarrus County Transportation declares that the unlawful manufacture, distribution, dispense, possession, or use of controlled substances or misuse of alcohol is prohibited for all employees.
- 2. Additionally, the purpose of this policy is to establish guidelines to maintain a drug and alcohol-free workplace in compliance with the Drug-Free Workplace Act of 1988, and the Omnibus Transportation Employee Testing Act of 1991. This policy is intended to comply with all applicable Federal regulations governing workplace anti-drug and alcohol programs in the transit industry. Specifically, the Federal Transit Administration (FTA) of the U.S. Department of Transportation has published 49 CFR Part 655, as amended, that mandates urine drug testing and breath alcohol testing for safety-sensitive positions, and prohibits performance of safety-sensitive functions when there is a positive test result, or a refusal to test. The U. S. Department of Transportation (USDOT) has also published 49 CFR Part 40, as amended, that sets standards for the collection and testing of urine and breath specimens.
- 3. Any provisions set forth in this policy that are included under the sole authority of Cabarrus County Transportation and are not provided under the authority of

the above-named Federal regulations are underlined. Tests conducted under the sole authority of Cabarrus County Transportation will be performed on non-USDOT forms and will be separate from USDOT testing in all respects.

## **B. APPLICABILITY**

This Drug and Alcohol Testing Policy applies to all Cabarrus County Transportation safety-sensitive employees (full- or part-time) when performing safety sensitive duties.

A safety-sensitive function is operation of public transit service including the operation of a revenue service vehicle (whether or not the vehicle is in revenue service), maintenance of a revenue service vehicle or equipment used in revenue service, security personnel who carry firearms, dispatchers or persons controlling the movement of revenue service vehicles and any transit employee who operates a non-revenue service vehicle that requires a Commercial Driver's License to operate. Maintenance functions include the repair, overhaul, and rebuild of engines, vehicles and/or equipment used in revenue service. A list of safety-sensitive positions who perform one or more of the above mentioned duties is provided in Attachment A. Supervisors are only safety sensitive if they perform one of the above functions. Volunteers are considered safety sensitive and subject to testing if they are required to hold a CDL, or receive remuneration for service in excess of actual expense.

## **C. DEFINITIONS**

*Accident:* An occurrence associated with the operation of a vehicle even when not in revenue service, if as a result:

- a. An individual dies;
- b. An individual suffers a bodily injury and immediately receives medical treatment away from the scene of the accident; or,
- c. One or more vehicles incur disabling damage as the result of the occurrence and is transported away from the scene by a tow truck or other vehicle. For purposes of this definition, *disabling damage* means damage which precludes departure of any vehicle from the scene of the occurrence in its usual manner in daylight after simple repairs. Disabling damage includes damage to vehicles that could have been operated but would have been further damaged if so operated, but does not include damage which can be remedied temporarily at the scene of the occurrence without special tools or parts, tire disablement without other damage even if no

spare tire is available, or damage to headlights, taillights, turn signals, horn, or windshield wipers that makes them inoperative.

- d. The purpose of this definition is whether the accident is FTA reportable and will follow the FTA testing process.

*Adulterated specimen:* A specimen that has been altered, as evidence by test results showing either a substance that is not a normal constituent for that type of specimen or showing an abnormal concentration of an endogenous substance.

*Alcohol:* The intoxicating agent in beverage alcohol, ethyl alcohol, or other low molecular weight alcohols contained in any beverage, mixture, mouthwash, candy, food, preparation or medication.

*Alcohol Concentration:* Expressed in terms of grams of alcohol per 210 liters of breath as indicated by a breath test under 49 CFR Part 40.

*Aliquot:* A fractional part of a specimen used for testing, It is taken as a sample representing the whole specimen.

*Canceled Test:* A drug or alcohol test that has a problem identified that cannot be or has not been corrected, or which is cancelled. A canceled test is neither positive nor negative.

*Confirmatory Drug Test:* A second analytical procedure performed on a different aliquot of the original specimen to identify and quantify the presence of a specific drug or metabolite.

*Confirmatory Validity Test:* A second test performed on a different aliquot of the original urine specimen to further support a validity test result.

*Covered Employee Under FTA Authority:* An employee who performs a safety-sensitive function including an applicant or transferee who is being considered for hire into a safety-sensitive function (See Attachment A for a list of covered employees).

*Designated Employer Representative (DER):* An employee authorized by the employer to take immediate action to remove employees from safety-sensitive duties and to make required decisions in testing. The DER also receives test results and other communications for the employer, consistent with the requirements of 49 CFR Parts 40 and 655.

*DOT, The Department, DOT Agency:* These terms encompass all DOT agencies, including, but not limited to, the Federal Aviation Administration (FAA), the Federal Railroad

Administration (FRA), the Federal Motor Carrier Safety Administration (FMCSA), the Federal Transit Administration (FTA), the National Highway Traffic Safety Administration (NHTSA), the Pipeline and Hazardous Materials Safety Administration (PHMSA), and the Office of the Secretary (OST). For purposes of 49 CFR Part 40, the United States Coast Guard (USCG), in the Department of Homeland Security, is considered to be a DOT agency for drug testing purposes. These terms include any designee of a DOT agency.

*Dilute specimen:* A urine specimen with creatinine and specific gravity values that are lower than expected for human urine.

*Disabling damage:* Damage which precludes departure of any vehicle from the scene of the occurrence in its usual manner in daylight after simple repairs. Disabling damage includes damage to vehicles that could have been operated but would have been further damaged if so operated, but does not include damage which can be remedied temporarily at the scene of the occurrence without special tools or parts, tire disablement without other damage even if no spare tire is available, or damage to headlights, taillights, turn signals, horn, or windshield wipers that makes them inoperative.

*Evidentiary Breath Testing Device (EBT):* A device approved by the NHTSA for the evidential testing of breath at the 0.02 and the 0.04 alcohol concentrations, and appears on ODAPC's Web page for "Approved Evidential Breath Measurement Devices" because it conforms with the model specifications available from NHTSA.

*Initial Drug Test: (Screening Drug Test)* The test used to differentiate a negative specimen from one that requires further testing for drugs or drug metabolites.

*Initial Specimen Validity Test:* The first test used to determine if a urine specimen is adulterated, diluted, substituted, or invalid

*Invalid Result:* The result reported by an HHS-certified laboratory in accordance with the criteria established by the HHS Mandatory Guidelines when a positive, negative, adulterated, or substituted result cannot be established for a specific drug or specimen validity test.

*Laboratory:* Any U.S. laboratory certified by HHS under the National Laboratory Certification program as meeting standards of Subpart C of the HHS Mandatory Guidelines for Federal Workplace Drug Testing Programs; or, in the case of foreign laboratories, a laboratory approved for participation by DOT under this part.

*Limit of Detection (LOD):* The lowest concentration at which a measurand can be identified, but (for quantitative assays) the concentration cannot be accurately calculated.

*Limit of Quantitation:* For quantitative assays, the lowest concentration at which the identity and concentration of the measurand can be accurately established.

*Medical Review Officer (MRO):* A licensed physician (medical doctor or doctor of osteopathy) responsible for receiving laboratory results generated by the drug testing program who has knowledge of substance abuse disorders, and has appropriate medical training to interpret and evaluate an individual's confirmed positive test result, together with his/her medical history, and any other relevant bio-medical information.

*Negative Dilute:* A drug test result which is negative for the five drug/drug metabolites but has creatinine and specific gravity values that are lower than expected for human urine.

*Negative result:* The result reported by an HHS/SAMHSA-certified laboratory to an MRO when a specimen contains no drug or the concentration of the drug is less than the cutoff concentration for the drug or drug class and the specimen is a valid specimen. An alcohol concentration of less than 0.02 BAC is a negative test result.

*Non-negative test result:* A urine specimen that is reported as adulterated, substituted, invalid, or positive for drug/drug metabolites.

*Oxidizing Adulterant:* A substance that acts alone or in combination with other substances to oxidize drugs or drug metabolites to prevent the detection of the drug or metabolites, or affects the reagents in either the initial or confirmatory drug test.

*Performing (a safety-sensitive function):* A covered employee is considered to be performing a safety-sensitive function and includes any period in which he or she is actually performing, ready to perform, or immediately available to perform such functions.

*Positive result:* The result reported by an HHS- Certified laboratory when a specimen contains a drug or drug metabolite equal or greater to the cutoff concentrations.

*Prohibited drug:* Identified as marijuana, cocaine, opioids, amphetamines, or phencyclidine as specified in 49 CFR Part 40, as amended.

*Reconfirmed:* The result reported for a split specimen when the second laboratory is able to corroborate the original result reported for the primary specimen.

*Rejected for Testing:* The result reported by an HHS- Certified laboratory when no tests are performed for specimen because of a fatal flaw or a correctable flaw that has not been corrected.

*Revenue Service Vehicles:* All transit vehicles that are used for passenger transportation service.

*Safety-sensitive functions (Transportation Employees):* Employee duties identified as:

- (1) The operation of a transit revenue service vehicle even when the vehicle is not in revenue service.
- (2) The operation of a non-revenue service vehicle by an employee when the operation of such a vehicle requires the driver to hold a Commercial Drivers License (CDL).
- (3) Maintaining a revenue service vehicle or equipment used in revenue service.
- (4) Controlling the movement of a revenue service vehicle and
- (5) Carrying a firearm for security purposes.

*Split Specimen Collection:* A collection in which the urine collected is divided into two separate bottles, the primary specimen (Bottle A) and the split specimen (Bottle B).

*Substance Abuse Professional (SAP):* A licensed physician (medical doctor or doctor of osteopathy) or licensed or certified psychologist, social worker, employee assistance professional, state-licensed or certified marriage and family therapist, or drug and alcohol counselor (certified by an organization listed at <https://www.transportation.gov/odapc/sap>) with knowledge of and clinical experience in the diagnosis and treatment of drug and alcohol related disorders.

*Substituted specimen:* A urine specimen with creatinine and specific gravity values that are so diminished or so divergent that they are not consistent with normal human urine.

*Test Refusal:* The following are considered a refusal to test for a DOT/FTA employee is they:

- (1) Fail to appear for any test (except a pre-employment test) within a reasonable time, as determined by the employer.
- (2) Fail to remain at the testing site until the testing process is complete. An employee who leaves the testing site before the testing process commences for a pre-employment test has not refused to test.

- (3) Fail to attempt to provide a breath or urine specimen. An employee who does not provide a urine or breath specimen because he or she has left the testing site before the testing process commenced for a pre-employment test has not refused to test.
- (4) In the case of a directly-observed or monitored urine drug collection, fail to permit monitoring or observation of your provision of a specimen.
- (5) Fail to provide a sufficient quantity of urine or breath without a valid medical explanation.
- (6) Fail or decline to take a second test as directed by the collector or the employer for drug testing.
- (7) Fail to undergo a medical evaluation as required by the MRO or the employer's Designated Employer Representative (DER).
- (8) Fail to cooperate with any part of the testing process.
- (9) Fail to follow an observer's instructions to raise and lower clothing and turn around during a directly-observed test.
- (10) Possess or wear a prosthetic or other device used to tamper with the collection process.
- (11) Admit to the adulteration or substitution of a specimen to the collector or MRO.
- (12) Refuse to sign the certification at Step 2 of the Alcohol Testing Form (ATF).
- (13) Fail to remain readily available following an accident.
- (14) As a covered employee, if the MRO reports that you have a verified adulterated or substituted test result, you have refused to take a drug test.

*Vehicle:* A bus, electric bus, van, automobile, rail car, trolley car, trolley bus, or vessel. A public transit vehicle is a vehicle used for public transportation or for ancillary services.

*Verified negative test:* A drug test result reviewed by a medical review officer and determined to have no evidence of prohibited drug use at or above the minimum cutoff levels established by the Department of Health and Human Services (HHS).

*Verified positive test:* A drug test result reviewed by a medical review officer and determined to have evidence of prohibited drug use at or above the minimum cutoff levels specified in 49 CFR Part 40 as revised.

*Validity testing:* The evaluation of the specimen to determine if it is consistent with normal human urine. Specimen validity testing will be conducted on all urine specimens provided for testing under DOT authority. The purpose of validity testing is to determine whether certain adulterants or foreign substances were added to the urine, if the urine was diluted, or if the specimen was substituted.

#### **D. EDUCATION AND TRAINING**

- 1) Every covered employee will receive a copy of this policy and will have ready access to the corresponding federal regulations including 49 CFR Parts 655 and 40, as amended. In addition, all covered employees will undergo a minimum of 60 minutes of training on the signs and symptoms of drug use including the effects and consequences of drug use on personal health, safety, and the work environment. The training also includes manifestations and behavioral cues that may indicate prohibited drug use.
- 2) All supervisory personnel or company officials who are in a position to determine employee fitness for duty will receive 60 minutes of reasonable suspicion training on the physical, behavioral, and performance indicators of probable drug use and 60 minutes of additional reasonable suspicion training on the physical, behavioral, speech, and performance indicators of probable alcohol misuse.

#### **E. PROHIBITED SUBSTANCES**

- 1) Prohibited substances addressed by this policy include the following.
  - a. Illegally Used Controlled Substance or Drugs Under the Drug-Free Workplace Act of 1988 any drug or any substance identified in Schedule I through V of Section 202 of the Controlled Substance Act (21 U.S.C. 812), and as further defined by 21 CFR 1300.11 through 1300.15 is prohibited at all times in the workplace unless a legal prescription has been written for the substance. This includes, but is not limited to: marijuana, amphetamines, opioids, phencyclidine (PCP), and cocaine, as well as any drug not approved for medical use by the U.S. Drug Enforcement Administration or the U.S. Food and Drug Administration. Illegal use includes use of any illegal drug, misuse of legally prescribed drugs, and use of illegally obtained prescription drugs. It is important to note that the use of marijuana in any circumstances remains completely prohibited for any safety-sensitive employee subject to drug testing under USDOT regulations. The use of marijuana in any circumstance (including under state recreational and/or medical marijuana laws) by a safety-sensitive employee is a violation of this policy and a violation of the USDOT regulation 49 CFR Part 40, as amended.

Federal Transit Administration drug testing regulations (49 CFR Part 655) require that all employees covered under FTA authority be tested for marijuana, cocaine, amphetamines, opioids, and phencyclidine as described in

this policy. Illegal use of these five drugs is prohibited at all times and thus, covered employees may be tested for these drugs anytime that they are on duty.

- b. Legal Drugs: The appropriate use of legally prescribed drugs and non-prescription medications is not prohibited. However, the use of any substance which carries a warning label that indicates that mental functioning, motor skills, or judgment may be adversely affected must be reported to a Cabarrus County Transportation supervisor and the employee is required to provide a written release from his/her doctor or pharmacist indicating that the employee can perform his/her safety-sensitive functions. The Transportation Supervisor must report this to Cabarrus County Safety/Risk Management.
- c. Alcohol: The use of beverages containing alcohol (including mouthwash, medication, food, candy) or any other substances containing alcohol in a manner which violates the conduct listed in this policy is prohibited.

#### **F. PROHIBITED CONDUCT**

- 1) Illegal use of the drugs listed in this policy and as defined in 49 CFR Part 40, as amended is prohibited at all times. All covered employees are prohibited from reporting for duty or remaining on duty if they have used a prohibited drug as defined in 49 CFR Part 40, as amended.
- 2) Each covered employee is prohibited from consuming alcohol while performing safety-sensitive job functions or while on-call to perform safety-sensitive job functions. If an on-call employee has consumed alcohol, they must acknowledge the use of alcohol at the time that they are called to report for duty. The covered employee will subsequently be relieved of his/her on-call responsibilities and subject to discipline for not fulfilling his/her on-call responsibilities.
- 3) The Transit Department shall not permit any covered employee to perform or continue to perform safety-sensitive functions if it has actual knowledge that the employee is using alcohol
- 4) Each covered employee is prohibited from reporting to work or remaining on duty requiring the performance of safety-sensitive functions while having an alcohol concentration of 0.04 or greater regardless of when the alcohol was consumed.
  - a. An employee with a breath alcohol concentration which measures 0.02-0.039 is not considered to have violated the USDOT-FTA drug and alcohol

regulations, provided the employee hasn't consumed the alcohol within four (4) hours of performing a safety-sensitive duty. However, if a safety-sensitive employee has a breath alcohol concentration of 0.02-0.039, USDOT-FTA regulations require the employee to be removed from the performance of safety-sensitive duties until:

- i. The employee's alcohol concentration measures less than 0.02; or
  - ii. The start of the employee's next regularly scheduled duty period, but not less than eight hours following administration of the test.
- 5) No covered employee shall consume alcohol for eight (8) hours following involvement in an accident or until he/she submits to the post-accident drug/alcohol test, whichever occurs first.
  - 6) No covered employee shall consume alcohol within four (4) hours prior to the performance of safety-sensitive job functions.
  - 7) Cabarrus County Transportation, under its own authority, also prohibits the consumption of alcohol at all times the employee is on duty, or anytime the employee is in uniform.
  - 8) Consistent with the Drug-free Workplace Act of 1988, all Cabarrus County Transportation employees are prohibited from engaging in the unlawful manufacture, distribution, dispensing, possession, or use of prohibited substances in the work place including transit system premises and transit vehicles.

#### **G. DRUG STATUTE CONVICTION**

Consistent with the Drug Free Workplace Act of 1998, all employees are required to notify Cabarrus County Transportation management of any criminal drug statute conviction for a violation occurring in the workplace within five days after such conviction. Failure to comply with this provision shall result in disciplinary action as defined in Section Q of this policy – Result of Drug/Alcohol Test.

#### **H. TESTING REQUIREMENTS**

Analytical urine drug testing and breath testing for alcohol will be conducted as required by 49 CFR Part 40 as amended. All employees covered under FTA authority shall be subject to testing prior to performing safety-sensitive duty, for reasonable suspicion, following an accident, and random as defined in Section K, L, M, and N of this policy, and return to duty/follow-up.

- 1) A drug test can be performed any time a covered employee is on duty. A reasonable suspicion, random, or follow-up alcohol test can only be performed just before, during, or after the performance of a safety-sensitive job function. Under Cabarrus County Transportation authority, a non-DOT alcohol test can be performed any time a covered employee is on duty.
- 2) All covered employees will be subject to urine drug testing and breath alcohol testing as a condition of ongoing employment with Cabarrus County Transportation. Any safety-sensitive employee who refuses to comply with a request for testing shall be removed from duty and subject to discipline as defined in Section Q of this policy.

I. **DRUG TESTING PROCEDURES**

- 1) Testing shall be conducted in a manner to assure a high degree of accuracy and reliability and using techniques, equipment, and laboratory facilities which have been approved by the U.S. Department of Health and Human Service (HHS). All testing will be conducted consistent with the procedures set forth in 49 CFR Part 40, as amended. The procedures will be performed in a private, confidential manner and every effort will be made to protect the employee, the integrity of the drug testing procedure, and the validity of the test result.
- 2) The drugs that will be tested for include marijuana, cocaine, opioids, amphetamines, and phencyclidine. After the identity of the donor is checked using picture identification, a urine specimen will be collected using the split specimen collection method described in 49 CFR Part 40, as amended. Each specimen will be accompanied by a DOT Custody and Control Form and identified using a unique identification number that attributes the specimen to the correct individual. The specimen analysis will be conducted at a HHS certified laboratory. An initial drug screen and validity test will be conducted on the primary urine specimen. For those specimens that are not negative, a confirmatory Gas Chromatography/Mass Spectrometry (GC/MS) or Liquid Chromatography/Mass Spectrometry (LC/MS) test will be performed. The test will be considered positive if the amounts of the drug(s) and/or its metabolites identified by the GC/MS or LC/MS test are above the minimum thresholds established in 49 CFR Part 40, as amended.
- 3) The test results from the HHS certified laboratory will be reported to a Medical Review Officer. A Medical Review Officer (MRO) is a licensed physician with detailed knowledge of substance abuse disorders and drug testing. The MRO will

review the test results to ensure the scientific validity of the test and to determine whether there is a legitimate medical explanation for a confirmed positive, substitute, or adulterated test result. The MRO will attempt to contact the employee to notify the employee of the non-negative laboratory result, and provide the employee with an opportunity to explain the confirmed laboratory test result. The MRO will subsequently review the employee's medical history/medical records as appropriate to determine whether there is a legitimate medical explanation for a non-negative laboratory result. If no legitimate medical explanation is found, the test will be verified positive or refusal to test and reported to Cabarrus County Transportation. If a legitimate explanation is found, the MRO will report the test result as negative.

- 4) If the test is invalid without a medical explanation, a retest will be conducted under direct observation. Employees do not have access to a test of their split specimen following an invalid result.
- 5) Any covered employee who questions the results of a required drug test may request that the split sample be tested. The split sample test must be conducted at a second HHS-certified laboratory. The test must be conducted on the split sample that was provided by the employee at the same time as the primary sample. The method of collecting, storing, and testing the split sample will be consistent with the procedures set forth in 49 CFR Part 40, as amended. The employee's request for a split sample test must be made to the Medical Review Officer within 72 hours of notice of the original sample verified test result. Requests after 72 hours will only be accepted at the discretion of the MRO if the delay was due to documentable facts that were beyond the control of the employee. Cabarrus County Transportation will ensure that the cost for the split specimen analysis is covered in order for a timely analysis of the sample, however Cabarrus County Transportation will seek reimbursement for the split sample test from the employee.
- 6) If the analysis of the split specimen fails to confirm the presence of the drug(s) detected in the primary specimen, if the split specimen is not able to be analyzed, or if the results of the split specimen are not scientifically adequate, the MRO will declare the original test to be canceled.
- 7) The split specimen will be stored at the initial laboratory until the analysis of the primary specimen is completed. If the primary specimen is negative, the split will be discarded. If the primary specimen is positive, it will be retained in frozen storage for one year and the split specimen will also be retained for one year. If the primary is positive, the primary and the split will be retained for longer than

one year for testing if so requested by the employee through the Medical Review Officer, or by the employer, by the MRO, or by the relevant DOT agency.

8) Observed collections

- a. Consistent with 49 CFR Part 40, as amended, collection under direct observation (by a person of the same gender) with no advance notice will occur if:
  - i. The laboratory reports to the MRO that a specimen is invalid, and the MRO reports to Cabarrus County Transportation that there was not an adequate medical explanation for the result;
  - ii. The MRO reports to Cabarrus County Transportation that the original positive, adulterated, or substituted test result had to be cancelled because the test of the split specimen could not be performed;
  - iii. The laboratory reported to the MRO that the specimen was negative-dilute with a creatinine concentration greater than or equal to 2 mg/dL but less than or equal to 5 mg/dL, and the MRO reported the specimen as negative-dilute and that a second collection must take place under direct observation (see §40.197(b)(1)).
  - iv. The collector observes materials brought to the collection site or the employee's conduct clearly indicates an attempt to tamper with a specimen;
  - v. The temperature on the original specimen was out of range;
  - vi. Anytime the employee is directed to provide another specimen because the original specimen appeared to have been tampered with.
  - vii. All follow-up-tests; or
  - viii. All return-to-duty tests

**J. ALCOHOL TESTING PROCEDURES**

- 1) Tests for breath alcohol concentration will be conducted utilizing a National Highway Traffic Safety Administration (NHTSA)-approved Evidential Breath Testing device (EBT) operated by a trained Breath Alcohol Technician (BAT). A list of approved EBTs can be found on ODAPC's Web page for "Approved Evidential Breath Measurement Devices". Alcohol screening tests may be performed using a non-evidential testing device (alcohol screening device (ASD)) which is also approved by NHTSA. A list of approved ASDs can be found on ODAPC's Web page for "Approved Screening Devices to Measure Alcohol in Bodily Fluids". If the initial test indicates an alcohol concentration of 0.02 or greater, a second test will be performed to confirm the results of the initial test. The confirmatory test must occur on an EBT. The confirmatory test will be conducted no sooner than fifteen minutes after the completion of the initial test. The confirmatory test will be performed using a NHTSA-approved EBT operated by a trained BAT. The EBT will identify each test by a unique sequential identification number. This number, time, and unit identifier will be provided on each EBT printout. The EBT printout, along with an approved alcohol testing form, will be used to document the test, the subsequent results, and to attribute the test to the correct employee. The test will be performed in a private, confidential manner as required by 49 CFR Part 40, as amended. The procedure will be followed as prescribed to protect the employee and to maintain the integrity of the alcohol testing procedures and validity of the test result.
- 2) A confirmed alcohol concentration of 0.04 or greater will be considered a positive alcohol test and in violation of this policy. The consequences of a positive alcohol test are described in Section Q. of this policy. Even though an employee who has a confirmed alcohol concentration of 0.02 to 0.039 is not considered positive, the employee shall still be removed from duty for at least eight hours or for the duration of the work day whichever is longer and will be subject to the consequences described in Section Q of this policy. An alcohol concentration of less than 0.02 will be considered a negative test.
- 3) Cabarrus County Transportation affirms the need to protect individual dignity, privacy, and confidentiality throughout the testing process. If at any time the integrity of the testing procedures or the validity of the test results is compromised, the test will be canceled. Minor inconsistencies or procedural flaws that do not impact the test result will not result in a cancelled test.
- 4) The alcohol testing form (ATF) required by 49 CFR Part 40 as amended, shall be used for all FTA required testing. Failure of an employee to sign step 2 of the ATF will be considered a refusal to submit to testing.

## **K. PRE-EMPLOYMENT TESTING**

- 1) All applicants for covered transit positions shall undergo urine drug testing prior to performance of a safety-sensitive function.
  - a. All offers of employment for covered positions shall be extended conditional upon the applicant passing a drug test. An applicant will not be allowed to perform safety-sensitive functions unless the applicant takes a drug test with verified negative results.
  - b. An employee shall not be placed, transferred or promoted into a position covered under FTA authority or company authority until the employee takes a drug test with verified negative results.
  - c. If an applicant fails a pre-employment drug test, the conditional offer of employment shall be rescinded and the applicant will be provided with a list of at least two (2) USDOT qualified Substance Abuse Professionals. Failure of a pre-employment drug test will disqualify an applicant for employment for a period of at least one year. Before being considered for future employment the applicant must provide the employer proof of having successfully completed a referral, evaluation and treatment plan as described in section 655.62 of subpart G. The cost for the assessment and any subsequent treatment will be the sole responsibility of the applicant.
  - d. When an employee being placed, transferred, or promoted from a non-covered position to a position covered under FTA authority or company authority submits a drug test with a verified positive result, the employee shall be subject to disciplinary action in accordance with Section Q herein.
  - e. If a pre-employment test is canceled, Cabarrus County Transportation will require the applicant to take and pass another pre-employment drug test.
  - f. In instances where an FTA covered employee does not perform a safety-sensitive function for a period of 90 consecutive days or more regardless of reason, and during that period is not in the random testing pool the employee will be required to take a pre-employment drug test under 49 CFR Part 655 and have negative test results prior to the conduct of safety-sensitive job functions.

- g. Following a negative dilute the employee will be required to undergo another test. Should this second test result in a negative dilute result, the test will be considered a negative and no additional testing will be required unless directed to do so by the MRO.
- h. Applicants are required (even if ultimately not hired) to provide Cabarrus County Transportation with signed written releases requesting USDOT drug and alcohol records from all previous, USDOT-covered, employers that the applicant has worked for within the last two years. Failure to do so will result in the employment offer being rescinded. Cabarrus County Transportation is required to ask all applicants (even if ultimately not hired) if they have tested positive or refused to test on a pre-employment test for a USDOT covered employer within the last two years. If the applicant has tested positive or refused to test on a pre-employment test for a USDOT covered employer, the applicant must provide Cabarrus County Transportation proof of having successfully completed a referral, evaluation and treatment plan as described in section 655.62 of subpart G.

#### **L. REASONABLE SUSPICION TESTING**

- 1) All Cabarrus County Transportation FTA covered employees will be subject to a reasonable suspicion drug and/or alcohol test when the employer has reasonable suspicion to believe that the covered employee has used a prohibited drug and/or engaged in alcohol misuse. Reasonable suspicion shall mean that there is objective evidence, based upon specific, contemporaneous, articulable observations of the employee's appearance, behavior, speech or body odor that are consistent with possible drug use and/or alcohol misuse. Reasonable suspicion referrals must be made by one or more supervisors who are trained to detect the signs and symptoms of drug and alcohol use, and who reasonably concludes that an employee may be adversely affected or impaired in his/her work performance due to possible prohibited substance abuse or alcohol misuse. A reasonable suspicion alcohol test can only be conducted just before, during, or just after the performance of a safety-sensitive job function. However, under Cabarrus County Transportation' authority, a non-DOT reasonable suspicion alcohol test may be performed any time the covered employee is on duty. A reasonable suspicion drug test can be performed any time the covered employee is on duty.
- 2) Cabarrus County Transportation shall be responsible for transporting the employee to the testing site. Supervisors should avoid placing themselves and/or

others into a situation which might endanger the physical safety of those present. The employee shall be placed on administrative leave pending disciplinary action described in Section Q of this policy. An employee who refuses an instruction to submit to a drug/alcohol test shall not be permitted to finish his or her shift and shall immediately be placed on administrative leave pending disciplinary action. Refer to County Policy for non-disciplinary investigatory suspension.

- 3) A written record of the observations which led to a drug/alcohol test based on reasonable suspicion shall be prepared and signed by the supervisor making the observation. This written record shall be submitted to Cabarrus County Transportation. Utilize the form provided with the general County policy.
- 4) When there are no specific, contemporaneous, articulable objective facts that indicate current drug or alcohol use, but the employee (who is not already a participant in a treatment program) admits the abuse of alcohol or other substances to a supervisor in his/her chain of command, the employee shall be referred for assessment and treatment consistent with Section Q of this policy. Cabarrus County Transportation shall place the employee on administrative leave in accordance with the provisions set forth under Section Q of this policy. Testing in this circumstance would be performed under the direct authority of the Cabarrus County Transportation. **Since the employee self-referred to management, testing under this circumstance would not be considered a violation of this policy or a positive test result under Federal authority.** However, self-referral does not exempt the covered employee from testing under Federal authority as specified in Sections L through N of this policy or the associated consequences as specified in Section Q.

#### **M. POST-ACCIDENT TESTING**

- 1) FATAL ACCIDENTS – A covered employee will be required to undergo urine and breath testing if they are involved in an accident with a transit vehicle, whether or not the vehicle is in revenue service at the time of the accident, that results in a fatality. This includes all surviving covered employees that are operating the vehicle at the time of the accident and any other whose performance could have contributed to the accident, as determined by the employer using the best information available at the time of the decision.
- 2) NON-FATAL ACCIDENTS - A post-accident test of the employee operating the public transportation vehicle will be conducted if an accident occurs and at least one of the following conditions is met:

- a. The accident results in injuries requiring immediate medical treatment away from the scene, unless the covered employee can be completely discounted as a contributing factor to the accident.
- b. One or more vehicles incurs disabling damage as a result of the occurrence and must be transported away from the scene, unless the covered employee can be completely discounted as a contributing factor to the accident.
- c. Any other incidents/accidents as required by Cabarrus County. Employee will be under County testing protocol.

In addition, any other covered employee whose performance could have contributed to the accident, as determined by the employer using the best information available at the time of the decision, will be tested.

As soon as practicable following an accident, as defined in this policy, the transit supervisor investigating the accident will notify the transit employee operating the transit vehicle and all other covered employees whose performance could have contributed to the accident of the need for the test. The supervisor will make the determination using the best information available at the time of the decision.

The appropriate transit supervisor shall ensure that an employee, required to be tested under this section, is tested as soon as practicable, within two hours but not longer than eight (8) hours accident for alcohol and drug. If a test is not performed within two hours of the accident, the Supervisor will document the reason(s) for the delay. If the alcohol test is not conducted within (8) eight hours attempts to conduct the test must cease and the reasons for the failure to test documented. Failure to be available within such time will be considered a refusal to submit to testing, unless there is a clear hindrance. For example, an employee with life-threatening injuries or injuries that result in death. It is important to emphasize that **nothing** is to prevent the individual from receiving of required medical attention.

Any covered employee involved in an accident must refrain from alcohol use for eight (8) hours following the accident, or until he/she undergoes a post-accident alcohol test.

An employee who is subject to post-accident testing who fails to remain readily available for such testing, including notifying a supervisor of his or her location if he or she leaves the scene of the accident prior to submission to such test, may be deemed to have refused to submit to testing.

Nothing in this section shall be construed to require the delay of necessary medical attention for the injured following an accident, or to prohibit an employee from leaving the scene of an accident for the period necessary to obtain assistance in responding to the accident, or to obtain necessary emergency medical care.

In the rare event that Cabarrus County Transportation is unable to perform an FTA drug and alcohol test (i.e., employee is unconscious, employee is detained by law enforcement agency), Cabarrus County Transportation may use drug and alcohol post-accident test results administered by local law enforcement officials in lieu of the FTA test. The local law enforcement officials must have independent authority for the test and the employer must obtain the results in conformance with local law.

#### **N. RANDOM TESTING**

All covered employees will be subjected to random, unannounced testing. The selection of employees shall be made by a scientifically valid method of randomly generating an employee identifier from the appropriate pool of Transportation safety-sensitive employees. Employees who may be covered under company authority will be selected from a pool of non-DOT-covered employees.

- 1) The dates for administering unannounced testing of randomly selected employees shall be spread reasonably throughout the calendar year, day of the week and hours of the day.
- 2) The number of employees randomly selected for drug/alcohol testing during the calendar year shall be not less than the percentage rates set each year by the FTA administrator. The current year testing rates can be viewed online at <https://www.transportation.gov/odapc/random-testing-rates>.
- 3) Each covered employee shall be in a pool from which the random selection is made. Each covered employee in the pool shall have an equal chance of selection each time the selections are made. Employees will remain in the pool and subject to selection, whether or not the employee has been previously tested. There is no discretion on the part of management in the selection.
- 4) Covered transit employees that fall under the Federal Transit Administration regulations will be included in one random pool maintained separately from the testing pool of non-safety-sensitive employees that are included solely under Cabarrus County Transportation authority.

- 5) Random tests can be conducted at any time during an employee's shift for drug testing. Alcohol random tests can only be performed just before, during, or just after the performance of a safety sensitive duty. However, under Cabarrus County Transportation authority, a non-DOT random alcohol test may be performed any time the covered employee is on duty. Testing can occur during the beginning, middle, or end of an employee's shift.
- 6) Employees are required to proceed immediately to the collection site upon notification of their random selection.

#### **O. RETURN-TO-DUTY TESTING**

Cabarrus County Transportation will terminate the employment of any employee that tests positive or refuses a test as specified in section Q of this policy. However, in the rare event an employee is reinstated with court order or other action beyond the control of the transit system, the employee must complete the return-to-duty process prior to the performance of safety-sensitive functions. All covered employees who previously tested positive on a drug or alcohol test or refused a test, must test negative for drugs, alcohol (below 0.02 for alcohol), or both and be evaluated and released by the Substance Abuse Professional before returning to work. Following the initial assessment, the SAP will recommend a course of rehabilitation unique to the individual. The SAP will recommend the return-to-duty test only when the employee has successfully completed the treatment requirement and is known to be drug and alcohol-free and there are no undue concerns for public safety. The SAP will determine whether the employee returning to duty will require a return-to-duty drug test, alcohol test, or both.

#### **P. FOLLOW-UP TESTING**

Covered employees that have returned to duty following a positive or refused test will be required to undergo frequent, unannounced drug and/or alcohol testing following their return-to-duty test. The follow-up testing will be performed for a period of one to five years with a minimum of six tests to be performed the first year. The frequency and duration of the follow-up tests (beyond the minimums) will be determined by the SAP reflecting the SAP's assessment of the employee's unique situation and recovery progress. Follow-up testing should be frequent enough to deter and/or detect a relapse. Follow-up testing is separate and in addition to the random, post-accident, reasonable suspicion and return-to-duty testing.

In the instance of a self-referral or a management referral, the employee will be subject to non-USDOT follow-up tests and follow-up testing plans modeled using the process described in 49 CFR Part 40. However, all non-USDOT follow-up tests and all paperwork associated with an employee's return-to-work agreement that was not precipitated by a positive test result (or refusal to test) does not constitute a violation of the Federal regulations will be conducted under company authority and will be performed using non-DOT testing forms.

**Q. RESULT OF DRUG/ALCOHOL TEST**

- 1) Any covered employee that has a verified positive drug or alcohol test, or test refusal, will be removed from his/her safety-sensitive position, informed of educational and rehabilitation programs available, and will be provided with a list of at least two (2) USDOT qualified Substance Abuse Professionals (SAP) for assessment, and will be terminated.
- 2) Following a negative dilute the employee will be required to undergo another test. Should this second test result in a negative dilute result, the test will be considered a negative and no additional testing will be required unless directed to do so by the MRO.
- 3) Refusal to submit to a drug/alcohol test shall be considered equivalent to a positive test result and a direct act of insubordination and shall result in termination and referral to a list of USDOT qualified SAPs. A test refusal is defined as any of the following circumstances:
  - a. Fail to appear for any test (except a pre-employment test) within a reasonable time, as determined by the employer.
  - b. Fail to remain at the testing site until the testing process is complete. An employee who leaves the testing site before the testing process commences for a pre-employment test has not refused to test.
  - c. Fail to attempt to provide a breath or urine specimen. An employee who does not provide a urine or breath specimen because he or she has left the testing site before the testing process commenced for a pre-employment test has not refused to test.
  - d. In the case of a directly-observed or monitored urine drug collection, fail to permit monitoring or observation of your provision of a specimen.
  - e. Fail to provide a sufficient quantity of urine or breath without a valid medical explanation.
  - f. Fail or decline to take a second test as directed by the collector or the employer for drug testing.

- g. Fail to undergo a medical evaluation as required by the MRO or the employer's Designated Employer Representative (DER).
  - h. Fail to cooperate with any part of the testing process.
  - i. Fail to follow an observer's instructions to raise and lower clothing and turn around during a directly-observed test.
  - j. Possess or wear a prosthetic or other device used to tamper with the collection process.
  - k. Admit to the adulteration or substitution of a specimen to the collector or MRO.
  - l. Refuse to sign the certification at Step 2 of the Alcohol Testing Form (ATF).
  - m. Fail to remain readily available following an accident.
  
  - n. As a covered employee, if the MRO reports that you have a verified adulterated or substituted test result, you have refused to take a drug test.
- 4) An alcohol test result of  $\geq 0.02$  to  $\leq 0.039$  BAC shall result in the removal of the employee from duty for eight hours or the remainder or the work day whichever is longer. The employee will not be allowed to return to safety-sensitive duty for his/her next shift until he/she submits to a NONDOT alcohol test with a result of less than 0.02 BAC.
- 5) In the instance of a self-referral or a management referral, disciplinary action against the employee shall include:
- a. Mandatory referral for an assessment by an employer approved counseling professional for assessment, formulation of a treatment plan, and execution of a return to work agreement;
  - b. Failure to execute, or remain compliant with the return-to-work agreement shall result in termination from Cabarrus County Transportation/Cabarrus County employment.
    - i. Compliance with the return-to-work agreement means that the employee has submitted to a drug/alcohol test immediately prior to returning to work; the result of that test is negative; the employee is cooperating with his/her recommended treatment program; and, the employee has agreed to periodic unannounced follow-up testing as described in Section P of this policy; however, all follow-up testing performed as part of a return-to-work agreement required under section Q of this policy is under the sole authority of Cabarrus County Transportation and will be performed using non-DOT testing forms.

- c. Refusal to submit to a periodic unannounced follow-up drug/alcohol test shall be considered a direct act of insubordination and shall result in termination. All tests conducted as part of the return-to-work agreement will be conducted under company authority and will be performed using non-DOT testing forms.
  - d. A self-referral or management referral to the employer's counseling professional that was not precipitated by a positive test result does not constitute a violation of the Federal regulations and will not be considered as a positive test result in relation to the progressive discipline defined in Section Q of this policy.
  - e. Periodic unannounced follow-up drug/alcohol testing conducted as a result of a self-referral or management referral which results in a verified positive shall be considered a positive test result in relation to the progressive discipline defined in Section Q of this policy.
  - f. A Voluntary Referral does not shield an employee from disciplinary action or guarantee employment with Cabarrus County Transportation.
  - g. A Voluntary Referral does not shield an employee from the requirement to comply with drug and alcohol testing.
- 6) Failure of an employee to report within five days a criminal drug statute conviction for a violation occurring in the workplace shall result in termination.

#### **R. GRIEVANCE AND APPEAL**

The consequences specified by 49 CFR Part 40.149 (c) for a positive test or test refusal is not subject to arbitration.

#### **S. PROPER APPLICATION OF THE POLICY**

Cabarrus County Transportation is dedicated to assuring fair and equitable application of this substance abuse policy. Therefore, supervisors/managers are required to use and apply all aspects of this policy in an unbiased and impartial manner. Any supervisor/manager who knowingly disregards the requirements of this policy, or who is found to deliberately misuse the policy in regard to subordinates, shall be subject to disciplinary action, up to and including termination.

#### **T. INFORMATION DISCLOSURE**

- 1) Drug/alcohol testing records shall be maintained by the Cabarrus County Transportation Drug and Alcohol Program Manager (Operations and Training Supervisor) and, except as provided below or by law, the results of any drug/alcohol test shall not be disclosed without express written consent of the tested employee.
- 2) The employee, upon written request, is entitled to obtain copies of any records pertaining to their use of prohibited drugs or misuse of alcohol including any drug or alcohol testing records. Covered employees have the right to gain access to any pertinent records such as equipment calibration records, and records of laboratory certifications. Employees may not have access to SAP follow-up testing plans.
- 3) Records of a verified positive drug/alcohol test result shall be released to the Drug and Alcohol Program Manager, and other transit system management personnel on a need to know basis.
- 4) Records will be released to a subsequent employer only upon receipt of a written request from the employee.
- 5) Records of an employee's drug/alcohol tests shall be released to the adjudicator in a grievance, lawsuit, or other proceeding initiated by or on behalf of the tested individual arising from the results of the drug/alcohol test. The records will be released to the decision maker in the proceeding.
- 6) Records will be released to the National Transportation Safety Board during an accident investigation.
- 7) Information will be released in a criminal or civil action resulting from an employee's performance of safety-sensitive duties, in which a court of competent jurisdiction determines that the drug or alcohol test information is relevant to the case and issues an order to the employer to release the information. The employer will release the information to the decision maker in the proceeding with a binding stipulation that it will only be released to parties of the proceeding.
- 8) Records will be released to the DOT or any DOT agency with regulatory authority over the employer or any of its employees.
- 9) Records will be released if requested by a Federal, state or local safety agency with regulatory authority over Cabarrus County Transportation or the employee.

- 10) If a party seeks a court order to release a specimen or part of a specimen contrary to any provision of Part 40 as amended, necessary legal steps to contest the issuance of the order will be taken
  
- 11) In cases of a contractor or sub-recipient of a state department of transportation, records will be released when requested by such agencies that must certify compliance with the regulation to the FTA.

This Policy was adopted by the Cabarrus County Board of Commissioners on April 19, 2022.

**Attachment A – Safety Sensitive Employee Descriptions**

<b><u>Job Title</u></b>	<b><u>Job Duties</u></b>	<b><u>Testing Authority</u></b>
Driver Supervisor	Operation of a transit revenue service vehicle even when the vehicle is not in revenue service.	FTA
Operations and Training Supervisor	1) Operation of a transit revenue service vehicle even when the vehicle is not in revenue service. 2) Controlling the movement of a revenue service vehicle. 3) Maintaining a revenue service vehicle or equipment used in revenue service.	FTA
Transportation Driver	Operation of a transit revenue service vehicle even when the vehicle is not in revenue service.	FTA
Transportation Driver/Dispatcher	Controlling the movement of a revenue service vehicle.	FTA
Transportation Manager	1) Operation of a transit revenue service vehicle even when the vehicle is not in revenue service. 2) Controlling the movement of a revenue service vehicle. 3) Maintaining a revenue service vehicle or equipment used in revenue service.	FTA

**Attachment B Contacts – Updated 3/9/2022**

Any questions regarding this policy or any other aspect of the substance abuse policy should be directed to the following individual(s).

**Cabarrus County Transportation Drug and Alcohol Program Manager**

Name: Charles Ratliff  
Title: Operations & Training Supervisor  
Address: 1303 S. Cannon Blvd Kannapolis NC  
Telephone Number: (704)920-2925

**Medical Review Officer**

Name: Dr. Owensby  
Title: MRO  
Address: 681 Cabarrus Ave. West  
Concord NC 28027  
Telephone Number: 1(800)451-3743

**HHS Certified Laboratory Primary Specimen**

Name: Clinic Reference Lab  
Address: 8433 Quivira, Lenexa, KS 66215

Name: LabCorp  
Address: 1904 Alexander Dr., RTP NC 27709  
Telephone Number: 1 (800) 336-553-0780 Ext. 304

**Substance Abuse Professional Referral List**

**Substance Abuse Professional #1**

Name: John Trombello  
Title: McLaughlin Young Group  
Address: 5925 Carnegie Blvd  
Suite 350  
Charlotte NC 28209  
Telephone Number: (704)529-1428

**Substance Abuse Professional #2**

Mary Kay Berhalter  
McLaughlin Young Group  
5925 Carnegie Blvd  
Suite 350  
Charlotte NC 28209  
(704)529-1428

# 5. SAFETY AND SECURITY PLAN

April 19, 2022

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## PREFACE

Cabarrus County Transportation Service operate in a wide variety of environments including rural, urban and resort areas. Cabarrus County Transportation includes paratransit and specialized service for the general public, as well as high-risk passengers such as individuals with disabilities, the elderly and young children.

Safety has always been a priority for local community transportation providers, state Departments of Transportation and the Federal Transit Administration. As a result of 9/11, and the transit attacks in Spain, England and India, there are heightened concerns for transit security even in rural communities. The destruction wrought by Hurricanes Katrina, Rita and other acts of nature have renewed our national awareness for the role that public transportation can play as a first responder resource.

Every transit system - whether a large fixed-route bus system or a small rural provider – is being asked to designate safety, security and emergency preparedness as a top priority, and to prepare to manage critical incidents for the wide array of the hazards that transit faces.

Critical Incidents could include accidents, natural disasters, sabotage, civil unrest, hazardous materials spills, criminal activity, or acts of terrorism. Regardless of the cause, critical incidents require swift, decisive action to protect life and property. Critical incidents must be stabilized prior to the resumption of regular service or activities. Successful resolution of critical incidents typically requires cooperative efforts by a variety of responding agencies.

To establish the importance of safety, security and emergency preparedness in all aspects of our organization, Cabarrus County Transportation has developed this Safety, Security and Emergency Preparedness Plan (SECURITY PLAN). This SECURITY PLAN outlines the process used by Cabarrus County Transportation to make informed decisions that are appropriate for our operations, passengers, employees and communities regarding the development and implementation of a comprehensive security and emergency preparedness program.

As a result of this program, Cabarrus County Transportation achieves not only an effective physical security program, but enhances associations with the local public safety agencies in our service area. Improved communication increases their awareness of our resources and capabilities, and improves our readiness to support their efforts to manage community-wide emergencies, including, accidents and incidents, acts of nature, hazardous materials, criminal activity and terrorism.

In order to be effective for Cabarrus County Transportation, the activities documented in this SECURITY PLAN focus on establishing responsibilities for safety, security and emergency preparedness, identifying our methodology for documenting and analyzing potential safety, security and emergency preparedness issues, and developing the management system through which we track and monitor our progress in addressing these issues.

The structure of this SECURITY PLAN focuses first on a description of Cabarrus County Transportation’s Mission and a comprehensive overview of the system, then on Preparation – identifying critical assets, threats and vulnerabilities to the transit system and the environment in which it operates, along with preparing our transit staff to manage incidents in concert with external emergency management organizations and first responders, followed by Prevention – strategies for reducing risk, including training on safety/security awareness, then on Response – staff responsibilities and emergency protocols, and finally, on Recovery – putting things back together. The Appendix of this SECURITY PLAN contains forms that we use to ensure documentation of our SECURITY PLAN activities.

## **MISSION DEFINITION**

### **1.1 Introduction – Establishing the parameters of the plan**

#### **1.1a. - AUTHORITY**

The authority for implementing the SECURITY PLAN resides with the Cabarrus County Transportation Service.

#### **1.1b. - PURPOSE**

This SECURITY PLAN defines our process for addressing safety, security and emergency preparedness as:

- System Safety – The application of operating policies and procedures to reduce vulnerability to safety-related hazards.
- System Security – The application of operating policies and procedures to reduce vulnerability to security threats.
- Emergency Preparedness – The system of policies and procedures that assure rapid, controlled, and predictable responses to a wide variety of safety and/or security incidents.

The SECURITY PLAN supports Cabarrus County Transportation’s efforts to address and resolve critical incidents on our property and within our community.

Critical Incidents – Critical Incidents could include accidents, natural disasters, sabotage, civil unrest, hazardous materials spills, criminal activity, or acts of terrorism. Regardless of the cause, critical incidents require swift, decisive action to protect life and property. Critical incidents must be stabilized prior to the resumption of regular service or activities. And successful resolution of critical incidents typically requires cooperative efforts by a variety of responding agencies.

The overall purpose of the Cabarrus County Transportation SECURITY PLAN is to optimize -- within the constraints of time, cost, and operational effectiveness -- the level of protection afforded to Cabarrus County Transportation’s

passengers, employees, volunteers and contractors, and any other individuals who come into contact with the system, both during normal operations and under emergency conditions.

This SECURITY PLAN demonstrates the Cabarrus County Transportation's commitment to do the following:

- **Prepare**
  - Identify assets essential to our mission
  - Assess hazards and threats facing our agency and our community
  - Train staff how to prevent, respond to and recover from prime risks
  - Coordinate with other emergency response organizations
  
- **Prevent**
  - Take steps to eliminate threats where possible
  - Institute policies and procedures that reduce the likelihood of incidents occurring
  - Take steps that reduce the impact on system assets when incidents do occur
  
- **Respond**

React quickly and decisively to critical incidents focusing on:

  - Life Safety
  - Property Protection
  - Stabilization of Incident
  
- **Recover**
  - Resume service delivery based on availability of resources
  - Repair and replace critical assets
  - Assess incident response and make changes based on lessons learned.

### 1.1c. - GOALS

The SECURITY PLAN provides Cabarrus County Transportation with a safety, security and emergency preparedness capability that:

- Ensures that safety, security and emergency preparedness are addressed during all phases of system operation including hiring and training of personnel; procurement and maintenance of equipment; development of policies and procedures; delivery of service, and coordination with local emergency management and first responder agencies
- Creates a culture that supports employee safety and security through the appropriate use and operation of equipment and resources
- Promotes analysis tools and methodologies that identify changing threat conditions and bolster agency response capabilities
- Ensures that our agency achieves a level of security performance and emergency readiness that meets or exceeds the operating experience of similarly-sized agencies

- Identifies and pursues grant funding opportunities at the state and federal level to support safety, security, and emergency preparedness efforts
- Makes every effort to ensure that, if confronted with a safety or security event or major emergency, our personnel will respond effectively, using good judgment and building on best practices identified in policies and procedures and exercised through drills and training

**1.1d. - OBJECTIVES**

In this new environment, every threat cannot be identified and eliminated, but Cabarrus County Transportation takes steps to be more aware, to better protect passengers, employees, facilities and equipment, and stands ready to support community needs in response to a critical incident. To this end, our SECURITY PLAN has five objectives:

1. Achieve a level of security performance and emergency readiness that meets or exceeds the operating experience of similarly-sized agencies around the nation.
2. Partake in and strengthen community involvement and participation in the safety and security of our system.
3. Develop and implement a Threat and Vulnerability Assessment program and, based on the results of this program, establish a course of action for improving physical safety and security measures and emergency response capabilities.
4. Expand our training program for employees, volunteers and contractors to address safety and security awareness and emergency management concerns.
5. Enhance our coordination with partner agencies regarding safety, security and emergency preparedness issues.

**1.1e. - DEFINITION**

In this SECURITY PLAN, the terms “transit vehicle” or “bus” are used to describe all types of transit surface conveyances including sedans, mini-vans, vans, body-on-chassis, mini-buses and the wide range of full-size coaches.

**1.2 System Overview – Who We Are and What We Do**

**1.2a. - ORGANIZATIONAL DESCRIPTION**

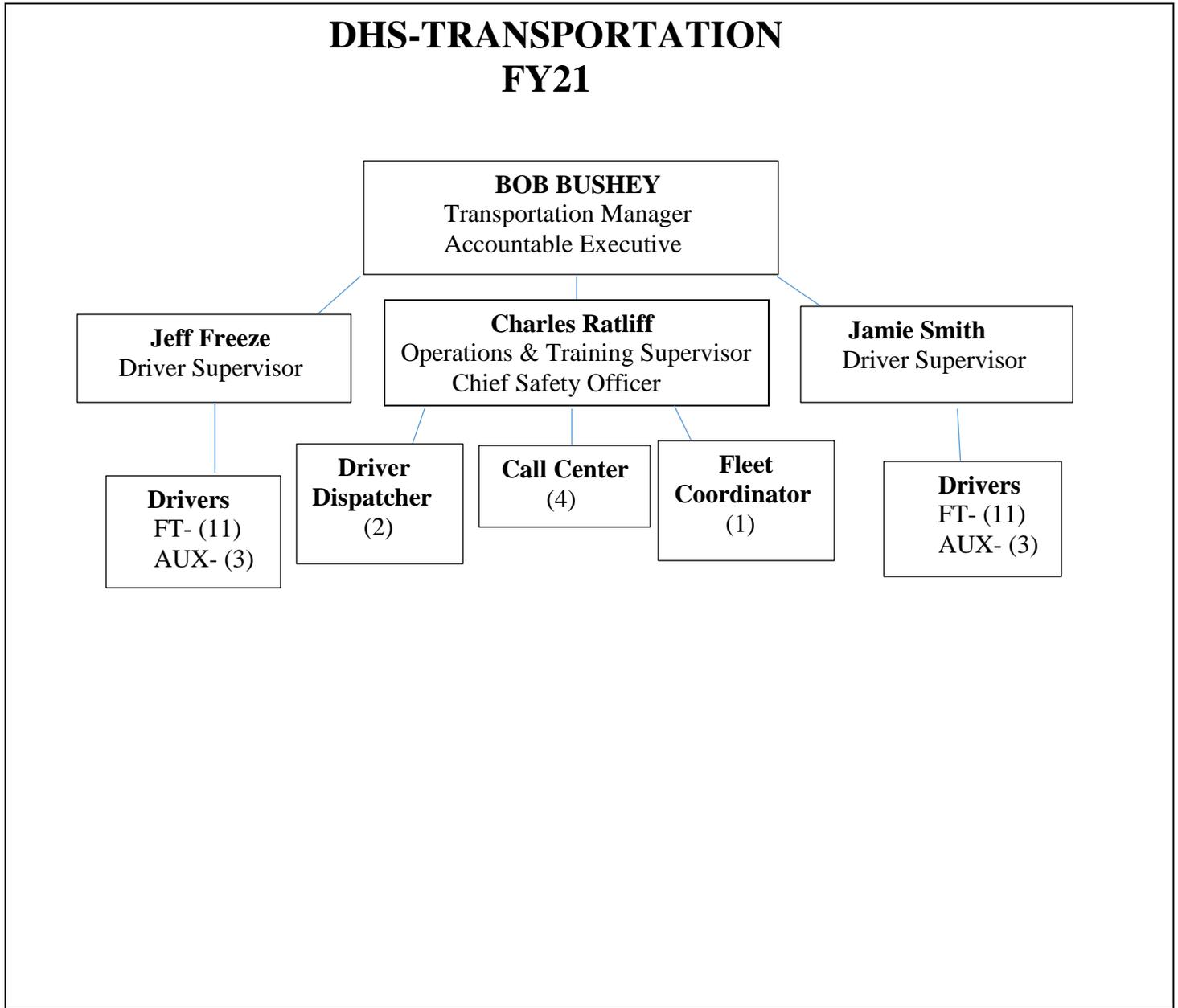
Cabarrus County Transportation Services (CCTS) is a consolidated transportation system operating in Cabarrus County, NC. CCTs offers subscriptions routes and demand/response transportation by contractual; agreement with the following human service organizations:

Cabarrus County Department of Human Services

**1.2b. - MISSION STATEMENT**

Cabarrus County Transportation Service's mission is to promote an independent lifestyle that empowers individuals to overcome transportation barriers by providing safe and reliable transportation services that enable all eligible individuals to access medical care, essential services, and resources that improve their quality of life.

1.2c. - ORGANIZATIONAL STRUCTURE



1.2d. - SERVICE AREA

Cabarrus County Transportation serves all of Cabarrus County and other locations within Rowan and Mecklenburg County. Cabarrus County Transportation also partnership with TJ Taxi Service to provide transportation to Durham, Chapel Hill, Winston Salem and many other counties within North Carolina.

1.2e. - SERVICE DESIGN

Cabarrus County Transportation Service is a demand Response, door-to-door service designed to meet the transportation needs of Cabarrus County citizens. The aim is to promote an independent lifestyle that empowers individuals to overcome transportation barriers by providing safe and reliable transportation to those that are eligible.

**1.2f. - FUNDING SOURCES**

DSS19	EDTAP	DOA8
DSS19-CAP	5310	DOA9
DSS19-FP	WFFA	RGP
DOA1	5307	
DOA6	DOA7	

**1.2g. - VEHICLES AND FACILITIES**

Cabarrus County Transportation Service is located within the Cabarrus County Department of Human Services (DHS). All Cabarrus County Transportation vehicles are parked in the designated fenced lot in front of the DHS building. The entry inside the gated/fenced lot is by access code only. The public does not have access to the fenced lot. The vehicle fleet consist of 22 wheelchair accessible LTV's .

**2. PREPARATION**

**2.1 Overview**

While safety addresses the day-to-day issues of transporting passengers in the community safely and without accident, security deals with the entire transit system and the potential for threats against it. Security also includes Cabarrus County Transportation as part of the larger community and the response within the community to environmental hazards, criminal or terrorist acts, or natural disaster.

The Cabarrus County Transportation Threat and Vulnerability Assessment provides a framework by which to analyze the likelihood of hazards and threats damaging critical assets. Included in this assessment are:

- Historical analysis
- Physical surveys
- Expert evaluation
- Scenario analysis

The Threat and Vulnerability Assessment offers Cabarrus County Transportation the ability to identify critical assets and their vulnerabilities to threats, to develop and implement countermeasures, and to monitor and improve program effectiveness. This analysis is guided by clear investigation of three critical questions:

1. Which assets can we least afford to lose? The asset CCTS can least afford to use is the Vehicles and Drivers
2. What is our responsibility to protect these assets? CCTS has a fenced lot, cameras and security personnel (Cabarrus County Sherriff's department) that monitor and patrol the premises including building and parking area.
3. Where do we assume total liability for risk and where do we transfer risk to others, such as local public responders, technical specialists, insurance companies, and the state and Federal government? Cabarrus County Risk Management department directs the County concerning risk and liability.

**CRITICAL ASSET VULNERABILITY ACTION REPORT**

Transit Assets	Elements of Vulnerability	Assessment of Adequacy of Current Levels of Protection	Action Required? Yes / No
<b>Vehicles</b>			
Transit vehicles	gate malfunction	gated lot with security code access (employees only)	no
Administrative vehicles	gate malfunction	gated lot with security code access (employees only)	no
Radios	none (no area of vulnerability)	secured within vehicles	no
Fare boxes	n/a		
Other	n/a		
<b>Maintenance Area</b>			
In-house	N/A		
Entrances/exits	public access	GMAX	no
Restrooms	public access	GMAX	no
Equipment	Security system	GMAX	no
Other			
Contractor	Public access	gated facility; Keys and property kept secure	no
<b>Storage Lots</b>			
Vehicles	Secure in lot	Camera systems and gated lot	no
Entrances/exits	Security access (employees only)	gated lot with security cameras	no
Fuel areas	n/a	gas station	no
Other	gas cards	employees assigned gas code; monitored and recorded	no
<b>Office Facilities and Equipment</b>			
Office furniture	none (no area of vulnerability)	monitored by IAM	no
Computers	Security system (IT)	monitored and maintained by (IT) department	no
Phone Systems	IT	monitored and maintained by IAM & IT	no
Radio system	none (no area of vulnerability)	IAM	no
Entrances/exits	Security access	monitored by Cabarrus County Sherriff's dept.	no
Restrooms	none (no area of vulnerability)		no
Storage areas	Security system	no public access	no
Revenue collection area	Security system	cameras and glass dividers	no
Employee parking lots	public access	monitored by Kannapolis Police Dept. & Cabarrus Sherriff's	
Other			
<b>Transit Support</b>			
Transit Center	none (no area of vulnerability)	Security system (Cabarrus County Sherriff's dept.)	no
Bus Stops	n/a		
Bus Shelters	n/a		
<b>Personnel</b>			
Drivers	none (no area of vulnerability)		no
Other staff	none (no area of vulnerability)		no
Passengers	none (no area of vulnerability)		no

**2.2 Hazard and Threat Assessment**

2.2a. – CRITICAL ASSETS – IDENTIFYING THE IMPORTANT ELEMENTS OF OUR ORGANIZATION REQUIRING PROTECTION

Overview

In security terms, Cabarrus County Transportation’s assets are broadly defined as:

- People – Passengers, employees, visitors, contractors, vendors, community members, and others who come into contact with the system
  
- Information – Employee and customer information, computer network configurations and passwords, ridership, revenue and service statistics, operating and maintenance procedures, vehicle identification systems
  
- Property – Revenue vehicles, non-revenue vehicles, storage facilities, passenger facilities, maintenance facilities and equipment, administrative offices, computer systems and communications equipment

Assets are critical when their loss either endangers human life or impacts the Cabarrus County Transportation’s ability to maintain service. In reviewing assets, the transportation system has prioritized which among them has the greatest consequences for the ability of the system to sustain service. These critical assets may require higher or special protection.

#### Asset Analysis

In identifying and analyzing critical assets for the entire system, under the full range of operational conditions, a simple process called “asset criticality valuation” has been performed by Cabarrus County Transportation. This process helped Cabarrus County Transportation management to prioritize the allocation of limited resources for protecting the most vital elements of its operation. In this asset analysis Cabarrus County Transportation considered the following:

- Criticality to mission
- Asset replacement cost
- Severity of impact on public health and safety
- Impact on other assets including intangibles such as public trust and employee morale

For those assets that are mission-critical, steps are taken for risk avoidance (i.e. stop the activity altogether), risk retention (e.g. accept the risk but take steps to reduce the likelihood or impact of an incident) and risk transference (e.g. have someone else, like an insurer, assume the risk).

#### **2.2b. THREAT AND VULNERABILITY ANALYSIS**

## CRITICAL ASSET ANALYSIS

Critical Assets	Level of Criticality (Rate as High, Medium, Low)	Level of Vulnerability (Rate as High, Medium, Low)
<b>Vehicles</b>		
Buses/vans	High	low
Administrative vehicles	High	low
Radios	Low	low
Fare boxes	Low (n/a)	n/a
Other		
<b>Maintenance Area</b>		
In-house	N/A	n/a
Entrances/exits	low	low
Restrooms	low	low
Equipment	low	low
Other		
Contractor	low	low
<b>Storage Lots</b>		
Vehicles	High	low
Entrances/exits	High	low
Fuel areas	low	low
Other		
<b>Office Facilities and Equipment</b>		
Office furniture	low	low
Computers	Medium / High	Medium
Phone systems	low / medium	low
Radio system	low	low
Entrances/exits	medium	medium
Restrooms	low	low
Storage areas	low	low
Revenue collection facilities	Medium	low
Employee parking lots	low	low
Other		
<b>Transit Support</b>		
Transit Center	Medium	low
Bus Stops	n/a	n/a
Bus Shelters	n/a	n/a
<b>People</b>		
Drivers	High	low
Other staff	High	low
Passengers	High	low

A threat is any action with the potential to cause harm in the form of death, injury, destruction of property, interruption of operations, or denial of services. Cabarrus County Transportation threats include accidents and incidents, hazardous materials, fires, acts of nature, or any event that could be perpetrated by criminals, disgruntled employees, or terrorists.

Threat analysis defines the level or degree of the threats by evaluating the probability and impact of the threat. The process involves gathering historical data about threatening events and evaluating which information is relevant in assessing the threats against Cabarrus County Transportation, some of the questions answered in our threat analysis include.

- How safe are vehicles and equipment?
- How secure is the transportation facility?
- What event(s) or act(s) of nature has a reasonable probability of occurring?
- Have similar-sized agencies been targets of criminal or terrorist acts in the past?
- How significant would the impacts be?

A vulnerability is anything that can make an agency more susceptible to a threat. This includes vulnerabilities in safety/security procedures and practices involving transit facilities, transit equipment and transit staff. Vulnerability analysis identifies specific weaknesses to threat that must be mitigated.

#### Threat and Vulnerability Identification

The primary method used by Cabarrus County Transportation to identify the threats to the transit system and the vulnerabilities of the system is the collection of historical data and incident reports submitted by drivers and supervisors and information provided by federal and state agencies and local law enforcement.

Information resources include but are not limited to the following:

- Operator incident reports
- Risk management reports
- Bus maintenance reports
- Marketing surveys
- Passengers' letters and telephone calls
- Management's written concerns
- Staff meeting notes
- Statistical reports
- Special requests
- Historical data
- Information from public safety officials

Cabarrus County Transportation reviews safety/security information resources and determines if additional methods should be used to identify system threats and vulnerabilities. This includes a formal evaluation program to ensure that safety/security procedures are maintained and that safety/security systems are operable. Safety/security testing and inspections may be conducted to assess the vulnerability of the transit system. Testing and inspection includes the following three-phase approach:

1. Equipment preparedness
2. Employee proficiency
3. System effectiveness

### Prioritized Risk Reduction Strategies

<b>Vulnerabilities Identified</b>		<b>Risk Reduction Actions Planned</b>
<b>1</b>	Employee Parking lot	monitored more by Kannapolis Police & County Sherriff
<b>2</b>	Facility / Building	monitored by Kannapolis Police / County Sherriff's dept
<b>3</b>	Gate / Parking lot	Camera system and monitored by law enforcement
<b>4</b>	Vehicles	making sure gate function properly (no public access)
<b>5</b>		
<b>6</b>		
<b>7</b>		
<b>8</b>		
<b>9</b>		
<b>10</b>		

## Scenario Analysis

Scenario analysis is brainstorming by transportation personnel, emergency responders, and contractors to identify threats to the system and to assess vulnerability to those threats. By matching threats to critical assets, Cabarrus County Transportation identifies the capabilities required to counteract vulnerabilities. This activity promotes awareness and enables staff to more effectively recognize, prevent, and mitigate the consequences of threats.

For each scenario, the Cabarrus County Transportation has attempted to identify the potential impacts of probable threats using a standard risk analysis protocol in which threats are segmented by probability from low to high and severity of impact from modest to catastrophic.

Scenario-based analysis is not an exact science but rather an illustrative tool demonstrating potential consequences associated with low-probability to high-impact events. To determine the actual need for additional countermeasures, and to provide the rationale for allocating resources to these countermeasures, the Cabarrus County Transportation uses the scenario approach to pinpoint the vulnerable elements of the critical assets and make evaluations concerning the adequacy of current levels of protection.

At the conclusion of the scenario-based analysis, the Cabarrus County Transportation assembled a list of prioritized vulnerabilities for its top critical assets. These vulnerabilities are divided into the following categories:

- lack of planning;
- lack of coordination with local emergency responders;
- lack of training and exercising; and
- lack of physical security

Based on the results of the scenario analysis, the Cabarrus County Transportation identified countermeasures to reduce vulnerabilities.

### 2.2c. - IDENTIFIED POTENTIAL TRANSIT SYSTEM THREATS

Cabarrus County Transportation is committed to focusing on organizational emergency planning activities and preparing its transit staff to react to any potential threatening event. Cabarrus County Transportation understands that threat reaction planning and preparation is a dynamic and ongoing process which requires constant attention and organizational energy. It is essential to identify each potential threat that a transit system could face, evaluate those threats in terms of their potential impact on transit system assets and to analyze transit system vulnerability to those threats. The Cabarrus County Transportation has done such a Threat and Vulnerability Assessment for the following potential threats:

## Organizational Infrastructure Assessment

Threat/Hazard	A. Likelihood 1= Improbable 10=Certain	B. Impact on Service 1= Minor 10= Catastrophic	C. Financial Impact 1= Negotiable 10= Catastrophic	Vulnerability Index (A+B+C)
<b>Organizational Infrastructure</b>				
Trespassing	<b>10</b>	<b>1</b>	<b>6</b>	<b>17</b>
Vandalism	<b>8</b>	<b>4</b>	<b>5</b>	<b>17</b>
Employee Theft	<b>1</b>	<b>1</b>	<b>1</b>	<b>3</b>
Bomb Threat	<b>2</b>	<b>2</b>	<b>10</b>	<b>13</b>
Dangerous Mail	<b>1</b>	<b>1</b>	<b>2</b>	<b>4</b>
Brief Power Outage	<b>10</b>	<b>5</b>	<b>3</b>	<b>18</b>
Extended Power Outage	<b>2</b>	<b>10</b>	<b>10</b>	<b>22</b>
Hard Drive Crash/Cyber Attack	<b>3</b>	<b>4</b>	<b>4</b>	<b>11</b>
Loss of Landline Phone Service	<b>8</b>	<b>2</b>	<b>2</b>	<b>12</b>
Loss of Cell Phone Service	<b>2</b>	<b>2</b>	<b>1</b>	<b>5</b>
Loss of Radio System	<b>4</b>	<b>2</b>	<b>1</b>	<b>7</b>
Minor Structural Fire	<b>2</b>	<b>1</b>	<b>1</b>	<b>4</b>
Major Structural Fire	<b>1</b>	<b>1</b>	<b>2</b>	<b>4</b>
Vehicle Fire without Injury	<b>1</b>	<b>1</b>	<b>2</b>	<b>4</b>
Vehicle Fire with Injury/Fatality	<b>4</b>	<b>8</b>	<b>8</b>	<b>20</b>

### ACCIDENTS AND INCIDENTS

- Transit vehicle accidents  
Can be defined as collisions with other vehicles, objects or persons with the potential for damage to people and/or property and the possibility of lawsuits and/or criminal charges.
- Transit passenger incidents  
Involve passenger falls, injuries relating to lift and securement operation, injuries before boarding or after alighting and passenger illnesses
- Employee accidents and incidents

Include injuries within the office, on official travel, while maintaining the equipment, and on-premises, but not while operating a vehicle for public transport. Such accidents/incidents create the possibility for loss of workforce, lawsuits and worker's compensation claims.

## **ACTS OF NATURE**

- **Floods**  
Are caused by heavy rain, storm surge, rapid snowmelt, ice jams, dam breaks or levee failures and can result in loss of life damage to facilities, danger to vehicles on roadways and loss of power and communications. Such events could require use of transit system assets for evacuation purposes.
- **Winter weather**  
Snow and ice storms can cause power failures, make roads dangerous or impassable, cause sidewalk hazards, and affect the ability to deliver transit service.
- **Tornado/hurricane**  
High winds have the potential to cause flying debris, down trees and/or power lines, make roadways impassable or dangerous, damage facilities or vehicles and threaten the safety of passengers and employees. Such events could require use of transit system assets for evacuation purposes.
- **Thunderstorms**  
May trigger flash flooding, be accompanied by strong winds, hail or lightning, can possibly cause power or communication system outages, damage facilities and equipment and make roads dangerous or impassable.
- **Wildfire**  
Whether natural or human-caused, are particularly dangerous in drought conditions, can reduce visibility, impair air quality, and have the potential to damage facilities, equipment and make roadways impassable. Such an event could require use of transit system assets for evacuation purposes.
- **Earthquake**  
Has the potential to cause extensive damage to buildings, water systems, power systems, communications systems, roads, bridges and other transportation infrastructure. Such events often overwhelm first responder resources. In coastal areas, tsunamis, or tidal waves, are a hazard following major earthquakes and underwater tectonic activity. A transit system's assets could be used for evacuation purposes after damage assessment.
- **Landslide/Avalanche**  
Has the potential to close roadways, damage vehicles and facilities and injure employees and passengers.
- **Dust storm**

Usually arrives suddenly in the form of an advancing wall of dust and debris which may be miles long and several thousand feet high, and usually last only a few minutes. Blinding, choking dust can quickly reduce visibility, causing accidents. While dust storms may last only a few minutes, they tend to strike with little warning.

## **CRITICAL INFRASTRUCTURE**

- **Power outages**  
Whether short or long in duration, can impact overall ability to operate transit services and limit functional nature of transit equipment and facilities.
- **Computer crashes/cyber attacks**  
Cause loss of critical data and negatively impact the ability to schedule and dispatch services.
- **Communication system failure**  
Can have serious effects on the ability to deliver service and keep employees out of harm's way.
- **Supply chain interruption**  
Transit service is dependent upon a continuous supply of fuel, lubricants, tires, spare parts, tools, etc. Interruption of material supplies due to weather conditions, roadway closures, acts of terrorism, acts of war, or loss of supplier facilities can limit your ability to maintain service.
- **Vehicle fires**  
Cause transit employee and passenger injuries and death and damage or loss of transit equipment and have the potential for lawsuits.
- **Facility loss**  
Loss of administrative, maintenance, or operations facilities– whether caused by structural collapse, presence of toxic materials, violation of municipal codes, or significant events on neighboring properties – can hamper the ability to sustain service.
- **Structural Fire**  
Whether natural or human-caused, can threaten employees and customers and damage facilities and equipment. Such an event could require use of transit vehicles for temporary shelter, or for evacuation purposes.
- **Staff shortage**  
Caused by labor disputes, poor human resource management, or regional employee shortages. Can have immediate impacts on ability to deliver service, and longer-term impacts on facility and equipment resources.
- **Employee malfeasance**

Illegal and illicit behavior by agency employees, particularly when in uniform or on duty, can seriously damage intangible assets such as organizational image and employee morale.

## **HAZARDOUS MATERIALS.**

- **Blood borne pathogens**  
Exposure can put drivers, passengers, maintenance employees and bus cleaners at risk of contracting disease.
- **Toxic material spills**  
Toxic materials fall into four basic categories: blister agents such as solvents; cardio-pulmonary agents such as chlorine gas; biological agents such as anthrax; and nerve agents such as Sarin. While some of these materials may be agents of terrorist acts, accidental release is also possible. Additionally, low-level exposure to maintenance related chemicals and vehicle fluids can pose a risk to employee and environmental health.
- **Radiological emergencies**  
Could include accidental release of radioactivity from power plants or from materials being transported through the service area by truck or train. Have the potential to cause danger to human life or the need for use of transit system assets for evacuation purposes.
- **Fuel related events**  
Include accidental release of natural gas and petroleum, rupture of pipelines, and fire and explosion involving alternative fuel use. Dangers include risk of human life, damage to facilities and vehicles, and events that may require use of transit system assets for evacuation purposes.

## **CRIMINAL ACTIVITY**

- **Trespassing**  
Penetration of organizational security system can increase vulnerability to criminal mischief, theft, workplace violence, and terrorist attack.
- **Vandalism/Criminal mischief**  
Includes graffiti, slashing, loitering, or other such events that damage buses, bus stops, shelters, transit facilities and/or organizational image.
- **Theft and burglary**  
Includes loss of assets due to break-in to facilities and into vehicles as well as employee theft, and can threaten information assets, property assets, and organizational image.
- **Workplace violence**

Includes assaults by employees on employees, passengers on passengers, and passengers on employees including menacing, battery, sexual assault, and murder.

- **Commandeered vehicle**

The taking of a transit vehicle to perpetrate a crime and the taking of hostages as a negotiating tool. Puts the lives of transit employees and passengers at risk.

## **TERRORISM**

- **Dangerous mail**

Chemical, biological, radiological and explosive devices delivered through the mail put the lives of transit employees and occupants of transit facilities at risk, and have the potential for damage of facilities and equipment.

- **Suicide bombers**

Internationally, transit systems have been common terrorist targets. American transit systems are not immune. The major inherent vulnerabilities of transit are that transit systems by design are open and accessible, have predictable routines/schedules, and may have access to secure facilities and a wide variety of sites, all of which make transit an attractive target.

- **Improvised Explosive Devices (IED)**

Activities could involve the use of conventional weapons and improvised explosive devices or bombs on transit vehicles, within transit facilities or within the environment of the transit service area, putting the lives of transit employees, passengers and community members at risk. Such events could require the use of transit vehicles in evacuation activities.

- **Weapons of mass destruction**

Use of chemical, biological or radiological weapons could cause massive loss of life involving everyone in the community and lead to the destruction of transit vehicles and facilities, as well as require the use of transit vehicles for evacuation purposes.

### **2.3 Communicating about Risk: Transit Threat Alert System**

The Federal Transit Administration has developed a transit *Threat Condition Model* that parallels that of the Department of Homeland Security. The FTA model progresses from green through red to indicate threat levels from low to severe. It also includes purple designating disaster recovery. This model, along with its recommended protective measures, has been adapted for use by Cabarrus County Transportation.

## **2.4 Emergency Planning**

### **2.4a. – INTERNAL CONTACT INFORMATION**

Cabarrus County Transportation maintains accurate and up-to-date internal contact information on key staff and board members required to respond to safety and security emergencies.

### **2.4b. – EXTERNAL CONTACT INFORMATION**

Cabarrus County Transportation maintains accurate and up-to-date external contact information on key community emergency management personnel and first responders to be notified in the case of safety and security emergencies.

Building/Department	Name/Title	Phone #
Safety & Risk Management	Risk Manager	(704) 920-2100
Emergency Management	Emergency Manager	(704) 920-2143
DHS- IAM	Incident Commander	(704) 920-3213
Transportation Dept.	Transportation Manager	(704) 920-2932

**FIRE: 911**

**POLICE: 911**

**AMBULANCE: 911**

### **2.4c – EMERGENCY RESPONSE TEAM ROSTER**

Cabarrus County Transportation maintains an accurate and up-to-date roster that includes contact information of the transit incident management team in advance of any incident. This team is based on the Incident Command System (ICS) discussed in Chapter 4 and includes representation from each area of the organization.

Anthony Hodges	Program Administrator	(704)920-1426
Bob Bushey	Transportation Manager	(704) 920-2932
Risk Management	Risk and Safety	(704) 920-2100
Charles Ratliff	Operations & Training Supervisor	(704) 920-2925
Jeff Freeze	Driver Supervisor	(704) 920-2935
Jamie Smith	Driver Supervisor	(704) 920-2236

## 2.4d – PHONE TREES

Cabarrus County Transportation maintains an accurate and up-to-date call tree with staff names and phone numbers. The call tree enables everyone in the organization to be contacted quickly, with each staff member having to make no more than a couple of calls. Details on *use* of the call list are included in Chapter 4 – Response. Quarterly exercises using the phone tree should be run so that all members of the team are familiar with its use and application.

## 2.4c. – DELEGATION OF AUTHORITY

Cabarrus County Transportation has a plan to ensure continuity of management throughout any emergency incident. The succession plan provides for automatic delegation of authority in cases where:

- The Emergency Response Coordinator (ERC) or other agency incident response personnel are no longer able to perform incident-related duties due to injury, illness or exhaustion/rest and recuperation.
- A member of the incident response team is temporarily unable to perform incident-related duties due to loss of radio or phone service.
- Regular members of the agency incident response team are unavailable due to travel (e.g., vacation, professional development, etc.)

The succession plan designates the next most senior leader required to manage temporary duties normally assigned to higher-level personnel.

Name	Email	Title	Mobile Phone
Anthony Hodges	<a href="mailto:alhodges@cabarruscounty.us">alhodges@cabarruscounty.us</a>	Program Manager	704-281-3293
Bob Bushey	<a href="mailto:rwbushey@cabarruscounty.us">rwbushey@cabarruscounty.us</a>	Transportation Manager	980-521-4846
Charles Ratliff	<a href="mailto:crratliff@cabarruscounty.us">crratliff@cabarruscounty.us</a>	Operations & Training Supervisor	704-794-2306
Jeff Freeze	<a href="mailto:jcfreeze@cabarruscounty.us">jcfreeze@cabarruscounty.us</a>	Driver Supervisor	704-490-7928
Jamie Smith	<a href="mailto:Jlsmith@cabarruscounty.us">Jlsmith@cabarruscounty.us</a>	Driver Supervisor	980-777-0644

## 2.5 Coordinating with Stakeholders

Cabarrus County Transportation is committed to proactively coordinate with local emergency management staff.

## **2.5a. – COORDINATION WITH EMERGENCY MANAGEMENT**

Effective emergency response does not happen by accident. It is the result of planning, training, exercising, and intra/interagency cooperation, coordination and communication. Integration into the local community's emergency planning process is central to the success of the Cabarrus County Transportation SECURITY PLAN and to the preparedness of the system. Cabarrus County Transportation coordinates with local community emergency management to fulfill all SECURITY PLAN functions including threat mitigation, consequence management planning, exercising and training, and post-incident analysis.

In this SECURITY PLAN, Cabarrus County Transportation has defined its internal processes for identifying safety and security events, mitigating consequences and managing or assisting in incident response.

## **2.5b. – COORDINATION WITH FIRST RESPONDERS**

### **Law Enforcement**

Cabarrus County Transportation management regularly works with the local and state law enforcement to improve security and emergency/incident preparedness and response capabilities. These activities include:

- Maintaining regular communications with law enforcement
- Meeting at least once a year to ensure transit issues are understood by law enforcement
- Developing an emergency contact list for dispatchers
- Communicating regularly on optimal incident reporting methods that will offer law enforcement all the information they need
- Participating in cooperative emergency preparedness training programs
- Establishing appropriate methods of communication for continuous coordination during an emergency
- Establishing procedures for supplying the unique types of emergency service that may be required in particular emergency situations

### **Fire**

Cabarrus County Transportation works with the local fire departments on a regular basis to support improved security and emergency/incident preparedness and response. This includes the following activities:

- Maintaining regular communications with fire services
- Establishing the level of service (e.g., equipment and personnel) to be delivered in response to various types of emergencies
- Specifying in advance the level of notification, command and control, and degree of responsibility that will apply on site

- Establishing appropriate methods of communication, and developing procedures for continuous coordination and transfer of command
- Providing training for fire department personnel to familiarize them with transit vehicles and equipment, including wheelchair lifts and access/egress procedures
- Conducting periodic drills in cooperation with the fire department
- Scheduling a meeting at least annually to ensure transit issues (e.g., evacuation of transit vehicles, considerations for persons with disabilities) are understood by fire officials
- Identifying any special tools and equipment the firefighters might need to address transit emergencies (particularly items that they would not normally possess) by inviting firefighters to visit the agency annually, and walking them through transit vehicles and facilities
- Reviewing current fire-related plans and policies
- Ensuring fire annunciation and evacuation procedures are part of the standard procedures and training for operators

### **Emergency Medical Services**

Cabarrus County Transportation works with the local emergency medical services including hospitals on a regular basis to support improved medical response. Preparations include the following activities:

- Maintaining regular communications with EMS
- Scheduling a meeting on transit property or at the offices of EMS at least annually to ensure transit issues are understood by the organization
- Establishing appropriate EMS unit jurisdictions
- Establishing the level of service (equipment, personnel, etc.) to be delivered in response to various types and degrees of emergencies
- Establishing appropriate methods of communication for continuous coordination during a response
- Familiarizing EMS personnel with transit vehicles and facilities
- Conducting periodic drills in conjunction with EMS personnel

### **Training of First Responders on Transit Equipment**

Cabarrus County Transportation holds annual training with local first responders to improve familiarity with transit fleet, facilities and operations. Key areas covered include:

- Vehicle and facility entry - windows, doors and hatches
- Hazardous materials
- Facility escape routes and safety zones
- Equipment shutdown
- Emergency dump valves
- Battery cut-off switches
- Appropriate zones to breach transit vehicles in event of an incident
- Communications compatibility

## **2.6 Exercises and Drills**

In crisis management as in sports, the transit agency plays the way it practices. That is why Cabarrus County Transportation is committed to testing their emergency preparedness plans through disaster drills and exercises.

Cabarrus County Transportation is committed to participating in community emergency response exercises. This commitment requires the transportation system and community public response agencies to plan and conduct increasingly challenging exercises over a period of time. Implementation of such a program allows the collective community to achieve and maintain competency in executing the transportation component of local emergency response plans.

There are five major types of exercises that comprise this program, each with a different purpose and requirement. Each step is progressively more sophisticated in nature and will be undertaken in a step-by-step and long-term implementation plan that is integrated into overall community response.

1. Basic awareness training to familiarize participants with roles, plans, procedures, and resolve questions of coordination and assignment of responsibilities.
2. Operational training to familiarize front-line staff with roles, plans, procedures, and resolve questions of coordination and assignment of responsibilities.
3. Tabletop exercises that simulate emergency situations in an informal, low stress environment. It is designed to elicit discussion as participants examine and resolve problems based on existing crisis management plans and practical working experience.
4. Drills that test, develop or maintain skills in a single response procedure (e.g., communications, notification, lockdown, evacuation procedures, etc.). Drills can be handled within the organization, or coordinated with partner agencies, depending upon the drill objective(s). Drills help prepare players for more complex exercises in which several functions are simultaneously coordinated and tested.
5. Functional exercises are full-scale simulated incidents that tests one or more functions in a time-pressured realistic situation that focuses on policies, procedures, roles and responsibilities. It includes the mobilization of emergency personnel and the resources appropriate to the scale of the mock incident. Functional exercises measure the operational capability of emergency response management systems in an interactive manner resembling a real emergency as closely as possible.

## **3. PREVENTION**

### **3.1 Overview**

Cabarrus County Transportation follows the guidelines provided by the Federal Transit Administration's (FTA) description of Core Elements addressing *Model Bus Safety Programs* in our internal focus on safety and the FTA's *Public Transportation System Security and Emergency Preparedness Planning Guide* in our internal focus on security.

### **3.2 Risk Reduction**

The Cabarrus County Transportation reviews current methods of threat and vulnerability resolution and establish procedures to 1) eliminate; 2) mitigate; 3) transfer, and/or 4) accept specific risks. Prioritization of safety/security remediation measures are based on risk analysis and a course of action acceptable by Cabarrus County Transportation management.

*Risk reduction/elimination* implies changes to equipment, facilities, training or operational implementation in order to no longer be exposed to the hazard (e.g. moving maintenance facility out of the floodplain). *Risk control/mitigation* implies changes in policies or procedures that reduce the likelihood of an event, or reduce its impact on critical assets (e.g. defensive driver training). *Risk transference* implies that the risk exposure is borne by someone else (e.g. hazard and liability insurance).

#### **3.2a. - STRATEGIES TO MINIMIZE RISK**

Protocol that Cabarrus County Transportation employs to reduce vulnerability to unknown hazards and threats includes:

- Involving staff in the identification of hazards and threats
- Providing training that raises staff awareness, across all departments, about agency-specific hazards and threats
- Using tabletop exercises to establish, assess and improve emergency response protocols
- Conducting Drills that raise staff proficiency in reacting to unwanted incidents, including proper use of emergency equipment and communication technologies
- Participating in exercises that improve coordination across departments and between responding agencies for any sort of critical incident

#### **3.2b. - EMERGENCY OPERATIONS POLICIES**

Checking Weather and Other Hazardous Conditions

Cabarrus County Transportation has in place Operations Policies that address responding to emergencies. Particular attention is given to the following issues:

At Cabarrus County Transportation management is responsible for checking weather and other reports to ensure it is safe to send vehicles on the road. This designated individual checks this information before each shift and at appropriate intervals, especially if severe weather is expected. Drivers performing their routes continuously assess road conditions, evaluating weather, construction, accidents, and other situations to ensure it is safe to proceed. Every effort is made to avoid sending drivers on routes if it is unsafe to do so. However, if a condition arises requiring a driver to abort a route, the dispatcher will contact the driver (or the driver will alert the dispatcher), and the dispatcher will provide instructions on how to proceed.

Cabarrus County Transportation uses National Weather Service warnings, forecasts, and advisories available at [www.weather.gov](http://www.weather.gov), and weather radios monitored at dispatch site to track real-time information on the following conditions:

- Hazardous weather outlooks
- Special weather statements
- Winter storm watches
- Winter storm warnings
- Snow and blowing snow advisories
- Winter weather advisories
- Heavy freezing spray warnings
- Dense fog warnings
- Fire weather forecasts
- High wind warnings
- High wind watches
- Wind advisories
- Gale warnings
- Tornado watches and warnings
- Hurricanes
- Flood warnings
- Flood statements
- Coastal flood statements

Cabarrus County Transportation also maintains a dispatcher log, a narrative description of what occurs during each shift. This enables the incoming dispatcher to read the previous shift log and know what needs to be tracked, problem areas of concern, or what is going right and wrong.

#### Aborting or Changing Route Due to a Hazard

To the extent possible, Cabarrus County Transportation avoids sending vehicles out in conditions that might pose a hazard. It is the responsibility of the management to check weather and other relevant conditions at the beginning of a shift, and on an ongoing basis, to safeguard the wellbeing of passengers, employees, and others. If a hazard is encountered that causes it to be unsafe to continue on a route, agency policy is as follows:

- If the hazard is noted by the driver, he/she must call the dispatcher, describe the situation, and await further instruction.
- If the hazard is noted by staff other than the driver (e.g., the dispatcher becomes aware that a tornado is approaching), the dispatcher will contact the driver and provide direction.

Direction may be as follows:

- To abort the route, and drive the passengers to the nearest emergency drop point (see policy on emergency drop points)
- To abort the route and return to the agency (particularly if there are no passengers on the vehicle)

- To drop off some or all passengers at the next stops and to then abort the route, following the instructions of the dispatcher (returning to the agency or using an emergency drop point)

With most hazards or emergencies, it is the primary policy of Cabarrus County Transportation that the driver, first, communicates with the dispatcher, describes the situation, and awaits instruction. The exception to this is in the case of an immediate life threatening situation when the driver acts first, then communicates. Policies are in place for a range of situations.

**3.2d. - OSHA REQUIREMENTS**

Cabarrus County Transportation periodically inspects its facilities and staff working conditions in order to ensure that the agency is compliant with all applicable OSHA requirements.

**3.2e. – ALTERNATE BUSINESS LOCATIONS**

Cabarrus County Transportation has established plans for alternate facilities, equipment, personnel, and other resources necessary to maintaining service during crisis, or to resume service as quickly as possible following disaster.

<b>Secondary Location</b>	
<b>Facility Name</b>	Cabarrus County Governmental Center
<b>Street Address</b>	65 Church Street South
<b>City/State/Zip</b>	Concord, NC 28025

**3.2f. – COMPUTER SECURITY**

Computer backups of key financial, personnel, dispatching, and other information are performed regularly. These backups are stored in a fireproof and secured location. Computer backups and duplicate hard copies of important documents are kept off-site in a secured location with a rotation schedule that is updated daily so that at no time are all copies on property at the same time.

**3.2g. – VEHICLE INSPECTION**

Driver’s Vehicle Checklist

Cabarrus County Transportation drivers complete a vehicle pre-trip inspection checklist when putting a vehicle into service. This pre-trip inspection includes:

- Inspection of the vehicle’s required safety equipment

- Inspection of the interior of the vehicle to detect unauthorized objects or tampering
- Inspection of the interior lights to make sure they are operational and have not been tampered with
- Inspection under the vehicle to detect items taped or attached to the frame
- Inspection of the exterior of the vehicle for unusual scratches or marks made by tools; signs of tampering; unusually clean or dirty compartments; or items attached using magnets or duct tape
- Following established policy governing suspicious packages, devices, or substances to determine if an unattended item or an unknown substance found during inspection is potentially dangerous
- Immediately notifying a supervisor in the case of a potentially suspicious packages(s) or evidence of tampering. Do not start or move the vehicle or use electronic means of communication.

Periodically throughout the driver's shift, the above inspections are conducted.

#### Mechanic's Vehicle Checklist

Cabarrus County Transportation mechanics or contracted mechanics make the following security checks before releasing a vehicle for revenue service:

- Ensures that required safety equipment is on vehicle
- Inspects the interior of the vehicle for unknown objects or tampering
- Inspects the interior lights to make sure they are operational and have not been tampered with
- Inspects under the vehicle for items taped or attached to the frame
- Inspects the exterior of the vehicle for unusual scratches or marks made by tools; signs of tampering; unusually clean or dirty compartments; or items attached using magnets or duct tape
- Inspects the gas cap for signs of tampering or unusual items
- Inspects the engine compartment and other areas to detect foreign objects or false compartments in the air filter area or the cold oil filter. Also look for additional wires running to or from the battery compartment, and take note of unusually clean components and devices
- Inspects the fuel and air tanks to detect inconsistent and missing connections

Note: If the mechanic finds an unattended item or an unknown substance while conducting the inspection, the policy on suspicious packages, devices, or substances to determine whether the package is potentially dangerous is followed, and a supervisor is immediately notified.

#### 3.2h. - VEHICLE MAINTENANCE

Cabarrus County Transportation provides proper maintenance of vehicles and equipment critical to the continued safe operation of the transit system. Unsafe vehicles present unnecessary hazards to the driver, passengers and other vehicles on the road. Basic vehicle maintenance practices regularly address safety-related vehicle equipment to ensure that no unsafe vehicles are dispatched for service. Safety-related vehicle equipment includes:

- Service brakes and parking brake
- Tires, wheels, and rims

- Steering mechanism
- Vehicle suspension
- Mirrors and other rear vision devices (e.g., video monitors)
- Lighting and reflectors or reflective markings
- Wheelchair lifts

Most safety-related equipment is inspected during a pre-trip inspection to ensure that the vehicle is fit for service. Cabarrus County Transportation has an established formal plan to address the maintenance requirements of our vehicles and equipment. The vehicle maintenance program addresses the following categories:

- **Daily servicing needs** – This relates to fueling, checking and maintaining proper fluid levels (oil, water, etc.), vehicle cleanliness, pre- and post-trip inspections and maintenance of operational records and procedures.
- **Periodic inspection** – These activities are scheduled to provide maintenance personnel an opportunity to detect and repair damage or wear conditions before major repairs are necessary. Inspection items include suspension elements, leaks, belts, electrical connections, tire wear, and any noticeable problems.
- **Interval related maintenance** – This focus is to identify wear, alignment, or deterioration problems of parts or fluids. Replacement intervals of these items are determined through transit agency experience and manufacturer recommendations.
- **Failure maintenance** - Regardless of the preventative maintenance activities, in-service failures will occur. When a failure is encountered that makes the vehicle unsafe or unable to continue operation, the vehicle is usually removed from service and returned to the garage for repair.

When possible, Cabarrus County Transportation vehicles are stored in a secured and well- lighted location.

### 3.2i. – VEHICLE READINESS

It is the policy of Cabarrus County Transportation to maintain fully stocked first aid kits, biohazard cleanup packs, fire suppression equipment, vehicle emergency equipment, and emergency instructions in all vehicles. Battery operated equipment batteries will be replaced semi-annually. The assigned driver inspects the vehicle daily for the following emergency supplies and documents the results on the pre-trip inspection sheet. In addition, when a mechanic places a vehicle back in service, he/she ensures the required safety equipment is on the vehicle. The required safety equipment includes:

#### Vehicle Safety Equipment:

- |                   |                      |
|-------------------|----------------------|
| First Aid Kit     | Bio-hazard Kit       |
| Fire Extinguisher | Reflective Triangles |
| Seat Belt Cutter  | Flashlight           |

### **3.2j. – OPERATOR SELECTION**

Operator selection is critical to Cabarrus County Transportation safe transit operations. The driver of a Cabarrus County Transportation transit bus is directly responsible for the safety of his or her passengers and other drivers that share the road with the transit vehicle. The driver selection criterion addresses specific, safety-related items.

- **Licensing** – The driver is properly licensed and the license is appropriate for the type of vehicle the driver is assigned. Licensing also considers local jurisdiction requirements.
- **Driving record** – The driver has an acceptable past driving record over a reasonable period of time. The driving record demonstrates an ability to follow traffic rules and regulations and thus avoid accidents.
- **Physical requirements** - The driver is physically able to perform the functions associated with the assignment. These factors include good eyesight with true color perception, good hearing, physical strength and dexterity to assist disabled passengers (especially in demand responsive/para-transit assignments), or other factors that may be unique to the service area and/or specific driving assignments.
- **Background checks** – Cabarrus County Transportation does background checks on all employees to protect against hiring personnel with a history of aberrant behavior.

### **3.2k. - DRUG AND ALCOHOL POLICIES**

A critical element of Cabarrus County Transportation’s commitment to safe operations is ensuring that our employees are not impaired due to the use of alcohol, illegal drugs, prescription drugs or over-the-counter medication.

Cabarrus County Transportation follows the requirements set forth under 49 CFR Part 655 and 49 CFR Part 40 Amended as mandated by the FTA. The bottom line is protection of the riding public and transit employees, and all efforts are geared toward this end. The Cabarrus County Transportation drug and alcohol program includes specific policies, procedures and responsibilities, or references the appropriate master document containing that information.

## **3.3 Training and Development**

### **3.3a. – VEHICLE OPERATOR/DRIVER TRAINING**

#### **Driver Training**

Once qualified candidates are identified and hired, Cabarrus County Transportation provides initial and ongoing refresher training critical to ensure proper operations and adherence to the transit providers’ rules and regulations. Compliance with IMD’s training standards. Cabarrus County Transportation understands that proper qualification of operating and maintenance personnel is a vital part of a safe transit environment. Driver training addresses specific safety-related issues appropriate to the type of vehicle and driving assignment. Special consideration is also given to crisis management concerns such as fire and evacuation.

- **Traffic Regulations** – Training addresses state and local traffic rules and regulations, traffic signs and signals, and proper vehicle operations (including proper use of hand signals).
- **Defensive Driving and Accident Prevention** – Training stresses defensive driving principles, collision prevention, and concepts of preventable accidents as a measure of defensive driving success.

Cabarrus County Transportation drivers are taught to always drive defensively. This means driving to avoid and prevent accidents. It means driving with the vehicle under control at all times, within the applicable speed limits, or less if driving conditions so indicate, and anticipating possible unsafe actions of other drivers. Special attention is given in the Cabarrus County Transportation safety program to hazardous conditions. These hazardous conditions include but are not limited to:

Winter driving	Fog
Rainstorms/thunderstorms	Flash flooding
Tornadoes	Skids
Intersections	Following distance
Backing	Passing
Lane changes and turns	Pedestrians, bicycles and motorcycles
Railroad crossings	Rollovers
Expressways	Traffic congestion

- **Vehicle Orientation and Inspection** – Training focuses on the type of vehicle that will be used in service. Significant differences can exist among different bus models and among different manufacturers, and equipment may have characteristics that are unique to the service environment.
- **Behind-the-wheel Training** – Training includes all core driving maneuvers for the type of vehicle in service, including the difficulties in backing maneuvers that can lead to accidents, stopping distance requirements, and equipment-specific functions such as door opening and closing procedures for passenger boarding and alighting.
- **Passenger Sensitivity and Assistance Training** – Training covers topics ranging from general customer service techniques to elderly and disabled sensitivity to technical skills in lift and securement. The following subjects are included in the training:
  - Understanding passenger needs
  - Understanding disabilities
  - Americans with Disabilities Act (ADA)
  - Communicating with passengers
  - Sensitivity to passenger needs
  - Mobility devices
  - Lifting and body mechanics
  - Providing assistance to passengers
  - Wheelchair management

- Lift and ramp operations
- Emergency procedures

## Radio Usage

To ensure the safety of our drivers and passengers and to enhance the performance of our operations, all Cabarrus County Transportation employees are familiar with two-way radio operations. Basic procedures are as follows:

- Staff using the two-way radio will follow the standard use practices of the FCC. Profanity, abusive language, or other inappropriate transmissions are not allowed, and could result in disciplinary action.
- All transmissions will be as brief as possible.
- All base stations and vehicle units shall be tuned to the appropriate assigned frequency at all times.
- Staff will initiate communications by first stating who they are, and then who purpose of call. At the completion of the transmission both parties will indicate that the transmission is completed by stating their call sign and “clear” or 10/4.
- Except in the event of an emergency, all staff will listen for five seconds before transmitting to ensure there are no transmissions in progress. Other units’ transmissions will not be interrupted unless it is an emergency.
- When an emergency is declared, all non–emergency transmissions will cease until a supervisor clears the emergency.
- In the event of an emergency, establish communications on the primary frequency and immediately shift to the secondary frequency. State the nature of the emergency and what assistance is required. To ensure appropriate help arrives promptly, staff will transmit the following items as soon as possible:
  - Who they are and their location, in detail,
  - What assistance they need,
  - How many passengers they have and the nature of their condition(s),
  - Staff not involved with the emergency will stay off the radio; communications will be between Dispatch and the unit requesting assistance.
  - After initial contact, emergency communications may also take place between a supervisor and the unit, or between Dispatch and a supervisor.

Crisis Management Training – Training covers emergencies the driver may face while out on the bus. Topics of this training range from breakdowns to accidents to fire/evacuation to handling violent perpetrators. The following subjects are included in the training

- Accidents
- Ill and injured passengers
- Lift operations
- Fire safety
- Vehicle evacuation
- Blood borne pathogens (bodily fluid spill containment and clean up)
- Handling conflict
- Basic crisis management steps
- Transit security

- Securing the vehicle

#### First Aid

Cabarrus County Transportation provides basic First Aid training to drivers, including triage procedures, focusing on:

- Clearing air passages
- Controlling bleeding
- Blood borne pathogen protection
- Handling shock victims
- Reacting to seizures

### **3.3b. – TRAINING OF OTHER PERSONNEL**

At a minimum, Cabarrus County Transportation includes this as part of the training curriculum for agency personnel not directly involved in revenue service:

#### Maintenance

- Defensive Driving
- CPR/First Aid/Triage
- Incident response protocols

#### Scheduling and Dispatching

- Scheduling and Dispatching Skill development
- Customer Relations
- Radio Usage
- Crisis Management
- Incident response protocols

#### Management and Supervision

- Leadership Skills
- Coaching, Counseling and Discipline
- Crisis Management
- Accident Investigation
- Crime scene Preservation and evidence collection requirements

### **3.3c. – TRAINING DOCUMENTATION**

The Cabarrus County Transportation maintains complete and accurate records of all driver training and certification, as well as the training materials and grading mechanism. Drivers are required to demonstrate skill and performance competency in the type of vehicle to which they are assigned as a part of training requirements. Because training transit operations personnel is not a onetime activity Cabarrus County Transportation provides

ongoing/recurring training necessary to reinforce policies and procedures as well as to provide a mechanism to brief drivers on new policies, procedures and/or regulations.

### **3.4 Security Awareness**

#### **3.4a. – TRANSIT WATCH**

The Cabarrus County Transportation supports Transit Watch and prepares all its employees to help promote safety and security within the community, region and nation.

Transit Watch was developed by the Federal Transit Administration (FTA) and encourages transit employees, transit riders and community members to be aware of their surroundings and alert to activities, packages or situations that seem suspicious. If something out of the ordinary and potentially dangerous is observed, it is to be reported immediately to the proper transit supervisor who may investigate and/or notify law enforcement authorities.

### **3.5 Safety Data Acquisition/Analysis Procedures**

To Cabarrus County Transportation Service, understanding safety data is an important step toward allocating finite resources to implement safety program elements. Data on safety-related events such as

- passenger injuries or claims
- passenger complaints
- employee injuries
- accidents
- incidents
- EOL's
- turnarounds

Is used to determine trends in system operations. The ultimate goal is to identify and mitigate hazards before they cause accidents, thus boosting system performance and delivery of service to the riding public.

## SECURITY PLAN-KEY CONTROL



Cabarrus County Transportation follows these guidelines relating to controls of keys, since key control is essential to the safeguarding of property and controlling access.

**VEHICLE KEY CONTROL OFFICIAL:** The dispatcher/scheduler is the vehicle key control official

Those responsibilities entail: issue and control procedures, all keys are tagged, numbered with vehicle ID number on them. Keys are assigned for all transit vehicles by the dispatcher/scheduler. Anytime a vehicle is scheduled for maintenance the dispatcher/scheduler maintains both keys to the vehicle, when maintenance is in process one key is given to the mechanic the other is kept in the dispatcher/scheduler office. When maintenance is completed the dispatcher/scheduler will return both keys to the correct locations spare key in key safe original set on key board in driver's room. Dispatcher/Scheduler will keep a record, by name, of people to whom each key was issued. Report the loss of unaccounted-for keys to a member of management, together with a list of the areas to which the keys provide access.

**DOOR BADGE READER/GATE COMBINATION:** The door badge readers are controlled and maintained by the IT Department. The gate combination for our fenced in vehicle lots are controlled by IAM Department.

# CONTINUITY OF OPERATIONS PLAN

April 19, 2022

## FOREWORD

Local Communities have an ethical responsibility to ensure the safety of their community. They also have a legal obligation to operate in a prudent and efficient manner, even during an impending threat or following a disaster.

This continuity of operations (COOP) plan provides guidance for the Cabarrus County Government to perform its essential functions as part of a COOP capability.

Recommended changes to this document may be addressed, at any time, to the Cabarrus County Emergency Management 30 Corban Ave SE, Concord NC 28025

Mike K. Downs  
Cabarrus County Manager

## Introduction

### The Cabarrus County Government

#### Purpose

This continuity of operations (COOP) plan for the Cabarrus County Government, hereinafter called Cabarrus County, presents a management framework, establishes operational procedures to sustain essential functions, and guides the restoration of full functions if normal operations in one or more of the Cabarrus County's locations are not feasible.

This plan was prepared in accordance with Department of Homeland Security (DHS) Headquarters Continuity of Operations (COOP) Guidance Document, dated April 2004, which provides a structure for formulating a COOP plan; Presidential Decision Directive–67, "Ensuring Constitutional Government and Continuity of Government Operations," which requires all Federal departments and agencies to have a viable COOP capability; and State of North Carolina requires all local communities to prepare for emergencies and disasters.

This document focuses on the basic COOP elements: essential functions, critical systems, alternative facilities, orders of succession, delegations of authority, and vital records. Development of procedures that address the basic COOP elements and work in concert with business continuity and disaster recovery plans allows for uninterrupted delivery of the Cabarrus County's essential functions.

This document applies to the full spectrum of threats and emergencies that may affect the Cabarrus County Government. Specifically, this COOP plan is based on an event scenario that disrupts the Cabarrus County Government's essential functions. In this scenario, the Cabarrus County Government location is closed for normal business activities. The most likely causes of such disruption are severe winter storms (i.e., ice or snow), widespread utility failure, multiple explosions, civil disturbance, or credible threats of actions that would preclude access to or use of Cabarrus County Government facilities. Under this scenario, Cabarrus County offices relocate staff and resources to a remote facility identified as the Emergency Relocation Site (ERS).

#### Essential functions

This COOP plan is based on the Cabarrus County Government's essential functions. It serves as an operational guide to facilitate the relocation of Cabarrus County Government staff to an ERS and the backup of critical systems and vital records so that essential functions may continue. The level and manner of support needed to continue essential functions is dependent on the nature of an event. This plan describes the processes and procedures needed to support continuation of essential functions.

## Appendix A -Basic Plan

### CABARRUS COUNTY CONTINUITY OF OPERATIONS PLAN

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|--|---|

CABARRUS COUNTY CONTINUITY OF OPERATIONS PLAN FOR OFFICIAL USE ONLY

## BASIC PLAN

### I. INTRODUCTION AND PROMULGATION STATEMENT

In 2015, Cabarrus County Emergency Management initiated an update to the County's existing Continuity of Operations Plan (COOP), previously called the Cabarrus County Disaster Recovery Plan<sup>1</sup>. COOP planning efforts in the County began in 2009, but the 2015 update represented the first major update to the plan to be undertaken. The primary reason for the update was to bring the plan into better alignment with federal guidance for COOP plans.

Cabarrus County's mission is as follows: "Through visionary leadership and good stewardship, we will ensure public safety, administer state requirements, determine county needs and provide services to continually enhance quality of life." To accomplish this mission, Cabarrus County must ensure its operations are performed efficiently with minimal disruption, especially during an emergency. This document provides planning and program guidance for implementing the Cabarrus County Continuity Plan and programs to ensure the organization is capable of conducting its essential missions and functions under all threats and conditions.

Key Cabarrus County personnel who are relocated under this plan are collectively known as the Emergency Relocation Group. Upon plan activation, these members will deploy to Cabarrus County Emergency Operations Center. Upon arrival, continuity personnel will establish an operational capability and perform essential functions within 12 hours from the time of the activation of the Continuity Plan, for up to a 30-day period or until normal operations can be resumed.

This plan is developed in accordance with guidance in the *National Continuity Policy Implementation Plan*; Continuity Guidance Circular 1 (CGC 1), *Continuity Guidance for Non-Federal Governments (States, Territories, Tribes, and Local Government Jurisdictions)*, dated July 2013; Continuity Guidance Circular 2 (CGC 2), *Continuity Guidance for Non-Federal Governments*, dated October 2013; and other related Directives and guidance.

Mike K. Downs  
Cabarrus County Manager

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<sup>1</sup> While titled a Recovery Plan, the original plan primarily dealt with continuity rather than more holistic and comprehensive disaster recovery functions.

**II. ANNUAL REVIEW**

Once a year, Cabarrus County reviews its Continuity Plan, components, and supporting elements, and makes any required updates or changes.

**Annual Review Table**

<b>Element Reviewed</b>	<b>Date of Last Review</b>	<b>Individuals Conducting Review</b>
Continuity Plan		
Essential Functions		
Business Process Analysis		
Continuity Facilities' Suitability and Functionality		
Continuity Facilities' MOA/MOU		
Continuity Communications' ability to support Essential Functions		

**County Department Continuity Certification**

On October 1 of every year, Cabarrus County's Department-specific annexes should be submitted to Emergency Management for integration into this plan.

**III. RECORD OF CHANGES**

<b>Change Number</b>	<b>Section</b>	<b>Date of Change</b>	<b>Individual Making Change</b>	<b>Description of Change</b>
001	Entire Basic Plan	09/18/2017	J. Burnett	Paragraph justification and general formatting of entire document
002	Basic Plan Section I Paragraph 1	09/18/2017	J. Burnett	Content update to reflect 2017 updates
003	Basic Plan Section I Paragraph 3	09/18/2017	J. Burnett	Font revision in Paragraph 3
004	Basic Plan – IX. Disaster Intelligence	09/26/2017	J. Burnett	Table formatting
005	Annex B	09/18/2017	J. Burnett	Updated staff contact information and table formatting
006	Annex C	10/09/2017	J. Burnett	Section formatting
007	Annex D	Initiated 09/18/2017 Completed 03/20/2018	J. Burnett	Secondary Location Updates
008	Annex E	10/09/2017	J. Burnett	Update to Addresses
009	Annex F	Initiated 10/09/2017 Completed 03/20/2018	J. Burnett	Updated each department order of succession position
010	Annex K	10/09/2017	J. Burnett	Updated dates for current

				adopted/approved revisions.
011	Annex L	10/09/2017	J. Burnett	Updated ITS Acronym
012	Annex F	Initiated 2/28/19 Completed 3/22/2019	D. Gustafson	Updated each department order of succession position
013	Annex B	03/22/2019	D. Gustafson	Updated staff contact information
014	Annex E	3/28/19	T. Shanley	Updated data line providers
015	Annex B	7/13/21	D. Gustafson	Updated staff contact information
016	Annex D	7/13/21	D. Gustafson	Updated facility information
017	Annex F	7/13/21	D. Gustafson	Updated staff and contact information

**IV. RECORD OF DISTRIBUTION**

Date of Delivery	Number of Copies Delivered	Method of Delivery	Name, Title and Organizations of Receiver

**V. PURPOSE, SCOPE, SITUATIONS AND ASSUMPTIONS**

**A. PURPOSE**

Cabarrus County’s mission is as follows: “Through visionary leadership and good stewardship, we will ensure public safety, administer state requirements, determine county needs and provide services to continually enhance quality of life.” To accomplish this mission, Cabarrus County must ensure its operations are performed efficiently with minimal disruption, especially during an emergency. This document provides planning and program guidance for implementing the Cabarrus County Continuity Plan and programs to ensure the organization is capable of conducting its essential missions and functions under all threats and conditions. While the severity and consequences of an emergency cannot be predicted, effective contingency planning can minimize the impact on the Cabarrus County mission, personnel, and facilities.

The overall purpose of continuity planning is to ensure the continuity of the essential functions under all conditions. The current changing threat environment and recent emergencies, including acts of nature, accidents, technological emergencies, and military or terrorist attack-related incidents, have increased the need for viable continuity capabilities and plans that enable organizations to continue their essential functions in an all-hazards environment and across a spectrum of emergencies. These conditions, coupled with the potential for terrorists’ use of weapons of mass destruction, have increased the importance of having continuity programs that ensure continuity of essential functions across all levels of government.

**B. SCOPE**

This Continuity Plan applies to the functions, operations, and resources necessary to ensure the continuation of Cabarrus County’s essential functions in the event its normal operations are disrupted or threatened with disruption. This plan applies to all Cabarrus County personnel. Cabarrus County staff should be familiar with continuity policies and procedures and their respective continuity roles and responsibilities.

This document ensures Cabarrus County is capable of conducting its essential missions and functions under all threats and conditions, with or without warning.

### **C. SITUATION OVERVIEW**

According to the National Continuity Policy Implementation Plan, it is the policy of the United States to maintain a comprehensive and effective continuity capability. To that end, by continuing the performance of essential functions through a catastrophic emergency, the non-Federal Governments support the ability of the Federal Government to perform National Essential Functions (NEFs), continue Enduring Constitutional Government, and ensure that essential services are provided to the Nation's citizens. A comprehensive and integrated continuity capability will enhance the credibility of our national security posture and enable a more rapid and effective response to, and recovery from, an emergency.

Further, continuity planning should be based on the assumption that organizations will not receive warning of an impending emergency. As a result, a risk assessment is essential to continuity planning. Risk-specific appendices that address the results of the Cabarrus County risk assessment are found later in the plan.

The Cabarrus County continuity facilities were selected following an all-hazards risk assessment of facilities for continuity operations use. Cabarrus County maintains a risk assessment that is found in the Cabarrus, Stanly, Union Regional Hazard Mitigation Plan that can be obtained by contacting Cabarrus County Emergency Management. This risk assessment addresses the following for each continuity facility:

- Identification of all hazards
- A vulnerability assessment to determine the effects of all hazards
- A cost-benefit analysis of implementing risk mitigation, prevention, or control measures
- A formal analysis by management of acceptable risk
- Sufficient distance between each facility location or threatened area and other facilities or locations that are potential sources of disruptions or threats
- Sufficient levels of physical security required to protect against identified threats
- Sufficient levels of information security required to protect against identified threats

Further, Cabarrus County has evaluated its daily operating facilities in accordance with inter-organization risk and safety standard operating procedures or applicable organization standards. This evaluation is found at the County's Risk Management Office.

### **D. PLANNING ASSUMPTIONS**

This Continuity Plan is based on the following assumptions:

- An emergency condition may require the relocation of the Cabarrus County's Emergency Relocation Group (ERG) to the continuity facility at the Cabarrus County Emergency Operation Center
- The EOC will support the ERG and the continuation of the Cabarrus County essential functions by available communications and information systems within 12 hours from the time the Continuity Plan is activated, for potentially up to a 30-day period or until normal operations can be resumed
- Cabarrus County regional operations are unaffected and available to support actions directed by the County Manager or a successor.
- However, in the event that ERG deployment is not feasible due to the loss of personnel, Cabarrus County will devolve to an alternate location determined by County Management, EM Director, IAM Director and ITS CIO.

### **E. OBJECTIVES**

- The continuity planning objectives for non-federal agencies are identified in CGC 1, *Continuity Guidance for Non-Federal Governments (States, Territories, Tribal, and Local Government Jurisdictions)*, dated July 2013.

- The Cabarrus County continuity objectives are listed below:
  1. Ensuring that an organization can perform its essential functions under all conditions.
  2. Reducing the loss of life and minimizing property damage and loss.
  3. Executing a successful order of succession with accompanying authorities in the event a disruption renders that organization's leadership unable, unavailable, or incapable of assuming and performing their authorities and responsibilities of office.
  4. Reducing or mitigating disruptions to operations.
  5. Ensuring there are facilities from where organizations can perform essential functions.
  6. Protecting personnel, facilities, equipment, records, and other assets critical to the performance of essential functions in the event of a disruption.
  7. Achieving the organization's timely and orderly recovery and reconstitution from an emergency.
  8. Ensuring and validating continuity readiness through a dynamic and integrated continuity Test, Training, and Exercise (TT&E) program and operational capability.

## **F. SECURITY AND PRIVACY STATEMENT**

This document is For Official Use Only. Portions of the Plan contain information that raises personal privacy or other concerns, and those portions may be exempt from mandatory disclosure under the Freedom of Information Act (see 5 United States Code §552, 41 Code of Federal Regulations Part 105-60). It is to be controlled, stored, handled, transmitted, distributed, and disposed of in accordance with Cabarrus County policy] and is not to be released to the public or other personnel who do not have a valid "need to know" without prior approval of the County Manager or their designated successor.

Some of the information in this Plan, if made public, could endanger the lives and privacy of employees. In addition, the disclosure of information in this plan could compromise the security of essential equipment, services, and systems of Cabarrus County or otherwise impair its ability to carry out essential functions. Distribution of the Continuity Plan in whole or part is limited to those personnel who need to know the information in order to successfully implement the plan.

Cabarrus County Emergency Management will distribute copies of the Continuity Plan on a need to know basis. The plan will be placed on the County share point site with restricted access. In addition, copies of the Plan will be distributed to other organizations as necessary to promote information sharing and facilitate a coordinated inter-organization continuity effort. Further distribution of the plan is not permitted without approval from the County Manager or designee. Cabarrus County Emergency Management will distribute updated versions of the Continuity Plan annually or as critical changes occur.

## **VI. CONCEPT OF OPERATIONS**

### **A. PHASE I: READINESS AND PREPAREDNESS**

Cabarrus County will participate in the full spectrum of readiness and preparedness activities to ensure personnel can continue essential functions in an all-hazard/threat environment. The Cabarrus County readiness activities are divided into two key areas:

- Organization readiness and preparedness
- Staff readiness and preparedness

#### **Organization Readiness and Preparedness**

Cabarrus County preparedness incorporates hazard/threat warning systems, which includes the national and local Emergency Alert System, Connect-CTY emergency notification system, social media (Facebook, Twitter, etc.) and local 911 Centers.

#### **Staff Readiness and Preparedness**

Cabarrus County personnel will prepare for a continuity event and plan in advance for what to do in an emergency. Personnel will also develop a Family Support Plan to increase personal and family preparedness. The [www.ready.gov](http://www.ready.gov) website provides guidance for developing a Family Support Plan and includes a “Get Ready Now” pamphlet that explains the importance of planning and provides a template that can be tailored to meet family-specific planning requirements.

Cabarrus County continuity personnel will create and maintain drive-away kits. Continuity personnel are responsible for carrying the kits to the continuity facility or pre-positioning the kits at the continuity facility. A typical drive-away kit should contain those items listed in the table below. Cabarrus County will implement the following procedures to maintain currency of the drive-away kits: Department Heads will annually check go kits or update as needed.

#### **Drive-Away Kit**

- Identification and charge cards
  - Organization identification card
  - Driver’s license
  - Organization travel card
  - County issued procurement cards
- Communication equipment
  - Pager/BlackBerry
  - Organization cell phone
  - Personal cell phone
  - County radio (if applicable)
- Hand-carried Essential Records
- Continuity Plan
- Directions to continuity facility
- Maps of surrounding area
- Business and personal contact numbers
  - Emergency phone numbers and addresses (relatives, medical doctor, pharmacist)
- Chargers/extra batteries for phones, GPS, and laptop
- Medical needs
  - Insurance information or special needs info if applicable
- Formatted computer discs or thumb drives
- Current equipment report
- General office supplies
- Vital records, files and database report

#### **B. PHASE II: ACTIVATION**

To ensure the ability to attain operational capability at continuity facilities and with minimal disruption to operations, Cabarrus County will execute activation plans as described in the following sections.

#### **Decision Process Matrix**

Based on the type and severity of the emergency situation, the Cabarrus County Continuity Plan may be activated by one of the following methods:

1. The County Manager or Chairman of the Board of County Commissioners, may initiate continuity activation.
2. The County Manager, Deputy County Manager, EM Director or a designated successor, may initiate the Continuity Plan activation for the entire organization, based on an emergency or threat directed at the organization.

Continuity Plan activation is a scenario-driven process that allow flexible and scalable responses to the full spectrum of all-hazards/threats that could disrupt operations with or without warning and during work or non-work hours. Continuity Plan activation will not be required for all emergencies or disruptions, since other actions may be more appropriate.

The decision to activate the Cabarrus County Continuity Plan and related actions will be tailored for the situation and based on projected or actual impact and whether or not there is warning. To support the decision-making process regarding plan activation, key organization personnel will use the decision matrix below to support that process.

**Decision Matrix**

Decision Matrix for Continuity Plan Implementation		
	Work Hours	Non-Work Hours
Event With Warning	<ul style="list-style-type: none"> <li>• Is the threat aimed at the facility or surrounding area?</li> <li>• Is the threat aimed at organization personnel?</li> <li>• Are employees unsafe remaining in the facility and/or area?</li> </ul>	<ul style="list-style-type: none"> <li>• Is the threat aimed at the facility or surrounding area?</li> <li>• Is the threat aimed at organization personnel?</li> <li>• Who should be notified of the threat?</li> <li>• Is it safe for employees to return to work the next day?</li> </ul>
Event Without Warning	<ul style="list-style-type: none"> <li>• Is the facility affected?</li> <li>• Are personnel affected? Have personnel safely evacuated or are they sheltering-in-place?</li> <li>• What are instructions from first responders?</li> <li>• How soon must the organization be operational?</li> </ul>	<ul style="list-style-type: none"> <li>• Is the facility affected?</li> <li>• What are instructions from first responders?</li> <li>• How soon must the organization be operational?</li> </ul>

As the decision authority, the County Manager or designated successor will be kept informed of the threat environment using all available means, including the Cabarrus County Emergency Communications Center, regional notification systems, local operations and State and local reporting channels and news media. The County Manager or designee will evaluate all available information relating to:

- Direction and guidance from higher authorities
- The health and safety of personnel
- The ability to execute essential functions
- Changes in threat advisories
- Intelligence reports

- The potential or actual effects on communications systems, information systems, office facilities, and other vital equipment
- The expected duration of the emergency situation

### **Alert and Notification Procedures**

Cabarrus County maintains plans and procedures for communicating and coordinating activities with personnel before, during, and after a continuity event.

Before an event, personnel in the Cabarrus County will monitor advisory information, including the National Weather Service, Emergency Alert System, local and national media outlets, social media, as applicable State Emergency Management and State/Regional fusion centers. In the event normal operations are interrupted or an incident appears to be imminent, Cabarrus County will take the following steps to communicate the organization's operating status with all staff:

- The Emergency Management Director or designated successor will notify the County Manager or designated successor of the emergency requiring Continuity Plan activation.
- The Deputy County Manager will authorize the notification of the Alert Leader Roster and other/all county employees as needed.
- Cabarrus County personnel will notify family members, next of kin, and/or emergency contacts of Continuity Plan activation.

Upon the decision to activate the Continuity Plan, Cabarrus County department heads will notify all County personnel, as well as affected and interdependent entities with information regarding continuity activation status, operational and communications status, and the anticipated duration of relocation. These entities include:

- Continuity facilities and on-site support teams with information regarding continuity activation, relocation status, and the anticipated duration of relocation.
- Cabarrus County's Emergency Operations Center via direct communication, Cabarrus County and other applicable elements/entities with information regarding continuity activation status, Cabarrus County's continuity facility, operational and communication status, and the anticipated duration of relocation.
- All Cabarrus County employees with instructions and guidance regarding the continuity activation
- State Government and local municipal governments.

### **Relocation Process**

Once the Continuity Plan is activated and personnel are notified, Cabarrus County will relocate continuity personnel and Essential Records to the Cabarrus County continuity facility(ies) if necessary. Cabarrus County continuity personnel will deploy/relocate to the continuity facility(ies) to perform the County's essential functions and other continuity-related tasks.

Emergency procedures during work hours with or without a warning will be implemented as follows:

- Continuity personnel, including advance team personnel, if applicable, will depart to the designated continuity facility from the primary operating facility or current location using personal or county provided vehicles.
- Non-continuity personnel present at the primary operating facility or another location will receive instructions from the Deputy County Managers or Department Heads. In most scenarios, non-continuity personnel will be directed to proceed to their homes or other Cabarrus County facilities to wait for further guidance.
- At the time of notification, if available, information will be provided regarding safety precautions and routes to use when leaving the primary operating facility.

Emergency procedures during non-working hours with or without a warning will be implemented as follows:

- Advance team members, if applicable, will deploy to the designated continuity facility from their current location using private or county provided vehicles at a time designated by the Deputy County Managers or Department Head.
- Continuity personnel will depart to the assigned continuity facility from their current location using personal or county provided vehicles at a time designated by the Deputy County Managers or Department Head.
- Non-continuity personnel will remain at their residence or other designated facility to wait for further instructions.

Non-continuity personnel may be required to replace or augment continuity personnel during activation. These activities will be coordinated by the County Manager or designated successor with the replacement staff on a case-by-case basis. Non-continuity personnel will remain available to replace or augment continuity personnel, as required.

The County Manager or designated successor will direct Cabarrus County's non-continuity personnel to move to alternate facilities, staging areas or home until further notice.

In the event of an activation of the Continuity Plan, Cabarrus County may need to procure necessary personnel, equipment, and supplies that are not already in place for continuity operations on an emergency basis. The County Manager or designated successor maintains the authority for emergency procurement. Instructions for these actions are found in Cabarrus County Finance Department policies and procedures.

**C. PHASE III: CONTINUITY OPERATIONS**

Upon activation of the Continuity Plan, Cabarrus County will continue to operate at its primary operating facility until ordered to cease operations by the County Manager or designee using communication methods outlined in the county emergency operations plan. At that time, essential functions will transfer to the continuity facility or alternate facility as directed. Cabarrus County should ensure that the continuity plan can be operational within 12 hours of plan activation.

The advance team will be first to arrive at the continuity facility to prepare the site for the arrival of the continuity personnel. Upon arrival at the continuity facility, the advance team will:

- Ensure infrastructure systems, such as power and heating, ventilating, and air conditioning are functional.
- Prepare check-in duty stations for ERG arrival.
- Address telephone inquiries from ERG and non-ERG staff.

As continuity personnel arrive, the ERG will conduct in-processing to ensure accountability. In-processing procedures are conducted at areas designated by the ERG based upon which facility is utilized. In addition, the office will identify all organization leadership available at the continuity facility.

Upon arrival at the continuity facility, Cabarrus County continuity personnel will:

- Report immediately to the designated area for check-in and in-processing.
- Receive all applicable instructions and equipment.
- Report to their respective workspace as notified during the activation process.
- Retrieve pre-positioned information and activate specialized systems or equipment.
- Monitor the status of Cabarrus County's personnel and resources.
- Continue Cabarrus County's essential functions.
- Prepare and disseminate instructions and reports, as required.
- Comply with any additional continuity reporting requirements with Cabarrus County.
- Notify family members, next of kin, and emergency contacts of preferred contact methods and information.

A requirement of continuity personnel is to account for all Cabarrus County personnel. Cabarrus County will use the following processes to account for all personnel:

- Reports from call down process will be matched up against rosters from department heads.

During continuity operations, Cabarrus County may need to acquire necessary personnel, equipment, and supplies on an emergency basis to sustain operations for up to 30 days or until normal operations can be resumed. The County Manager or designee maintains the authority for emergency acquisition. Instructions for these actions are found in the Cabarrus County Finance Department policies and procedures.

#### **D. PHASE IV: RECONSTITUTION OPERATIONS**

Within 24 hours of an emergency relocation, the following individuals will initiate and coordinate operations to salvage, restore, and recover Cabarrus County primary operating facility after receiving approval from the appropriate State and local law enforcement and emergency services:

- The County Manager or designated successor will serve as the Reconstitution Manager for all phases of the reconstitution process.
- Each Cabarrus County Department will designate a reconstitution point-of-contact (POC) to work with the Reconstitution Team and to update office personnel on developments regarding reconstitution and provide names of reconstitution POCs to the EOC or designated facility when directed to do so.

During continuity operations, the Director of IAM should determine the status of the primary operating facility affected by the event. Upon obtaining the status of the facility, Cabarrus County will determine how much time is needed to repair the primary operating facility and/or acquire a new facility. This determination is made in conjunction with County management, IAM and Finance. Should Cabarrus County decide to repair the facility, the Director of IAM has the responsibility of supervising the repair process and should notify County Management of the status of repairs, including estimates of when the repairs will be completed.

Reconstitution will commence when the County Manager or designated successor or other authorized person ascertains that the emergency situation has ended and is unlikely to reoccur. These reconstitution plans are viable regardless of the level of disruption that originally prompted implementation of the Continuity Plan. Once the appropriate Cabarrus County authority has made this determination in coordination with other State, local and/or other applicable authorities, one or a combination of the following options may be implemented, depending on the situation:

- Continue to operate from the continuity facility.
- Reconstitute Cabarrus County primary operating facilities and begin an orderly return to the facilities.
- Begin to establish a reconstituted Cabarrus County operating facility in another facility or at another designated location.

Before relocating to the primary operating facility or another facility, the Risk Manager will conduct appropriate security, safety, and health assessments to determine building suitability. In addition, the ITS Director will verify that all systems, communications, and other required capabilities are available and operational and that Cabarrus County is fully capable of accomplishing all essential functions and operations at the new or restored primary operating facility.

Upon a decision by the County Manager or designated successor that Cabarrus County primary operating facilities can be reoccupied or that Cabarrus County will be reestablished in a different facility:

- Cabarrus County Continuity Coordinator or other authorized individual should notify the EOC, when available, and other applicable operation centers with information regarding continuity activation status, Cabarrus County continuity facility, operational and communication status, and anticipated duration of relocation. Cabarrus County shall submit a Continuity Status Reporting Form, only if it contains more information beyond what has been reported, to County Management using the form and procedures provided by Cabarrus County or other specified continuity POC.
- The IAM Director will develop space allocation and facility requirements.

- The Communications and Outreach Office will notify all personnel that the emergency or threat of emergency has passed and actions required of personnel in the reconstitution process using communication pathways identified in the emergency operations plan.
- The IAM Director will coordinate with Cabarrus County and/or other applicable facility management group to obtain office space for reconstitution, if the primary operating facility is uninhabitable.
- The Human Resources Director will develop procedures, as necessary, for restructuring staff.

Upon verification that the required capabilities are available and operational and that Cabarrus County is fully capable of accomplishing all essential functions and operations at the new or restored facility, the County Manager or designee will begin supervising a return of personnel, equipment, and documents to the primary operating facility or a move to a temporary or new permanent primary operating facility. The phase-down and return of personnel, functions, and equipment will follow the priority-based plan and schedule outlined below; Cabarrus County will develop return plans based on the incident and facility within 48 hours of plan activation.

Cabarrus County will continue to operate at its continuity facility until ordered to cease operations by the County Manager or designee. At that time, essential functions will transfer to the primary operating facility. Cabarrus County has developed plans to instruct personnel on how to resume normal operations as outlined below; Cabarrus County will develop resumption plans based on the incident and facility within 48 hours of plan activation.

Each County department, with assistance from the ITS Department, will identify any records affected by the incident. In addition, the ITS Department will help facilitate the effective transition and/or recovery of Essential Records and databases, as well as other records that had not been designated as Essential Records; Cabarrus County will develop Essential Records transition and recovery plans based on the incident and facility within 24 hours of plan activation.

When the continuity personnel, equipment, and documents are in place at the new or restored primary operating facility, the remaining Cabarrus County staff at the continuity facility or devolution site will transfer essential functions, cease operations, and deploy to the new or restored primary operating facility. The Deputy County Managers will oversee the orderly transition from the continuity facility of all Cabarrus County functions, personnel, equipment, and records to a new or restored primary operating facility. The Risk Manager and Human Resources Director will develop a process for receiving and processing employee claims during the continuity event, including processing Human Resources claims (such as, Workers' Compensation, compensation for injuries, overtime pay, etc.) and replacing lost or broken equipment.

Cabarrus County will conduct an After Action Review (AAR) once back in the primary operating facility or in a new primary operating facility. The EM Director is responsible for initiating and completing the AAR and all offices within Cabarrus County will have the opportunity to provide input to the report. The AAR will address the effectiveness of the continuity plans and procedures, identify areas for improvement, document these in Cabarrus County corrective action program (CAP), and develop a remedial action plan as soon as possible after the reconstitution. The EM Director is responsible for documenting areas for improvement in the CAP and developing a remedial action plan. In addition, the AAR will identify which, if any, records were affected by the incident, and will work with the ITS Director to ensure an effective transition or recovery of Essential Records and databases and other records that had not been designated as Essential Records. AAR and CAP documentation are maintained by the EM Office.

## **E. DEVOLUTION OF CONTROL AND DIRECTION**

Cabarrus County is prepared to transfer all of its essential functions and responsibilities to personnel at a different location should emergency events render leadership or staff unavailable to support the execution of Cabarrus County's essential functions. If deployment of continuity personnel is not feasible due to the unavailability of personnel, temporary leadership of Cabarrus County will devolve to State and local governments.

The Office of County Manager maintains responsibility for ensuring the currency of the Cabarrus County devolution plan. The Cabarrus County devolution plan:

- Includes the elements of a viable continuity capability: program plans and procedures, budgeting and acquisitions, essential functions, orders of succession and delegations of authority specific to the devolution site, interoperable communications, Essential Records management, staff, TT&E, and reconstitution. Identifies prioritized essential functions, defines tasks that support those essential functions, and determines the necessary resources to facilitate those functions.

- Includes a roster that identifies fully equipped and trained personnel who will be stationed at the designated devolution site and have the authority to perform essential functions and activities when the devolution option of the Continuity Plan is activated.
- Identifies what would likely activate or “trigger” the devolution option and specifies how and when control and direction of Cabarrus County operations will be transferred to and from the devolution site.
- Lists or references the necessary resources (i.e., equipment and materials) to facilitate the immediate and seamless transfer of and performance of essential functions at the devolution site.
- Establishes and maintains reliable processes and procedures for acquiring the resources necessary to continue essential functions and to sustain those operations for extended periods. The Finance Office is responsible for acquiring resources during a devolution situation. Acquisition processes and procedures are found in the Finance Department policies and procedures.
- Establishes and maintains a capability to restore or reconstitute Cabarrus County authorities to their pre-event status upon termination of devolution.

Cabarrus County conducts and documents annual training of devolution staff and a biennial exercise to ensure essential functions are capable of being performed during devolution. This documentation includes the dates of all TT&E events and names and titles of participating staff. Cabarrus County devolution TT&E documentation is maintained by the EM Office. Further, Cabarrus County CAP supports the devolution program.

**F. PROCEDURES FOR DEVOLVING ESSENTIAL FUNCTIONS TO DEVOLUTION EMERGENCY RELOCATION GROUP (DERG) AT DEVOLUTION SITE**

The transition of Essential Functions to the DERG and the Devolution site is an important step and may be conducted with warning or without warning. Cabarrus County will take steps to prepare in advance for devolving to the DERG at the Devolution site. Cabarrus County will follow existing state-wide and regional mutual aid agreements and compacts.

**VII. ORGANIZATION AND ASSIGNMENT OF RESPONSIBILITIES**

Key staff positions within Cabarrus County, to include individual continuity members, those identified in the orders of succession and delegation of authority, Cabarrus County Continuity Coordinator, continuity managers, and others possess additional continuity responsibilities.

Position	Responsibilities
County Management	<ul style="list-style-type: none"> <li>● Provide strategic leadership and overarching policy direction for the continuity program</li> <li>● Implement the Continuity Plan when necessary, or when directed by a higher authority</li> <li>● Update and promulgate orders of succession and delegations of authority</li> <li>● Ensure adequate funding is available for emergency operations</li> <li>● Ensure all organization components participate in continuity exercises</li> <li>● Update Continuity Plan annually</li> </ul>
Communications Manager	<ul style="list-style-type: none"> <li>● Update telephone rosters monthly</li> <li>● Conduct alert and notification tests</li> </ul>
ITS Department	<ul style="list-style-type: none"> <li>● Review status of Essential Records, files, and databases</li> <li>● Provide and maintain communications pathways and networks</li> </ul>
EM Director	<ul style="list-style-type: none"> <li>● Develop and lead Continuity training</li> <li>● Plan Continuity exercises</li> <li>● Leads process under the direction of or in the absence of County Management</li> </ul>
Continuity Personnel	<ul style="list-style-type: none"> <li>● Be prepared to deploy and support organization essential functions in the event of Continuity Plan implementation</li> <li>● Provide current contact information to manager</li> <li>● Be familiar with continuity planning and know individual roles and responsibilities in the event of Continuity Plan activation</li> <li>● Participate in continuity training and exercises as directed</li> </ul>

**VIII. DIRECTION, CONTROL AND COORDINATION**

During activation of the Continuity Plan, the County Manager or designated successor maintains responsibility for control and direction of Cabarrus County. Should the County Manager become unavailable or incapacitated; the organization will follow the directions laid out in the county EOP and departmental COOP annexes.

The contents and procedures laid forth in this Continuity Plan are consistent with the direction found in CGC 1 and the plan is reviewed and vetted by NC Emergency Management to ensure vertical integration within Cabarrus County.

**IX. DISASTER INTELLIGENCE**

During a continuity event, Cabarrus County will require the collection and dissemination of critical information. While specific incidents may create additional or specialized reporting requirements, the following table lists examples of the information that would be collected and reported regardless of incident type.

Information Element	Specific Requirement	Responsible Element	Deliverables	When Needed	Distribution
Personnel Accountability	Account for all ERG and non-ERG employees  Account for all contract personnel	Human Resources Division	Reports  Briefings	Status updates hourly following Plan activation	Department Heads
Operational Status	Percent of ERG personnel arrived at site  Ability to conduct each essential function	Representatives	Situation briefings  Situation reports	No later than 6 hours after plan activation, then hourly	Department Heads
Hazard Information	Threat details specific to the continuity facility	EOC	Situation briefings  Situation reports	Two times per day at shift change	Department Heads

**X. COMMUNICATIONS**

Cabarrus County has identified available and redundant critical communications systems that are located at the primary operating facility and continuity facility. Further, Cabarrus County maintains fully capable continuity communications that support organization needs during all hazards/threats, to include pandemic and other related emergencies, and give full consideration to supporting social distancing operations including telework and other virtual offices. In addition, Cabarrus County maintains communications equipment for use by employees with disabilities and hearing impairment.

All Cabarrus County’s necessary and required communications and IT capabilities will be brought back online as defined in the County’s tiered response plan.

Additional detailed information on the Cabarrus County’s communications systems and requirements is found in Annex E, *Continuity Communications*.

**XI. BUDGETING AND ACQUISITION OF RESOURCES**

Cabarrus County budgets for and acquires those resources and capabilities essential to continuity operations. A copy of the budget is found in the Finance Department. Within this budget, Cabarrus County budgets for resources and capabilities in accordance with the budget policies and other applicable directives and provides for the acquisition of those resources

necessary for continuity operations on an emergency basis for up to 30 days or until normal operations can be resumed by maintaining reserves for emergency operations.

For those contracts vital to the support of organization essential functions, Cabarrus County has ensured contractor statements of work include the provision to provide staffing, services, and resources during emergency conditions. A list of vital contracts is found in the contract administrator's office and maintained by the contract administrator. During an emergency situation, the contract administrator is responsible for oversight and handling of emergency work by contractors.

## **XII. PLAN DEVELOPMENT AND MAINTENANCE**

Cabarrus County Emergency Management is responsible for maintaining the Basic Plan of the Cabarrus County Continuity Plan and Emergency Management's Department Specific Annex. Each County Department maintain a separate Annex that provides continuity information relevant for their department.

The Continuity Plan, Cabarrus County essential functions, and supporting activities, will be reviewed by the County Management and updated annually from the date of publication as part of the maintenance of continuity plans and procedures. The EM Office is responsible for the annual plan review and update. In addition, the plan will be updated or modified when there are significant organizational, procedural changes, or other events that impact continuity processes or procedures. Comments or suggestions for improving this plan may be provided to the EM Office.

## **XIII. AUTHORITIES AND REFERENCES**

National Security Presidential Directive-51/Homeland Security Presidential Directive-20 (NSPD-51/HSPD-20) – *National Continuity Policy (2007)*.

National Continuity Policy Implementation Plan (NCPIP)

### **Guidance**

FEMA Continuity Guidance Circular (CGC) 1 (2009)

FEMA Continuity Guidance Circular (CGC) 2 (2010)

All updated in 2013

FEMA Continuity Assistance Tool (CAT)

# CABARRUS COUNTY CONTINUITY OF OPERATIONS PLAN DEPARTMENT PLANNING TEMPLATE

<b>Department:</b>	<b>HUMAN SERVICES</b>
<b>Division:</b>	TRANSPORTATION
<b>Date Updated:</b>	2/22/2021

## FOREWORD

**Cabarrus County Government must have a Continuity of Operations Plan to ensure the continuity of government operations and services. The county is required to continue essential services and to maintain and secure vital records, databases, and equipment in the event of an emergency of any type. The departments of county government must be able to continue essential services during emergencies. This may require the departments to relocate to an alternate facility to do this.**

**To develop this plan, each department must evaluate its essential services and functions and determine the personnel, equipment, and supplies needed to sustain these operations. This Department Planning Template provides input for the creation of the Cabarrus County Continuity of Operations Plan (COOP). The plan will detail those actions and resources necessary to maintain county operations for up to 30 days in an emergency situation.**

**The planning template directs plan development, focusing on five key planning elements:**

- Essential Services and Functions
- Vital Records/Databases
- Line of Succession
- Preparation of Alternate Facilities
- Interoperable Communications

Upon completion of this template, each department will have a prioritized list of essential services and functions; know what resources it has and what it will need to maintain operations; and how to transition its operations to an alternate location. This information will be consolidated into the county Continuity of Operations Plan.

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## 1. PURPOSE

A. This planning template is provided to each department to support development of the Cabarrus County Government Continuity of Operations Plan (COOP).

B. The Cabarrus County Continuity of Operations Plan provides a framework for the continuity of government operations in the wake of a disaster which disrupts normal services. The COOP will address the following tasks:

- How each department of Cabarrus County Government will continue to provide essential services and support of government operations during emergency or disaster situations.

- How the departments of Cabarrus County Government will provide essential services from a different location when the primary department facility is not available for use. This could be for any period of time up to 30 days.

C. The Continuity of Operations Plan will require each department to:

- Maintain a high level of readiness for emergency response operations.
- Be able to implement the plan both with and without warning.
- Be able to provide essential services no later than 12 hours after alert.
- Maintain department operations for up to 30 days under emergency conditions.

## 2. AUTHORITIES

A. North Carolina General Statutes 166-A, Emergency Management Act of 1977

B. Code of Ordinances, Cabarrus County, Chapter 22, Article II, Emergency Management, and Section 22-33, Plans

## 3. OBJECTIVES OF THE CONTINUITY OF OPERATIONS PLAN

A. Ensure that all departments of county government can provide essential services to county residents during any type of emergency situation.

B. Protect vital records, critical equipment, facilities and other assets.

C. Reduce or mitigate disruptions to government operations.

D. Minimize loss of life and reduce property losses.

E. Conduct a timely and orderly recovery from an emergency situation and restore full services to county residents.

## 4. CONTINUITY OF OPERATIONS PLAN OVERVIEW

A. The Continuity of Operations Plan will be employed when the damage to government facilities will not permit continued operations at those locations. A partial activation of the plan may be conducted for those individual departments or locations that are affected. The plan may be employed if the threat of severe damage is imminent and the county manager determines that government operations need to be moved to another location prior to the onset of the emergency.

B. The COOP is composed of three phases:

1. Phase I – Alert, Activation and Relocation. The county manager will determine when the COOP will be initiated and will issue the alert to all department leaders. All departments will execute their internal plans to transfer operations, personnel, records and equipment to an alternate location. This will be accomplished within 12 hours of the alert notification.

2. Phase II – Alternate Facility Operations. All departments will initiate essential services and operations at the alternate facility. The departments will maintain this level of service until the normal level of daily operations is resumed.

This could continue at the alternate site if damage to the primary location is extensive. The departments will secure and maintain all vital records at this location or at another secure site.

3. Phase III – Reconstitution of Normal Operations. Departments will conduct an orderly return of all vital records, personnel, equipment and supplies to the primary facility or movement to other temporary or permanent facilities.

**5. PLANNING ELEMENTS**

**A. Essential Services and Functions:**

1. List each essential service or function provided by your department and prioritize them from highest to lowest.

Service/Function	Priority
Life sustaining trips	1
Regular dr. appts	2
Work trips	3
Lunch Plus	4
Medicaid Trips	5
All others	6
	Choose an item.

Additional Notes for Service/Function Table

2. Identify staffing requirements for each essential service or function identified above. (Each person should only be counted once.)

Service/Function	# of Personnel Required
Program Manager	1
Manager- Heads transportation	1
Operations and Training Supervisor	2
Operations Supervisors- coordinate, safety, dispatch, and maintenance	3
Call center Reps.- set appointments for clients	3
Dispatcher-dispatches drivers to appts.	2
Scheduler- Makes drivers schedules and manifests	1

3. List all resources required to perform each essential service or function identified above.

Service/Function	Resources
Operators	Vehicles, radios, manifests, fuel
Call center	Routematch software, fax, phones, IT GSA computers
Manager	Routematch software, fax, phones, copiers, Wright express, computers
Operations and Training Supervisor	Routematch software, fax, phones, copiers, Wright express, computers

4. Identify critical data, data systems, software, etc., required to conduct each essential service or function identified above.

Service/Function	Critical Data/Data Systems
Program Manager	Routematch software, Munis, Word, Excel, DSS interchange, no-shows, DSS slips, maintenance files, Safety files
Manager	Routematch software, Munis, Word, Excel, DSS interchange, no-shows, DSS slips, maintenance files, Safety files
Operations and Training Supervisor	Same as above
Call center	Same as above
Supervisors	Routematch software, Word, Excel, DSS interchange, DSS slips, no shows
Dispatcher	Same as above
Scheduler	Same as above

5. Identify all support activities that are required to conduct each essential service or function identified above.

Service/Function	Support Activities
Operators	Access to fuel (Wright Express) Vans, 2-way radios
Call center	IT, IAM, Finance
Maintenance	National Bus, G-Max, Ilderton Conversions,
Administration	IT, IAM, Routematch, Finance

6. Describe the department plan for establishing essential services or functions at a different location within 12 hours of an alert.

Manager declares emergency. He notifies appropriate personnel, who in turn, notify rest of transportation staff as well as other government agencies. These agencies would include, IAM, IT, County Manager, Emergency Management, DSS, Aging, and vendors.

7. Describe the procedures to acquire the required resources (staff, equipment, supplies, etc.) that are needed to establish and maintain essential services and functions at a different location for up to 30 days.

If not possible to retrieve materials from our facility, we would use gov't center supplies, which would include support from IT, emergency mgmt. County mgmt., and sheriff's dept., and IAM.

**B. Vital Records/Databases:**

1. Describe any departmental emergency operations plans (other than the COOP), that your department utilizes. This includes the department line of succession; delegation of authority; staffing assignments; policy or procedural records.

Manager would notify Operations and Training Supervisor. He in turn would notify the 2 supervisors who would call drivers, dispatcher, and call center personnel.

2. List any vital records (public, county), legal or financial records, databases, software, etc., that are needed for your department to conduct operations.

Routematch software, maintenance and billing records, Also included would be driver's files.

3. Describe any classified or sensitive data used to conduct operations and what procedures will be used to secure it at the alternate location:

The only sensitive data would be contained on the client data base. We would maintain standard security procedures.

4. Describe the procedures for data back-up and restoration of vital records (public, county), legal or financial records, databases, software, etc. (This includes both paper and electronic files.)

We have no plan as of yet for paper record retrieval. County has back-up for client, financial, and personnel data bases.

5. Describe the location of your vital records (public, county), legal or financial records, databases, software, etc., and how the department will access these records from an alternate facility.

We could access this information remotely from another location. This location would be the county Governmental Center, where we could access county back-ups for financial, personnel, and client data bases.

**C. Line of Succession:**

1. List the line of succession for department leadership. The minimum requirement for this is three individuals.

<b>Position: Transportation Manager</b>			
<b>Name</b>	<b>Email</b>	<b>Title</b>	<b>Mobile Phone</b>
Anthony Hodges	<a href="mailto:alhodges@cabarruscounty.us">alhodges@cabarruscounty.us</a>	Program Manager	704-281-3293
Bob Bushey	rwbushey@cabarruscounty.us	Transportation Manager	980-521-4846
Charles Ratliff	crratliff@cabarruscounty.us	Operations & Training Supervisor	704-794-2306
Jeff Freeze	jcfreeze@cabarruscounty.us	Driver Supervisor	704-490-7928
Jamie Smith	jlsmith@cabarruscounty.us	Driver Supervisor	704-699-4655

2. List the line of succession for other key department leadership positions (name, title, phone number). The minimum requirement for this is three individuals.

<b>Position:</b>		<b>Call Center</b>	
<b>Name</b>	<b>Email</b>	<b>Title</b>	<b>Mobile Phone</b>
Kelly Strong	krstrong@cabarruscounty.us	Call center representative	704-492-1828
Larry Belk	lwbelk@cabarruscounty.us	Call center representative	704-938-4190
Jamie Smith	jlsmith@cabarruscounty.us	Call center representative	980-777-0644
Rory Wilson	rtwilson@cabarruscounty.us	Call Center representative	386-490-3376

3. List any limitations on the delegation of authority (e.g., functions that can be performed only by certain people/duty positions, etc.)

Only the Program Manager, Transportation Manager, Operations & Training Supervisor, and 2 Supervisors may sign to purchase anything.

4. List roster of trained personnel with authority and/or knowledge to perform and maintain essential departmental services and functions. (Name, title, particular knowledge, phone numbers. (This is not limited to three individuals).

<b>Essential Service/Function:</b>		<b>Scheduling of Trips</b>	
<b>Name</b>	<b>Email</b>	<b>Title/Knowledge</b>	<b>Mobile Phone</b>
Gary Love	<a href="mailto:grlove@cabarruscounty.us">grlove@cabarruscounty.us</a>	Dispatch/scheduler	980-622-8602
Annette Mabrey	<a href="mailto:armabrey@cabarruscounty.us">armabrey@cabarruscounty.us</a>	Dispatch/scheduler	704-792-6489

<b>Essential Service/Function:</b>		<b>Finance</b>	
<b>Name</b>	<b>Email</b>	<b>Title/Knowledge</b>	<b>Mobile Phone</b>
Dana Pastores	<a href="mailto:drpastores@cabarruscounty.us">drpastores@cabarruscounty.us</a>	BUSINESS SERVICES MANAGER	704-219-3867
Mee Xiong	mnxiong@cabarruscounty.us	ACCOUNTING SPECIALIST	704-380-1199
Blondell Joseph	<a href="mailto:bcjoseph@cabarruscounty.us">bcjoseph@cabarruscounty.us</a>	Lead Accounting Tech	704-287-6052

<b>Essential Service/Function:</b>		<b>General Administration</b>	
<b>Name</b>	<b>Email</b>	<b>Title/Knowledge</b>	<b>Mobile Phone</b>
Anthony Hodges	<a href="mailto:alhodges@cabarruscounty.us">alhodges@cabarruscounty.us</a>	Program Manager	704-281-3293
Bob Bushey	<a href="mailto:rwbushey@cabarruscounty.us">rwbushey@cabarruscounty.us</a>	Transportation Manager	980-521-4846
Charles Ratliff	<a href="mailto:crratliff@cabarruscounty.us">crratliff@cabarruscounty.us</a>	Operation and training Supervisor	704-794-2306

5. Describe the conditions for implementing the order of succession, the method of notification and the conditions that will terminate these changes

If Manager is unavailable or incapacitated, the Operations & Training Supervisor will make this decision. Notification would be by phone. Manager will terminate changes when appropriate.

6. Define the procedures for implementing the order of succession within the department.

All personnel will be notified verbally, in writing, or by phone of any added responsibilities.

**D. Alternate Facilities:**

1. The department has immediate capability now to operate under any potential threat conditions:

Yes

2. Provide information in the sections below on the sufficient space and equipment that would be needed to relocate the department for up to 30 days.

Facility Manager	Email	Title	Mobile phone
Kyle Bilafer	<a href="mailto:kdbilafer@cabarruscounty.us">kdbilafer@cabarruscounty.us</a>	Area Manager of Operations	704-305-9723

Primary Location	
Facility Name	Cabarrus County Human Services
Street Address	1303 South Cannon Boulevard
City/State/Zip	Kannapolis, NC 28083

Secondary Location	
Facility Name	Cabarrus County Governmental Center
Street Address	65 Church Street South
City/State/Zip	Concord, NC 28025

Facility Specifications	<i>List the basic requirements to establish operations</i>	
Space (sq ft. required)	6,000	
Private Offices	3	
Conference Room (Number and Size)	Number:1	Size: 20x12:
Cubicles	8	
Loading Dock	Yes	
Handicapped Accessible	Yes	

Parking Spaces	50
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Communications	<i>List the basic requirements to establish operations</i>
Number of commercial telephone lines needed/available at facility	12
Secure telephone lines needed/available at facility	Yes 1 Fax
Two-way radio support infrastructure required	Yes
Additional communications support needed	

Office Equipment at Facility	<i>List number of items needed</i>
Desks	13
Chairs	17
Telephones	11
Computers	With County email access:15 With Internet access:15
Copiers	1
Fax Machines	1
Office Supplies	Yes
TV/Video	Yes
Utilities Required	<i>List those utilities and services needed at new location</i>
Water	Yes
Electrical Power	Yes
Air Conditioning	Yes
Natural Gas	Heat: Yes Other:
Telephone	Yes
Cable TV	Yes
Security	Yes
Maintenance	Yes
Housekeeping	Yes
Local Post Office	Yes

### Relocation Support/Assistance-Primary

Name	Email	Phone	Services
Todd Shanley	tmshanley@cabarruscounty.us	704-920-2838	IT
Michael Miller	mamiller@cabarruscounty.us	704-920-3212	IAM

### Relocation Support/Assistance-Secondary

Name	Email	Phone	Services
IAM and IT			

3. List locations or vendors where equipment can be obtained at short notice.

IAM, National Bus, Office Max, IT.

4. List who has authority to access required equipment and make it operational at the new location. (List name, title, and mobile phone number)

Name	Title	Mobile Phone
Anthony Hodges	Program Manager	704-281-3293
Bob Bushey	Transportation Manager	980-521-4846
Charles Ratliff	Operations & Training Supervisor	704-794-2306
Jeff Freeze	Driver Supervisor	704-490-7928
Jamie Smith	Driver Supervisor	980-777-0644

5. List any pre-positioned resources or contingency contracts that are already established and the appropriate resource provider:

Name	Phone Number	Resource
TJ's Taxi	704-938-7277	Vehicles to supplement county resources

IT	704 920-2487	
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6. Describe the provisions for establishing communications methods/systems within the department, with other county departments, and with county residents, vendors, external organizations and agencies.

Telephones, email, 2-way radios, fax, Public television, Newspapers, and County web page, would all be use in this situation.

7. Describe the procedures that will be used to address health and safety concerns of relocated employees.

Standard practices.

8. Describe physical security and access controls at the alternate location/facility.

Locked and secured doors and parking.

**E. Interoperable Communications:**

1. Describe procedures and equipment needed for communications within the department, other county departments, emergency management personnel and outside agencies and vendors.

Email, phones, and 2-way radios would be used to accomplish this.

2. Describe the procedures and equipment needed for access to data and data/software systems necessary to provide essential departmental services.

IT support, RouteMatch software, and server.

**F. Plans and Procedures:**

1. Describe how the Continuity of Operations Plan is activated for the department; who makes this decision to implement the plan; and how the department personnel are notified of the activation.

Emergency management notifies Transportation Manager. Manager notifies Operations & Training Supervisor who in turn notifies Supervisors. The supervisors will notify drivers and call center personnel.

2. Describe the procedures the department will use to provide essential services and conduct operations under emergency conditions for up to 30 days. Include those procedures necessary to operate out of an alternate location/facility.

With computer access, functionality could be maintained. Without computers and software, a certain level of efficiency could be maintained for high priority trips. Communication procedures, radio maintenance, and manifest production are all necessary procedures.

3. Describe the department plan for personnel accountability throughout the emergency.

Time cards would be punched or signed.

**G. Plan Review, Training and Exercises:**

1. Describe the training necessary to conduct emergency relocation and establish operations at an alternate location. List the training and yearly exercise schedule to support this requirement. Describe the familiarization training for new employees. Indicate the individual within the department who will coordinate and conduct all training on the Continuity of Operations Plan.

Create a plan and distribute it through Safety supervisor.

2. Describe the department plan for testing the emergency alert and notification procedures.

Notify personnel by way of CTY.

3. Describe how the department will train/exercise its Continuity of Operations Plan with other county departments.

This would be handled through Emergency Management, exercises will be coordinated.

4. Describe the procedures for the annual review/update of the department Continuity of Operations Plan. Indicate the individual within the department who conduct the review and update of the plan.

This would be handled annually and updated through Safety and Training supervisor.

**Annex A: Authorities and References**

Authority, support, and justification for Cabarrus County Government of operations (COOP) planning are provided through the documents listed below.

**Federal Guidance**

*Executive Order 12148–Federal Emergency Management.* EO 12148 establishes Federal policies and coordinates civil emergency planning, management, and assistance functions. It also establishes the President’s role in working with State and local governments.

*Executive Order 12472–Establishment of the National Communications System.* EO 12472 establishes the National Communication Systems as a Federal interagency group assigned national security and emergency preparedness telecommunications responsibility throughout the full spectrum of emergencies. Responsibilities include planning, developing, and implementing enhancements to the national telecommunications infrastructure to achieve measurable improvements in survivability, interoperability, and operational effectiveness under all conditions. This is accomplished by effective management and by using national telecommunication resources to support the Government during any emergency.

*Executive Order 12656–Assignment of Emergency Preparedness Responsibilities.* EO 12656 is the foundation of these mandates. It requires Federal agencies to develop plans and procedures that ensure the survival of the U.S. Constitution and American Government by enabling them to continue to provide essential functions and services during and following a disaster or emergency. Executive Order 12656 assigns national security management preparedness responsibilities to Federal departments and agencies.

*Presidential Decision Directive 63.* PDD–63 is a national-level effort to ensure the security of the increasingly vulnerable and interconnected infrastructure of the United States. It requires departments and agencies to develop a plan for protecting critical infrastructures, including telecommunications, banking and finance, energy, transportation, and other essential functions and services. The directive addresses those services provided by Federal, State, and local governments.

*Presidential Decision Directive 67.* PDD–67 directs the Federal executive branch departments and agencies to have a viable COOP Plan and capability. Departments and agencies must be able to operate at their alternative facilities with or without warning no longer than 12 hours after the disaster and to maintain sustained operations for a minimum period of up to 30-days. The plans identify those requirements necessary to support the primary functions, such as emergency communications, establishing a chain of command, and delegations of authority.

*Executive Order 13228—Establishing the Office of Homeland Security and the Homeland Security Council.* EO 13228 establishes the Office of Homeland Security in response to the terrorist attacks on September 11, 2001. Responsibilities of the office include developing and coordinating the implementation of a comprehensive national strategy to secure the United States from terrorist threats or attacks. The office shall coordinate the executive branch’s efforts to detect, prepare for, prevent, protect against, respond to, and recover from terrorist attacks within the United States.

*Executive Order 13231—Critical Infrastructure Protection in the Information Age.* EO 13231 establishes a protection program that consists of continual efforts to secure information systems for critical infrastructure that includes emergency preparedness communications. To achieve this policy, there will be a senior executive branch committee to coordinate that will have cognizance over all Federal efforts and programs involving continuity of operations, continuity of government, and Federal department and agency information systems protection.

*Robert T. Stafford Disaster Relief and Emergency Assistance Act, Amended (U.S. Code Title 42 Section 5121).* This act provides for an orderly and continual means of assistance by the Federal Government to State and local governments for carrying out their responsibilities to alleviate the suffering and damage that result from disasters. 42 USC 5121 encourages the development of comprehensive disaster preparedness and assistance plans, programs, capabilities, and organizations by the States and local governments.

*U.S. National Archives & Records Administration (NARA) Code of Federal Regulations.* The NARA Code of Federal Regulations (CFR), Subchapter B, Records Management, provides guidance and prescribes policies for records management programs relating to record creation and maintenance, adequate documentation, and proper record disposition.

*Homeland Security Presidential Directive–1.* The Homeland Security Council (HSC) shall ensure coordination of all homeland security-related activities among executive departments and agencies and promote the effective development and implementation of all homeland security policies. The HSC Principals Committee (HSC/PC) shall be the senior interagency forum under the HSC for homeland security issues. The HSC Deputies Committee (HSC/DC) shall serve as the senior sub-Cabinet interagency forum for consideration of policy issues affecting homeland security. HSC Policy Coordination Committees (HSC/PCC) shall coordinate the development and implementation of homeland security policies by multiple departments and agencies throughout the Federal Government and shall coordinate those policies with State and local government.

*Homeland Security Presidential Directive–3.* The Homeland Security Advisory System provides warnings in the form of a set of graduated “Threat Conditions” that would increase as the risk of the threat increases. At each threat condition, Federal departments and agencies implement a corresponding set of

“Protective Measures” to further reduce vulnerability or increase response capability during a period of heightened alert. This system is intended to create a common vocabulary, context, and structure for an ongoing national discussion about the nature of the threats that confront the homeland and the appropriate measures that should be taken in response. It seeks to inform and facilitate decisions appropriate to different levels of government and to private citizens at home and at work.

*FEMA Federal Preparedness Circular (FPC) No. 65–Federal Executive Branch Continuity of Operations (COOP).* FPC 65 provides guidance to Federal executive branch departments and agencies for developing viable and executable contingency plans for continuity of operations. COOP planning facilitates the performance of department/agency essential functions during any emergency or situation that may disrupt normal operations. FPC 65 requires that each agency appoint a senior Federal Government executive as an emergency coordinator to serve as program manager and agency point of contact for coordinating agency COOP activities. This ensures continuous performance of an agency’s essential functions during an emergency and protects essential facilities, equipment, records, and other assets. The actions recommended in FPC 65 will reduce disruptions to operations and loss of life, and minimize damage and losses. It achieves a timely and orderly recovery from an emergency and resumption of full service to customers.

*Federal Preparedness Circular No. 66–Test, Training and Exercise (TT&E) Program for Continuity of Operations (COOP).* FPC 66 provides guidance to Federal executive branch departments and agencies for use in developing viable and executable TT&E programs to support the implementation and validation of COOP plans. These activities are important elements of a comprehensive emergency preparedness program necessary to improve the ability of agencies to effectively manage and execute their COOP plans.

*Federal Preparedness Circular No. 67–Acquisition of Alternate Facilities for Continuity of Operations (COOP).* FPC 67 provides guidance to Federal executive branch departments and agencies for acquiring alternative facilities to support their COOP. FPC 67 requires agencies to designate alternative operating facilities as part of their COOP plans and prepare their personnel for the possibility of sudden relocation of essential functions or COOP contingency staff to these facilities should an emergency necessitate that action.

## State Guidance

North Carolina (N.C.) General Statutes 58-9; 118-38; 143-166.1, 143-507 through 517, 153-A and 160-A

N.C. General Statutes 166A

N.C. Executive Order 72.

N.C. General Statutes 115C-242 (6)

N.C. General Statutes Article 36A of Chapter 14

State of North Carolina Executive Order 43, North Carolina Emergency Response Commission (NCERC), April 7, 1987

North Carolina General Statute, Chapter 95, Article 8, The Hazardous Chemical Right-To-Know Act

North Carolina Hazardous Materials Right-To-Know Law

## Annex B: Alternate Location/Facility Information

The Community has designated one primary Emergency Relocation Site (ERS) to support the Emergency Relocation Group (ERG) following an event that disables the infrastructure supporting Community activities that occur at town hall and/or department offices buildings. The ERS should be used when town hall and/or department offices buildings are closed for normal business activities. The relocation site has adequate space, the necessary equipment, and the connectivity to support relocating each ERG responsible for performing essential functions.

Emergency Relocation Site Information	
Address	65 Church Street South
Phone Number	(704) 920-2000
Relocation Site Official	Area Manager of Operations

## Annex C: Definitions and Acronyms

The following terms or phrases are found in this document.

*Advance Team.* ERG personnel who immediately deploy to the Emergency Relocation Site (ERS) upon receiving a COOP warning or activation, to initiate actions at the ERS in preparation for the arrival of the main body of Emergency Personnel. Advance Team plus Emergency Personnel constitute an ERG.

*Business Continuity Plan (BCP).* The BCP provides procedures for sustaining an organization's business functions during and after a disruption. An example of a business function may be an organization's payroll process or consumer information process. A BCP may be written for a specific business process or may address all key business processes.

*Business Recovery Plan (BRP).* The BRP addresses the restoration of business processes after an emergency, but unlike the BCP, lacks procedures to ensure continuity of critical processes throughout an emergency or disruption.

*Continuity of Operations (COOP) Plan.* An action plan that provides for the immediate continuity of essential functions of an organization at an alternative facility for up to 30-days in the event an emergency prevents occupancy of its primary facility.

*Disaster Recovery Plan (DRP).* The DRP applies to major, usually catastrophic, events that deny access to the normal facility for an extended period. Frequently, DRP refers to an IT-focused plan designed to restore operability of the target system, application, or computer facility at a relocation site after an emergency.

*Emergency Personnel.* The key principals and staff members of the ERG, responsible for the execution of essential functions. Advance Team plus Emergency Personnel constitute an ERG.

*Emergency Relocation Group (ERG).* Predesignated principals and staff who move to a relocation site to continue essential functions in the event that locations are threatened or incapacitated. The ERG comprises Advance Team plus Emergency Personnel.

*Emergency Relocation Site (ERS).* A remote alternative facility to which the ERG moves to continue essential functions in the event that traditional work sites are incapacitated.

*Essential functions.* Essential functions are those functions, stated or implied, that are required to be performed by statute or Executive order, or other functions deemed essential by the heads of principal organizational elements (i.e., administrators, office directors, and division directors).

*Occupant Emergency Plan (OEP).* The OEP provides the response procedures for occupants of a facility in the event a situation poses a threat to the health and safety of personnel, the environment, or property. Such events include a fire, hurricane, criminal attack, or a medical emergency.

*Point of Contact (POC).* The designated focal point for actions involving a specific plan, as in "COOP POC."

*Relocation Site (RS) Support Official.* Serves as the COOP point of contact at each ERS. Responsible for the readiness and operational condition of the ERS, as appropriate, including telecommunications, infrastructure, and equipment; and support the billeting and meal needs of the ERG.

*Senior COOP Official.* Serves as the COOP point of contact. Responsible for coordinating implementation of the COOP Plan; initiating appropriate notifications inside and outside the Agency during COOP Plan implementation; being the point of contact for all COOP training, testing, and exercising; assisting ERG efforts at the ERS; and initiating recovery of the Agency as part of reconstitution.

## SIGNATURE AND CERTIFICATION PAGE

The Cabarrus County Board of Commissioners has reviewed each of the Six Plans comprised in the System Safety Plan (SSP). During this review suggestions were made and the Plan was updated to reflect the suggestions.

Transit Director \_\_\_\_\_

Date: \_\_\_\_\_

I hereby certify this Plan for Cabarrus County Public Transportation System.

CHAIR BOARD SIGNATURE  
Authorized Representative \_\_\_\_\_

Date: \_\_\_\_\_

# CABARRUS COUNTY



## BOARD OF COMMISSIONERS WORK SESSION

**April 4, 2022  
4:00 PM**

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### **AGENDA CATEGORY:**

Discussion Items for Action

### **SUBJECT:**

Finance - American Rescue Plan Act Funds for Broadband and Nonprofits

### **BRIEF SUMMARY:**

Along with unallocated funds several nonprofits decided not to accept the American Rescue Plan Act Fund. If the Board approves the funds will be allocated to:

1. Completing Access to Broadband (CAB) - \$2,000,000 – county match to expand broadband in rural/underserved communities.
2. Habitat for Humanity - \$500,000 – additional funds for the critical home repair program.
3. Education Foundation - \$164,090 – funding needed to pilot Reading + Mentoring 4 Success program to address learning loss.
4. Conflict Resolution Center - \$21,361 – funding to address lost revenue resulting from the pandemic

### **REQUESTED ACTION:**

Motion to approve using American Rescue Plan Act Funds for the Broadband and additional nonprofits and the associated budget amendment.

### **EXPECTED LENGTH OF PRESENTATION:**

5 Minutes

### **SUBMITTED BY:**

Wendi Heglar, Finance Director

### **BUDGET AMENDMENT REQUIRED:**

Yes

**COUNTY MANAGER'S RECOMMENDATIONS/COMMENTS:**

---

**ATTACHMENTS:**

- Budget Amendment

**Budget Revision/Amendment Request**

Date: 4/19/2022

Amount: 2,685,451

Dept. Head: Wendi Heglar

Department: Finance

Internal Transfer Within Department

Transfer Between Departments/Funds

Supplemental Request

Allocate ARP funds to broadband and additional nonprofits							
Fund	Indicator	Department/ Object/ Project	Account Name	Approved Budget	Increase Amount	Decrease Amount	Revised Budget
440	9	1925 974914 ARP20	Wings of Eagle Ranch	57,054		57,054	-
440	9	1925 974914 ARP27	Charity Baptist Ministries	70,000		70,000	-
440	9	1925 974914 ARP33	Mt. Pleasant Food Ministry	3,800		3,800	-
440	9	1925 974914 ARP47	Bands of Concord	6,379		6,379	-
440	9	1925 974914 ARP41	Habitat for Humanity	463,282	500,000		963,282
440	9	1925 974914 ARP62	Education Foundation	-	164,090		164,090
440	9	1925 974914 ARP63	Conflict Resolution Center	-	21,361		21,361
440	9	1925 9397 ARP	Miscellaneous	246,049		246,049	-
440	9	1925 974914 ARP55	Small Business Grants	2,500,000		120,000	2,380,000
440	9	1925 974914 ARP60	Mortgage	675,000		182,169	492,831
001	9	1925 940004	Broadband	-	2,000,000		2,000,000
001	9	2110 9101	Salaries and Wages Sheriff	10,493,074		2,000,000	8,493,074

**Budget Officer**

- Approved
- Denied

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Date

**County Manager**

- Approved
- Denied

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Date

**Board of Commissioners**

- Approved
- Denied

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Date

# CABARRUS COUNTY



## BOARD OF COMMISSIONERS WORK SESSION

**April 4, 2022  
4:00 PM**

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### **AGENDA CATEGORY:**

Discussion Items for Action

### **SUBJECT:**

Finance - American Rescue Plan Act Funds for Cooperative Christian Ministry

### **BRIEF SUMMARY:**

Cooperative Christian Ministries received a \$2,000,000 allocation of ARPA funds. They would like to include the Huddle Housing as an additional approved project. The project is described below:

Establish a Huddle Housing community to provide safe homes and case management for individuals struggling on low fixed incomes. Huddle Housing will provide long-term housing solutions for chronically homeless adults and those struggling on low and extremely low fixed incomes (e.g. – veterans, seniors, and individuals on disability who are capable of self-care). Include approximately 15 units and a community center.

### **REQUESTED ACTION:**

Motion to approve using American Rescue Plan Act Funds for the Huddle Housing Project.

### **EXPECTED LENGTH OF PRESENTATION:**

5 Minutes

### **SUBMITTED BY:**

Wendi Heglar, Finance Director

### **BUDGET AMENDMENT REQUIRED:**

No

### **COUNTY MANAGER'S RECOMMENDATIONS/COMMENTS:**

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# CABARRUS COUNTY



## BOARD OF COMMISSIONERS WORK SESSION

**April 4, 2022  
4:00 PM**

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### **AGENDA CATEGORY:**

Discussion Items for Action

### **SUBJECT:**

Finance - Appropriate Insurance Refund for Ambulance Repair

### **BRIEF SUMMARY:**

An ambulance was involved in an accident on October 23, 2021. The chassis was totaled and the box was remounted onto a new chassis. Insurance funds were received to cover the costs.

### **REQUESTED ACTION:**

Motion to adopt the budget amendment.

### **EXPECTED LENGTH OF PRESENTATION:**

10 Minutes

### **SUBMITTED BY:**

Kyle Bilafer, Area Manager of Operations  
Jimmy Lentz, Emergency Medical Director

### **BUDGET AMENDMENT REQUIRED:**

Yes

### **COUNTY MANAGER'S RECOMMENDATIONS/COMMENTS:**

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### **ATTACHMENTS:**

▣ Budget Amendment

### Budget Revision/Amendment Request

Date: 4/19/2022

Amount: 141,613.00

Dept. Head: Suzanne Burgess for Kyle Bilafer

Department: ISF - Property and Liability

Internal Transfer Within Department
  Transfer Between Departments/Funds
  Supplemental Request

This budget amendment is to recognize insurance refunds, decrease insurance and bonds expenditure line item and transfer funds to EMS motor vehicle account to repair a wrecked ambulance involved in an accident.

	Indicator	Department/ Object/ Project	Account Name	Approved Budget	Increase Amount	Decrease Amount	Revised Budget	
	600	6	1919-6804	INSURANCE REFUNDS	20,000.00	61,613.00	-	81,613.00
	600	9	1919-9704	CONTRIBUTION TO GENERAL FUND	68,680.00	80,000.00	-	148,680.00
	600	9	1919-9640	INSURANCE AND BONDS	849,994.00	-	18,387.00	831,607.00
	001	6	2730-6931	Contribution From Internal Service Fund	-	80,000.00	-	80,000.00
	001	9	2730-9863	Motor Vehicles	672,652.26	80,000.00	-	752,652.26

**Budget Officer**

Approved  
 Denied

\_\_\_\_\_  
*Signature*

\_\_\_\_\_  
*Date*

**County Manager**

Approved  
 Denied

\_\_\_\_\_  
*Signature*

\_\_\_\_\_  
*Date*

**Board of Commissioners**

Approved  
 Denied

\_\_\_\_\_  
*Signature*

\_\_\_\_\_  
*Date*

# CABARRUS COUNTY



## BOARD OF COMMISSIONERS WORK SESSION

**April 4, 2022  
4:00 PM**

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**AGENDA CATEGORY:**

Discussion Items for Action

**SUBJECT:**

Finance - Debt Refunding of Limited Obligations Bonds - 2022A

**BRIEF SUMMARY:**

The County's underwriter, Piper Sandler & Co., has advised, given appropriate market conditions, to refund all or a portion of 2020A Limited Obligation Bonds.

The Public Hearing was held March 21, 2022.

**REQUESTED ACTION:**

Motion to adopt the resolution approving refinancing of prior installment financing contract financings in an aggregate principal amount up to \$130,000,000; the execution and delivery by the Cabarrus County Development Corporation of one or more series of limited obligation bonds related thereto; authorizing the execution and delivery of related documents in connection therewith; and providing for certain other related matters.

**EXPECTED LENGTH OF PRESENTATION:**

5 Minutes

**SUBMITTED BY:**

Wendi Heglar, Finance Director

**BUDGET AMENDMENT REQUIRED:**

No

**COUNTY MANAGER'S RECOMMENDATIONS/COMMENTS:**

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**ATTACHMENTS:**

- ▣ Resolution
- ▣ Deed of Trust
- ▣ Trust Indenture
- ▣ Installment Finance Contract

The Chairman introduced the following resolution, a summary of which had been provided to each Commissioner, a copy of which was available with the Clerk to the Board and which was read by title:

RESOLUTION APPROVING REFINANCING OF PRIOR INSTALLMENT FINANCING CONTRACT FINANCINGS IN AN AGGREGATE PRINCIPAL AMOUNT UP TO \$130,000,000; THE EXECUTION AND DELIVERY BY THE CABARRUS COUNTY DEVELOPMENT CORPORATION OF ONE OR MORE SERIES OF LIMITED OBLIGATION BONDS RELATED THERETO; AUTHORIZING THE EXECUTION AND DELIVERY OF RELATED DOCUMENTS IN CONNECTION THEREWITH; AND PROVIDING FOR CERTAIN OTHER RELATED MATTERS

WHEREAS, the Board of Commissioners desires to approve a proposed plan of refinancing in an aggregate principal amount of up to \$130,000,000, which plan would involve the entry by the County into one or more installment financing contracts (or amendments to one or more outstanding installment financing contracts) with the Cabarrus County Development Corporation (the "Corporation") or one or more third parties pursuant to North Carolina General Statutes §160A-20, as amended, the proceeds of which would be used to refinance all or a portion of one or more installment financing contracts previously executed and delivered by the County, which prior installment financing contracts paid all or a portion of the costs of acquiring, constructing and equipping various public facilities and related improvements and costs (collectively, the "Refinanced Projects"), and under said one or more installment financing contracts (or amendments to one or more outstanding installment financing contracts) the County would secure the repayment by the County of the moneys advanced pursuant to such one or more installment financing contracts (or amendments to one or more outstanding installment financing contracts) by granting a security interest in and lien on all or some portion of the Refinanced Projects and/or in all or some portion of the real property on which the Refinanced Projects are located;

WHEREAS, as part of said proposed plan of refinancing, the Corporation will execute and deliver one or more series of Limited Obligation Bonds in said one or more installment financing contracts (or amendments to one or more outstanding installment financing contracts) in an aggregate principal amount not exceeding \$130,000,000 to finance the advancement of moneys to the County pursuant to said one or more installment financing contracts (or amendments to one or

more outstanding installment financing contracts) between the County and the Corporation or one or more third parties;

WHEREAS, there have been submitted to this meeting draft forms of the following documents (the “Financing Documents”) with respect to the refinancing of said one or more prior installment financing contracts and the Refinanced Projects:

(1) an Installment Financing Contract, proposed to be dated on or about June [1], 2022 (or such other date(s) as may be selected by the County), between the County and the Corporation (or one or more third parties) as counterparty (the “2022A Contract(s)”), pursuant to which the Corporation (or such one or more third parties) will advance moneys to the County to refinance all or a portion of the Prior Contract (as defined in the 2022A Contract(s)) and the Refinanced Projects financed thereby and the County agrees to make periodic installment payments (the “Installment Payments”) to repay the moneys so advanced, with or without interest, as applicable;

(2) a Deed of Trust, Security Agreement and Fixture Filing (the “2022A Deed of Trust”), proposed to be dated on or about June [1], 2022, among the County as Grantor, the Corporation (or such one or more third parties) as Beneficiary and the trustee named therein, by which the County would secure its obligations to the Corporation (or such one or more third parties) under the 2022A Contract(s); and

(3) an Indenture of Trust, proposed to be dated on or about June [1], 2022 (the “2022A Trust Indenture”), between the Corporation and the trustee named therein, as trustee (the “2022A Trustee”), pursuant to which there may be executed and delivered from time to time Certificates of Participation and/or Limited Obligation Bonds, including, without limitation, the Limited Obligation Refunding Bonds (County of Cabarrus, North Carolina Installment Financing Contract), Series 2022A (collectively, the “2022A Certificates and/or Bonds”), the proceeds of which will be used to advance the moneys to the County under the 2022A Contract(s); and

WHEREAS, the obligations of the County to make Installment Payments and other payments pursuant to the 2022A Contract(s) shall constitute limited obligations of the County payable solely from currently budgeted appropriations of the County and shall not constitute a pledge of the faith and credit of the County within the meaning of any constitutional debt limitation;

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

WHEREAS, the Board of Commissioners desires to approve the Financing Documents and to authorize other actions in connection therewith;

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

Section 1. All actions taken by or on behalf of the County to date to effectuate the proposed plan of refinancing, including the selection of Piper Sandler & Co., as Underwriter and/or Placement Agent and Nexsen Pruet, PLLC, as special counsel, are hereby ratified, approved and authorized pursuant to and in accordance with the transactions contemplated by the Financing Documents.

Section 2. The Board of Commissioners hereby finds and confirms that (i) the refinancing of all or a portion of the Prior Contract previously executed and delivered by the County and the Refinanced Projects by one or more installment financing contracts to be executed and delivered by the County is necessary and expedient for the County; (ii) the refinancing of all or a portion of the Prior Contract previously executed and delivered by the County and the Refinanced Projects by one or more installment financing contracts to be executed and delivered by the County, under the circumstances, is preferable to a bond issue by the County; (iii) the sums to fall due under said one or more installment financing contracts to be executed and delivered by the County are adequate and not excessive for their proposed purpose; (iv) the County's debt management procedures and policies are good and its debt will continue to be managed in strict compliance with law; (v) the increase in taxes, if any, necessary to meet the sums to fall due under said one or more installment financing contracts to be executed and delivered by the County will not be excessive; and (vi) the County is not in default regarding its debt service obligations.

Section 3. The refinancing of all or a portion of the Prior Contract and the Refinanced Projects, and the granting of security interests therein, all as provided in the Financing Documents referenced in this Resolution, are hereby ratified and approved.

Section 4. Each the 2022A Contract(s) and the Deed of Trust is hereby approved in substantially the form submitted to this meeting, and each of the Chairman of the Board of Commissioners or the County Manager is hereby authorized to execute and deliver each of those documents in the name and on behalf of the County, with such changes, insertions or omissions as the persons executing such documents may approve, including but not limited to changes, insertions or omissions related to obtaining a policy of municipal bond insurance with respect to all or a portion of any Certificates and/or Bonds, their execution and delivery thereof to constitute conclusive evidence of such approval. The County Clerk is hereby authorized to affix the seal of the County to each of said documents as may be appropriate and to attest to the same.

Section 5. The 2022A Trust Indenture (including the form of Certificate and/or Bond) is hereby approved in substantially the form submitted to this meeting, with such changes, insertions or omissions as appropriate, including but not limited to changes, insertions or omissions related to obtaining a policy of municipal bond insurance with respect to all or a portion of any Certificates and/or Bonds, as the representative(s) of the County executing the 2022A Contract(s) may approve, the execution and delivery of the 2022A Contract(s) to constitute conclusive evidence of such approval. The Board of Commissioners hereby approves the sale of Certificates and/or Bonds by the Corporation in an aggregate principal amount not in excess of the amount of moneys to be advanced to the County pursuant to the 2022A Contract(s).

Section 6. Each of the Chairman of the Board of Commissioners, the County Manager and the Finance Director are authorized to approve all details of the refinancing of all or a portion of the Prior Contract and the related portion of the Refinanced Projects, including, without limitation, the amount advanced under the 2022A Contract(s) and the aggregate principal amount of the 2022A Limited Obligation Refunding Bonds (which shall not exceed \$130,000,000), the maturities, the principal amounts and the interest amounts of the Installment Payments and the 2022A Limited Obligation Refunding Bonds, which interest amounts (calculated with respect to the 2020A Limited Obligation Refunding Bonds) shall not exceed [6.5]% per annum on an effective interest cost basis, the prepayment terms and prices (which shall not exceed 103% of the principal amount being prepaid) and the Underwriters' discount (exclusive of any original issue discount) or Placement Agents' compensation (which shall not exceed 2.0% of the principal amount of the 2022A Limited Obligation Refunding Bonds). Execution of the 2022A Contract(s)

by the Chairman of the Board of Commissioners or the County Manager shall conclusively evidence such approval of all such details of said refinancing.

Section 7. The Chairman of the Board of Commissioners, the County Manager, the Finance Director and the County Attorney are hereby authorized to take any and all such further action, including approval of modifications to the Financing Documents, and to execute and deliver for and on behalf of the County such other documents and certificates (including, without limitation, agreements with securities depositories, financing statements, one or more escrow deposit agreements, one or more contracts of purchase or purchase agreements, one or more placement agreements, one or more private placement agreements or other offering documents or memoranda, tax certificates and agreements and other documents and agreements (including repurchase agreements) relating to the investment of the proceeds from the execution and delivery of the 2022A Contract(s) as they may deem necessary or advisable to carry out the intent of this resolution and to effect the refinancing pursuant to the 2022A Contract(s) and the other Financing Documents. The Clerk to the Board is hereby authorized to affix the seal of the County to such documents and certificates as may be appropriate and to attest to the same and to execute and deliver the same as may be needed. In addition, said officers are hereby authorized to cooperate with the Underwriters and/or Placement Agents in preparing and filing such filings under state securities or “blue sky” laws (including special consents to service of process) as the Underwriters and/or Placement Agents may request and as the Chairman of the Board of Commissioners, the County Manager or the Finance Director shall determine.

Section 8. The Finance Director shall prepare and file a sworn statement of debt with the LGC and the Clerk to the Board in accordance with North Carolina General Statutes Section 159-150.

Section 9. The County covenants that, to the extent permitted by the Constitution and laws of the State of North Carolina, it will do and perform all acts and things to comply with the requirements of the Internal Revenue Code of 1986, as amended (the “Code”), in order to assure that interest paid with respect to the 2022A Limited Obligation Refunding Bonds will not be includable in the gross income of the owners thereof for purposes of federal income taxation, except to the extent that the County obtains an opinion of bond counsel to the effect that noncompliance would not result in interest with respect to the 2022A Limited Obligation

Refunding Bonds being includable in the gross income of the owners of the 2022A Limited Obligation Refunding Bonds for purposes of federal income taxation.

Section 10. This Resolution shall become effective immediately upon its adoption.

Thereupon, upon motion of Commissioner \_\_\_\_\_, seconded by Commissioner \_\_\_\_\_, the foregoing resolution entitled “RESOLUTION APPROVING REFINANCING OF PRIOR INSTALLMENT FINANCING CONTRACT FINANCINGS IN AN AGGREGATE PRINCIPAL AMOUNT UP TO \$\_\_\_\_\_”; THE EXECUTION AND DELIVERY BY THE CABARRUS COUNTY DEVELOPMENT CORPORATION OF ONE OR MORE SERIES OF LIMITED OBLIGATION BONDS RELATED THERETO; AUTHORIZING THE EXECUTION AND DELIVERY OF RELATED DOCUMENTS IN CONNECTION THEREWITH; AND PROVIDING FOR CERTAIN OTHER RELATED MATTERS” was adopted and passed by the following roll call vote:

AYES: \_\_\_\_\_

NOES: \_\_\_\_\_

Drafted by and  
Return to: Stephen L. Cordell  
Nexsen Pruet, PLLC  
227 W. Trade Street, Suite 1550  
Charlotte, North Carolina 28202

**NORTH CAROLINA**

**CABARRUS COUNTY**

**COLLATERAL IS OR INCLUDES FIXTURES**

**DEED OF TRUST,  
SECURITY AGREEMENT  
AND FIXTURE FILING**

**THIS DEED OF TRUST, SECURITY AGREEMENT AND FIXTURE FILING**, made and entered into as of the 1<sup>st</sup> day of [June], 2022 (the "*Deed of Trust*"), from the **COUNTY OF CABARRUS, NORTH CAROLINA**, a political subdivision regularly created and validly existing under the laws of the state of North Carolina, whose address is Governmental Center, 65 Church Street SE, Post Office Box 707, Concord, North Carolina 28025, as grantor (hereinafter called the "*Grantor*"), to **RICHARD M. KOCH**, as trustee (hereinafter referred to as the "*Trustee*"), for the benefit of the **CABARRUS COUNTY DEVELOPMENT CORPORATION**, a nonprofit corporation duly created, existing and in good standing under the laws of the State of North Carolina, whose address is 65 Church Street, SE, Post Office Box 707, Concord, NC 28025, as grantee (the "*Corporation*") (the Corporation and its successors and assigns, including the bond trustee in its capacity as such under the Indenture of Trust dated as of [June] 1, 2022 (the "*Indenture*") between the Corporation and **REGIONS BANK**, as bond trustee, are hereinafter referred to as the "*Beneficiary*");

**RECITALS:**

The Grantor and the Corporation have entered into an Installment Financing Contract dated as of [June] 1, 2022 (the "*Contract*"), pursuant to which (i) the Corporation has agreed to advance certain monies to enable the Grantor to refinance the Prior Contract (as defined in the Contract), and (ii) the Grantor has agreed to make the Installment Payments (as defined in the Contract) to the Corporation. The Contract is incorporated herein by this reference.

The Corporation has assigned substantially all of its rights under the Contract to Regions Bank, as bond trustee, pursuant to the Indenture under which certificates of participation and/or limited obligation bonds (collectively, the "*Obligations*") evidencing proportionate undivided interests in the right to receive certain Revenues (as defined in the Contract) under the Contract, including the 2022B LOBs (as defined in the Contract) will be executed and delivered. Regions Bank is unwilling to enter into the Indenture and the Beneficiary is unwilling to enter into the Contract unless the Grantor secures the obligations under the Contract and this Deed of Trust by the conveyance of the Sites and the Facilities, each as defined in the Contract and as more fully described herein.

This Deed of Trust has been executed and delivered to secure (i) the obligations of the Grantor to make the Installment Payments (as defined in the Contract), and (ii) the payment and performance of all of the other liabilities and obligations, whether now existing or hereafter arising, of the Grantor to the Corporation under the Contract and this Deed of Trust, all such obligations and liabilities described in (i) or (ii) above hereinafter collectively called the "*Indebtedness*."

It is intended that this Deed of Trust comply with the provisions of Sections 45-67 *et seq.* of the North Carolina General Statutes. For purposes of complying with such provisions, the Grantor hereby represents as follows:

(a) That this Deed of Trust has been executed and delivered by the Grantor to secure future Indebtedness which may be incurred from time to time under the Contract;

(b) That the principal amount of present Indebtedness secured by this Deed of Trust is \$[\_\_\_\_\_];

(c) That the maximum principal amount, including present and future Indebtedness, which may be secured by this Deed of Trust at any one time is \$400,000,000 (exclusive of advances that may be made under the terms of the Contract or this Deed of Trust for fire and extended coverage insurance, taxes, assessment or other necessary expenditures for the preservation of the real property), subject to the limitation that at no time shall the total principal amount of Indebtedness secured hereby exceed said maximum principal sum of \$400,000,000 together with accrued interest and the payment for fire and extended coverage insurance, taxes, assessments or other necessary expenditures for the preservation of the real property; *provided that* the foregoing limitation shall apply only to the lien upon real property located in the State of North Carolina created by this Deed of Trust and shall not in any manner limit, affect or impair any grant of a security interest in or lien on any other real property or any personal property in favor of the Beneficiary;

(d) That the period within which such future Indebtedness may be incurred is the period between the date hereof and the date 30 years from the date hereof; and

(e) It shall not be a requirement for any such future Indebtedness to be secured hereby that the Grantor sign an instrument or other notation stipulating that such Indebtedness is secured by this Deed of Trust, as no such future Indebtedness is required, under the Contract or otherwise, to be evidenced by a written instrument or notation.

The Grantor desires to secure (a) the payment of the Indebtedness and any renewals, modifications or extensions thereof, in whole or in part, and (b) the additional payments hereinafter agreed to be made by or on behalf of the Grantor, by a conveyance of the lands and security interests hereinafter described.

*NOW, THEREFORE*, in consideration of the premises and for the purposes aforesaid, and in further consideration of the sum of Ten Dollars (\$10.00) paid to the Grantor by the Trustee and other valuable considerations, receipt of which is hereby acknowledged, the Grantor has given, granted, bargained and sold, and by these presents does give, grant, bargain, sell and convey unto the Trustee, its heirs, successors and assigns, the following property (hereinafter collectively referred to as the "*Premises*"):

(a) The tracts of real property lying and being in Cabarrus County, North Carolina and described below in the legal description attached as an exhibit hereto (hereinafter referred to as the "*Sites*"):

SEE EXHIBIT "A" ATTACHED HERETO FOR A DESCRIPTION OF THE SITES, WHICH EXHIBIT "A" IS INCORPORATED HEREIN BY REFERENCE

(b) All buildings, structures, additions and improvements of every nature whatsoever now or hereafter situated on or about the Sites (the "*Improvements*").

(c) All gas and electric fixtures, radiators, heaters, engines and machinery, boilers, ranges, elevators and motors, plumbing and heating fixtures, carpeting and other floor coverings, fire extinguishers and any other safety equipment required by governmental regulation or law, washers, dryers, water heaters, mirrors, mantels, air conditioning apparatus, refrigerating plants, refrigerators, cooking apparatus and appurtenances, window screens, awnings and storm sashes and other machinery, equipment or other tangible personal property, which are or shall be so attached to the Improvements, including all extensions, additions, improvements, betterments, renewals, replacements and substitutions, or proceeds from a permitted sale of any of the foregoing, as to be deemed to be fixtures under North Carolina law (collectively, the "*Fixtures*") and accessions to the Sites and a part of the Premises as between the parties hereto and all persons claiming by, through or under them, and which shall be deemed to be a portion of the security for the Indebtedness. The location of the collateral described in this paragraph is also the location of the Sites, and the record owner of the Sites is the Grantor.

(d) All easements, rights-of-way, strips and gores of land, vaults, streets, ways, alleys, passages, sewer rights, waters, water courses, water rights and powers, minerals, flowers, shrubs, crops, trees, timber and other emblements now or hereafter located on the Sites or under or above the same or any part or parcel thereof, and all estates, rights, titles, interests, privileges, liberties, tenements, hereditaments and appurtenances, reversion and reversions, remainder and remainders, whatsoever, in any way belonging, relating or appertaining to the Premises or any part thereof, or which hereafter shall in any way belong, relate or be appurtenant thereto, whether now owned or hereafter acquired by Grantor.

(e) All leases affecting the Premises or any part thereof and all income, rents and issues of the Premises and the Improvements now or hereafter located thereon from time to time accruing (including without limitation all payments under leases or tenancies, proceeds of insurance, condemnation payments, tenant security deposits whether held by the Grantor or in a trust account, and escrow funds), and all the estate, right, title, interest, property, possession, claim and demand whatsoever at law, as well as in equity, of the Grantor of, in and to the same; reserving only the right to the Grantor to collect and apply the same (other than insurance proceeds and condemnation payments) so long as the Grantor is not in Default hereunder.

*TO HAVE AND TO HOLD*, the Premises unto the Trustee, its heirs, successors and assigns, in fee simple forever, upon the trusts, terms and conditions and for the uses and purposes hereinafter set out;

And the Grantor covenants with the Trustee that the Grantor is lawfully seized of the Premises in fee simple and has the right to convey the same in fee simple; that, except for Permitted Encumbrances (as defined in Exhibit B attached hereto and incorporated herein by reference), the same are free and clear of all encumbrances, and that the Grantor will warrant and defend the title to the same against the claims of all persons whomsoever arising by, under or through the Grantor.

*THIS CONVEYANCE IS MADE UPON THIS SPECIAL TRUST*, that if the Grantor shall pay the Indebtedness in accordance with the terms of the Contract, together with interest thereon, and any renewals or extensions thereof in whole or in part, and shall comply with all the covenants, terms and conditions of this Deed of Trust, then this conveyance shall be null and void and may be canceled of record at the request and at the cost of the Grantor.

*TO PROTECT THE SECURITY OF THIS DEED OF TRUST*, the Grantor hereby further covenants and agrees as follows:

## ARTICLE I

1.01. ***Payment of Indebtedness.*** The Grantor will pay the Indebtedness and all other sums now or hereafter secured hereby promptly as the same shall become due.

1.02. ***Taxes, Liens and Other Charges.*** The Grantor will comply with the terms of the Contract in all matters relating to taxes, liens and other charges.

1.03. ***Insurance.*** The Grantor shall comply with the terms of the Contract in all matters relating to insurance.

1.04. ***Condemnation.*** The Grantor shall comply with the terms of the Contract in all matters relating to condemnation.

1.05. ***Care of Premises.*** The Grantor shall comply with the Contract in all matters relating to the care of the Premises.

1.06. ***Leases and Other Agreements Affecting the Premises.*** The Grantor will duly and punctually perform all terms, covenants, conditions and agreements binding upon it under any lease or any other agreement of any nature whatsoever which involves or affects the Premises or any part thereof. The Grantor will, at the request of Beneficiary, furnish Beneficiary with executed copies of all leases now or hereafter created upon the Premises or any part thereof, and all leases now or hereafter entered into will be in form and substance subject to the prior written approval of Beneficiary (which approval will not be unreasonably withheld or delayed). The Grantor will not, without the express written approval of Beneficiary (which approval will not be unreasonably withheld or delayed), modify, surrender or terminate, either orally or in writing, any lease now existing or hereafter created upon the Premises or any part thereof, nor will the Grantor permit an assignment or a subletting by any tenant without the prior express written approval of Beneficiary (which approval will not be unreasonably withheld or delayed). The Grantor will not accept payment of rent more than one month in advance without the prior express written approval of Beneficiary.

1.07. ***Security Agreement and Fixture Filing.*** With respect to the Fixtures, this Deed of Trust is hereby made and declared to be a security agreement in favor of Beneficiary encumbering each and every item of such property included herein as a part of the Premises, in compliance with the provisions of the

Uniform Commercial Code as enacted in the State of North Carolina, and the Grantor hereby grants a security interest to Beneficiary in and to all of such Fixtures. This Deed of Trust shall constitute a financing statement filed as a fixture filing in accordance with N.C. Gen. Stat. §25-9-402 (or any amendment thereto). For purposes of complying with the requirements of N.C. Gen. Stat. §25-9-402, the name of Grantor, as Debtor, and Beneficiary, as Secured Party, and the respective addresses of Grantor, as Debtor, and Beneficiary, as Secured Party, are set forth on the first page of this Deed of Trust. Grantor authorizes Beneficiary to effect any filing or recording of any additional financing statements relating to the Fixtures or amendments thereto where appropriate to perfect and continue the security interest in, and to protect and preserve, the Fixtures. Subject to Article XIV of the Contract and the limitations on remedies in Article XI of the Contract, the remedies for any violation of the covenants, terms and conditions of the security agreement contained in this Deed of Trust shall be (i) as prescribed herein, or (ii) as prescribed by general law, or (iii) as prescribed by the specific statutory consequences now or hereafter enacted and specified in said Uniform Commercial Code, all at Beneficiary's sole election. The mention in any such financing statement or statements of the rights in and to (i) the proceeds of any fire and/or hazard insurance policy, or (ii) any award in eminent domain proceedings for a taking or for loss of value, or (iii) the Grantor's interest as lessor in any present or future lease or rights to rents, issues or awards growing out of the use and/or occupancy of the Premises, whether pursuant to lease or otherwise, shall not in any way alter any of the rights of Beneficiary as determined by this Deed of Trust or affect the priority of Beneficiary's security interest granted hereby or by any other recorded document, it being understood and agreed that such mention in such financing statement or statements is solely for the protection of Beneficiary in the event any court shall at any time hold with respect to the foregoing clauses (i), (ii) or (iii) of this sentence that notice of Beneficiary's priority of interest, to be effective against a particular class of persons, must be filed in the Uniform Commercial Code records.

1.08. ***Further Assurances; After Acquired Property.*** At any time, and from time to time, upon request by the Beneficiary, the Grantor will make, execute and deliver or cause to be made, executed and delivered, to the Beneficiary and/or the Trustee and, where appropriate and on request of the Trustee or the Beneficiary, cause to be recorded and/or filed and from time to time thereafter to be re-recorded and/or refiled at such time and in such offices and places as shall be deemed desirable by Beneficiary, any and all such other and further deeds of trust, security agreements, financing statements, continuation statements, instruments of further assurance, certificates and other documents as may, in the opinion of Beneficiary, be necessary or desirable in order to effectuate, complete, or perfect, or to continue and preserve (a) the obligations of the Grantor under the Contract or this Deed of Trust and (b) the lien of this Deed of Trust as a first and prior lien, subject to Permitted Encumbrances, upon and security title in and to all of the Premises, whether now owned or hereafter acquired by Grantor. Upon any failure by the Grantor so to do, Beneficiary may make, execute, record, file, re-record and/or refile any and all such deeds of trust, security agreements, financing statements, continuation statements, instruments, certificates, and documents for and in the name of the Grantor and the Grantor hereby irrevocably appoints Beneficiary as its agent and attorney-in-fact to do so.

1.09. ***Expenses.*** To the extent permitted by applicable law and Article XIV of the Contract, the Grantor will pay or reimburse Beneficiary and Trustee, upon demand therefor, for all reasonable attorneys' fees, costs and expenses actually incurred by Beneficiary and the Trustee in any suit, action, legal proceeding or dispute of any kind in which Beneficiary and/or Trustee is made a party or appears as party plaintiff or defendant, affecting the Indebtedness secured hereby, this Deed of Trust or the interest created herein, or the Premises, including, but not limited to, the exercise of the power of sale contained in this Deed of Trust, any condemnation action involving the Premises or any action to protect the security hereof, but excepting therefrom any negligence or misconduct by Beneficiary or any breach of this Deed of Trust by Beneficiary; and all such amounts paid by Beneficiary shall be added to the Indebtedness.

1.10. **Limit of Validity.** If from any circumstances whatsoever fulfillment of any provision of this Deed of Trust or the Contract, at the time performance of such provision shall be due, shall involve transcending the limit of validity presently prescribed by any applicable usury statute or any other applicable law, with regard to obligations of like character and amount, then ipso facto the obligation to be fulfilled shall be reduced to the limit of such validity, so that in no event shall any exaction be possible under this Deed of Trust or the Contract that is in excess of the current limit of such validity, but such obligation shall be fulfilled to the limit of such validity.

1.11. **Use and Management of the Premises.** Unless required by applicable law, the Grantor shall not materially alter or change the use of the Premises or abandon the Premises without the prior written consent of Beneficiary which shall not be unreasonably withheld; provided, however, that nothing contained in this Section 1.11 or elsewhere in the Deed of Trust shall be deemed or construed so as to in any way estop, limit or impair the Grantor from exercising or performing any regulatory, policing, legislative, governmental or other powers or functions of a political subdivision pursuant to applicable law.

1.12. **Acquisition of Collateral.** The Grantor shall not acquire any portion of the personal property, if any, covered by this Deed of Trust, subject to any security interest, conditional sales contract, title retention arrangement or other charge or lien taking precedence over the security title and lien of this Deed of Trust without the prior written consent of the Beneficiary (which consent will not be unreasonably withheld or delayed).

1.13. **Hazardous Material.**

(a) The Grantor represents, warrants and agrees that, except as previously disclosed to the Corporation and the Insurer (as defined in the Indenture), if any, in writing, (i) the Grantor has not used or installed any Hazardous Material (as hereinafter defined) in violation of applicable Environmental Laws (as hereinafter defined) on, from or in the Premises and to the Grantor's actual knowledge no other person has used or installed any Hazardous Material on, from or in the Premises; (ii) to the Grantor's knowledge, no other person has violated any applicable Environmental Laws relating to or affecting the Premises or any other property owned by the Grantor except as previously disclosed to Beneficiary; (iii) to the best of the Grantor's knowledge the Premises are presently in compliance with all applicable Environmental Laws, and there are no facts or circumstances presently existing upon or under the Premises, or relating to the Premises, which may violate any applicable Environmental Laws, and there is not now pending or, to the best knowledge of the Grantor, threatened any action, suit, investigation or proceeding against the Grantor or the Premises (or against any other party relating to the Premises) seeking to enforce any right or remedy against the Grantor or the Premises under any of the Environmental Laws; (iv) the Premises shall be kept free of Hazardous Materials to the extent required by applicable Environmental Laws, and shall not be used to generate, manufacture, refine, transport, treat, store, handle, dispose, transfer, produce, or process Hazardous Materials other than the processing of materials in the ordinary course of the Grantor's business as of the date hereof; (v) the Grantor shall not cause or permit the installation of Hazardous Materials in, on, over or under the Premises or a Release (as hereinafter defined) of Hazardous Materials unto or from the Premises or suffer the presence of Hazardous Materials in, on, over or under the Premises in violation of applicable Environmental Laws; (vi) the Grantor shall comply with Environmental Laws applicable to the Premises, all at no cost or expense to Beneficiary or Trustee; (vii) the Grantor has obtained and will at all times continue to obtain and/or maintain all licenses, permits and/or other governmental or regulatory actions necessary for the Premises to comply with applicable Environmental Laws (the "*Permits*") and the Grantor will be and at all times remain in full compliance with the terms and provisions of the Permits; (viii) to the best of the Grantor's knowledge there has been no Release of any Hazardous Materials on or from the Premises in violation of applicable Environmental Laws, whether or not such Release emanated from the Premises or any contiguous real estate which has not been abated and any resulting violation of applicable Environmental Laws abates; (ix) the Grantor shall immediately give the Beneficiary oral and

written notice in the event that the Grantor receives any notice from any governmental agency, entity, or any other party with regard to Hazardous Materials on, from or affecting the Premises and the Grantor shall conduct and complete all investigations, studies, sampling, and testing, and all remedial, removal, and other actions necessary to clean up and remove all Hazardous Materials on, from or affecting the Premises in accordance with all applicable Environmental Laws.

(b) To the extent permitted by applicable law and Article XIV of the Contract, the Grantor hereby agrees to indemnify Beneficiary and Trustee and hold Beneficiary and Trustee harmless from and against any and all liens, demands, defenses, suits, proceedings, disbursements, liabilities, losses, litigation, damages, judgments, obligations, penalties, injuries, costs, expenses (including, without limitation, attorneys' and experts' fees) and claims of any and every kind whatsoever paid, incurred, suffered by, or asserted against Beneficiary, Trustee and/or the Premises for, with respect to, or as a direct or indirect result of: (i) the presence of Hazardous Materials in, on or under the Premises, or the escape, seepage, leakage, spillage, discharge, emission or Release on or from the Premises of any Hazardous Materials; (ii) the violation of any Environmental Laws applicable to the Premises or the Grantor; (iii) the failure by the Grantor to comply fully with the terms and provisions of this Section 1.13; (iv) the violation of any of the Environmental Laws in connection with any other property owned by the Grantor, which violation gives or may give rise to any rights whatsoever in any party with respect to the Premises by virtue of any of the Environmental Laws; or (v) any warranty or representation made by the Grantor in paragraph (a) of Section 1.13 being false or untrue in any material respect.

(c) In the event Beneficiary has a reasonable basis to suspect that the Grantor has violated any of the covenants, warranties, or representations contained in this Section 1.13, or that the Premises are not in compliance with the applicable Environmental Laws for any reason, the Grantor shall take such steps as Beneficiary reasonably requires by written notice to the Grantor in order to confirm or deny such occurrences, including, without limitation, the preparation of environmental studies, surveys or reports. In the event that the Grantor fails to take such action, Beneficiary may take such action as Beneficiary reasonably believes necessary to protect its interest, and the cost and expenses of all such actions taken by Beneficiary, including, without limitation, Beneficiary's reasonable attorneys' fees, shall be added to the Indebtedness.

(d) For purposes of this Deed of Trust: (i) "*Hazardous Material*" or "*Hazardous Materials*" means and includes, without limitation, (a) hazardous waste, as defined in the Resource Conservation and Recovery Act of 1980, or in any applicable state or local law or regulation, (b) hazardous substances, as defined in CERCLA, or in any applicable state or local law or regulation, (c) toxic substances, as defined in the Toxic Substances Control Act of 1976, or in any applicable state or local law or regulation or (d) insecticides, fungicides, or rodenticides, as defined in the Federal Insecticide, Fungicide, and Rodenticide Act of 1975, or in any applicable state or local law or regulation, as each such Act, statute or regulation may be amended from time to time; (ii) "*Release*" shall have the meaning given such term, in the Environmental Laws, including, without limitation, Section 101(22) of CERCLA; and (iii) "*Environmental Law*" or "*Environmental Laws*" shall mean any "*Super Fund*" or "*Super Lien*" law, or any other federal, state or local statute, law, ordinance or code, regulating, relating to or imposing liability or standards of conduct concerning any Hazardous Materials as may now or at any time hereafter be legally in effect, including, without limitation, the following, as same may be amended or replaced from time to time, and all regulations promulgated and officially adopted thereunder or in connection therewith: the Super Fund Amendments and Reauthorization Act of 1986 ("*SARA*"); the Comprehensive Environmental Response, Compensation and Liability Act of 1980 ("*CERCLA*"); The Clean Air Act ("*CAA*"); the Clean Water Act ("*CWA*"); The Toxic Substance Control Act ("*TSCA*"); the Solid Waste Disposal Act ("*SWDA*"), as amended by the Resource Conservation and Recovery Act ("*RCRA*"); the Hazardous Waste Management System; and the Occupational Safety and Health Act of 1970 ("*OSHA*"). To the extent permitted by applicable and by Article XIV of the Contract, the obligations and liabilities of the Grantor under this

Section 1.13 which arise out of events or actions occurring prior to the satisfaction of this Deed of Trust shall survive the exercise of the power of sale under or foreclosure of this Deed of Trust, the delivery of a deed in lieu of foreclosure of this Deed of Trust, the cancellation or release of record of this Deed of Trust, and/or the payment in full of the Indebtedness.

(e) The parties expressly agree that an event under the provisions of this Section 1.13 which may be deemed to be a default under this Deed of Trust shall not be a default until the Grantor has received notice of such event and such grace period as specified in the Contract for the cure of such default. Further, in terms of compliance with future governmental laws, regulations or rulings applicable to environmental conditions, the Grantor shall be permitted to afford itself of any defense or other protection against the application or enforcement of any such law, regulation or ruling.

1.14. **Release of Premises.** Notwithstanding any other provision of this Deed of Trust, at any time and from time to time, so long as no Event of Default has occurred and is continuing, the Trustee and the Beneficiary, with the prior written consent of the Insurer, if any, will release the Premises or any part thereof from the lien and security interest of this Deed of Trust, but only when and if the following requirements have been fulfilled:

(1) In connection with any release of the Premises, or any part thereof, there shall be filed with the Beneficiary a certified copy of the resolution of the Board of Commissioners for the Grantor stating the purpose for which the Grantor desires such release of the Premises, giving an adequate legal description of the part of the Premises to be released, requesting such release and providing for the payment by the Grantor of all expenses in connection with such release.

(2) In connection with the release of any part of the Premises constituting less than the entire Premises, (a) either (i) the value of the Premises remaining after the proposed release (as such value is evidenced by or derived from (A) an appraisal of the remaining Premises prepared by a certified MAI-approved appraiser, (B) the insured value of the remaining Premises or (C) the assessed tax valuation of the remaining Premises) is not less than 50% of the aggregate principal components of the Installment Payments relating to the Obligations then Outstanding or (ii) the Grantor (A) provides for substitution other property (the "*Substitute Property*") that will be made subject to the lien of this Deed of Trust that has a value such that the combined value of the remaining Premises and the Substitute Property, (as such value is evidenced by or derived from (I) an appraisal of the remaining Premises and the Substitute Property prepared by a certified MAI-approved appraiser, (II) the insured value of the remaining Premises and the Substitute Property or (III) the assessed tax valuation of the remaining Premises and the Substitute Property) is not less than the value of the Premises immediately before the proposed substitution or is not less than 50% of the aggregate principal components of the Installment Payments relating to the Obligations then Outstanding, and (b) the Grantor delivers to the Trustee, the Beneficiary, the Purchaser (as defined in the Contract) and the Insurer, if any, an opinion of bond or special counsel to the Grantor to the effect that (i) the substitution of such Substitute Property is permitted by law and is permitted under the terms of the Indenture and this Deed of Trust and (ii) for any Obligations with respect to which the interest component of the Installment Payments is intended to be excludable from the gross income of the owners thereof for federal or State income tax purposes, that such release and substitution will not adversely affect the excludability of interest with respect to such Obligations from the gross income of the owners thereof for federal and state income tax purposes, and (c) the Grantor records a release, amendment or modification to this Deed of Trust or such other instruments necessary to reflect such release of a part of the Premises

and, if applicable, substitution of Substitute Property at the place and in the manner required by the laws of the State.

(3) In connection with the release of any part of the Premises constituting less than the entire Premises, such release shall not prohibit Grantor's ingress, egress and regress to and from the remainder of the Premises not being released, or materially interfere with the use of the remainder of the Premises not being released.

(4) In connection with the release of all property constituting the entire Premises, there is paid to the Beneficiary an amount sufficient to provide for the payment in full of all Outstanding Obligations in accordance with Article VI of the Indenture.

## ARTICLE II

2.01. **Events of Default.** The terms "*Default*", "*Event of Default*" or "*Events of Default*", wherever used in this Deed of Trust, shall mean any one or more of the following events:

(a) Failure by the Grantor to pay any Additional Payment when due or any Installment Payment by the second Business Day preceding the first day of the month following the date on which such Installment Payment is due; or

(b) The occurrence of any other "*Event of Default*" under the Contract or the Indenture.

2.02. **Acceleration upon Default, Additional Remedies.** If an Event of Default shall have occurred and is continuing, the Beneficiary may declare all Indebtedness to be due and payable and the same shall thereupon become due and payable in accordance with the Contract and this Deed of Trust without any presentment, demand, protest or notice of any kind. Thereafter, Beneficiary may, to the extent permitted by applicable law and Article XIV of the Contract:

(a) Either in person or by agent, with or without bringing any action or proceeding, or by a receiver appointed by a court and without regard to the adequacy of its security, enter upon and take possession of the Premises, or any part thereof, in its own name or in the name of Trustee, and do any acts which it deems necessary or desirable to preserve the value, marketability or rentability of the Premises, or part thereof or interest therein, increase the income therefrom or protect the security hereof, and, with or without taking possession of the Premises, sue for or otherwise collect the rents and issues thereof, including those rents and issues past due and unpaid, and apply the same, less costs and expenses of operation and collection including attorney's fees, upon any Indebtedness, all in such order as Beneficiary may determine. The entering upon and taking possession of the Premises, the collection of such rents and issues and the application thereof as aforesaid, shall not cure or waive any Event of Default or notice of Event of Default hereunder or invalidate any act done in response to such Default or pursuant to such notice of Default and notwithstanding the continuance in possession of the Premises or the collection, receipt and application of rents and issues, Trustee or Beneficiary, to the extent permitted by applicable law and Article XIV of the Contract, shall be entitled to exercise every right provided for in any instrument securing or relating to the Indebtedness or by law upon occurrence of any Event of Default, including the right to exercise the power of sale;

(b) Commence an action to foreclose this Deed of Trust as a mortgage, specially enforce any of the covenants hereof, or cause the Trustee to foreclose this Deed of Trust by power of sale; and

(c) To the extent permitted by applicable law and Article XIV of the Contract, exercise any or all of the remedies available to a secured party under the Uniform Commercial Code of North Carolina or under any other applicable laws.

(d) NOTWITHSTANDING ANY PROVISIONS HEREIN, IT IS THE INTENT OF THE PARTIES TO COMPLY WITH THE PROVISIONS OF NORTH CAROLINA GENERAL STATUTES SECTION 160A-20. NO DEFICIENCY JUDGMENT MAY BE ENTERED AGAINST THE GRANTOR IN FAVOR OF THE BENEFICIARY IN VIOLATION OF SECTION 160A-20, INCLUDING, WITHOUT LIMITATION, ANY DEFICIENCY JUDGMENT FOR AMOUNTS THAT MAY BE OWED UNDER THE CONTRACT OR THIS DEED OF TRUST WHEN THE SALE OF ALL OR ANY PORTION OF THE PREMISES IS INSUFFICIENT TO PRODUCE ENOUGH MONEY TO PAY IN FULL ALL REMAINING OBLIGATIONS UNDER THE CONTRACT OR THIS DEED OF TRUST. TO THE EXTENT OF ANY CONFLICT BETWEEN THIS PARAGRAPH AND ANY OTHER PROVISION OF THIS DEED OF TRUST, THIS PARAGRAPH SHALL TAKE PRIORITY AND SHALL INCORPORATE HEREIN BY REFERENCE ARTICLE XIV OF THE CONTRACT. NOTWITHSTANDING ANY PROVISION TO THE CONTRARY IN THIS DEED OF TRUST, NO DEFICIENCY JUDGMENT MAY BE RENDERED AGAINST THE GRANTOR IN ANY ACTION TO COLLECT ANY OF THE INDEBTEDNESS SECURED BY THIS DEED OF TRUST AND THE TAXING POWER OF THE GRANTOR IS NOT AND MAY NOT BE PLEDGED DIRECTLY OR INDIRECTLY OR CONTINGENTLY TO SECURE ANY MONIES DUE OR SECURED UNDER THIS DEED OF TRUST.

2.03. **Foreclosure by Power of Sale.** Should Beneficiary elect to foreclose by exercise of the power of sale herein contained, Beneficiary shall notify Trustee and shall deposit with Trustee this Deed of Trust and such receipts and evidence of expenditures made and secured hereby as Trustee may require.

Upon application of Beneficiary, it shall be lawful for and the duty of Trustee, and Trustee is hereby authorized and empowered to expose to sale and to sell the Premises at public auction for cash, after having first complied with all applicable requirements of North Carolina law with respect to the exercise of powers of sale contained in deeds of trust and upon such sale, Trustee shall convey title to the purchaser in fee simple. After retaining from the proceeds of such sale just compensation for Trustee's services and all expenses incurred by Trustee, including a reasonable trustee's commission not exceeding one-half of one percent (.5%) of the bid and reasonable attorneys' fees for legal services actually performed, Trustee shall apply the residue of the proceeds first to the payment of all sums expended by Beneficiary under the terms of this Deed of Trust; second, to the payment of the Indebtedness and interest thereon secured hereby; and the balance, if any, shall be paid to the Grantor. The Grantor agrees that in the event of sale hereunder, Beneficiary shall have the right to bid thereat. Trustee may require the successful bidder at any sale to deposit immediately with Trustee cash or certified check in an amount not to exceed twenty-five percent (25%) of the bid, provided notice of such requirement is contained in the advertisement of the sale. The bid may be rejected if the deposit is not immediately made and thereupon the Trustee shall at the same time and place again offer the Premises for sale. Such deposit shall be refunded in case a resale is had; otherwise, it shall be applied to the purchase price.

2.04. **Performance by Beneficiary on Defaults by the Grantor.** If the Grantor shall Default in the payment, performance or observance of any term, covenant or condition of this Deed of Trust, Beneficiary may, at its option, pay, perform or observe the same, and all payments made or costs or expenses incurred by Beneficiary in connection therewith, shall be secured hereby and shall be, without demand, immediately repaid by the Grantor to Beneficiary with interest thereon at the rate provided in the

Contract. Beneficiary shall be the sole judge of the necessity for any such actions and of the amounts to be paid. Beneficiary is hereby empowered to enter and to authorize others to enter upon the Premises or any part thereof for the purpose of performing or observing any such defaulted term, covenant or condition without thereby becoming liable to the Grantor or any person in possession holding under the Grantor.

2.05. ***Waiver of Appraisement, Valuation, Stay, Extension and Redemption Laws.*** The Grantor agrees to the full extent permitted by law, that in case of a Default hereunder, neither the Grantor nor anyone claiming through or under it shall or will set up, claim or seek to take advantage of any appraisement, valuation, stay, extension, exemption or redemption laws now or hereafter in force, in order to prevent or hinder the enforcement or foreclosure of this Deed of Trust, or the absolute sale of the Premises, or the final and absolute putting into possession thereof, immediately after such sale, of the purchasers thereat, and the Grantor, for itself and all who may at any time claim through or under it, hereby waives to the full extent that it may lawfully so do, the benefit of all such laws, and any and all right to have the assets comprised in the security intended to be created hereby marshaled upon any foreclosure of the lien hereof.

2.06. ***Leases.*** Beneficiary and Trustee, or either of them, at their option and to the extent permitted by law, are authorized to foreclose this Deed of Trust subject to the rights of any tenants of the Premises, and the failure to make any such tenants parties to any such foreclosure proceedings and to foreclose their rights will not be, nor be asserted to be by Grantor, a defense to any proceedings instituted by Beneficiary and Trustee to collect the sums secured hereby.

2.07. ***Discontinuance of Proceedings and Restoration of the Parties.*** In case Beneficiary and Trustee, or either of them, shall have proceeded to enforce any right, power or remedy under this Deed of Trust by foreclosure, entry or otherwise, and such proceedings shall have been discontinued or abandoned for any reason, or shall have been determined adversely to Beneficiary and Trustee, or either of them, then and in every such case the Grantor and Beneficiary and Trustee, and each of them, shall be restored to their former positions and rights hereunder, and all rights, powers and remedies of Beneficiary and Trustee, and each of them, shall continue as if no such proceeding had been taken.

2.08. ***Remedies Not Exclusive.*** To the extent permitted by applicable law and Article XIV of the Contract, Trustee and Beneficiary, and each of them, shall be entitled to enforce payment and performance of any Indebtedness or obligations secured hereby and to exercise all rights and powers under this Deed of Trust or any other agreement securing or relating to the Indebtedness secured hereby or any laws now or hereafter in force, notwithstanding some of the Indebtedness and obligations secured hereby may now or hereafter be otherwise secured, whether by mortgage, deed of trust, pledge, lien, assignment or otherwise. Neither the acceptance of this Deed of Trust nor its enforcement, whether by court action or pursuant to the power of sale or other powers herein contained, shall prejudice or in any manner affect Trustee's or Beneficiary's right to realize upon or enforce any other security now or hereafter held by Trustee or Beneficiary, it being agreed that Trustee and Beneficiary, and each of them, shall be entitled to enforce this Deed of Trust and any other security now or hereafter held by Beneficiary or Trustee in such order and manner as they or either of them may in their absolute discretion determine. No remedy herein conferred upon or reserved to Trustee or Beneficiary is intended to be exclusive of any other remedy herein or by law provided or preclusive of any other remedy herein or by law provided or permitted, but each shall be cumulative and shall be in addition to every other remedy given hereunder or now or hereafter existing at law or in equity or by statute. Every power or remedy given by any instrument securing or relating to the Indebtedness secured hereby to Trustee or Beneficiary or to which either of them may be otherwise entitled, may be exercised, concurrently or independently, from time to time and as often as may be deemed expedient by Trustee or Beneficiary and either of them may pursue inconsistent remedies.

2.09. ***Waiver.*** No delay or omission of Beneficiary or the Trustee to exercise any right, power or remedy accruing upon any Default shall exhaust or impair any such right, power or remedy or shall be

construed to be a waiver of any such Default, or acquiescence therein; and every right, power and remedy given by this Deed of Trust to Beneficiary and Trustee, and each of them, may be exercised from time to time and as often as may be deemed expedient by Beneficiary and Trustee, and each of them. No consent or waiver, expressed or implied, by Beneficiary to or of any breach or Default by the Grantor in the performance of the obligations thereof hereunder shall be deemed or construed to be a consent or waiver to or of any other breach or Default in the performance of the same or any other obligations of the Grantor hereunder. Failure on the part of Beneficiary to complain of any act or failure to act or to declare an Event of Default, irrespective of how long such failure continues, shall not constitute a waiver by Beneficiary of its rights hereunder or impair any rights, powers or remedies consequent on any breach or Default by the Grantor.

2.10. ***Suits to Protect the Premises.*** Beneficiary and Trustee, and each of them, shall have power (a) to institute and maintain such suits and proceedings as they may deem expedient to prevent any impairment of the Premises by any acts which may be unlawful or in violation of this Deed of Trust, with notice of commencement of such suits and proceedings to be given to the Grantor, (b) to preserve or protect their interest in the Premises and in the rents and issues arising therefrom, and (c) to restrain the enforcement of or compliance with any legislation or other governmental enactment, rule or order that may be unconstitutional or otherwise invalid, if the enforcement of or compliance with such enactment, rule or order would impair the security hereunder or be prejudicial to the interest of Beneficiary.

2.11 ***Beneficiary May File Proofs of Claim.*** In the case of any receivership, insolvency, bankruptcy, reorganization, arrangement, adjustment, composition or other proceedings affecting the Grantor, its creditors or its property, Beneficiary, to the extent permitted by law, shall be entitled to file such proofs of claim and other documents as may be necessary or advisable in order to have the claims of Beneficiary allowed in such proceedings for the entire amount due and payable by the Grantor under this Deed of Trust at the date of the institution of such proceedings and for any additional amount which may become due and payable by the Grantor hereunder after such date.

### ARTICLE III

3.01. ***Successors and Assigns.*** This Deed of Trust shall inure to the benefit of and be binding upon the parties hereto and their respective heirs, executors, legal representatives, successors and assigns. Whenever a reference is made in this Deed of Trust to Grantor, Trustee or Beneficiary such reference shall be deemed to include a reference to the heirs, executors, legal representatives, successors and assigns of Grantor, Trustee or Beneficiary, respectively.

3.02. ***Terminology.*** All personal pronouns used in this Deed of Trust whether used in the masculine, feminine or neuter gender, shall include all other genders; the singular shall include the plural, and vice versa. Titles and Articles are for convenience only and neither limit nor amplify the provisions of this Deed of Trust itself, and all references herein to Articles, Sections or subsections thereof, shall refer to the corresponding Articles, Sections or subsections thereof, of this Deed of Trust unless specific reference is made to such Articles, Sections or subsections thereof of another document or instrument.

3.03. ***Severability.*** If any provision of this Deed of Trust or the application thereof to any person or circumstance shall be invalid or unenforceable to any extent, then subject to applicable law and Article XIV of the Contract, the remainder of this Deed of Trust and the application of such provisions to other persons or circumstances shall not be affected thereby and shall be enforced to the greatest extent permitted by law.

3.04. **Applicable Law.** This Deed of Trust shall be interpreted, construed and enforced according to the laws of the State of North Carolina.

3.05. **Notices, Demands and Request.** All notices, demands or requests provided for or permitted to be given pursuant to this Deed of Trust must be in writing and shall be deemed to have been properly given or served by personal delivery or by depositing in the United States Mail, prepaid and registered or certified return receipt requested, and addressed to the addresses set forth in the Contract. All notices, demands and requests shall be effective upon personal delivery or upon being deposited in the United States Mail. However, the time period in which a response to any notice, demand or request must be given, if any, shall commence to run from the date of receipt of the notice, demand or request by the addressee thereof. Rejection or other refusal to accept or the inability to deliver because of changed address of which no notice was given shall be deemed to be receipt of the notice, demand or request sent. By giving at least thirty (30) days written notice thereof, the Grantor, the Trustee or Beneficiary shall have the right from time to time and at any time during the term of this Deed of Trust to change their respective addresses and each shall have the right to specify as its address any other address within the United States of America.

3.06. **Appointment of Successor Trustee.** Beneficiary shall at any time have the irrevocable right to remove Trustee herein named without notice to such Trustee or cause and to appoint a successor thereto by an instrument in writing, duly acknowledged, in such form as to entitle such written instrument to be recorded in this state, and in the event of the death or resignation of Trustee named herein, Beneficiary shall have the right to appoint a successor thereto by such written instrument, and any Trustee so appointed shall be vested with the title to the Premises and shall possess all the powers, duties and obligations herein conferred on Trustee in the same manner and to the same extent as though such were named herein as Trustee. In the event of such substitution of Trustee, Beneficiary shall furnish notice thereof to the Grantor.

3.07. **Trustee's Powers.** At any time, or from time to time, without liability therefor and without notice, upon written request of the Beneficiary and the Grantor, but only with (a) the Purchaser's written consent and (b) the Insurer's written consent, if any, and presentation of this Deed of Trust, and without affecting the liability for payment of the Indebtedness secured hereby or the effect of this Deed of Trust upon the remainder of said Premises, the Trustee may (i) reconvey any part of said Premises, (ii) consent in writing to the making of any map or plat thereof, (iii) join in granting any easement therein, or (iv) join in any extension agreement or any agreement subordinating the lien or charge hereof. This provision shall not limit the powers of Trustee under applicable law or Section 2.03 hereof.

3.08. **Beneficiary's Powers.** Without affecting the liability for the payment of any obligation herein mentioned, and without affecting the lien or charge of this Deed of Trust upon any portion of the Premises not then or theretofore released as security for the full amount of all unpaid obligations, the Beneficiary may, with (a) the Purchaser's written consent and (b) the Insurer's written consent, if any, from time to time and without notice (i) release any person so liable, (ii) extend the maturity or alter any of the terms of any such obligation, (iii) grant other indulgences, (iv) cause to be released or reconveyed at any time at Beneficiary's option, any parcel, portion or all of the Premises in accordance with the provisions of this Deed of Trust, (v) take or release any other or additional security for any obligation herein mentioned, or (vi) make compositions or other arrangements in relation thereto. The provisions of N.C. Gen. Stat. Section 45-45.1 or any similar statute hereafter enacted in replacement or in substitution thereof shall be inapplicable to this Deed of Trust.

3.09. **Acceptance by Trustee.** Trustee accepts this Trust when this Deed of Trust, duly executed and acknowledged, is made of public record as provided by law.

3.10. **E-Verify.** The Corporation 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 Corporation 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 Corporation will require that any subcontractor that it uses in connection with the transactions contemplated by this Contract certify to such subcontractor's compliance with E-Verify.

3.11. **Miscellaneous.** The covenants, terms and conditions herein contained shall bind, and the benefits and powers shall inure to the respective heirs, executors, administrators, successors and assigns of the parties hereto. Whenever used herein, the singular number shall include the plural, the plural the singular, and the term "Beneficiary" shall include any payee of the indebtedness hereby secured and any transferee or assignee thereof, whether by operation of law or otherwise.

[Signatures begin on next page]

*IN WITNESS WHEREOF*, the Grantor has caused this Deed of Trust to be executed under seal the day and year first above written.

[SEAL]

**County of Cabarrus, North Carolina**

By: \_\_\_\_\_  
Stephen M. Morris  
Chairman of the Board of Commissioners

Attest:

\_\_\_\_\_  
Lauren Linker  
Clerk to the Board of Commissioners

**STATE OF NORTH CAROLINA**

**COUNTY OF CABARRUS**

I, \_\_\_\_\_, a Notary Public for said County and State, certify that Stephen M. Morris personally came before me this day, and being by me duly sworn, acknowledged that he is the Chairman of the Board of Commissioners of the County of Cabarrus, North Carolina, a political subdivision organized and existing under the Constitution and laws of the State of North Carolina, and that, by authority duly given and as the act of such political subdivision, the foregoing instrument was signed in its name by him as the Chairman of its Board of Commissioners, sealed with its seal, and attested by Lauren Linker as Clerk to the Board of Commissioners.

Witness my hand and notarial seal, this \_\_\_\_ day of [June], 2022.

My commission expires: \_\_\_\_\_

\_\_\_\_\_  
Notary Public \_\_\_\_\_, 20\_\_\_\_.

**EXHIBIT A**

**DESCRIPTION OF SITE**

Roberta Road Middle School Site (the Premises):

Legal description of the Premises:

**Roberta Road Middle School Site:**

Lying and being in the City of Concord, No. 2 Township, Cabarrus County, North Carolina, and being Lot No. 1 (consisting of 43.824 acres, or 1,908,990.50 square feet), as shown on the RECOMBINATION PLAT OF 45.958 ACRES-COCHRAN ROAD, said plat being on file in the office of the Register of Deeds for Cabarrus County, North Carolina, in Map Book 82, Page 15, specific reference thereto being hereby made for a more complete description thereof by metes and bounds.

Harold D. Furr, spouse of the Grantor, died testate on March 23, 2017, a resident of Cabarrus County, North Carolina. See Estate File No. 17-E-362 in the Office of the Clerk of Superior Court of Cabarrus County, North Carolina. See also that Certification of Trust of the Harold David Furr Trust Agreement recorded in Book 13676, Page 102, Cabarrus County Registry.

[End of Legal Description of the Premises]

## **EXHIBIT B**

### **PERMITTED ENCUMBRANCES**

*"Permitted Encumbrances"* means, as of any particular time: (a) this Deed of Trust; (b) the Contract, as it may be amended from time to time, including any liens or encumbrances permitted by the terms of the Contract, as so amended; (c) the Indenture; (d) utility, access and other easements and rights of way, restrictions and exceptions which exist of record as of the closing date which do not interfere with or impair the intended use of the Premises; (e) such minor defects, irregularities, encumbrances and clouds on title as normally exist with respect to property of the general character of the Premises and as do not materially impair title to the Premises; and (f) any other encumbrances described in the policy evidencing the title insurance required pursuant to Section 5.5 of the Contract.

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**CABARRUS COUNTY DEVELOPMENT CORPORATION**

AND

**REGIONS BANK,**  
AS TRUSTEE

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**INDENTURE OF TRUST**

Dated as of  
June [1], 2022

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This instrument has been entered into by the within-described parties in order to secure certain Cabarrus County Development Corporation Limited Obligation Refunding Bonds (County of Cabarrus, North Carolina Installment Financing Contract), Series 2022A, as more fully described herein.

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EXHIBIT A FORM OF 2022A LIMITED OBLIGATION REFUNDING BOND

## INDENTURE OF TRUST

THIS INDENTURE OF TRUST dated as of June [1], 2022 (the "Indenture"), by and between the Cabarrus County Development Corporation, a North Carolina nonprofit corporation (the "Corporation") and Regions Bank, as trustee (the "Trustee"), and related to the issuance of not exceeding [\$\_\_\_\_\_\_] Cabarrus County Development Corporation Limited Obligation Refunding Bonds (County of Cabarrus, North Carolina Installment Financing Contract), Series 2022A (the "2022A LOBs," and together with all Additional Obligations, if any, the "Obligations").

### W I T N E S S E T H:

WHEREAS, the County of Cabarrus, North Carolina (the "County") is a duly and regularly created, organized and existing political subdivision validly existing as such under and by virtue of the Constitution, statutes and laws of the State of North Carolina (the "State");

WHEREAS, the County, for the purpose of providing funds to (a) prepay the Prior Contract and (b) pay certain expenses incurred in connection with the execution and delivery of the 2022A LOBs;

WHEREAS, pursuant to this Indenture, the Corporation has assigned all of its rights, title and interest in and to (i) the Contract (as defined herein) (except the rights of the Corporation under Article X, the rights to receive all notices and those Additional Payments payable to the Corporation under the Contract), (ii) the Deed of Trust (as defined herein) and the Premises (as defined in the Deed of Trust) and (iii) all moneys and securities from time to time held by the Trustee under this Indenture in any fund or account, each as further described herein (collectively, the "Trust Estate");

WHEREAS, the Obligations, including the 2022A LOBs, evidence proportionate undivided interests in the right to receive certain Revenues payable by the County under and pursuant to the Contract and shall be payable solely from the sources provided for in this Indenture;

WHEREAS, pursuant to the Contract, the County will pay certain Installment Payments in consideration for the advancement by the Corporation of the Purchase Price (as such terms are defined in the Contract) of the Project, which Installment Payments will be deposited by the Trustee in the funds and accounts established hereunder in accordance with the terms hereof and of the Contract;

WHEREAS, the execution, delivery and performance of the Contract by the Corporation, and the assignment by the Corporation to the Trustee, pursuant to this Indenture, of the Trust Estate have been authorized, approved and directed by all necessary and appropriate action of the Corporation;

WHEREAS, the Trustee has entered into this Indenture for and on behalf of the Owners, and will hold its rights hereunder, except as otherwise specifically provided herein, for the equal and proportionate benefit of the Owners, and will disburse moneys received by the Trustee in accordance with this Indenture;

WHEREAS, the obligation of the County to make Installment Payments and Additional Payments under and pursuant to the Contract shall not constitute a pledge of the faith and credit of the County within the meaning of the Constitution of the State;

WHEREAS, in order to further secure the obligations of the County under the Contract, the County will enter into the Deed of Trust, Security Agreement and Fixture Filing, dated of even date herewith, as amended from time to time (the "Deed of Trust"), with the deed of trust trustee named therein, for the benefit of the Corporation and its assignee;

WHEREAS, no deficiency judgment may be rendered against the County in any action for its breach of the Contract, and the taxing power of the County is not and may not be pledged in any way directly or indirectly or contingently to secure any moneys due under the Contract; and

WHEREAS, all things necessary to make the Obligations, when executed and delivered by the Corporation and authenticated by the Trustee as provided in this Indenture, legal, valid and binding obligations, as herein provided, and to constitute this Indenture a valid, binding and legal instrument for the security of the Obligations in accordance with its terms, have been done and performed;

NOW, THEREFORE, THIS INDENTURE OF TRUST WITNESSETH:

That the Corporation, in consideration of the premises and the mutual covenants herein contained and for the benefit of the Owners and the sum of One Dollar (\$1.00) to it duly paid by the Trustee at or before the execution of these presents, and for other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, in order to secure the payment of the principal, premium, if any, and interest with respect to all Obligations at any time Outstanding under this Indenture, according to their tenor and effect, and to secure the performance and observance of all the covenants and conditions in the Obligations and herein contained, and to declare the terms and conditions on and subject to which the Obligations are executed, delivered and secured, has executed and delivered this Indenture and has granted, warranted, aliened, remised, released, conveyed, assigned, pledged, set over and confirmed, and by these presents does grant, warrant, alien, remise, release, convey, assign, sell, set over and confirm unto Regions Bank, as the Trustee, and to its successors and assigns forever, all and singular the following described property, franchises and income:

(a) All rights, title and interest of the Corporation in the Contract, except its rights under Article X thereof, its rights to receive all notices and those Additional Payments payable to the Corporation under the Contract;

(b) All rights, title and interest of the Corporation in the Deed of Trust and the Premises (as defined in the Deed of Trust); and

(c) All moneys and securities from time to time held by the Trustee under this Indenture in any fund or account and any and all other personal property of every name and nature from time to time hereafter by delivery or by writing of any kind specially pledged or hypothecated, as and for additional security hereunder, by the Corporation, or by anyone on its behalf, in favor of the Trustee, which is hereby authorized to receive any and all such property at any and all times and to hold and apply the same subject to the terms hereof.

TO HAVE AND TO HOLD the same with all privileges and appurtenances hereby conveyed and assigned, or agreed or intended to be, to the Trustee and its successors in said trust and assigns forever;

IN TRUST, NEVERTHELESS, on the terms herein set forth for the equal and proportionate benefit, security and protection of all Owners, without privilege, priority or distinction as to the lien or otherwise of any of the Obligations over any other of the Obligations;

PROVIDED, HOWEVER, that if the principal with respect to the Obligations and the premium, if any, and the interest with respect thereto, shall be paid at the times and in the manner mentioned in the Obligations according to the true intent and meaning thereof, and if there are paid to the Trustee all sums of money due or to become due to the Trustee in accordance with the terms and provisions hereof, then on such final payment this Indenture and the rights hereby granted shall cease, terminate and be void; otherwise this Indenture to be and remain in full force and effect.

THIS INDENTURE FURTHER WITNESSETH and it is expressly declared, that all Obligations executed and delivered and secured hereunder are to be executed, authenticated and delivered and all said property, rights, interests, revenues and receipts hereby pledged, assigned and mortgaged are to be dealt with and disposed of under, on and subject to the terms, conditions, stipulations, covenants, agreements, trusts, uses and purposes as hereinafter expressed, and the Corporation has agreed and covenanted, and does hereby agree and covenant, with the Trustee for the benefit of the Owners, as follows:

## ARTICLE I

### DEFINITIONS AND INTERPRETATIONS

Section 1.01. *Definitions.* All words and phrases defined in Article I of the Contract have the same meaning in this Indenture and are incorporated herein by reference. In addition, the following terms, except where the context indicates otherwise, have the respective meanings set forth below.

"Additional Obligations" means Obligations executed and delivered in accordance with Section 2.11.

"Bond Fund" means the special fund created under Section 3.02 of this Indenture.

"Bond Year" means initially the period beginning the date of the initial issuance of the 2022A LOBs and ending June 30, 2022 and thereafter the period beginning July 1 of each year and ending on the ensuing June 30.

"Business Day" means a day on which either the Trustee or the County are not required to open or are authorized by law to remain closed.

"Cede & Co." means Cede & Co., the nominee of DTC or any successor nominee of DTC with respect to the 2022A LOBs.

"Code" means the Internal Revenue Code of 1986, as amended.

"Contract" means the Installment Financing Contract dated as of June [1], 2022 between the Corporation and the County and any amendments or supplements thereto including the Exhibits attached thereto.

"Corporation" means Cabarrus County Development Corporation, a North Carolina nonprofit corporation.

"Corporation Representative" means any person or persons at the time designated to act on behalf of the Corporation for purposes of performing any act on behalf of the Corporation under the Contract and this Indenture by a written certificate furnished to the County and the Trustee containing the specimen signature of such person or persons and signed on behalf of the Corporation by its President.

"Costs of Refunding" includes payment of or reimbursement for the following items:

- (a) the Costs of Issuance;
- (b) obligations incurred or assumed related to the prepayment of the Prior Contract, including, without limitation, costs of obtaining title insurance for, environmental assessments of and surveys of the Premises;

(c) the costs associated with the prepayment of the Prior Contract including, without limitation, the Corporation's fees and expenses, fees and expenses of the Local Government Commission of the State (the "LGC"), taxes, inspection costs, an insurance policy, if any, a financial surety bond, if any, permit fees, filing and recording costs and advertising expenses in connection with the prepayment of the Prior Contract; and

(d) all other costs which are considered to be a part of the prepayment of the Prior Contract in accordance with generally accepted accounting principles and which will not adversely affect the exclusion from gross income for federal income tax purposes of the designated interest component of Installment Payments payable by the County hereunder, including sums required to reimburse the County for advances made by the County that are properly chargeable to the prepayment of the Prior Contract.

"Costs of Issuance" means the costs incurred in connection with the initial issuance of any Obligations, including, without limitation, all printing expenses in connection with this Indenture, the Contract, and the documents and certificates contemplated hereby, the Preliminary Official Statement and the Official Statement for such Obligations, and the legal fees and expenses of counsel to the Corporation, special counsel, counsel to the County, other counsel, counsel to the underwriter(s) or purchaser(s) of such Obligations, rating agency fees, North Carolina Municipal Council (or its successor) assessments, any accounting expenses incurred in connection with determining that such Obligations are not "arbitrage bonds" within the meaning of the Code, the Trustee's initial fees and expenses (including attorney's fees), and state license fees, on the submission of requisitions by the County signed by a County Representative stating the amount to be paid, to whom it is to be paid and the reason for such payment, and that the amount of such requisition is justly due and owing and has not been the subject of another requisition which was paid and is a proper expense of executing and delivering such Obligations.

"DTC" means The Depository Trust Company, a limited purpose company organized under the law of the State of New York, and its successors and assigns.

"DTC Participant" or "DTC Participants" means securities brokers and dealers, banks, trust companies, clearing banks and certain other banks which have access to the DTC system.

"Event of Default" means those defaults specified in Section 7.01 of this Indenture.

"Federal Securities" means, subject to any limitations set forth in any supplemental indenture and, to the extent such investments qualify under Section 159-30 of the General Statutes of North Carolina, as amended from time to time, (a) direct obligations (other than an obligation subject to variation in principal repayment) of the United States of America ("United States Treasury Obligations"), (b) obligations fully and unconditionally guaranteed as to timely payment of principal and interest by the United States of America, (c) obligations fully and unconditionally guaranteed as to timely payment of principal and interest by any agency or instrumentality of the United States of America when such obligations are backed by the full faith and credit of the United States of America, or (d) evidences of ownership of proportionate interests in future interest and principal payments on obligations described above held by a bank or trust company as custodian, under which the owner of the investment is the real party in interest and has the right to proceed directly and individually against the obligor and the underlying government obligations are not available to any person claiming through the custodian or to whom the custodian may be obligated.

"Fitch" means Fitch Ratings, a corporation organized and existing under the laws of the State of Delaware, its successors and their assigns, and, if such corporation shall be dissolved or liquidated or shall no longer perform the functions of a securities rating agency, "Fitch" shall be deemed to refer to any other nationally recognized securities rating agency designated by the Corporation, by notice to the Trustee.

"Insurer" means, with respect to a series of Obligations, that insurance company, if any, or its successor, insuring the scheduled payment when due of the principal and interest with respect to such series of Obligations.

"Insurer Default" means, subject to any modification set forth in a supplemental indenture, the following: (a) the failure of the Insurer to make any payment required under the Policy when the same shall become due and payable and such failure has not been cured or waived, (b) the Insurer contests the binding validity of the Policy and such Policy shall have been declared null and void or unenforceable in a final determination by a court of law, (c) a decree or order for relief shall be entered by a court or insurance regulatory authority having jurisdiction over the Insurer in an involuntary case under an applicable bankruptcy, insolvency or other similar law now or hereafter in effect, or appointing a conservator, rehabilitator, receiver, liquidator, custodian, trustee, sequestrator (or similar official) of the Insurer or for a substantial part of the property of the Insurer or ordering the winding-up or liquidation of the affairs of the Insurer, and the continuance of any such decree or order shall be unstayed and remain in effect for a period of ninety (90) consecutive days thereafter; or (d) the Insurer shall voluntarily suspend transaction of its business and shall commence a voluntary case under any applicable bankruptcy, insolvency or other similar law now or hereafter in effect, shall consent to the entry of an order for relief in an involuntary case under any such law or shall consent to the appointment of or taking possession by a conservator, rehabilitator, receiver, liquidator, assignee, trustee, custodian or sequestrator (or other similar official) of the Insurer or for any substantial part of its property, or shall make a general assignment for the benefit of creditors.

"Installment Payment Date" means, with respect to the 2022A LOBs, each June 1 and December 1, beginning [December 1, 2022].

"Moody's" means Moody's Investors Service, Inc., its successors and their assigns, and, if such entity for any reason no longer performs the function of a securities rating agency, "Moody's" will be deemed to refer to any other nationally recognized securities rating agency designated by the Corporation, by notice to the Trustee.

"Obligations" means the 2022A LOBs and any Additional Obligations executed and delivered pursuant to Section 2.11.

"Opinion of Counsel" means an opinion in writing of legal counsel, who may be counsel to the Trustee, the County or the Corporation.

"Outstanding" or "Obligations Outstanding" means all Obligations which have been executed and delivered, except:

- (a) Obligations canceled or which shall have been surrendered to the Trustee for cancellation;
- (b) Obligations in lieu of which other Obligations have been authenticated under Sections 2.08 or 2.09;
- (c) Obligations which shall have been redeemed as provided in Article IV (including Obligations redeemed on a partial payment as provided in Section 4.01); and
- (d) Obligations which shall be deemed to have been paid under Article VI.

The term "Outstanding" or "Obligations Outstanding" specifically includes any Obligations with respect to which the principal or interest has been paid by the Insurer for such series of Obligations.

"Owner" or "Owners" means, initially, Cede & Co., as nominee for DTC, and in the event the book-entry system of evidence and transfer of ownership, in the Obligations is discontinued pursuant to Section 2.02,

the registered owner or owners of any Obligation fully registered as shown in the registration books of the Trustee.

"Permitted Investments" means, any investment to the extent otherwise permitted by applicable law (including, without limitation, Section 159-30 of the North Carolina General Statutes), subject to any limitations set forth in any supplemental indenture or imposed by an Insurer.

"Person" or "person" means natural persons, firms, associations, banks and public bodies.

"Policy" shall mean with respect to a series of Obligations, a municipal bond insurance policy, if any, which insures the scheduled payment when due of the principal and interest with respect to such series of Obligations as provided in said Policy.

"Record Date" means the fifteenth day (whether or not a Business Day) of the month next preceding an Installment Payment Date.

"Redemption Fund" means the special fund created under Section 3.08.

"S&P" means S&P Global Ratings, a division of Standard & Poor's Financial Services LLC, its successors and their assigns, and, if such entity for any reason no longer performs the function of a securities rating agency, "S&P" will be deemed to refer to any other nationally recognized securities rating agency designated by the Corporation, by notice to the Trustee.

"Tax Certificate" means, with respect to the 2022A LOBs, collectively (a) the Certificate as to Non-Arbitrage and Other Matters dated the date of delivery of the 2022A LOBs, executed by the County and (b) the Tax Compliance Agreement dated the date of delivery of the 2022A LOBs, executed by the County and the Corporation.

"Trust Estate" means the property pledged and assigned to the Trustee pursuant to the granting clauses hereof.

"Trustee Representative" means the person or persons at the time designated to act on behalf of the Trustee for purposes of performing any act on behalf of the Trustee under this Indenture by a written certificate furnished to the County and the Corporation containing the specimen signature of such person or persons and signed on behalf of the Trustee by any duly authorized officer of the Trustee.

"2022A LOBs" means the not to exceed [ \$\_\_\_\_\_ ] Cabarrus County Development Corporation Limited Obligation Refunding Bonds (County of Cabarrus, North Carolina Installment Financing Contract), Series 2022A evidencing proportionate and undivided interests in the right to receive certain Revenues pursuant to the Contract.

"2022A LOBs Fund" means the special fund created under Section 3.11 of this Indenture.

"2022A Term LOBs" means the 2022A LOBS that are stated to mature on June 1, 20\_\_.

Section 1.02. **Interpretations.** For purposes of this Indenture:

(a) **Successors.** References to specific persons, positions or officers shall include those who or which succeed to or perform their respective functions, duties or responsibilities.

(b) **Laws.** References to the Code, or to the laws or Constitution of the State, or rules or regulations thereunder, or to a section, division, paragraph or other provision thereof, shall include those

laws and rules and regulations, and that section, division, paragraph or other provision thereof as from time to time amended, modified, supplemented, revised or superseded, provided that no such amendment, modification, supplementation, revision or supersession shall be applied to alter the obligation to pay the principal, premium, if any, or interest due and owing with respect to the Obligations Outstanding in the amount and manner, at the times, and from the sources provided in this Indenture, except as otherwise herein permitted.

(c) *Singular/Plural.* Unless the context otherwise indicates, words importing the singular number include the plural number and words importing the plural number include the singular number.

(d) *Computations.* Unless otherwise provided in this Indenture or the facts are then otherwise, all computations required for the purposes of this Indenture shall be made on the assumptions that: (i) all Installment Payments are paid as and when the same become due; and (ii) all credits required by this Indenture to be made to any fund or account are made in the amounts and at the times required.

(e) *Exclusion of Obligations Held by or for the County and the Corporation.* In determining whether the Owners of the requisite principal amount of Obligations Outstanding have given any request, demand, authorization, direction, notice, consent or waiver hereunder, Obligations owned by the County or the Corporation shall be disregarded and deemed not to be Outstanding, except that, in determining whether the Trustee is protected in relying on any such request, demand, authorization, direction, notice, consent or waiver, only Obligations which the Trustee knows to be so owned shall be disregarded.

(f) *Obligations and Opinions.* Except as otherwise specifically provided in this Indenture, each certificate or opinion with respect to compliance with a condition or covenant provided for in this Indenture shall include an identification of any certificates or opinions relied on in such certificate or opinion, and a statement: (i) that the person making the certificate or opinion has read the covenant or condition and the definitions herein relating thereto; (ii) as to the nature and scope of the examination or investigation on which the statements or opinions contained in the certificate or opinion are based; (iii) that in the opinion of such person, he or she has made such examination and investigation as is necessary to enable him or her to express an informed opinion as to whether the covenant or condition has been complied with; and (iv) as to whether, in the opinion of such person, the condition or covenant has been complied with.

(g) *Counsel Opinions.* Any Opinion of Counsel may be qualified by reference to the constitutional powers of the United States of America and the State, the police and sovereign powers of the State, judicial discretion, and bankruptcy, insolvency, reorganization, moratorium and other laws affecting creditors' rights and similar matters.

(h) *Consolidated Certifications, Opinions and Instruments.* When several matters are required to be certified by, or covered by an opinion of, any specified person, it is not necessary that all such matters be certified by, or covered by the opinion of, only one such person, or that they are so certified or covered by only one document, but one such person may certify or give an opinion with respect to some matters and one or more other such persons as to other matters, and any such person may certify or give an opinion as to such matters in one or several documents. When any person is required to make, give or execute two or more applications, requests, consents, certificates, statements, opinions or other instruments under this Indenture, such instruments may, but need not, be consolidated and form one instrument.

(i) *Opinions and Certifications of County and Corporation.* Any certificate or opinion of an officer of the County or the Corporation may be based, insofar as it relates to legal matters, on a certificate or opinion of, or representations by, counsel, unless such officer knows, or in the exercise of reasonable care should know, that the certificate or opinion or representations with respect to the matters on which his

or her certificate or opinion is based are erroneous. Any such certificate or opinion may be based, insofar as it relates to factual matters, on a certificate or opinion of, or representations by, an officer or officers of the Corporation or the County stating that the information with respect to such factual matters is in the possession of the County or the Corporation, unless such officer knows, or in the exercise of reasonable care should know, that the certificate or opinion or representations with respect to such factual matters are erroneous.

(j) *References to Indenture.* The terms "herein," "hereunder," "hereby," "hereto," "hereof" and any similar terms refer to this Indenture as a whole and not to any particular article, section or subdivision hereof; and the term "heretofore" means before the date of execution of this Indenture, the term "now" means at the date of execution of this Indenture, and the term "hereafter" means after the date of execution of this Indenture.

(k) *Section and Article References.* References in this Indenture to Section or Article numbers, without added references to other documents, are to the indicated Sections or Articles in this Indenture.

(l) *Gender.* Words of the masculine gender include correlative words of the feminine and neuter genders.

(m) *Captions.* The captions or headings of this Indenture and the table of contents appended to copies hereof are for convenience only and in no way define, limit or describe the scope or intent of any provisions, articles or sections of this Indenture.

(n) *Remedies.* Nothing expressed or implied in this Indenture is intended or shall be construed to confer on or to give any Person, other than the County, the Trustee, the Corporation and the Owners of the Obligations, any right, remedy or claim under or by reason of this Indenture or any covenant, agreement, condition or stipulation hereof.

(o) *References to Fees and Expenses.* Whenever this Indenture contains a reference to fees or expenses, such reference is deemed to include the word "reasonable" as an antecedent thereto.

## ARTICLE II

### AUTHORIZATION, TERMS AND ISSUANCE OF OBLIGATIONS

Section 2.01. *Authorized Amount of Obligations.* No Obligations may be executed and delivered hereunder except in accordance with this Article II. The aggregate principal amount of 2022A LOBs that may be executed and delivered pursuant to Section 2.08 is [\$\_\_\_\_\_]. Additional Obligations may be delivered as provided in Section 2.11 of this Indenture.

#### Section 2.02. *Execution and Delivery of Obligations; Authorization of the 2022A LOBs.*

(a) No Obligations may be executed and delivered except in accordance with the provisions of this Indenture. All Obligations shall constitute proportionate undivided interests in the right to receive Revenues under the Contract. All covenants, agreements and provisions of this Indenture shall be for the benefit and security of all present and future Owners without preference, priority or distinction as to lien or otherwise, except as otherwise provided herein, of any one Obligation over any other Obligation by reason of priority in the issue, sale or negotiation thereof, or otherwise.

(b) The 2022A LOBs shall mature (subject to the right of prior redemption as hereinafter set forth) on June 1 in each year in the amounts and bear interest (computed on the basis of a 360-day year of

twelve 30-day months and payable on each Installment Payment Date) from the dates as determined by reference to the paragraphs below until the principal with respect to said 2022A LOBs has been paid in full or duly provided for in accordance with the provisions hereof as follows:

MATURITY DATE (JUNE 1)	PRINCIPAL AMOUNT	INTEREST RATE
20__	\$x,xxx,000	__%

(c) The 2022A LOBs shall be dated as of their date of delivery, if executed and delivered before the first Installment Payment Date, or if executed and delivered on any later date, as of the Installment Payment Date next preceding their date of issuance, or if executed and delivered on an Installment Payment Date, as of such date; provided, however, that if the interest with respect to the 2022A LOBs is in default, 2022A LOBs executed and delivered in exchange for 2022A LOBs surrendered for transfer or exchange will be dated as of the date to which interest has been paid in full on the 2022A LOBs so surrendered.

(d) The 2022A LOBs will be initially delivered by means of a book-entry system with no physical distribution of 2022A LOBs made to the public. A book-entry system will be employed, evidencing ownership of the 2022A LOBs in principal amounts of \$5,000 or any whole multiple thereof, with transfers of beneficial ownership effected on the records of DTC and DTC Participants pursuant to rules and procedures established by DTC.

(e) Each DTC Participant will be credited in the records of DTC with the amount of such DTC Participant's interest in the 2022A LOBs. Beneficial ownership interests in the 2022A LOBs may be purchased by or through DTC Participants. The holders of these beneficial ownership interests are hereinafter referred to as the "Beneficial Owners." The Beneficial Owners will not receive 2022A LOBs representing their beneficial ownership interests. The ownership interests of each Beneficial Owner will be recorded through the records of the DTC Participant from which such Beneficial Owner purchased its 2022A LOBs. Transfers of ownership interests in the 2022A LOBs will be accomplished by book entries

made by DTC and, in turn, by DTC Participants acting on behalf of Beneficial Owners. SO LONG AS CEDE & CO., AS NOMINEE FOR DTC, IS THE REGISTERED OWNER OF THE 2022A LOBS, THE TRUSTEE SHALL TREAT CEDE & CO. AS THE ONLY HOLDER OF THE 2022A LOBS FOR ALL PURPOSES UNDER THIS INDENTURE, INCLUDING RECEIPT OF ALL PRINCIPAL, PREMIUM, IF ANY, AND INTEREST WITH RESPECT TO THE 2022A LOBS, RECEIPT OF NOTICES, VOTING AND REQUESTING OR DIRECTING THE TRUSTEE TO TAKE OR NOT TO TAKE, OR CONSENTING TO, CERTAIN ACTIONS UNDER THIS INDENTURE.

(f) Payments of principal, interest and redemption premium, if any, with respect to the 2022A LOBs, so long as DTC is the only Owner of the 2022A LOBs, will be paid by the Trustee directly to DTC or its nominee, Cede & Co., as provided in the Blanket Letter of Representation dated June 21, 1999 from the Corporation to DTC (the "Letter of Representation"). DTC will remit such payments to DTC Participants, and such payments thereafter will be paid by DTC Participants to the Beneficial Owners. The County, the Corporation and the Trustee shall not be responsible or liable for payment by DTC or DTC Participants, for sending transaction statements or for maintaining, supervising or reviewing records maintained by DTC or DTC Participants.

(g) In the event that (a) DTC determines not to continue to act as securities depository for the 2022A LOBs or (b) the County determines that the continuation of the book-entry system of evidence and transfer of ownership of the 2022A LOBs would adversely affect the interests of the County or the Beneficial Owners of the 2022A LOBs, the County shall discontinue the book-entry system with DTC. If the County fails to identify another qualified securities depository to replace DTC, the County will cause the Trustee to authenticate and deliver replacement 2022A LOBs in the form of fully registered 2022A LOBs to each Beneficial Owner.

(h) THE COUNTY, THE CORPORATION AND THE TRUSTEE DO NOT HAVE ANY RESPONSIBILITY OR OBLIGATIONS TO ANY DTC PARTICIPANT OR ANY BENEFICIAL OWNER WITH RESPECT TO (A) THE 2022A LOBS; (B) THE ACCURACY OF ANY RECORDS MAINTAINED BY DTC OR ANY DTC PARTICIPANT; (C) THE PAYMENT BY DTC OR ANY DTC PARTICIPANT OF ANY AMOUNT DUE TO ANY BENEFICIAL OWNER IN RESPECT OF THE PRINCIPAL, PREMIUM, IF ANY, AND INTEREST WITH RESPECT TO THE 2022A LOBS; (D) THE DELIVERY OR TIMELINESS OF DELIVERY BY DTC OR ANY DTC PARTICIPANT OF ANY NOTICE DUE TO ANY BENEFICIAL OWNER WHICH IS REQUIRED OR PERMITTED UNDER THE TERMS OF THIS INDENTURE TO BE GIVEN TO OWNERS; (E) THE SELECTION OF BENEFICIAL OWNERS TO RECEIVE PAYMENTS IN THE EVENT OF ANY PARTIAL REDEMPTION OF THE 2022A LOBS; OR (F) ANY CONSENT GIVEN OR OTHER ACTION TAKEN BY DTC OR ITS NOMINEE, CEDE & CO., AS OWNER.

(i) In the event that a book-entry system of evidence and transfer of ownership of the 2022A LOBs is discontinued pursuant to the provisions of this Section, the 2022A LOBs shall be delivered solely as fully registered 2022A LOBs without coupons in the denominations of \$5,000 and any whole multiple thereof, shall be lettered "R" and numbered separately from 1 upward, and shall be payable, executed, authenticated, registered, exchanged and canceled pursuant to the provisions of Article II hereof.

(j) The 2022A LOBs and any premiums on the redemption thereof before maturity will be payable in lawful money of the United States of America and at the principal corporate trust office of the Trustee on presentation and surrender. Interest with respect to the 2022A LOBs will be paid by the Trustee by check mailed on the Installment Payment Date to each Owner as its name and address appear on the register kept by the Trustee on the fifteenth day (whether or not a Business Day) of the month next preceding an Installment Payment Date; provided that, any Owner of a 2022A LOB or 2022A LOBs in an aggregate principal amount of not less than \$500,000 may, by prior written instructions filed with the Trustee not later

than three Business Days prior to the Installment Payment Date (which instructions shall remain in effect until revoked by subsequent written instructions), instruct that interest payments for any period be made by wire transfer to an account in the continental United States or other means acceptable to the Trustee.

Section 2.03. **Limited Obligation.** Each Obligation evidences a proportionate undivided interest in the right to receive certain Revenues under the Contract. The Obligations are payable solely from Revenues (as defined in the Contract) as, when and if the same are received by the Trustee, which Revenues are to be held in trust by the Trustee for such purposes in the manner and to the extent provided herein. The Owner of each Obligation is not entitled to receive more than the amount of principal, premium, if any, and interest with respect to such Obligation. The Obligations do not constitute a debt of the County or any assignee of the County under the Contract.

NOTWITHSTANDING ANY PROVISION OF THIS INDENTURE, THE CONTRACT OR THE DEED OF TRUST WHICH MAY BE TO THE CONTRARY, NO PROVISION OF THIS INDENTURE, THE CONTRACT OR THE DEED OF TRUST SHALL BE CONSTRUED OR INTERPRETED AS CREATING A PLEDGE OF THE FAITH AND CREDIT OF THE COUNTY WITHIN THE MEANING OF THE CONSTITUTION OF THE STATE. NO PROVISION OF THIS INDENTURE, THE CONTRACT OR THE DEED OF TRUST SHALL BE CONSTRUED OR INTERPRETED AS CREATING A DELEGATION OF GOVERNMENTAL POWERS NOR AS A DONATION BY OR A LENDING OF THE CREDIT OF THE COUNTY WITHIN THE MEANING OF THE CONSTITUTION OF THE STATE. THIS INDENTURE, THE CONTRACT OR THE DEED OF TRUST SHALL NOT DIRECTLY OR INDIRECTLY OR CONTINGENTLY OBLIGATE THE COUNTY TO MAKE ANY PAYMENTS BEYOND THOSE APPROPRIATED IN THE SOLE DISCRETION OF THE COUNTY FOR ANY FISCAL YEAR IN WHICH THE CONTRACT IS IN EFFECT; PROVIDED, HOWEVER, ANY FAILURE OR REFUSAL BY THE COUNTY TO APPROPRIATE FUNDS, WHICH RESULTS IN THE FAILURE BY THE COUNTY TO MAKE ANY PAYMENT COMING DUE UNDER THE CONTRACT WILL IN NO WAY OBLIATE THE OCCURRENCE OF THE EVENT OF DEFAULT RESULTING FROM SUCH NONPAYMENT. NO DEFICIENCY JUDGMENT MAY BE RENDERED AGAINST THE COUNTY IN ANY ACTION FOR ANY BREACH OF THE CONTRACT, THIS INDENTURE OR THE DEED OF TRUST, AND THE TAXING POWER OF THE COUNTY IS NOT AND MAY NOT BE PLEDGED DIRECTLY OR INDIRECTLY OR CONTINGENTLY TO SECURE ANY MONEYS DUE UNDER THIS INDENTURE, THE CONTRACT OR THE DEED OF TRUST. TO THE EXTENT OF ANY CONFLICT BETWEEN THIS PARAGRAPH AND ANY OTHER PROVISION OF THIS INDENTURE, THIS PARAGRAPH SHALL TAKE PRIORITY AND SHALL INCORPORATE HEREIN BY REFERENCE ARTICLE XIV OF THE CONTRACT.

Section 2.04. **Execution of the Obligations.** The Obligations shall be executed on behalf of the Corporation with the manual or facsimile signature of its President or Vice President and shall have impressed or imprinted thereon, by facsimile or otherwise, the official seal of the Corporation, and be attested with the manual or facsimile signature of its Secretary. If any officer of the Corporation whose signature or whose facsimile signature appears on the Obligations ceases to be such officer before the authentication of such Obligations, such signature or the facsimile thereof shall nevertheless be valid and sufficient for all purposes as if he had remained in office until authentication; and any Obligation may be signed on behalf of the Corporation by such persons as are at the time of execution of such Obligation proper officers of the Corporation, even though at the date of this Indenture, such person was not such officer.

Section 2.05. **Authentication.** No Obligation is valid or becomes obligatory for any purpose or is entitled to any security or benefit under this Indenture unless and until a certificate of authentication on such Obligation substantially in the form included in Exhibit A hereto has been duly executed by the Trustee and such executed certificate of the Trustee on any such Obligation is conclusive evidence that such

Obligation has been authenticated and delivered under this Indenture. The Trustee's certificate of authentication on any Obligation shall be deemed to have been executed by it if signed by an authorized officer or signatory of the Trustee, but it is not necessary that the same officer or signatory sign the certificate of authentication on all of the Obligations executed and delivered hereunder.

Section 2.06. **Form of 2022A LOBs.** The 2022A LOBs shall be substantially in the form set forth in Exhibit A to this Indenture, with such appropriate variations, omissions and insertions as may be permitted or required hereby.

Section 2.07. **Delivery of the 2022A LOBs.** On the execution and delivery of this Indenture, the Corporation shall issue the 2022A LOBs in the aggregate principal amount of \$\_\_\_\_\_ to the Trustee, and the Trustee shall authenticate the 2022A LOBs and shall deliver them to the original purchaser thereof as directed by the Corporation as hereinafter in this Section provided.

- (a) Before the authentication and delivery of any of the 2022A LOBs, the Trustee has received:
  - (i) an originally executed counterpart of the Contract, this Indenture and the Deed of Trust and a certified copy of the resolution adopted by the Board of Commissioners of the County, approving the Contract; and
  - (ii) a request and authorization to the Trustee on behalf of the Corporation and signed by a Corporation Representative to authenticate and deliver the 2022A LOBs.

(b) Then, the Trustee shall deliver the 2022A LOBs, on payment to the Trustee of a sum specified in a separate purchase agreement among the County, the Corporation and the original purchaser or original purchasers of the 2022A LOBs, plus accrued interest with respect to the 2022A LOBs, if any, to the date of delivery. Such sum shall be deposited in the 2022A LOBs Fund pursuant to Article III or applied as otherwise directed in writing by the County.

Section 2.08. **Mutilated, Lost, Stolen or Destroyed Obligations.** If any Obligation is mutilated, lost, stolen or destroyed, a new Obligation may be executed and delivered on behalf of the Corporation, of like date, maturity, denomination and series as that mutilated, lost, stolen or destroyed, upon execution of the Corporation and authentication of the Trustee; provided that the Trustee has received indemnity of the County, the Corporation and the Trustee from the Owner of the Obligation satisfactory to the Trustee and provided further, in case of any mutilated Obligation, that such mutilated Obligation is first surrendered to the Trustee, and in the case of any lost, stolen or destroyed Obligation, that there is first furnished to the Trustee evidence of such loss, theft or destruction satisfactory to the Trustee. If any such Obligation has matured, instead of delivering a duplicate Obligation, the Trustee may pay the same without surrender thereof. The Trustee may charge the Owner of the Obligation with its reasonable fees and expenses in this connection.

Section 2.09. **Registration of Obligations; Persons Treated as Owners; Transfer of Obligations.** Books for the registration and for the transfer of Obligations shall be kept by the Trustee which is hereby appointed the registrar. On surrender for transfer of an Obligation at the principal corporate trust office of the Trustee, duly endorsed for transfer or accompanied by an assignment duly executed by the Owner or his attorney duly authorized in writing, the Trustee shall deliver in the name of the transferee or transferees a new authenticated and fully registered Obligation or Obligations of the same series.

The Trustee is not required to register the transfer of any Obligations during the period of 15 days next preceding the mailing of notice calling such Obligation for redemption as herein provided, or after any Obligation has been selected for redemption.

As to any Obligation, the person in whose name the same is registered shall be deemed and regarded as the absolute owner thereof for all purposes, and payment of either principal or interest with respect to such Obligation shall be made only to or on the written order of the Owner thereof or his legal representative, but such registration may be changed as hereinabove provided. All such payments shall be valid and effectual to satisfy and discharge such Obligation to the extent of the sum or sums paid.

The Trustee shall require the payment, by any Owner requesting transfer of Obligations, of any tax, trustee fee, fee or other governmental charge required to be paid with respect to such transfer. If any transfer requires that more than one Obligation be executed and delivered, the principal amounts of which equal the principal amount of the Obligations surrendered for transfer, an additional fee (including the cost of printing the Obligations, if necessary) will be required.

Section 2.10. ***Cancellation of Obligations.*** Whenever any Outstanding Obligations are delivered to the Trustee for cancellation pursuant to this Indenture, on payment thereof or for or after replacement pursuant to Section 2.08 or 2.09 of this Indenture, such Obligations shall be promptly canceled and burned or otherwise destroyed by the Trustee, and counterparts of a certificate of destruction evidencing such burning or other destruction shall be furnished by the Trustee to the County.

Section 2.11. ***Additional Obligations.*** So long as the Contract remains in effect and no Event of Default has occurred and is continuing, Additional Obligations, which may consist of certifications of participation, limited obligation bonds or any combination of certificates of participation and/or limited obligation bonds, may be executed and delivered on the terms and conditions provided herein.

Additional Obligations may be delivered by the Trustee to provide funds to pay: (i) the cost of renovating, equipping or expanding the Premises or acquiring, constructing, renovating and equipping other facilities or acquiring equipment and other capital assets for utilization by the County for public purposes; (ii) the cost of refunding of all or any portion of the Obligations then Outstanding, any other installment financing obligations of the County or any other debt obligations of the County; and (iii) the cost of the execution, delivery and sale of the Additional Obligations, including such other costs reasonably related to a refunding under subparagraph (ii) hereof.

Additional Obligations may be executed and delivered only on there being filed with the Trustee:

(a) Originally executed counterparts of a supplemental indenture and an amendment to the Contract adopted in accordance with the requirements of Article IX and approved by the LGC, if so required by law, including requirements regarding approval of the Owners, if applicable, and, if the County, acting in its sole discretion, has determined that all or any portion of any property, buildings or equipment related to the facilities being financed (but not refinanced), is to be subjected to the Deed of Trust, also expressly providing that, for all the purposes hereof, the property covered by the Deed of Trust shall include such portion, if any, designated by the County of the property, buildings or equipment related to the facilities being financed (but not refinanced) by the Additional Obligations, and that the Obligations being executed and delivered, as well as any Obligations and Additional Obligations theretofore or thereafter executed and delivered, shall be secured on a parity with all Obligations Outstanding, including the 2022A LOBs, except that the date or dates of the Additional Obligations, the rate or rates of interest with respect to the Additional Obligations, the time or times of payment of the interest with respect thereto and the principal amount with respect thereto, and provisions for the redemption thereof, if any, all shall be as provided in the supplemental indenture and amendment to the Contract, and further providing for an increase in the Purchase Price and the Installment Payments required or authorized to be paid to the Trustee under the Contract in such amount as shall be necessary to pay (assuming that no Event of Default shall occur), the principal, premium, if any, and interest with respect to the Additional Obligations.

(b) A written Opinion or Opinions of Counsel with recognized expertise in tax-exempt financing and mutually acceptable to the County, the Corporation and the Trustee, to the effect that the amendment to the Contract and the authentication of the Additional Obligations have been duly authorized, that the amendment to the Contract is valid and enforceable against the County and that the exclusion from gross income for federal income tax purposes of the interest component of the Installment Payments will not be adversely affected by the issuance of the Additional Obligations, and that the sale and delivery of the Additional Obligations will not constitute a default under the Contract or this Indenture or cause any violation of the covenants, agreements or representations herein or therein.

(c) A written order to the Trustee to deliver the Additional Obligations to the purchaser or purchasers therein identified on payment to the Trustee of a specified sum plus accrued interest.

Each of the Additional Obligations executed and delivered pursuant to this Section 2.11 shall be secured, *pari passu*, with the 2022A LOBs originally executed and delivered and all other series of Additional Obligations, if any, executed and delivered pursuant to this Section 2.11, without preference, priority or distinction of any Obligations or Additional Obligations over any other.

### ARTICLE III

#### REVENUES AND FUNDS

Section 3.01. ***Source of Payment of Obligations; Deposit of Obligation Proceeds.*** All Obligations evidence proportionate undivided interests in the right to receive Revenues under the Contract. Installment Payments, when, as and if received by the Trustee, shall be held hereunder for payment of the principal, premium, if any, and interest with respect to the Obligations as provided in this Indenture. Unless otherwise specified in writing by the County, the proceeds from the sale of any 2022A LOBs shall be deposited to the credit of the 2022A LOBs Fund. The proceeds of any Additional Obligations, executed and delivered pursuant to Section 2.11, shall be applied by the Trustee as directed in a certificate signed by a County Representative.

Section 3.02. ***Creation of the Bond Fund.*** A special fund is hereby created and established with the Trustee, to be designated "Cabarrus County Development Corporation Limited Obligation Refunding Bonds (County of Cabarrus, North Carolina Installment Financing Contract) Bond Fund" (the "Bond Fund"), the moneys in which shall be used to pay the principal, premium, if any, and interest with respect to the Obligations. Within the Bond Fund, there are hereby created and ordered established an Interest Account and a Principal Account, the moneys in which shall be used as set forth in Section 3.06.

Section 3.03. ***Payments into the Interest Account of the Bond Fund.*** There shall be deposited into the Interest Account of the Bond Fund (a) all accrued interest received at the time of the sale and delivery of the respective series of Obligations, if any; (b) that portion of each payment of Installment Payments which is designated and paid as interest under the Contract (except as such amount is reduced pursuant to Section 3.05); (c) investment earnings on the Bond Fund and the Redemption Fund, as provided in Section 5.01; (d) Net Proceeds from any lease of the Premises after an Event of Default to the extent required to pay the next installment of interest with respect to the Obligations or any previous installment of interest not paid; and (e) all other moneys received by the Trustee under this Indenture accompanied by written directions from the County that such moneys are to be deposited into the Interest Account of the Bond Fund. The Trustee shall credit all amounts deposited into the Interest Account of the Bond Fund, including particularly the amounts set forth in Section 3.1 of the Contract, toward the Installment Payment then due and payable under the Contract. The Trustee shall notify the County of all amounts credited toward Installment Payments within 30 days of such credit.

Section 3.04. **Payments Into the Principal Account of the Bond Fund.** There shall be deposited into the Principal Account of the Bond Fund (a) that portion of each payment of Installment Payments which is designated and paid as principal under the Contract; (b) Net Proceeds from any lease of the Premises after an Event of Default after the deposit required by Section 3.03; and (c) all other moneys received by the Trustee under this Indenture accompanied by written directions from the County that such moneys are to be deposited into the Principal Account of the Bond Fund.

Section 3.05. [Reserved]

Section 3.06. **Use of Moneys in the Bond Fund.** Moneys in the Interest Account of the Bond Fund shall be used solely for the payment of the interest with respect to the Obligations as the same becomes due and payable. Moneys in the Principal Account of the Bond Fund shall be used solely for the payment of the principal with respect to the Obligations. Investment earnings on moneys on deposit in the Bond Fund shall be applied to the next payment of Installment Payments or transferred from time to time upon written direction from a County Representative to the 2022A LOBs Fund and applied in accordance with the provisions of the 2022A LOBs Fund. If the Obligations are to be redeemed in whole pursuant to Section 4.01, any moneys remaining in the Bond Fund shall be applied to such redemption along with other moneys held by the Trustee for such purpose.

Section 3.07. **Custody of the Bond Fund.** The Bond Fund shall be in the custody of the Trustee. The Trustee shall withdraw sufficient funds from the Bond Fund to pay the principal and interest with respect to the Obligations as the same become due and payable, which responsibility, to the extent of the moneys therein, the Trustee hereby accepts.

Section 3.08. **Creation of the Redemption Fund.** There is hereby created and established with the Trustee the "Cabarrus County Development Corporation Limited Obligation Refunding Bonds (County of Cabarrus, North Carolina Installment Financing Contract) Redemption Fund" (the "Redemption Fund") into which shall be deposited all Net Proceeds and other available funds, to the extent the same is required to be deposited therein under Article VII or Section 3.5 of the Contract, and any other moneys provided by the County to be applied to a redemption of principal components of Installment Payments. Moneys on deposit in the Redemption Fund shall be disbursed for redemption of the Obligations as provided in Sections 4.01(a) and (b) of this Indenture. Any income from investment of moneys in the Redemption Fund not disbursed in accordance with the preceding sentence shall be deposited into the Interest Account of the Bond Fund and applied to the next payment of the Installment Payments. Whenever any moneys on deposit in the Redemption Fund are disbursed for redemption of less than all of the Outstanding Obligations, the Installment Payments set forth in the Contract shall be recalculated by the Trustee to reflect the reduction in the outstanding principal amount of the Obligations after such redemption. The Installment Payments, as recalculated, shall be payable [May 26 and November 25] in amounts equal to the amount necessary to pay the principal and interest with respect to the Obligations coming due on the next occurring June 1 or December 1, as the case may be.

Section 3.09. **Nonpresentment of Obligations.** If any Obligation is not presented for payment when due, if funds sufficient to pay such Obligation have been made available to the Trustee for the benefit of the Owner thereof, it is the duty of the Trustee to hold such funds without liability for interest thereon, for the benefit of the Owner of such Obligation, who shall be restricted exclusively to such funds for any claim of whatever nature on his or her part under the Contract or this Indenture or on or with respect to such Obligation.

Any money that is so set aside or transferred and that remains unclaimed by the Owners for a period of five years after the date on which such Obligations have become payable will be treated as abandoned property under Chapter 116B of the General Statutes of North Carolina, as amended, and the Trustee shall

report and remit this property to the Escheat Fund according to the requirements of Section 116B-51 et seq. of the General Statutes of North Carolina, as amended. Thereafter, the Owners may look to the Escheat Fund for payment and then only to the extent of the amounts so received without any interest thereon, and the Trustee, the Corporation and the County shall have no responsibility with respect to such money.

Section 3.10. ***Creation of Additional Accounts in Supplemental Indentures.*** The supplemental indenture for each series of Obligations executed and delivered hereunder may establish accounts within the funds established hereunder.

Section 3.11. ***Creation of the 2022A LOBs Fund.*** A special fund is hereby created and established with the Trustee to be designated "Cabarrus County Development Corporation Limited Obligation Refunding Bonds (County of Cabarrus, North Carolina Installment Financing Contract) 2022A LOBs Fund" (the "2022A LOBs Fund"). Unless otherwise specified in writing by the County, the balance of the proceeds from the sale of the 2022A LOBs remaining after funding any deposits set forth in Section 3.01, if any, shall be deposited into the 2022A LOBs Fund. In addition, the Trustee shall deposit into the 2022A LOBs Fund such amounts as the County may designate in a certificate signed by a County Representative in connection with the issuance of Additional Obligations pursuant to Section 2.11. The Trustee shall create accounts within the 2022A LOBs Fund on the County's written direction. Any moneys held in the 2022A LOBs Fund or any account thereof shall be invested and reinvested by the Trustee in accordance with this Indenture, and the income therefrom shall be retained in the 2022A LOBs Fund or any account thereof and used (together with all other moneys held in the 2022A LOBs Fund) to pay the Costs of Refunding, as directed by the County in writing. Moneys held in the 2022A LOBs Fund shall be disbursed in accordance with Section 4.2 of the Contract. The proceeds of an applicable series of Obligations may be moved from one account to another account in the 2022A LOBs Fund on the County's written direction with a supporting Opinion of Bond Counsel.

Section 3.12. ***Application of 2022A LOBs Fund Subsequent to Payment of Costs of Refunding.*** The balance, if any, remaining in the 2022A LOBs Fund after the payment of all Costs of Refunding, as certified in writing to the Trustee by a County Representative, (i) may be applied by the Trustee for any purpose permitted by applicable law which, in the opinion of nationally recognized bond counsel, will not cause interest with respect to the 2022A LOBs to become includable in the gross income of the owners thereof for federal income tax purposes or (ii) absent the delivery of such an opinion to the Trustee, will be deposited first to the credit of the Interest Account and next to the Principal Account of the Bond Fund and applied to the future Installment Payments coming due under the Contract with respect to the 2022A LOBs in the order of their due date.

Section 3.13. ***Moneys To Be Held in Trust; Reports to County.*** The ownership of the Bond Fund, the Redemption Fund, the 2022A LOBs Fund and any other fund or account created hereunder or under the Contract shall be in the Trustee, for the benefit of the Owners as specified in the Indenture. Not less than once during each calendar year, the Trustee shall provide the County with an accounting for all receipts to and disbursements from each fund or account.

Section 3.14. ***Repayment to the County From the Trustee.*** After payment in full of the Obligations, the interest with respect thereto, any premium thereon, the fees, charges and expenses of the Trustee and all other amounts required to be paid hereunder and under the Contract, any amounts remaining in the Bond Fund, the Redemption Fund, the 2022A LOBs Fund or otherwise held by the Trustee pursuant hereto shall be paid to the County on the expiration or sooner termination of the Contract as a return of an overpayment of Installment Payments.

Section 3.15. ***Custody of Separate Trust Fund.*** The Trustee is authorized and directed to hold all Net Proceeds from any insurance proceeds or condemnation awards (which shall be in a separate fund)

and disburse such proceeds in accordance with Article VII of the Contract. If the County directs that any portion of such Net Proceeds be applied to redeem Obligations in accordance with the Contract, the Trustee covenants and agrees to take and cause to be taken the necessary steps to redeem on the next succeeding redemption date the amount of Obligations so specified by the County.

**ARTICLE IV**

**REDEMPTION OF OBLIGATIONS**

Section 4.01. **Redemption Dates and Prices.** The 2022A LOBs are subject to redemption, in whole or in part, as set forth below:

(a) **Optional Redemption.** The 2022A LOBs maturing on or before June 1, 20\_\_ are not subject to optional redemption before maturity. The 2022A LOBs maturing on or after June 1, 20\_\_ may be redeemed before their maturities at the option of the County, from any funds that may be available for such purpose, in whole or in part on any date on or after June 1, 20\_\_. The 2022A LOBs called for redemption under this paragraph will be redeemed at a redemption price equal to [100]% of the principal amount of the 2022A LOBs to be redeemed, together with accrued interest to the date fixed for redemption.

(b) **Extraordinary Optional Redemption.** If the County elects to prepay the Purchase Price in full or in part in accordance with Section 3.5(b) of the Contract, the 2022A LOBs shall be called for redemption in whole or in part, as applicable, on any date selected by the County before maturity from the Net Proceeds and other available moneys described in Section 3.5(b) of the Contract and deposited into the Redemption Fund. The 2022A LOBs called for redemption under this subsection shall be redeemed at the redemption price of 100% of the principal amount thereof, together with accrued interest to the redemption date, without premium.

(c) **Mandatory Sinking Fund Redemption.** The Term 2022A LOBs maturing on June 1, 20\_\_ are subject to mandatory sinking fund redemption on June 1 in each year on and after June 1, 20\_\_ by lot from the principal components of the Installment Payments required to be paid by the County pursuant to the Contract with respect to each such redemption date, at a redemption price equal to the principal amount thereof to be redeemed, together with accrued interest thereon to the date fixed for redemption, without premium as follows:

<u>YEAR</u>	<u>AMOUNT</u>
20__	\$x,xxx,000
20__	
20__*	

\* Maturity

At its option, to be exercised on or before the 45th day next preceding any mandatory redemption date, the County may (i) deliver to the Trustee for cancellation the Term 2022A LOBs or portions thereof in principal amounts of \$5,000 or any whole multiple thereof, or (ii) receive a credit in respect of its mandatory redemption obligation for any Term 2022A LOBs which before said date have been purchased or redeemed (otherwise than through mandatory redemption pursuant to this Section 4.01(c)) and canceled by the Trustee and not theretofore applied as a credit against any mandatory redemption obligation. Each such Term 2022A LOBs or portion thereof so delivered or previously purchased or redeemed and canceled by the Trustee shall be credited by the Trustee at 100% of the principal amount thereof against the Installment Payment obligation corresponding to such mandatory redemption date. To the extent that the aggregate principal amount of such Term 2022A LOBs or portions thereof exceeds the Installment Payment obligation on such mandatory

redemption date, any excess over such amount shall be credited against future Installment Payment obligations as directed by the County and the principal amount of Term 2022A LOBs to be redeemed in subsequent years shall be accordingly reduced.

The County must on or before the 45th day next preceding each such mandatory redemption date furnish the Trustee with its Term 2022A LOBs indicating in writing to what extent the provisions of (i) and (ii) of the preceding paragraph are to be availed of with respect to such mandatory redemption payment.

(d) If called for redemption in part, the 2022A LOBs to be redeemed shall be redeemed in such order as the County shall select and within the same maturity as selected by DTC pursuant to its rules and procedures or, if the book-entry system with respect to the 2022A LOBs is discontinued as provided in Section 2.02, by lot within a maturity in such manner as the Trustee in its discretion may determine.

When Obligations are to be redeemed in part, the schedule of Installment Payments set forth in the Contract shall be recalculated as necessary by the Trustee in the manner required by Section 3.08.

The Trustee shall pay to the Owners of Obligations so redeemed the amounts due on their respective Obligations at the principal corporate trust office of the Trustee on presentation and surrender of the Obligations; provided, however, that, if redeemed in part, the Obligations may be redeemed only in authorized denominations. Redemptions shall be accompanied by a written designation prepared by the Trustee stating the portion of the payment representing the unpaid principal amount of the Obligation immediately before the payment, the portion of the payment representing interest, and the remaining portion, if any, which shall be designated and paid as a redemption premium.

Section 4.02. **Notice of Redemption.** Notice of redemption identifying the Obligations or portions thereof to be redeemed shall be given by the Trustee in writing (or by other means acceptable to DTC) not less than 30 days nor more than 60 days before the date fixed for redemption by first-class mail, postage prepaid (registered or certified mail in the case of notice to DTC) (i) to DTC or its nominee or, if DTC or its nominee is no longer the Owner of the Obligations to be redeemed, to the then-registered Owners of the Obligations to be redeemed at their addresses appearing on the registration books maintained by the Trustee and (ii) to the LGC.

Notwithstanding the foregoing, (i) if notice is given, the failure to receive an appropriate notice shall not affect the validity of the proceedings for such redemption, (ii) the failure to give any such notice or any defect therein shall not affect the validity of the proceedings for the redemption of the Obligations or portions thereof to be redeemed with respect to which notice was correctly given, and (iii) the failure to give any such notice to the parties described in clause (iii) in the preceding paragraph, or any defect therein, shall not affect the validity of any proceedings for the redemption of the Obligations.

Notice of redemption shall specify, as applicable, (i) that the Obligations or a designated portion thereof are to be redeemed, (ii) the CUSIP numbers of the Obligation or Obligations to be redeemed, if any, (iii) the redemption date, (iv) the redemption price, (v) the redemption agent's name and address, (vi) the date of original issue of the Obligations to be redeemed, (vii) the interest rate with respect to the Obligations to be redeemed, (viii) the maturity date of the Obligations to be redeemed and (ix) if a redemption in part, called amounts for the Obligations to be redeemed.

Any notice mailed as provided in this Section shall be conclusively presumed to have been duly given, whether or not the Owner receives the notice.

If at the time of mailing of notice of redemption there shall not have been deposited with the Trustee moneys sufficient to redeem all the Obligations or portions thereof called for redemption, which moneys are or

will be available for redemption of said Obligations, such notice will state that it is conditional on the deposit of the redemption moneys with the Trustee not later than the opening of business on the redemption date, and such notice shall be of no effect unless such moneys are so deposited.

Section 4.03. **Redemptions.** Before the date fixed for redemption, funds shall be deposited with the Trustee to pay, and the Trustee is hereby authorized and directed to apply such funds to the payment of, the Obligations or portions thereof called for redemption, together with accrued interest thereon to the redemption date, and any required premium. On the giving of notice and the deposit of such funds for redemption pursuant to this Indenture (which, in the case of redemption pursuant to Section 4.01(a) and (b) above, may be less than the full principal amount of the Outstanding Obligations and accrued interest thereon to the redemption date), interest with respect to the Obligations or portions thereof thus called shall no longer accrue after the date fixed for redemption.

The Obligations or portions thereof called for redemption shall be due and payable on the redemption date at the redemption price, together with accrued interest thereon to the redemption date and any applicable redemption premium. If any required notice of redemption has been given and moneys sufficient to pay the redemption price, together with accrued interest thereon to the redemption date and any required redemption premium, have been deposited with the Trustee, the Obligations or portions thereof so called for redemption shall cease to be entitled to any benefit or security under this Indenture and the Owners of such Obligations shall have no rights in respect of such Obligations or portions thereof so called for redemption except to receive payment of the redemption price and accrued interest to the redemption date from such funds held by the Trustee.

Anything in this Indenture to the contrary notwithstanding, if an Event of Default occurs and is continuing, there will be no redemption of less than all of the Obligations Outstanding.

Section 4.04. **Cancellation.** All Obligations which have been redeemed shall not be redelivered but shall be canceled and burned or otherwise destroyed by the Trustee in accordance with Section 2.10.

Section 4.05. **Delivery of New Obligations On Partial Redemption of Obligations.** On surrender and cancellation of the Obligations called for redemption in part only, a new Obligation or Obligations of the same maturity and interest rate and of authorized denominations, in an aggregate principal amount equal to the unredeemed portion thereof, shall be executed on behalf of the Corporation and authenticated and delivered by the Trustee. The expenses of such execution, authentication, delivery and exchange shall be paid by the County as Additional Payments under the Contract.

## ARTICLE V

### INVESTMENTS

Section 5.01. **Investment of Moneys.** All moneys held as part of the Bond Fund, the Redemption Fund, the 2022A LOBs Fund or any other fund or account created hereunder or under the Contract shall be deposited or invested and reinvested from time to time by the Trustee, at the written direction of the County as agent of the Corporation, in deposits or investments, which are Permitted Investments subject to the following restrictions:

(a) Moneys in the 2022A LOBs Fund shall be invested only in obligations which will by their terms mature not later than the date the County estimates the moneys represented by the particular investment will be needed for withdrawal from the 2022A LOBs Fund;

(b) Moneys in the Bond Fund shall be invested only in obligations which will by their terms mature on such dates as to ensure that on the date of each interest and principal payment, there will be in the Bond Fund from matured obligations and other moneys already in the Bond Fund, cash equal to the interest and principal payable on such payment date; and

(c) Moneys in the Redemption Fund shall be invested in obligations which will by their terms mature, or will be subject to redemption at the option of the owner thereof, on or before the date funds are expected to be required for expenditure or withdrawal.

Any and all such deposits or investments shall be held by or under the control of the Trustee. The Trustee may make any and all such deposits or investments through its own investment department or the investment department of any bank or trust company under common control with the Trustee. The Trustee is specifically authorized to enter into agreements with itself or any other person, which agreements guarantee the repurchase of specific Permitted Investments at specific prices. Except as expressly provided in Article III of this Indenture, deposits or investments, shall at all times be a part of the fund or account from which the moneys used to acquire such deposits or investments shall have come, and all income and profits on such deposits or investments shall be credited to, and losses thereon shall be charged against, such fund or account. In computing the amount in any fund or account held under the provisions of this Indenture, obligations purchased as a deposit or investment of moneys therein shall be valued exclusive of accrued interest. The Trustee shall sell and reduce to cash a sufficient amount of such deposits or investments whenever the cash balance in any fund or account created hereunder is insufficient to satisfy the purposes of such fund or account.

The value of all Permitted Investments in the funds and accounts established under this Indenture shall be determined by the Trustee three (3) Business Days prior to each Installment Payment Date. In addition, the value of the Permitted Investments in such funds and accounts shall be determined by the Trustee at any time requested in writing by the County or the Corporation on reasonable notice to the Trustee (which period of notice may be waived or reduced by the Trustee); provided, however, that the Trustee shall not be required to determine the value of the Permitted Investments more than once in any calendar month.

Section 5.02. *Arbitrage Certification.* In reliance on the County's direction of investments as provided in Section 5.01 of this Indenture, and in reliance on the County's covenant in Article IX of the Contract, the Trustee certifies and covenants to and for the benefit of the Owners that so long as any of the Obligations remain Outstanding, moneys in any fund or account held by the Trustee under this Indenture, whether or not such moneys were derived from the proceeds of the sale of the Obligations or from any other source, will not, with actual knowledge, be deposited or invested in a manner which will cause the Obligations to be classified as "arbitrage bonds" within the meaning of Section 148 of the Code.

## ARTICLE VI

### DISCHARGE OF INDENTURE

If, when the Obligations secured hereby become due and payable in accordance with their terms or otherwise as provided in this Indenture, the whole amount of the principal, premium, if any, and interest due and payable with respect to all of the Obligations shall be paid or provision has been made for the payment of the same, together with all other sums payable hereunder and any amounts owed to an Insurer, if any, then the right, title and interest of the Trustee in and to the Trust Estate and all covenants, agreements and other obligations of the Corporation to the Trustee and the Owners shall then cease, terminate and become void and be discharged and satisfied. In such event, on the written request of the County, the Trustee shall transfer and convey to the County all property assigned or pledged to the Trustee by the Corporation then held by the Trustee pursuant to this Indenture, and the Trustee shall execute such

documents as may be reasonably required by the County and shall turn over to the County any surplus in any fund created under this Indenture.

Outstanding Obligations shall, before the maturity or redemption date thereof, be deemed to have been paid within the meaning and with the effect expressed in this Article VI if (a) in case said Obligations are to be redeemed on any date before their maturity, the County has given to the Trustee in form satisfactory to the Trustee irrevocable instructions to give on a date in accordance with the provisions of Section 4.02 notice of redemption of such Obligations on said redemption date, (b) there has been deposited with the Trustee either moneys in an amount which shall be sufficient, or Federal Securities that are Permitted Investments which shall not contain provisions permitting the redemption thereof at the option of the County, the principal of and the interest on which when due, and without any reinvestment thereof, will provide moneys which, together with the moneys, if any, deposited with or held by the Trustee at the same time, sufficient to pay, when due, the principal, premium, if any, and interest due and to become due with respect to the Obligations on the redemption date or maturity date thereof, as the case may be, and (c) in the event said Obligations are not by their terms subject to redemption within the next 60 days, the County has given the Trustee in form satisfactory to it (i) irrevocable instructions to give, as soon as practicable in the same manner as the notice of redemption is given pursuant to Section 4.02, a notice to the Owners of such Obligations that the deposit required by (b) above has been made with the Trustee and that said Obligations are deemed to have been paid in accordance with this Section and stating such maturity or redemption date on which moneys are to be available for the payment of the principal, premium, if any, and interest with respect to said Obligations, (ii) verification from an accountant or other verification agent satisfactory to the Trustee that the moneys or Federal Securities deposited with the Trustee will be sufficient to pay when due the principal, premium, if any, and interest due and to become due with respect to the Obligations on the redemption date or maturity date thereof, as the case may be and (iii) an Opinion of Counsel with recognized expertise in tax-exempt financing that such deposit of moneys or Federal Securities will not adversely affect the exclusion from gross income for federal income tax purposes of interest with respect to the Obligations. Neither the Federal Securities nor moneys deposited with the Trustee pursuant to this Article VI or principal or interest payments on any such Federal Securities shall be withdrawn or used for any purpose other than, and shall be held in trust for, the payment of the principal, premium, if any, and interest with respect to the Obligations; provided any cash received from such principal or interest payments on such Federal Securities deposited with the Trustee, if not then needed for such purpose, shall, to the extent practicable, be reinvested in Federal Securities of the type described in clause (b) of this paragraph maturing at the times and in amounts sufficient (together with any other moneys or Federal Securities then held by the Trustee as described above) to pay when due the principal, premium, if any, and interest to become due with respect to said Obligations on or before such redemption date or maturity date thereof, as the case may be. At such time as any Obligations shall be deemed paid as aforesaid, such Obligations shall no longer be secured by or entitled to the benefits of this Indenture and the Contract, except for the purpose of exchange and transfer and any payment from such moneys or Federal Securities deposited with the Trustee.

The release of the obligations of the Corporation under this Section is without prejudice to the rights of the Trustee to be paid reasonable compensation for all services rendered by it hereunder and all its reasonable expenses, charges and other disbursements incurred with respect to the administration of the trust hereby created and the performance of its powers and duties hereunder.

Notwithstanding anything in this Indenture to the contrary, in the event that the principal or interest due with respect to any of the Obligations is paid by an Insurer pursuant to its Policy with respect to such series of Obligations, such series of Obligations shall remain Outstanding for all purposes, shall not be defeased or otherwise satisfied and shall not be considered paid, and the assignment and pledge of the Trust Estate and all covenants, agreements and other obligations of the County and the Corporation to the Owners of such series of Obligations shall continue to exist and shall run to the benefit of the Insurer, and the Insurer shall be subrogated to the rights of the Owners of such series of Obligations.

## ARTICLE VII

### DEFAULTS AND REMEDIES

Section 7.01. *Events of Default.* If any of the following events occur it is hereby defined as and shall be deemed an "Event of Default" under this Indenture:

- (a) Default in the payment of the principal or premium, if any, with respect to any Obligation when the same becomes due and payable, whether at the stated maturity thereof or on proceedings for redemption.
- (b) Default in the payment of any installment of interest with respect to any Obligation when the same becomes due and payable.
- (c) The occurrence of an "Event of Default" as provided in the Contract or the Deed of Trust.

Section 7.02. *Remedies on Default.*

(a) On the occurrence and continuance of an Event of Default, the Trustee may, and if requested in writing by a majority in aggregate principal amount of the Owners of the Obligations then Outstanding shall, declare the obligations of the County as to the principal component of the Installment Payments and the aggregate principal amount of Obligations to be immediately due and payable, whereupon they will, without further action, become due and payable; provided, however, that as long as a Policy for a series of Obligations is in effect and no Insurer Default has occurred and is continuing, the Obligations of that series are not subject to acceleration unless the Trustee receives the prior written consent of the Insurer of that series to such acceleration.

(b) The provisions of the preceding paragraph are subject to the condition that if, after the principal with respect to any of the Installment Payments and the Obligations has been so declared to be due and payable, and before the earlier of (i) the exercise of rights granted under the Deed of Trust or (ii) to the extent permitted by applicable law and Section 2.03, any judgment or decree for the payment of the moneys due has been obtained or entered as hereinafter provided, the defaulting party (the "Defaulting Party") shall cause to be deposited with the Trustee a sum sufficient to pay all matured installments of the principal and interest with respect to all Obligations which have become due otherwise than by reason of such declaration (with interest on such overdue installments of principal and interest, to the extent permitted by law, at the rate or rates per annum borne by the Obligations) and such amount as is sufficient to cover reasonable compensation and reimbursement of expenses payable to the Trustee, and all Events of Default hereunder other than nonpayment of the principal with respect to the Obligations which have become due by said declaration have been remedied, then, in every such case with the consent of the Insurer, such Event of Default shall be deemed waived and such declaration and its consequences rescinded and annulled, and the Trustee shall promptly give written notice of such waiver, rescission or annulment to the Defaulting Party and shall give notice thereof by first-class mail to all Owners; but no such waiver, rescission and annulment shall extend to or affect any subsequent Event of Default or impair any right or remedy consequent thereon.

The provisions of paragraph (a) are further subject to the condition that any waiver of any event of default under the Contract and a rescission and annulment of its consequences shall constitute a waiver of the corresponding Event of Default under this Indenture and a rescission and annulment of the consequences thereof. If notice of such event of default under the Contract has been given as provided herein and if the Trustee thereafter has received notice that such event of default has been waived, the Trustee shall promptly give written notice of such waiver, rescission or annulment to the Defaulting Party and shall give notice thereof

by first-class mail to all Owners; but no such waiver, rescission and annulment shall extend to or affect any subsequent Event of Default or impair any right or remedy consequent thereon.

(c) On the occurrence and continuance of any Event of Default, then and in every such case the Trustee in its discretion may, to the extent permitted by Section 2.03 and applicable law, and on the written direction of the Owners of not less than a majority in aggregate principal amount of the Obligations then Outstanding and receipt of indemnity to its satisfaction shall, in its own name and as the Trustee of an express trust:

(i) by mandamus, or other suit, action or proceeding at law or in equity, enforce all rights of the Owners, and require the Defaulting Party to carry out any agreements with or for the benefit of the Owners and to perform its or their duties under the Contract and this Indenture, provided that any such remedy may be taken only to the extent permitted under the applicable provisions of the Contract or this Indenture, as the case may be; and

(ii) take whatever action at law or in equity is permissible and may appear necessary or desirable to enforce its rights against the Defaulting Party or the Premises (as defined in the Deed of Trust) held as security therefor, including all remedies available to the Beneficiary under the Deed of Trust.

No right or remedy is intended to be exclusive of any other rights or remedies, but each and every such right or remedy shall be cumulative and in addition to any other remedy given hereunder or now or hereafter existing at law or in equity or by statute. If any Event of Default has occurred and if requested in writing by the Owners of a majority in aggregate principal amount of Obligations then Outstanding and indemnified as provided in Section 8.01(m), the Trustee is obligated to exercise, to the extent permitted by Section 2.03 and applicable law, such one or more of the rights and powers conferred by this Section as the Trustee, being advised by counsel, shall deem most expedient in the interests of the Owners.

Notwithstanding anything in this Indenture to the contrary, upon the occurrence and continuance of an Event of Default and so long as no Insurer Default has occurred and is continuing, the Insurer shall be entitled to control and direct the enforcement of all rights and remedies granted to the Owners of the series of Obligations insured by such Insurer or the Trustee for the benefit of the Owners of such series of Obligations under this Indenture, including, without limitation, (i) the right to accelerate the principal with respect to the Obligations as described in this Indenture, and (ii) the right to annul any declaration of acceleration of such series of Obligations, and the Insurer shall also be entitled to approve all waivers of Events of Default relating to such series of Obligations pursuant to Section 7.09.

Section 7.03. **Majority of Owners May Control Proceedings.** The Owners of a majority in aggregate principal amount of the Obligations then Outstanding have the right, at any time, to the extent permitted by law, by an instrument or instruments in writing issued to the Trustee, to direct the time, method and place of conducting all proceedings to be taken in connection with the enforcement of the terms and conditions of this Indenture, or for the appointment of a receiver, and any other proceedings hereunder; provided that such direction shall not be otherwise than in accordance with the provisions hereof. The Trustee is not required to act on any direction given to it pursuant to this Section until the indemnity described in Section 8.01(m) of this Indenture is furnished to it by such Owners.

Section 7.04. **Rights and Remedies of Owners.** No Owner shall have any right to institute any suit, action or proceeding in equity or at law for the enforcement of this Indenture or for the execution of any trust hereof or for the appointment of a receiver or any other remedy hereunder, unless (i) a default has occurred of which the Trustee has been notified in writing as provided in Section 8.01(h), or of which by said Section it is deemed to have notice, and such default has become an Event of Default as defined in

Section 7.01; (ii) the Owners of not less than a majority in aggregate principal amount of Obligations then Outstanding have made written request to the Trustee and shall have offered the Trustee reasonable opportunity either to proceed to exercise the powers hereinbefore granted or to institute such action, suit or proceedings in its own name and they shall have also offered to the Trustee indemnity as provided in Section 8.01(m); and (iii) the Trustee thereafter fails or refuses to exercise the powers hereinbefore granted or to institute such action, suit or proceeding in its own name. Such notification, request and offer of indemnity are hereby declared in every case at the option of the Trustee to be conditions precedent to the execution of the powers and trusts of this Indenture, and to any action or cause of action for the enforcement of this Indenture, or for the appointment of a receiver or for any other remedy hereunder; it being understood and intended that no one or more Owners have any right in any manner whatsoever to affect, disturb or prejudice the lien of this Indenture by his action or to enforce any right hereunder except in the manner herein provided and that all proceedings at law or in equity shall be instituted, had and maintained in the manner herein provided and for the equal benefit of the Owners of all Obligations then Outstanding. Nothing contained in this Indenture shall, however, affect or impair the right of any Owner to enforce the payment of the principal, premium, if any, and interest with respect to any Obligation at and after the maturity thereof to the extent permitted by Section 2.03 and applicable law.

Section 7.05. ***Trustee May Enforce Rights Without Obligations.*** All rights of action and claims under this Indenture or any of the Obligations Outstanding hereunder may be enforced by the Trustee without the possession of any of the Obligations or the production thereof in any trial or proceedings relative thereto; and any suit or proceeding instituted by the Trustee shall be brought in its name as the Trustee, without the necessity of joining as plaintiffs or defendants any Owners of the Obligations, and any recovery of judgment shall be for the ratable benefit of the Owners of the Obligations, subject to the provisions of this Indenture.

Section 7.06. ***Delay or Omission No Waiver.*** No delay or omission of the Trustee or of any Owner to exercise any right or power accruing on any default shall exhaust or impair any such right or power or shall be construed to be a waiver of any such default, or acquiescence therein; and every power and remedy given by this Indenture, to the extent permitted by Section 2.03 and applicable law, may be exercised from time to time and as often as may be deemed expedient.

Section 7.07. ***No Waiver of One Default to Affect Another.*** No waiver of any default hereunder, whether by the Trustee, the Insurer of a series of Obligations or the Owners, shall extend to or affect any subsequent or any other then existing default or shall impair any rights or remedies consequent thereon.

Section 7.08. ***Discontinuance of Proceedings on Default; Position of Parties Restored.*** If the Trustee has proceeded to enforce any right under this Indenture and such proceedings have been discontinued or abandoned for any reason, or have been determined adversely to the Trustee, then and in every such case the Corporation, the County, the Trustee and the Owners shall be restored to their former positions and rights hereunder with respect to the Trust Estate, and all rights, remedies and powers of the Trustee shall continue as if no such proceedings had been taken.

Section 7.09. ***Waivers of Events of Default.*** The Trustee may in its discretion with the consent of the Insurer, if any, waive any Event of Default hereunder and its consequences, and notwithstanding anything else to the contrary contained in this Indenture shall do so on the written request of the Owners of a majority in aggregate principal amount of all Obligations then Outstanding; provided, however, that there shall not be waived without the consent of the Owners of 100% of that series of Obligations as to which the Event of Default exists (a) any Event of Default in the payment of the principal or premium with respect to any Outstanding Obligations at the date of maturity specified therein or (b) any default in the payment when due of the interest with respect to any such Obligations, unless before such waiver or rescission, all arrears of interest and all arrears of payments of principal and premium, if any, then due, as the case may be (both

with interest on all overdue installments at the rate or rates borne by the Obligations), and all expenses of the Trustee in connection with such default have been paid or provided for. In case of any such waiver, or in case any proceedings taken by the Trustee on account of any such default have been discontinued or abandoned or determined adversely to the Trustee, then and in every such case the Corporation, the County, the Trustee and the Owners shall be restored to their former positions and rights hereunder, respectively, but no such waiver or rescission shall extend to any subsequent or other default, or impair any right consequent thereon.

Section 7.10. ***Application of Moneys.*** All moneys received by the Trustee pursuant to any right given or action taken under the provisions of this Article shall, after payment of the costs and expenses of the proceedings resulting in the collection of such moneys and of the expenses, liabilities and advances incurred or made by the Trustee, be deposited in the Bond Fund and applied as follows:

(a) Unless the principal with respect to all of the Obligations have become or have been declared due and payable, all such moneys shall be applied:

FIRST - To the payment to the persons entitled thereto of all installments of interest then due with respect to the Obligations, in the order of the maturity of the installments of such interest beginning with the earliest such maturity and, if the amount available is not sufficient, to pay in full any particular installment, then to the payment ratably, according to the amounts due on such installment, to the persons entitled thereto, without any discrimination or privilege; and

SECOND - To the payment to the persons entitled thereto of the unpaid principal and premium, if any, with respect to any of the Obligations which shall have become due (other than Obligations matured or called for redemption for the payment of which moneys are held pursuant to the provisions of this Indenture), in the order of their due dates and beginning with the earliest due date and, if the amount available is not sufficient to pay in full all Obligations due on any particular date, then to the payment ratably, according to the amount of principal due on such date, to the persons entitled thereto without any discrimination or privilege; and

THIRD - The payment to the persons entitled thereto of interest on overdue installments of principal, premium, if any, and interest, to the extent permitted by law, and if the amount available is not sufficient to pay in full any particular installment, then to the payment ratably, according to the amounts due on such particular installment, to the persons entitled thereto, without any discrimination or privilege; and

FOURTH - To be held for the payment to the persons entitled thereto, as the same become due, of the principal, premium, if any, and interest with respect to the Obligations which may thereafter become due in accordance with the terms of this Indenture.

(b) If the principal with respect to all of the Obligations has become due or has been declared due and payable, all such moneys shall be applied to the payment of the principal and interest then due and unpaid with respect to the Obligations, without preference or priority of principal over interest or of interest over principal, or of any installment of interest over any other installment of interest, or of any Obligation over any other Obligation, ratably, according to the amounts due, respectively, for principal and interest, to the persons entitled thereto without any discrimination or privilege, with interest on overdue installments of interest or principal, to the extent permitted by law.

Whenever moneys are to be applied pursuant to the provisions of this Section, such moneys shall be applied at such times, and from time to time, as the Trustee shall determine, having due regard to the amount of such moneys available for application and the likelihood of additional moneys becoming available for such

application in the future. Whenever the Trustee shall apply such funds, it shall fix the date (which shall be an Installment Payment Date unless it shall deem another date more suitable) on which such application is to be made and on such date interest on the amounts of principal to be paid on such dates shall cease to accrue. The Trustee shall give such notice as it may deem appropriate of the deposit with it of any such moneys and of the fixing of any such date, and shall not be required to make payment to the Owner of any Obligation until such Obligation shall be presented to the Trustee for appropriate endorsement or for cancellation if fully paid.

Whenever the principal, premium, if any, and interest with respect to all of the Obligations have been paid under the provisions of this Section 7.10 and all expenses and charges of the Trustee and all amounts owed to any Insurer have been paid, any balance remaining in the Bond Fund shall be paid to the County.

## ARTICLE VIII

### CONCERNING THE TRUSTEE

Section 8.01. *Duties of the Trustee.* The Trustee hereby accepts the trusts imposed on it by this Indenture and agrees to perform said trusts, but only on and subject to the following express terms and conditions, and no implied covenants or obligations shall be read into this Indenture against the Trustee:

(a) The Trustee, before the occurrence of an Event of Default and after the curing of all Events of Default which may have occurred, undertakes to perform such duties and only such duties as are specifically set forth in this Indenture. In case an Event of Default has occurred (which has not been cured or waived) the Trustee shall exercise such of the rights and powers vested in it by this Indenture, and use the same degree of care and skill in their exercise as a reasonable and prudent person would exercise or use under the circumstances in the conduct of his or her own affairs.

(b) The Trustee may execute any of the trusts or powers hereof and perform any of its duties by or through attorneys, agents, receivers or employees but shall be answerable for the conduct of the same in accordance with the standard specified above, and shall be entitled to act on an Opinion of Counsel concerning all matters of trust hereof and the duties hereunder, and may in all cases pay such reasonable compensation to all such attorneys, agents, receivers and employees as may reasonably be employed in connection with the trusts hereof. The Trustee may act on an Opinion of Counsel and shall not be responsible for any loss or damage resulting from any action or non-action taken by or omitted to be taken in good faith in reliance on such Opinion of Counsel.

(c) The Trustee shall not be responsible for any recital herein or in the Obligations (except in respect to the execution of the certificate of authentication on behalf of the Trustee), or for the recording or rerecording, filing or refiling of the Contract or this Indenture or of any supplements thereto or hereto or instruments of further assurance, or insuring the security for the Obligations or the Project, or collecting any insurance moneys or for the validity of the execution by the Corporation of this Indenture or of any supplements hereto or instruments of further assurance, or for the sufficiency of the security for the Obligations executed and delivered hereunder or intended to be secured hereby, or for the value of or title to the Project, or for the maintenance of the security for the Obligations, and the Trustee shall not be bound to ascertain or inquire as to the performance or observance of any covenants, conditions or agreements on the part of the Corporation or the County, except as provided herein; but the Trustee may require of the Corporation or the County full information and advice as to the performance of the covenants, conditions and agreements aforesaid. The Trustee shall have no obligation to perform any of the duties of the County or the Corporation under the Contract; and the Trustee shall not be responsible or liable for any loss suffered in connection with any investment of funds made by it in accordance with Article V.

(d) The Trustee may become the Owner of the Obligations with the same rights which it would have if not the Trustee.

(e) The Trustee shall be protected in acting on any notice, request, consent, certificate, order, affidavit, letter, telegram or other paper or document believed to be genuine and correct and to have been signed or sent by the proper person or persons. Any action taken by the Trustee pursuant to this Indenture on the request or authority or consent of any person who at the time of making such request or giving such authority or consent is the Owner of any Obligation shall be conclusive and binding on all future Owners of the same Obligation and on any Obligations executed and delivered in place thereof.

(f) As to the existence or nonexistence of any fact or as to the sufficiency or validity of any instrument, paper or proceeding, the Trustee shall be entitled to rely on a certificate signed on behalf of the Corporation by a Corporation Representative, or on behalf of the County by a County Representative or such other person as may be designated for such purpose by a certified resolution, as sufficient evidence of the facts therein contained, and, before the occurrence of a default of which the Trustee has been notified as provided in subsection (h) of this Section or of which by said subsection it is deemed to have notice, shall also be at liberty to accept a similar certificate to the effect that any particular dealing, transaction or action is necessary or expedient, but shall in no case be bound to secure the same.

(g) The permissive right of the Trustee to do things enumerated in this Indenture shall not be construed as a duty and the Trustee shall not be answerable for other than its negligence or default.

(h) The Trustee shall not be required to take notice or be deemed to have notice of any default hereunder except failure by the County or the Corporation to cause to be made any of the payments to the Trustee required to be made by Article III hereof, unless the Trustee shall be specifically notified in writing of such default by the Corporation or the County or by the Owners of at least 25% in aggregate principal amount of Obligations then Outstanding, and all notices or other instruments required by this Indenture to be delivered to the Trustee, must, in order to be effective, be delivered at the principal corporate trust office of the Trustee, and in the absence of such notice so delivered or express knowledge to the contrary, the Trustee may conclusively assume there is no default except as aforesaid.

(i) All moneys received by the Trustee shall, until used or applied or invested as herein provided, be held in trust in the manner and for the purposes for which they were received but need not be segregated from other funds except to the extent required by this Indenture or law. The Trustee shall not be under any liability for interest on any moneys received hereunder except such as may be agreed on.

(j) At any and all reasonable times the Trustee, and its duly authorized agents, attorneys, experts, engineers, accountants and representatives, shall have the right, but shall not be required, to inspect any and all of the property pledged herein, including all books, papers and records of the Corporation or the County pertaining to the Project.

(k) The Trustee shall not be required to give any bond or surety in respect of the execution of the said trusts and powers or otherwise in respect of the premises.

(l) Notwithstanding anything in this Indenture to the contrary, the Trustee shall have the right, but shall not be required, to demand in respect of the execution and delivery of any Obligations, the withdrawal of any cash, or any action whatsoever within the purview of this Indenture, any showings, certificates, opinions, appraisals or other information, or corporate action or evidence thereof, in addition to that by the terms hereof required, as a condition of such action by the Trustee deemed desirable for the purpose of establishing the right of the Corporation or the County to the execution and delivery of any Obligations, the withdrawal of any cash, or the taking of any other action by the Trustee.

(m) Before taking any action hereunder (except for the acceleration of the Obligations under Section 7.02(a)) the Trustee may require that satisfactory indemnity be furnished to it by the Owners for the reimbursement of all expenses which it may incur and to protect it against all liability, except liability which may result from its negligence or default, by reason of any action so taken.

(n) The Trustee may use the services of an agent to carry out the duties, responsibilities and obligations required of the Trustee hereunder and where the Trustee is required to act, the agent of the Trustee may act in the place and stead of the Trustee; provided, however, that the use of any agent shall not relieve the Trustee of any of its obligations under the Indenture. Where any act is to be performed or any event is to occur under the Indenture at the principal corporate trust office of the Trustee, such act or event may be performed or occur, as the case may be, at the office of the agent of the Trustee.

(o) The Trustee may not serve as the provider of any financial guaranty instrument under this Indenture or any subsequent supplemental indenture.

(p) The Trustee shall not be liable to the Corporation or the County for any loss suffered as a result of or in connection with any investment of funds made by the Trustee in good faith as instructed by or approved by the County.

(q) The Trustee shall not be accountable for the use by the Corporation or the County of the proceeds of the Obligations.

(r) The Trustee shall have no duty or responsibility to examine or review, and shall have no liability for the contents of, any documents submitted to or delivered to any Owner in the nature of a preliminary or final placement memorandum, official statement, offering circular or similar disclosure document.

(s) The Trustee shall not be liable for any debts contracted or for damages to persons or to personal property injured or damaged, or for salaries or nonfulfillment of contracts, relating to the Project. The Trustee shall have no duty to inspect or oversee the construction or completion of the Project or to verify the truthfulness or accuracy of the certifications made by the Corporation or the County with respect to the Trustee's disbursements for Costs of Acquisition and Construction in accordance with this Indenture and the Contract.

Section 8.02. ***Fees and Expenses of Trustee.*** The Trustee shall be entitled to payment and reimbursement for its reasonable fees for its services rendered hereunder as and when the same become due and all expenses reasonably and necessarily made or incurred by the Trustee in connection with such services as and when the same become due as provided in Section 4.8 of the Contract.

Section 8.03. ***Resignation or Replacement of Trustee.*** The Trustee may resign by giving written notice to the County, the Corporation and each Insurer not less than 60 days before such resignation is to take effect. Such resignation shall take effect only on the appointment of a successor qualified as provided in the third paragraph of this Section 8.03. However, if a successor Trustee is not appointed within 60 days after the Trustee gives notice of resignation, the Trustee shall have the right to petition a court of competent jurisdiction to appoint a successor Trustee. The Trustee may be removed at any time (i) by the Corporation, at the written direction of the County, (ii) by an instrument in writing, executed by the Owners of a majority in aggregate principal amount of the Obligations then Outstanding, or (iii) by an Insurer for cause. The Corporation may not, however, remove the Trustee if an Event of Default under this Indenture has occurred and is continuing and no removal will be effective until a successor Trustee has been appointed and until such appointment has been accepted.

If the Trustee shall at any time resign or be removed or otherwise become incapable of acting, a successor may be nominated by the County and appointed by the Corporation, or if there is an Event of Default by the County under the Contract, by the Owners of a majority in aggregate principal amount of the Obligations then Outstanding by an instrument or concurrent instruments signed by such Owners, or their attorneys-in-fact duly appointed; provided that the Corporation may, by an instrument executed by it, appoint a successor until a new successor shall be appointed by the Owners as herein authorized. The Corporation on making such appointment shall forthwith give notice thereof, to each Owner and to the County, which notice may be given concurrently with the notice of resignation given by any resigning Trustee. Any successor so appointed by the Corporation shall immediately and without further act be superseded by a successor appointed in the manner above provided by the Owners of a majority in aggregate principal amount of the Obligations Outstanding.

Every successor Trustee shall be a bank or trust company in good standing, qualified to act hereunder, and having a capital and surplus of not less than \$100,000,000. In addition, the appointment of a successor Trustee hereunder shall be subject to the prior written consent of each Insurer and the Secretary of the LGC, which consents shall not be unreasonably withheld. Any successor appointed hereunder shall execute, acknowledge and deliver to the County and to the Corporation an instrument accepting such appointment hereunder, and thereon such successor shall, without any further act, deed or conveyance, become vested with all the estates, properties, rights, powers and trusts of its predecessor in the trust hereunder with like effect as if originally named as Trustee herein; but the Trustee retiring shall, nevertheless, on the written demand of its successor, execute and deliver an instrument conveying and transferring to such successor, on the trusts herein expressed, all the estates, properties, rights, powers and trusts of the predecessor, which shall duly assign, transfer and deliver to the successor all properties and moneys held by it under this Indenture. Should any instrument in writing from the County or the Corporation be required by any successor for more fully vesting in and confirming to it all the estates, properties, rights, powers and trusts of the predecessor, the said deeds, conveyances and instruments in writing shall be made, executed, acknowledged and delivered by the County or the Corporation on request of such successor.

The instruments evidencing the resignation or removal of the Trustee and the appointment of a successor hereunder, together with all other instruments provided for in this Section shall be filed and/or recorded by the successor Trustee in each recording office, if any, where this Indenture shall have been filed and/or recorded.

Section 8.04. ***Conversion, Consolidation or Merger of Trustee.*** Any bank or trust company into which the Trustee or its successor may be converted or merged, or with which it may be consolidated, or to which it may sell or transfer its trust business as a whole shall be the successor of the Trustee under this Indenture with the same rights, powers, duties and obligations and subject to the same restrictions, limitations and liabilities as its predecessor, all without the execution or filing of any papers or any further act on the part of any of the parties hereto or thereto, anything herein or therein to the contrary notwithstanding; provided, however, that such merged or successor entity meets the qualifications of a successor Trustee under Section 8.03. In case any of the Obligations to be executed and delivered hereunder shall have been authenticated, but not delivered, any successor Trustee may adopt the certificate of any predecessor Trustee, and deliver the same as authenticated; and, in case any of such Obligations shall not have been authenticated, the Corporation may authenticate the Obligation and any successor Trustee may deliver the same in the manner provided in Article II of this Indenture.

Section 8.05. ***Intervention by Trustee.*** In any judicial proceeding to which the Corporation or the County is a party and which in the opinion of the Trustee and its counsel has a substantial bearing on the interests of Owners of the Obligations, the Trustee may intervene on behalf of Owners of the Obligations, and shall do so if requested in writing by the Owners of at least 25% in aggregate principal amount of the Obligations then Outstanding.

Section 8.06. ***Power to Appoint Co-Trustees.*** At any time or times, for the purpose of meeting any legal requirements of any jurisdiction in which any part of the Project may at the time be located, the Corporation and the Trustee shall have power to appoint and, upon the request of the Trustee or of the Owners of a majority of the aggregate principal amount of the Obligations then Outstanding, the Corporation shall for such purpose join with the Trustee in the execution, delivery and performance of all instruments and agreements necessary or proper to appoint, one or more persons approved by the Trustee and the County either to act as co-trustee or co-trustees, jointly with the Trustee of all or any part of the Project, or to act as separate trustee or separate co-trustees all or any part of the Project, and to vest in such person or persons, in such capacity, such title to the Project or any part thereof, and such rights, powers, duties, trusts or obligations as the Corporation and the Trustee may consider necessary or desirable, subject to the remaining provisions of this section.

Any co-trustee or separate trustee shall be a bank or trust company with trust powers organized under the laws of the United States of America or any state of the United States or the District of Columbia, having a combined capital stock, surplus and undivided profits aggregating at least \$100,000,000.

The Trustee and co-trustee, if any, may by written instrument between them designate and assign either the Trustee or the co-trustee or both of them to perform all or any part of the responsibilities and duties of the Trustee under this Indenture.

If the Corporation shall not have joined in such appointment within 30 days after the receipt by it of a written request to do so, or in case an Event of Default shall have occurred and be continuing, the Trustee and the County shall have the power to make such appointment.

The Corporation shall execute, acknowledge and deliver all such instruments as may be required by any such co-trustee or separate trustee for more fully confirming such title, rights, powers, trusts, duties and obligations to such co-trustee or separate trustee.

Every co-trustee or separate trustee appointed pursuant to this section, to the extent permitted by law or any applicable contract, shall be subject to the following terms, namely:

(a) This Indenture shall become effective at the time the Obligations shall be authenticated and delivered, and thereupon such co-trustee or separate trustee shall have all rights, powers, trusts, duties and obligations by this Indenture conferred upon the Trustee in respect of the custody, control or management of moneys, papers, securities and other personal property.

(b) All rights, powers, trusts, duties and obligations conferred or imposed upon the trustees shall be conferred or imposed upon and exercised or performed by the Trustee, or by the Trustee and such co-trustee or co-trustees, or separate trustee or separate trustees, as shall be provided in the instrument appointing such co-trustee or co-trustees or separate trustee or separate trustees, except to the extent that, under the law of any jurisdiction in which any particular act or acts are to be performed, the Trustee shall be incompetent or unqualified to perform such act or acts, in which even such act or acts shall be performed by such co-trustee or co-trustees or separate trustee or separate trustees.

(c) Any request in writing by the Trustee to any co-trustee or separate trustee to take or to refrain from taking any action hereunder shall be sufficient warrant for the taking, or the refraining from taking, of such action by such co-trustee or separate trustee.

(d) Any co-trustee or separate trustee, to the extent permitted by law, may delegate to the Trustee the exercise of any right, power, trust, duty or obligation, discretionary or otherwise.

(e) The Trustee at any time, by an instrument in writing, with the concurrence of the County and the Corporation evidenced by a resolution, may accept the resignation of any co-trustee or separate trustee appointed under this Section, and, in case an Event of Default shall have occurred and be continuing, the Trustee shall have power to accept the resignation of, or remove, any such co-trustee or separate trustee without the concurrence of the Corporation and the County. Upon the request of the Trustee, the Corporation and the County shall join with the Trustee in the execution, delivery and performance of all instruments and agreements necessary or proper to effectuate such resignation or removal. A successor to any co-trustee or separate trustee so resigned or removed may be appointed in the manner provided in this Section.

(f) No co-trustee or separate trustee hereunder shall be personally liable by reason of any act or omission of any other trustee hereunder.

(g) Any moneys, paper, securities or other items of personal property received by any such co-trustee or separate trustee hereunder shall forthwith, so far as may be permitted by law, be turned over to the Trustee.

Upon the acceptance in writing of such appointment by any such co-trustee or separate trustee, it or he shall be vested with such rights, powers, duties, trusts or obligations, as shall be specified in the instrument of appointment jointly with the Trustee (except insofar as applicable law makes it necessary for any such co-trustee or separate trustee to act alone) subject to all the terms of this Indenture. Every such acceptance shall be filed with the Trustee.

In case any co-trustee or separate trustee shall die, become incapable of acting, resign or be removed, all rights, powers trusts, duties and obligations of said co-trustee or separate trustee shall, so far as permitted by law, vest in and be exercised by the Trustee unless and until a successor co-trustee or separate trustee shall be appointed in the same manner as provided for with respect to the appointment of a successor Trustee pursuant to Section 8.03 hereof.

## ARTICLE IX

### SUPPLEMENTAL INDENTURES AND AMENDMENTS OF THE CONTRACT

Section 9.01. *Supplemental Indentures Not Requiring Consent of Owners.* The Trustee and the Corporation may, with the written consent of the County, but without the consent of, or notice to, the Owners, enter into such indentures supplemental hereto for any one or more or all of the following purposes, as long as such supplemental indenture does not adversely affect the interests of the Owners:

- (a) To add to the covenants and agreements of the Corporation contained in this Indenture other covenants and agreements to be thereafter observed by the Corporation;
- (b) To cure any ambiguity, or to cure, correct or supplement any defect or omission or inconsistent provision contained in this Indenture, or to make any provisions with respect to matters arising under this Indenture or for any other purpose if such provisions are necessary or desirable and do not adversely affect the interests of the Owners; or
- (c) To execute and deliver Additional Obligations as provided in Section 2.11.

Section 9.02. *Supplemental Indentures Requiring Consent of Owners.* Exclusive of supplemental indentures covered by Section 9.01, the written consent of the County and the consent of the Owners of not less than a majority in aggregate principal amount of the Obligations then Outstanding is required for the execution by the Corporation and the Trustee of any indenture or indentures supplemental hereto; provided, however, that without the consent of the Owners of all the Obligations at the time Outstanding affected thereby nothing herein contained shall permit, or be construed as permitting:

- (a) A change in the terms of redemption or maturity of the principal amount of or the interest with respect to any Outstanding Obligation, or a reduction in the principal amount of or premium payable on any redemption of any Outstanding Obligation or the rate of interest thereon;
- (b) The deprivation of the Owner of any Obligation then Outstanding of the lien created by this Indenture (other than as originally permitted hereby);
- (c) A privilege or priority of any Obligation or Obligations over any other Obligation or Obligations; or
- (d) A reduction in the aggregate principal amount of the Obligations required for consent to such supplemental indenture.

If at any time the County or the Corporation requests the Trustee to enter into such supplemental indenture for any of the purposes of this Section, the Trustee shall, on being satisfactorily indemnified with respect to expenses, cause notice of the proposed execution of such supplemental indenture to be mailed by first-class mail to the Owners of the Obligations then Outstanding at the address shown on the registration books maintained by the Trustee. Such notice shall briefly set forth the nature of the proposed supplemental indenture and shall state that copies thereof are on file at the principal corporate trust office of the Trustee for inspection by all Owners. If, within 60 days or such longer period as is prescribed by the County and the Corporation following the giving of such notice, the Owners of not less than a majority in aggregate principal amount of the Obligations then Outstanding at the time of the execution of any such supplemental indenture have consented to and approved the execution thereof as herein provided, no Owner shall have any right to object to any of the terms and provisions contained therein, or in the operation thereof, or in

any manner to question the propriety of the execution thereof, or to enjoin or restrain the Trustee or the Corporation from executing the same or from taking any action pursuant to the provisions thereof.

Section 9.03. ***Execution of Supplemental Indenture.*** The Trustee is authorized to join with the Corporation in the execution of any such supplemental indenture and to make further agreements and stipulations which may be contained therein, but the Trustee is not obligated to enter into any such supplemental indenture which affects its rights, duties or immunities under this Indenture. Any supplemental indenture executed in accordance with the provisions of this Article shall thereafter form a part of this Indenture; and all the terms and conditions contained in any such supplemental indenture as to any provision authorized to be contained therein shall be deemed to be part of this Indenture for any and all purposes. In case of the execution and delivery of any supplemental indenture, express reference may be made thereto in the text of the Obligations executed and delivered thereafter, if any, if deemed necessary or desirable by the Trustee.

Section 9.04. ***Amendments of the Contract or the Deed of Trust Not Requiring Consent of Owners.*** The Corporation and the Trustee may, with the written consent of the County and the Insurer, but without the consent of or notice to the Owners, consent to any amendment, change or modification of the Contract or the Deed of Trust that does not materially adversely affect the interests of the existing Owners as may be required (a) by the provisions of the Contract, the Deed of Trust or this Indenture; (b) for the purpose of curing any ambiguity or formal defect or omission in the Contract or the Deed of Trust; (c) in order to more precisely identify the Premises (as defined in the Deed of Trust) or to add or substitute improvements acquired in accordance with the Contract, the Deed of Trust and this Indenture; (d) in order to execute and deliver Additional Obligations as provided in Section 2.11; (e) to amend the County's continuing disclosure obligation as provided in Article VIII of the Contract; or (f) in connection with any other change therein which, in the judgment of the Trustee, does not materially adversely affect the interests of the existing Owners.

Section 9.05. ***Amendments of the Contract or the Deed of Trust Requiring Consent of Owners.*** Except for the amendments, changes or modifications permitted by Section 9.04, neither the Corporation nor the Trustee shall consent to any other amendment, change or modification of the Contract or the Deed of Trust without the giving of notice thereof to the Owners and receipt of consent by the Owners of not less than a majority in aggregate principal amount of the Obligations at the time Outstanding given and procured as provided in Section 9.02. If the County and the Corporation request the consent of the Trustee to any such proposed amendment, change or modification of the Contract or the Deed of Trust, the Trustee shall, on being satisfactorily indemnified with respect to expenses, cause notice of such proposed amendment, change or modification to be given in the same manner as provided in Section 9.02. Such notice shall briefly set forth the nature of such proposed amendment, change or modification and shall state that copies of the instrument embodying the same are on file at the principal corporate trust office of the Trustee for inspection by all Owners.

Section 9.06. ***Notice to Fitch, Moody's and S&P.*** Notice of any amendment, change or modification to this Indenture or the Contract shall be given by the Trustee promptly after the execution thereof to Fitch, Moody's and S&P.

## ARTICLE X

[RESERVED]

## ARTICLE XI

### MISCELLANEOUS

Section 11.01. ***Evidence of Signature of Owners and Ownership of Obligations.*** Any request, consent or other instrument which this Indenture may require or permit to be signed and executed by the Owners may be in one or more instruments of similar tenor, and shall be signed or executed by such Owners in person or by their attorneys appointed in writing. Proof of the execution of any such instrument or of an instrument appointing any such attorney, or the ownership of Obligations shall be sufficient (except as otherwise herein expressly provided) if made in the following manner, but the Trustee may, nevertheless, in its discretion require further or other proof in cases where it deems the same desirable:

(a) The fact and date of the execution by any Owner or his or her attorney of such instrument may be proved by the certificate of any officer authorized to take acknowledgments in the jurisdiction in which he or she purports to act that the person signing such request or other instrument acknowledged to him or her the execution thereof, or by an affidavit of a witness of such execution, duly sworn to before a notary public.

(b) The ownership of the Obligations shall be proved by the registration books kept under the provisions of Section 2.09.

Any request or consent of the Owner of any Obligation shall bind all future Owners of such Obligation in respect of anything done or suffered to be done by the County or the Trustee in accordance therewith.

Section 11.02. ***Covenants of Corporation.*** The Corporation agrees that the Trustee as assignee of the Corporation under the Contract may enforce, in its name or in the name of the Corporation, all rights of the Corporation and all obligations of the County under the Contract, for and on behalf of the Owners, whether or not the Corporation is in default under this Indenture. The Trustee and the Corporation hereby agree that the Corporation shall not be obligated to make any payments or to take any other action with respect to the Project under the Contract.

Section 11.03. ***Inspection of the Project.*** The Trustee and its duly authorized agents have the right, on reasonable notice to the County, at all reasonable times, to examine and inspect the Project. The Trustee and its duly authorized agents shall also be permitted, at all reasonable times, to examine the books, records, reports and other papers of the County with respect to the Project.

Section 11.04. ***Parties Interested Herein.*** Nothing in this Indenture expressed or implied is intended or shall be construed to confer on, or to give to any person other than the County, the Corporation, the Trustee, an Insurer and the Owners, any right, remedy or claim under or by reason of this Indenture or any covenant, condition or stipulation hereof; and all the covenants, stipulations, promises and agreements in this Indenture contained by and on behalf of the Corporation or the Trustee shall be for the sole and exclusive benefit of the County, the Corporation, the Trustee, each Insurer and the Owners.

Section 11.05. ***Titles, Headings and Captions.*** The titles, captions and headings of the articles, sections and subdivisions of this Indenture have been inserted for convenience of reference only and shall in no way modify or restrict any of the terms or provisions hereof.

Section 11.06. ***Severability.*** If any provision of this Indenture, other than Section 2.03, is held invalid or unenforceable by any court of competent jurisdiction, such holding shall not invalidate or render unenforceable any other provision hereof. In the event any one or more of the provisions provided in this Indenture shall be construed to be held invalid or unenforceable, the parties hereto shall, in the alternative,

agree to replace such provision with a lawful provision which most nearly approximates the provision held to be invalid or unenforceable.

Section 11.07. **Governing Law.** This Indenture shall be construed, interpreted, governed and enforced in accordance with the laws and Constitution of the State, without regard to conflicts of law principles.

Section 11.08. **Execution in Counterparts.** This Indenture may be executed in several counterparts, each of which shall be an original and all of which shall constitute but one and the same instrument.

Section 11.09. **Notices.** All notices, certificates or other communications shall be sufficiently given and shall be deemed given when delivered or mailed by certified or registered mail, postage prepaid, as follows:

If to the County:	County of Cabarrus, North Carolina Governmental Center 65 Church Street, SE Post Office Box 707 Concord, North Carolina 28025 Attention: Finance Director
If to the Corporation:	Cabarrus County Development Corporation 65 Church Street, SE Post Office Box 707 Concord, North Carolina 28025 Attention: President
If to the Trustee:	Regions Bank 1180 West Peachtree Street, Suite 1200 Atlanta, Georgia 30309 Attention: Corporate Trust Department

The County, the Corporation, the Trustee, and each Insurer, if any, may, by written notice, designate any further or different addresses to which subsequent notices, certificates or other communications shall be sent.

A copy of all notices given by the Trustee to the Owners of the Obligations hereunder shall be delivered to each Insurer at the same time and in the same manner of delivery.

Section 11.10. **Payments Due on Holidays.** If the date for making any payment or the last day for performance of any act or the exercising of any right, as provided in this Indenture, 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 Indenture.

Section 11.11. **Corporation, County, and Trustee Representatives.** Whenever under the provisions hereof the approval of the Corporation, the County or the Trustee is required, or the County, the Corporation or the Trustee is required to take some action at the request of the other, unless otherwise provided, such approval or such request shall be given for the Corporation by a Corporation Representative, for the County by a County Representative and for the Trustee by a Trustee Representative, and the Corporation, the County and the Trustee shall be authorized to act on any such approval or request.

Section 11.12. ***E-Verify***. The Trustee 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 Trustee 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 Trustee will require that any subcontractor that it uses in connection with the transactions contemplated by this Indenture certify to such subcontractor's compliance with E-Verify.

Section 11.13. ***Iran Divestment Act Certification***. As of the date of this Indenture, the Trustee is not on any list created and maintained by the North Carolina Department of State Treasurer pursuant to the Iran Divestment Act of 2015, Article 6E of Chapter 147 of the General Statutes of North Carolina

[Signatures begin on next page]

*IN WITNESS WHEREOF*, the Corporation and the Trustee have caused this Indenture to be executed in their respective corporate names and their respective corporate seals to be hereto affixed and attested by their duly authorized officials or officers, all as of the date first above written.

**CABARRUS COUNTY DEVELOPMENT CORPORATION**

[SEAL]

By: \_\_\_\_\_  
Michael K. Downs, President

Attest:

By: \_\_\_\_\_  
Lauren Linker, Secretary

**REGIONS BANK,**  
as Trustee

[SEAL]

By: \_\_\_\_\_  
Sean A. Julien, Vice President

Attest:

By: \_\_\_\_\_  
Assistant Secretary

**EXHIBIT A**

**FORM OF OBLIGATION**

**R-1**

**\$ \_\_\_\_\_**

**United States of America  
State of North Carolina**

**CABARRUS COUNTY DEVELOPMENT CORPORATION  
LIMITED OBLIGATION REFUNDING BONDS  
(COUNTY OF CABARRUS, NORTH CAROLINA INSTALLMENT FINANCING CONTRACT)  
SERIES 2022A**

<b>INTEREST</b>			
<u><b>RATE</b></u>	<u><b>MATURITY DATE</b></u>	<u><b>DATED DATE</b></u>	<u><b>CUSIP</b></u>
[. ]%	June [ ], 20__	June [ ], 2022	

**REGISTERED OWNER:** \_\_\_\_\_

**PRINCIPAL SUM:** \_\_\_\_\_ **AND NO/100 DOLLARS**

THIS CERTIFIES THAT THE REGISTERED OWNER (named above), or registered assigns, has a proportionate undivided interest in the right to receive certain revenues, as described below, pursuant to a certain Installment Financing Contract dated as of June [1], 2022 (which agreement as from time to time amended is referred to herein as the "*Contract*"), between the Cabarrus County Development Corporation, a North Carolina nonprofit corporation (the "*Corporation*") and the County of Cabarrus, North Carolina (the "*County*"). The interest of the Owner of this limited obligation bond, which is one of a series of Obligations executed and delivered under the Indenture referred to herein and designated Cabarrus County Development Corporation Limited Obligation Refunding Bonds (County of Cabarrus, North Carolina Installment Financing Contract), Series 2022A (the "*2022A LOBs*") is secured as provided in the Indenture of Trust dated as of June [1], 2022 (the "*Indenture*"), between the Corporation and Regions Bank, as trustee (the "*Trustee*"), for the registered owners of all Obligations Outstanding under the Indenture, including the 2022A LOBs (the "*Owners*"), by which the rights (with certain exceptions) of the Corporation under the Contract have been assigned by the Corporation to the Trustee for the benefit of the Owners. Pursuant to the Contract and the Indenture, the Owner hereof is entitled to receive, solely out of and to the extent available from the sources hereinafter identified, on the Maturity Date stated above (or earlier as hereinafter provided), the Principal Sum stated above, and interest thereon (computed on the basis of a 360 day year of twelve 30 day months) from the Dated Date (shown above) at the interest rate per annum stated above, payable commencing on [December 1, 2022], and semiannually thereafter on June 1 and December 1 in each year, until payment in full of such principal sum. Principal with respect to this 2022A LOB is payable in lawful money of the United States of America at the corporate trust office of the Trustee located in Charlotte, North Carolina, or that of its successor; and interest with respect to this 2022A LOB is payable to the Owner hereof by check or draft of the Trustee, or its successor, to be mailed to such Owner at his or her address as it last appears in the registration books kept by the Trustee on the fifteenth day (whether or not a Business Day) of the month next preceding an Installment Payment Date (the "*Record Date*"); provided that, any Owner of a 2022A LOB or 2022A LOBs in an aggregate principal amount of not less than \$500,000 may, by prior written instructions filed with the Trustee not later than three Business Days prior to the Installment Payment Date (which instructions shall remain in effect until revoked by subsequent written instructions), instruct that interest payments for any period be made by wire transfer to an account

in the continental United States or other means acceptable to the Trustee. Notwithstanding the foregoing, so long as Cede & Co. is the registered Owner of this 2022A LOB, the principal and interest with respect to this 2022A LOB shall be paid by wire transfer in immediately available funds on each Installment Payment Date.

Under the conditions described in the Indenture, and without the approval or consent of the owners of any of the Obligations then Outstanding under the Indenture, Additional Obligations may be executed and delivered from time to time under the Indenture to provide funds for various purposes permitted by the terms of the Indenture. All such Additional Obligations, if any, will be secured *pari passu* with the 2022A LOBs originally executed and delivered under the Indenture and all other Additional Obligations, if any, executed and delivered from time to time pursuant to the terms of the Indenture, without preference, priority or distinction of any Obligation over any other Obligation.

The 2022A LOBs will be delivered by means of a book-entry system with no physical distribution of 2022A LOBs made to the public. One 2022A LOB for each maturity will be executed and delivered to The Depository Trust Company, New York, New York ("*DTC*"), and immobilized in its custody. A book-entry system will be employed, evidencing ownership of the 2022A LOBs in principal amounts in the denomination of \$5,000 or any whole multiple thereof, with transfers of beneficial ownership effected on the records of DTC and its participants pursuant to rules and procedures established by DTC. While DTC or its nominee is the registered owner of this 2022A LOB, payments of principal and interest will be made to DTC or its nominee in accordance with existing arrangements by wire transfer in immediately available funds. The County, the Corporation and the Trustee will not be responsible or liable for maintaining, supervising, or reviewing the records maintained by DTC, its participants or persons acting through such participants.

In the event that (a) DTC determines not to continue to act as securities depository for the 2022A LOBs or (b) the County determines that the continuation of the book-entry system of evidence and transfer of ownership of the 2022A LOBs would adversely affect the interests of the County or the beneficial owners of the 2022A LOBs, the County will discontinue the book-entry system with DTC. If the County fails to identify another qualified securities depository to replace DTC, the Trustee will authenticate and deliver replacement 2022A LOBs in the form of fully registered Obligations.

The County, the Corporation, and the Trustee do not have any responsibility or obligations with respect to (a) the accuracy of any records maintained by DTC; (b) the payment by DTC of any amount in respect of the principal and interest with respect to the 2022A LOBs; (c) the delivery or timeliness of delivery by DTC of any notice which is required or permitted under the terms of the Contract or Indenture to be given to Owners; (d) the selection of Owners to receive payments in the event of any partial redemption of the 2022A LOBs; or (e) any consent given or other action taken by DTC, or its nominee.

EACH OBLIGATION EVIDENCES A PROPORTIONATE UNDIVIDED INTEREST IN THE RIGHT TO RECEIVE CERTAIN REVENUES UNDER THE CONTRACT. THE OBLIGATION OF THE COUNTY TO MAKE INSTALLMENT PAYMENTS AND ADDITIONAL PAYMENTS (AS HEREINAFTER DEFINED) IS A LIMITED OBLIGATION OF THE COUNTY, PAYABLE SOLELY FROM CURRENTLY BUDGETED APPROPRIATIONS OF THE COUNTY; DOES NOT CONSTITUTE A GENERAL OBLIGATION OR OTHER INDEBTEDNESS OF THE COUNTY WITHIN THE MEANING OF THE CONSTITUTION OF THE STATE OF NORTH CAROLINA; AND DOES NOT CONSTITUTE A DIRECT OR INDIRECT PLEDGE OF THE FAITH AND CREDIT OR TAXING POWER OF THE COUNTY WITHIN THE MEANING OF THE CONSTITUTION OF THE STATE OF NORTH CAROLINA.

This 2022A LOB is one of the limited obligation bonds evidencing proportionate undivided interests in the right to receive certain revenues, as defined in the Contract (the "*Revenues*"), pursuant to the Contract and the Indenture, in an aggregate principal amount of \$[\_\_\_\_\_], and executed

and delivered under the Indenture for the purpose, among others, of providing funds to (a) prepay the Prior Contract (as defined in the Contract) and (b) pay certain expenses incurred in connection with the execution and delivery of the 2022A LOBs. Under the Contract, the Corporation has agreed to advance to the County the Purchase Price (as defined in the Contract), the proceeds from which will be used to finance the 2022A Project, and the County has agreed to pay directly to the Trustee semiannual payments (the "*Installment Payments*") in repayment of the Purchase Price, the proceeds of which are required by the Indenture to be distributed by the Trustee to the payment of the principal, premium, if any, and interest with respect to the Obligations. In addition to the Installment Payments, the County has agreed to make certain other payments (the "*Additional Payments*") sufficient to pay the fees and expenses of the Trustee and the Corporation and other expenses required to be paid by the County under the Contract. The County has covenanted in the Contract to pay the Installment Payments and the Additional Payments as they become due, and issued as security for that payment obligation the Deed of Trust, Security Agreement and Fixture Filing dated as of June [1], 2022 (the "*Deed of Trust*") from the County to the Deed of Trust trustee named therein for the benefit of the Corporation with respect to the 2022A Project. In the event the Contract is terminated by a reason of an Event of Default (as defined in the Contract), the principal amount of this 2022A LOB and the interest with respect to will be payable from such moneys, if any, as may be available for such purpose, including any moneys received by the Trustee from the sale, lease, sublease or other disposition of the Project pursuant to the Deed of Trust. The Contract may also be terminated in the event that the County shall exercise its option to prepay in full the Purchase Price. In the event that the County shall prepay the Purchase Price in full, the proceeds thereof are required to be used to pay the principal, premium, if any, and interest with respect to the Obligations. Reference is hereby made to the Contract and the Indenture for a description of the rights, duties and obligations of the County, the Corporation, the Trustee and the Owners, the terms on which the Obligations are secured, the terms and conditions on which the Obligations will be deemed to be paid at or before maturity or redemption of the Obligations on the making of provision for the full or partial payment thereof, and the rights of the Owners on the occurrence of an Event of Default. All capitalized, undefined terms used herein shall have the meanings ascribed thereto in the Contract and the Indenture.

The 2022A LOBs are executed and delivered solely as fully registered certificates without coupons in denominations of \$5,000 and any whole multiple thereof.

This 2022A LOB is transferable by the Owner hereof in person or by his or her attorney duly authorized in writing on the registration books kept at the corporate trust office of the Trustee on surrender of this 2022A LOB together with a duly executed written instrument of transfer satisfactory to the Trustee. On such transfer, a new fully registered 2022A LOB or 2022A LOBs without coupons of the same maturity, of authorized denomination or denominations, for the same aggregate principal amount, will be executed and delivered to the transferee in exchange herefor, all on payment of the charges and subject to the terms and conditions set forth in the Indenture. The Trustee shall deem the person in whose name this 2022A LOB is registered as the absolute owner hereof, whether or not this 2022A LOB shall be overdue, for the purpose of receiving payment and for all other purposes, and neither the County nor the Trustee shall be affected by any notice to the contrary.

If this 2022A LOB is called for redemption in part only, on surrender and cancellation of this 2022A LOB, a new fully registered 2022A LOB or 2022A LOBs of the same maturity, of authorized denominations, in an aggregate principal amount equal to the unredeemed portion hereof, shall be executed and delivered by the Trustee to the Owner hereof.

The 2022A LOBs are subject to redemption, in whole or in part, as follows:

(a) *Optional Redemption.* The 2022A LOBs maturing on or before June 1, 20\_\_ are not subject to optional redemption before maturity. The 2022A LOBs maturing on or after June 1,

20\_\_ may be redeemed before their maturities at the option of the County, from any funds that may be available for such purpose, in whole or in part on any date on or after June 1, 20\_\_\_. The 2022A LOBs called for redemption under this paragraph (a) will be redeemed at a redemption price equal to [100]% of the principal amount of the 2022A LOBs to be redeemed, together with accrued interest to the date fixed for redemption.

(b) *Extraordinary Optional Redemption.* If the County elects to prepay all or a portion of the Purchase Price pursuant to the Contract on the occurrence of the loss, damage or taking in eminent domain of all or any portion of the Project, the 2022A LOBs shall be redeemed in whole or in part on any date selected by the County at the redemption price of 100% of the principal amount thereof, together with accrued interest to the redemption date, without premium, from Net Proceeds and certain available moneys of the County as described in the Indenture.

(c) *Mandatory Sinking Fund Redemption.* The Term LOBs maturing on June 1, 20\_\_ are subject to mandatory sinking fund redemption on June 1 in each year on and after June 1, 20\_\_ by lot from the principal components of the Installment Payments required to be paid by the County pursuant to the Contract with respect to each such redemption date, at a redemption price equal to the principal amount thereof to be redeemed, together with accrued interest thereon to the date fixed for redemption, without premium as follows:

<u>YEAR</u>	<u>AMOUNT</u>
20__	\$_____
20__	
20__*	

\_\_\_\_\_  
\* Maturity

At its option, to be exercised on or before the 45th day next preceding any mandatory redemption date, the County may (i) deliver to the Trustee for cancellation the Term 2022A LOBs or portions thereof in principal amounts of \$5,000 or any whole multiple thereof, or (ii) receive a credit in respect of its mandatory redemption obligation for any Term 2022A LOBs which before said date have been purchased or redeemed (otherwise than through mandatory redemption pursuant to this paragraph (c)) and canceled by the Trustee and not theretofore applied as a credit against any mandatory redemption obligation. Each such Term 2022A LOBs or portion thereof so delivered or previously purchased or redeemed and canceled by the Trustee shall be credited by the Trustee at 100% of the principal amount thereof against the Installment Payment obligation corresponding to such mandatory redemption date. To the extent that the aggregate principal amount of such Term 2022A LOBs or portions thereof exceeds the Installment Payment obligation on such mandatory redemption date, any excess over such amount shall be credited against future Installment Payment obligations as directed by the County and the principal amount of Term 2022A LOBs to be redeemed in subsequent years shall be accordingly reduced.

The County must on or before the 45th day next preceding each such mandatory redemption date furnish the Trustee with its Term 2022A LOBs indicating to what extent the provisions of (i) and (ii) of the preceding paragraph are to be availed of with respect to such mandatory redemption payment.

In the case of any partial redemption of 2022A LOBs, the County will select the maturity or maturities of the 2022A LOBs to be redeemed and DTC will select the 2022A LOBs within the same maturity pursuant to its rules and procedures or, if the book-entry system with DTC or any other securities depository has been discontinued, the Trustee will select the 2022A LOBs to be redeemed by lot in such manner as the Trustee in its discretion may deem proper. For this purpose, each authorized denomination

of principal amount represented by any 2022A LOB will be considered a separate 2022A LOB for purposes of selecting the 2022A LOBs to be redeemed.

If a 2022A LOB subject to redemption is in a denomination larger than the minimum authorized denomination, a portion of such 2022A LOB may be redeemed, but only in a principal amount such that the unredeemed portion of such 2022A LOB is equal to an authorized denomination. For any 2022A LOB in a denomination of more than the minimum authorized denomination, the Trustee shall treat each such 2022A LOB as representing a single 2022A LOB in the minimum authorized denomination plus that number of 2022A LOBs that is obtained by dividing the remaining principal amount of such 2022A LOB by the minimum authorized denomination.

If it is determined that one or more, but not all, of the authorized denominations of principal amount represented by any 2022A LOB is to be called for redemption, then, on notice of intention to redeem such authorized denominations of principal amount with respect to such 2022A LOB, the Owner of such 2022A LOB, on surrender of such 2022A LOB to the Trustee for payment of the principal amount with respect to such 2022A LOB, will be entitled to receive new 2022A LOBs in the aggregate principal amount of the unredeemed balance of the principal amount with respect to such 2022A LOB. New 2022A LOBs representing the unredeemed balance of the principal amount with respect to such 2022A LOBs will be executed and delivered to the Owner thereof without charge therefor.

If the Owner of any 2022A LOB of a denomination greater than the amount being redeemed fails to present such 2022A LOB to the Trustee for payment and exchange as aforesaid, such 2022A LOB will, nevertheless, become due and payable on the date fixed for redemption to the extent of the denomination being redeemed and to that extent only.

Anything in the Indenture to the contrary notwithstanding, if an Event of Default occurs and is continuing, there will be no redemption of less than all of the Obligations Outstanding except for mandatory sinking fund redemptions required by the Indenture.

The Indenture permits supplements and amendments thereto and to the Contract and the Deed of Trust on the agreement of the Corporation and the Trustee and with the approval of the Owners of not less than a majority or, in certain instances, 100% in aggregate principal amount of the Obligations at the time Outstanding. The Indenture also contains provisions permitting the Corporation and the Trustee to enter into amendments to the Indenture and the Contract without the consent of the Owners of the Obligations for certain purposes.

Any consent or request by the Owner of this 2022A LOB shall be conclusive and binding on such Owner and on all future Owners of this 2022A LOB and of any certificate executed and delivered on the transfer of this 2022A LOB, whether or not notation of such consent or request is made on this 2022A LOB.

This 2022A LOB is executed and delivered with the intent that the laws of the State of North Carolina shall govern its legality, validity, enforceability and construction.

This 2022A LOB shall not be entitled to any right or benefit under the Indenture, or be valid or become obligatory for any purposes until this 2022A LOB shall have been authenticated by the execution by the Trustee, or its successors as Trustee, of the certificate of authentication inscribed hereon.

*[Signature Pages Follow]*

*IN WITNESS WHEREOF*, Cabarrus County Development Corporation has caused this 2022A LOB to be executed with the manual or facsimile signature of its President and its corporate seal or a facsimile thereof to be impressed or imprinted hereon and attested with the manual or facsimile signature of its Secretary, all as of the Dated Date set forth above.

**CABARRUS COUNTY DEVELOPMENT CORPORATION**

[Seal]

By: \_\_\_\_\_  
Michael K. Downs, President

Attest:

By: \_\_\_\_\_  
Lauren Linker, Secretary

**CERTIFICATE OF AUTHENTICATION**

This is one of the Limited Obligation Refunding Bonds (County of Cabarrus, North Carolina Installment Financing Contract), Series 2022A evidencing a proportionate undivided interest in the right to receive certain Revenues pursuant to the within mentioned Contract and Indenture.

**REGIONS BANK**, as Trustee

Dated: June [\_\_\_], 2022

By: \_\_\_\_\_  
Sean A. Julien, Vice President

[FORM OF ASSIGNMENT]

ASSIGNMENT

*FOR VALUE RECEIVED* the undersigned hereby sells, assigns and transfers unto

---

(Please print or typewrite Name and Address,  
including Zip Code, and Federal Taxpayer Identification or  
Social Security Number of Assignee)

---

the within 2022A LOB and all rights thereunder, and hereby irrevocably constitutes and appoints

---

Attorney to register the transfer of the within 2022A LOB on the books kept for registration thereof,  
with full power of substitution in the premises.

Dated: \_\_\_\_\_

Signature guaranteed by:

---

**NOTICE:** Signature must be guaranteed by a Participant in the Securities Transfer Agent Medallion Program ("Stamp") or similar program.

---

**NOTICE:** The signature to this assignment must correspond with the name as it appears on the face of the within 2022A LOB in every particular, without alteration, enlargement or any change whatever.

**TRANSFER FEE MAY BE REQUIRED**

**INSTALLMENT FINANCING CONTRACT**

**BETWEEN**

**CABARRUS COUNTY DEVELOPMENT CORPORATION**

**AND**

**COUNTY OF CABARRUS, NORTH CAROLINA**

Dated as of  
June [1], 2022

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THIS INSTRUMENT HAS BEEN PRE-AUDITED  
IN THE MANNER REQUIRED BY THE LOCAL  
GOVERNMENT BUDGET AND FISCAL  
CONTROL ACT.

---

Wendi Heglar  
Finance Director  
County of Cabarrus, North Carolina

## INSTALLMENT FINANCING CONTRACT

**THIS INSTALLMENT FINANCING CONTRACT**, dated as of June [1], 2022 (the "*Contract*"), is between the **CABARRUS COUNTY DEVELOPMENT CORPORATION**, a North Carolina nonprofit corporation (the "*Corporation*") and the **COUNTY OF CABARRUS, NORTH CAROLINA** (the "*County*"), a political subdivision validly existing under the Constitution, statutes and laws of the State.

### WITNESSETH:

*WHEREAS*, the County of Cabarrus, North Carolina is a duly and regularly created, organized and existing political subdivision validly existing as such under and by virtue of the Constitution, statutes and laws of the State of North Carolina (the "*State*");

*WHEREAS*, the County has the power, pursuant to Section 160A-20 of the General Statutes of North Carolina, as amended, to finance or refinance (1) the purchase of real and personal property used, or to be used, for public purposes, by installment contracts that create in some or all of the property purchased a security interest to secure repayment of the purchase price to the seller or to an individual or entity advancing moneys or supplying financing for the purchase transaction and (2) the construction or repair of fixtures or improvements on real property by contracts that create in some or all of the fixtures or improvements, or in all or some portion of the real property on which such fixtures or improvements are located, or in both, a security interest to secure repayment of money advanced or made available for such construction or repair;

*WHEREAS*, the Board of Commissioners of the County of Cabarrus, North Carolina (the "*Board*")

has previously determined, and hereby further determines, that it is in the best interest of the County to enter into this Contract to (a) obtain funds to prepay the Prior Contract (as defined hereinafter) in order to obtain long-term financing for the Prior Contract and the various public projects heretofore financed by the Prior Contract and (b) pay certain expenses incurred in connection with the execution and delivery of the 2022A LOBs (as defined hereinafter); and in consideration thereof, the County will make Installment Payments and Additional Payments (as each such term is defined hereinafter) under this Contract;

*WHEREAS*, there will be executed and delivered pursuant to a certain Indenture of Trust dated as of June [1], 2022 (the "*Indenture*") between the Corporation and Regions Bank, as trustee (the "*Trustee*"), Cabarrus County Development Corporation Limited Obligation Bonds (County of Cabarrus, North Carolina Installment Financing Contract), Series 2022A (the "*2022A LOBs*" and, together with all Additional Obligations (as defined in the Indenture), if any, the "*Obligations*") evidencing proportionate undivided interests in the right to receive certain Revenues (as hereinafter defined) under this Contract;

*WHEREAS*, pursuant to the Indenture, the Corporation has assigned to the Trustee all of its rights, title and interest in and to (i) this Contract (except the rights of the Corporation under Article X, the rights to receive all notices and those Additional Payments payable to the Corporation under this Contract), (ii)

the Deed of Trust (as defined herein) and the Premises (as defined herein) and (iii) all moneys and securities from time to time held by the Trustee under the Indenture in any fund or account, each as further described in the Indenture (collectively, the "*Trust Estate*");

*WHEREAS*, the Obligations evidence proportionate undivided interests in the right to receive certain Revenues and shall be payable solely from the sources provided in the Indenture;

*WHEREAS*, the execution, performance and delivery of this Contract have been authorized, approved and directed by the Board by a resolution passed and adopted by the Board on [April 19], 2022;

*WHEREAS*, the execution, delivery and performance of this Contract by the Corporation, and the assignment by the Corporation to the Trustee, pursuant to the Indenture, of the Trust Estate, have been authorized, approved and directed by all necessary and appropriate action of the Corporation;

*WHEREAS*, the obligation of the County to make Installment Payments and Additional Payments shall not constitute a general obligation or other indebtedness of the County within the meaning of the Constitution of the State; and shall not constitute a direct or indirect pledge of the faith and credit or taxing power of the County within the meaning of the Constitution of the State;

*WHEREAS*, in order to secure further the obligation of the County hereunder, the County has entered into a certain Deed of Trust, Security Agreement and Fixture Filing dated as of June [1], 2022 (the "*Deed of Trust*") with the deed of trust trustee named therein, for the benefit of the Corporation and its assignee; and

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

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

## **ARTICLE I**

### **DEFINITIONS**

All words and phrases defined in Article I of the Indenture shall have the same meaning when used in this Contract. In addition, the following terms shall have the meanings specified below unless the context clearly requires otherwise:

*"Additional Payments"* means the reasonable and customary expenses and fees of the Trustee and the Corporation, any expenses of the Corporation in defending an action or proceeding in connection with this Contract or the Indenture, 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 County or the Corporation is expressly required to pay as a result of this Contract (together with interest that may accrue thereon in the event that the County fails to pay the same).

*"Closing Date"* means June [\_\_], 2022.

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

*"Corporation"* means Cabarrus County Development Corporation, a North Carolina nonprofit corporation.

*"County"* means the County of Cabarrus, North Carolina or any successor to its functions.

*"County Representative"* means (i) the Finance Director or the person or persons at the time designated to act on behalf of the County for the purpose of performing any act under this Contract by a written certificate furnished to the Trustee and the Corporation containing the specimen signatures of such person or persons and signed on behalf of the County by the County Manager and the Finance Director of the County, or (ii) if any or all of the County's rights and obligations are assigned hereunder, the person or persons at the time designated to act on behalf of the County and the assignee by a written certificate similarly furnished and of the same tenor.

*"Deed of Trust"* means the Deed of Trust, Security Agreement and Fixture Filing, dated as of June [1], 2022 from the County to the deed of trust trustee named therein, for the benefit of the Corporation or its assignees, 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.

*"Fiscal Year"* means a twelve-month period commencing on the first day of July of any year and ending on the 30th day of June of the succeeding year, or such other twelve-month period which may subsequently be adopted as the Fiscal Year of the County.

*"Indenture"* means the Indenture of Trust dated as of June [1], 2022 between the Corporation and the Trustee, as amended or supplemented from time to time, pursuant to which the Obligations are executed and delivered.

*"Installment Payment Date"* means each June 1 and December 1, commencing [December 1], 2022.

*"Installment Payments"* means those payments made by the County to the Corporation as described in Article III and in the Payment Schedule attached hereto.

*"Net Proceeds,"* when used with respect to any (i) proceeds from policies of insurance on the Premises which are payable to the Corporation or the Trustee, (ii) proceeds of any condemnation award arising out of the condemnation of all or any portion of the Premises or the (iii) proceeds from any sale or lease of the Premises pursuant to the Deed of Trust or otherwise subsequent to an Event of Default, 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 attached hereto and incorporated herein by reference, which sets forth the County's Installment Payments.

*"Premises"* means the Premises as defined in the Deed of Trust, including any and all buildings, structures, additions and improvements of every nature whatsoever thereon that are now or hereafter situated on or about the Premises, including fixtures.

*"Prior Contract"* means the Installment Financing Contract between the Corporation and the County, dated as of February 1, 2020.

*"Prior Lender"* means STI Institutional & Government, Inc., now succeeded by Truist Bank.

"Purchase Price" means the amount of \$[\_\_\_\_\_] advanced by the Corporation to enable the County to prepay the Prior Contract under the terms of this Contract, as such price may be adjusted in connection with the execution and delivery of Additional Obligations pursuant to Section 2.11 of the Indenture.

"Revenues" means (a) all Net Proceeds not applied to the repair or replacement of the Premises; (b) all Installment Payments; and (c) all investment income on all funds and accounts created under the Indenture.

"State" means the State of North Carolina.

"Trustee" means Regions Bank, acting in the capacity of trustee for the Owners pursuant to the Indenture, and any successor thereto appointed under the Indenture.

## ARTICLE II

### ADVANCE OF PURCHASE PRICE

On the Closing Date, the Corporation hereby makes an advance to the County of the Purchase Price, and the County hereby accepts from the Corporation the Purchase Price to be applied in accordance with the terms and conditions of this Contract.. The proceeds of the Purchase Price have been or will be used to (i) prepay the Prior Contract and (ii) pay the Costs of Refunding the 2020A LOBs.

## ARTICLE III

### INSTALLMENT PAYMENTS; ADDITIONAL PAYMENTS

Section 3.1. **Amounts and Times of Installment Payments and Additional Payments.** As consideration for the Corporations advance of the Purchase Price, the County shall repay to the Trustee, as assignee of the Corporation, the Purchase Price in installments with interest as provided in this Contract and the Payment Schedule attached hereto (each an "Installment Payment"). Each installment shall be deemed to be an Installment Payment and shall be paid in the amounts and at the times set forth on the Payment Schedule except as provided herein. There shall be credited against the amount of Installment Payments otherwise payable hereunder amounts equal to (i) the portion of the proceeds of the sale of the Obligations which is deposited in the Bond Fund as accrued interest, if any, (ii) earnings derived from the investment of the Bond Fund and the Redemption Fund and (iii) any other moneys not constituting Installment Payments required to be deposited in the Bond Fund. Installment Payments shall be sufficient in the aggregate to repay the Purchase Price together with interest thereon. As further consideration for the Corporation's advance of the Purchase Price, the County shall also pay the Additional Payments, as required herein, on a timely basis directly to the person or entity to which such Additional Payments are owed.

Notwithstanding the foregoing, the County shall repay the Outstanding principal amount of the 2022A LOBs on the Final Maturity Date, subject to the right of prior prepayment and subject to any required mandatory prepayments. Interest on the Outstanding principal amount of the 2022A LOBs shall be paid on each Installment Payment Date.

Section 3.2. **Place of Payments.** All payments required to be made to the Corporation hereunder shall be made at the Trustee's principal office in immediately available funds or as may be otherwise directed in writing by the Trustee.

Section 3.3. **Late Charges.** To the extent permitted by law, if the County fails to pay any Installment Payment or any other sum required to be paid to the Trustee by the first day of the month following the due date thereof, the County shall pay a late payment charge equal to the amount of the delinquency times a per diem rate calculated at the rate(s) borne by each respective Obligation.

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

Section 3.5. **Prepayment of Purchase Price.**

(a) If the County has performed all of its obligations under this Contract, it shall have the option to prepay or provide for the prepayment of the Purchase Price, as set forth in Section 4.01 of the Indenture, on any date on or after June 1, [20\_\_] in full or in part in the amount of \$5,000 or any whole multiple thereof on 45 days' notice to the Trustee, at a prepayment price equal to the then applicable redemption price of the Obligations to be prepaid, including any required redemption premium under Section 4.01 of the Indenture, plus accrued interest to the prepayment date.

(b) In the event that all or any portion of the Premises is damaged, destroyed or taken in eminent domain as evidenced by a certificate of a County Representative delivered to the Trustee and the Net Proceeds are greater than or equal to \$100,000, if the County determines not to apply any Net Proceeds and any other available moneys to the repair or replacement of the Premises, as permitted by Section 7.3(a) of this Contract, and the County has otherwise performed all of its obligations under this Contract, the County shall prepay the Purchase Price on any date selected by the County, in full or in part in the amount of \$5,000 or any whole multiple thereof on 45 days' notice to the Trustee, at a prepayment price equal to 100% of the par amount of the Obligations to be prepaid plus accrued interest to the redemption date, but without premium, under Section 4.01(b) of the Indenture by causing the Trustee to deposit such Net Proceeds and any other available moneys into the Redemption Fund, but if the County uses other available moneys to prepay the Purchase Price in whole or in part, then the amount of such available moneys may not exceed one-third of the amount of Net Proceeds so applied. Notwithstanding the foregoing provisions of this subparagraph (b), only Obligations of the same series of Obligations which financed all or a portion of the cost of the portion of the Premises that has been damaged, destroyed or taken in eminent domain may be redeemed pursuant to the provisions of this subparagraph (b).

(c) In the event of a partial prepayment of the Purchase Price, the Payment Schedule shall be recalculated as necessary by the Trustee in the manner required by Section 3.08 of the Indenture.

## ARTICLE IV

### FUNDS; DISBURSEMENTS

Section 4.1. **Funds and Disbursements.** The Corporation has caused \$[\_\_\_\_\_], (representing the principal amount of the 2022A LOBs plus a County contribution in the amount of \$[\_\_\_\_\_]) to be deposited with the Trustee. The Trustee will cause (a) \$[\_\_\_\_\_], representing the aggregate prepayment price of the Prior Contract, to be remitted to the Prior Lender on the date hereof to prepay the Prior Contract, and (c) the balance, \$[\_\_\_\_\_] to be deposited in the 2022A LOBs Fund.

Section 4.2. **Disbursements.** Moneys held to the credit of the 2022A LOBs Fund shall be disbursed by the Trustee in payment of Costs of Issuance of the 2022A LOBs on receipt of written requisition from the County substantially in the form set forth in Exhibit A attached hereto, together with any documents or other items as the Trustee may reasonably determine to be necessary.

Section 4.3. **Termination.** The 2022A LOBs Fund shall be terminated at the earlier of (a) the final distribution of moneys held in the 2022A LOBs Fund or (b) the termination of this Contract.

Section 4.4. **Reliance of Trustee on Documents.** The Trustee may act in reliance on any writing or instrument or signature which it, in good faith, believes to be genuine and may assume the validity and accuracy of any statement or assertion contained in such a writing or instrument. The Trustee is not liable in any manner for the sufficiency or correctness as to form, manner and execution, or validity of any instrument nor as to the identity, authority, or right of any person executing the same; and its duties hereunder are limited to the receipt of such moneys, instruments or other documents received by it as the Trustee, and for the disposition of the same in accordance herewith.

Section 4.5. **Indemnification of Trustee.** Unless the Trustee is guilty of negligence or misconduct with regard to its duties hereunder, the County agrees, to the extent permitted by applicable law and Article XIV, to indemnify the Trustee, its officers, directors and agents and hold them harmless from any and all claims, liabilities, losses, actions, suits or proceedings at law or in equity, or any other expenses, fees or charges of any character or nature, which they may incur or with which they may be threatened by reason of its acting as Trustee under this Contract or the Indenture; and in connection therewith, to indemnify the Trustee, its officers, directors and agents against any and all expenses, including reasonable attorneys' fees and the cost of defending any action, suit or proceedings or resisting any claim. The obligations of the County under this Section shall survive the termination of this Contract and the resignation or removal of the Trustee.

Section 4.6. **Discretion of the Trustee To File Civil Action in the Event of Dispute.** If the County and the Trustee disagree about the interpretation of this Contract, or about the rights and obligations, or the propriety of any action contemplated by the Trustee hereunder, the Trustee may, but shall not be required to, file an appropriate civil action to resolve the disagreement. The Trustee shall be indemnified, to the extent permitted by applicable law and Article XIV, for all costs, including reasonable attorneys' fees, in connection with such civil action and shall be fully protected in suspending all or part of its activities under this Contract until a final judgment in such action is received.

Section 4.7. **Consultation with Counsel.** The Trustee may, but is not required to, consult with qualified counsel of its own choice and shall have full and complete authorization and protection in respect of any action taken, suffered or omitted by the Trustee in reliance on the reasonable opinion of such counsel. The Trustee shall otherwise not be liable for any mistakes of fact or errors of judgment, or for any acts or omissions of any kind unless caused by its negligence or misconduct.

Section 4.8. **Compensation of Trustee.** The County shall pay to the Trustee reasonable compensation for all services performed by the Trustee hereunder and under the Indenture and also for all reasonable expenses, charges and other disbursements and those of the Trustee's attorneys, agents and employees incurred in and about the administration and execution of the Indenture and the performance of the Trustee's powers and duties hereunder and under the Indenture, as an Additional Payment.

## ARTICLE V

### RESPONSIBILITIES OF THE COUNTY

Section 5.1. **Care and Use.** Subject to the provisions of applicable law and Article XIV, the County shall use the Premises 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 Premises so as to keep the Premises in good condition, repair, appearance and working order for the purposes intended, ordinary wear and tear excepted. The County shall replace any part of the Premises 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 Premises and all parts thereof shall constitute accessions to the Premises and shall be subject to all the terms and conditions of this Contract and included in the term "*Premises*" as used in this Contract.

Section 5.2. **Inspection.** The Trustee shall have the right on reasonable prior written notice to the County, and subject to the reasonable direction and supervision of the County, to enter into and on the Premises to inspect the Premises and observe their use during normal business hours.

Section 5.3. **Utilities.** The County shall pay or cause to be paid 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 Premises. There shall be no abatement of the Installment Payments on account of interruption of any such services.

Section 5.4. **Taxes.** The County agrees to pay or cause to be paid when due any and all taxes relating to the Premises and the County's obligations hereunder 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, licenses and charges imposed on the ownership, possession or use of the Premises by any governmental body or agency, together with any interest and penalties, other than taxes on or measured by the net income of the Corporation.

Section 5.5. **Title Insurance.** The County agrees to obtain, at its own cost and expense, a policy of title insurance from [\_\_\_\_\_ Title Insurance Company], or an endorsement to such a policy, in form satisfactory to the Corporation and the Trustee, at the time of and dated as of the date of execution and delivery of this Contract, in an amount not less than the Purchase Price, payable to the Trustee, as its interest may appear, insuring fee title of the County to the Premises.

Section 5.6. **[Reserved].**

Section 5.7. **Risk of Loss.** The County shall bear all risk (i) of loss or damage to the Premises and (ii) of the condemnation of the Premises or any portion of them. In the event of loss or damage to all or any portion of the Premises or condemnation of all or any portion of the Premises, the County shall continue to make the Installment Payments due hereunder and at its option either (a) repair or replace the Premises, in accordance with Section 7.2, (b) if the Net Proceeds with respect to the Premises are less than \$100,000 and are not necessary to restore the Premises to their intended use, direct the Trustee to deposit such Net Proceeds in the Bond Fund created under the Indenture to be applied toward the next payment of principal and interest with respect to the Obligations, or (c) if the Net Proceeds with respect to the Premises

are greater than or equal to \$100,000, prepay all or a portion of the then outstanding Purchase Price with Net Proceeds or any other moneys in accordance with Section 3.5(b); provided that if the County has exercised its option to prepay the Purchase Price in part, the County remains liable to make Installment Payments for the remaining Purchase Price which is not prepaid.

Section 5.8. ***Performance by the Trustee of the County's Responsibilities.*** Any performance required of the County or any payments required to be made by the County may, if not timely performed or paid, be performed or paid by the Trustee, and, in that event, the Trustee shall be immediately reimbursed by the County for these payments or other performance by the Trustee, with interest thereon at a rate equal to the prime rate of the Trustee at the time the payment is made and as adjusted from time to time thereafter until so reimbursed.

Section 5.9. ***Financial Statements and Other Information.*** The County agrees that it will (i) furnish to the Trustee and each Insurer, if any, annually and at such other reasonable times as the Trustee or an Insurer shall request, current financial statements (including, without limitation, the County's annual budget as submitted or approved), (ii) permit the Trustee and each Insurer, if any, or their respective agents and representatives to inspect the County's books and records and make extracts therefrom and (iii) provide each Insurer, if any, with such additional information as such Insurer may reasonably request. The County will permit each Insurer, if any, to discuss the affairs, finances and accounts of the County or any information such Insurer may reasonably request regarding the security for the series of Obligations for which it has a Policy in effect with appropriate officers of the County. The County will permit each Insurer, if any, to have access to and to make copies of all books and records relating to the series of Obligations for which it has a Policy in effect at any reasonable time. The County represents and warrants to the Trustee that (i) all financial statements which have been or may be delivered to the Trustee do and will fairly and accurately reflect the County's financial condition and (ii) there has been no material adverse change, as of the date of execution of this Contract, in the County's financial condition from the condition as reflected in the financial statements for the Fiscal Year ended June 30, 2021. The County further agrees that it will furnish a copy of its most recent audited financial statements to any Owner of the Obligations on written request therefor. The County's obligations to an Insurer under this Section 5.9 shall be effective only while that respective Insurer's Policy is in effect and no Insurer Default (as defined in the Indenture) has occurred and is continuing.

Section 5.10. ***Property Insurance.*** The County shall continually maintain insurance to the full insurable value of the Premises against loss by fire, hazards customarily included in the term "*extended coverage*" and such other hazards as the Trustee may reasonably require in such a manner and in such companies as the Trustee may from time to time reasonably require and shall promptly pay all premiums therefor when due. All insurance policies and renewals thereof shall name the Corporation and the Trustee as additional insureds thereunder, as the respective interests of each of such parties may appear, and have attached thereto a mortgagee long form loss payable clause in favor of and in form acceptable to the Trustee, and provide that no such policy can lapse or be canceled, substantially modified or terminated without at least 30 days prior notice to the Trustee and that any loss payable thereunder shall be made payable and shall be applied as provided in Article VII. In the event of loss, the County shall give immediate notice by mail to the Trustee, who may, but shall not be obligated to, make proof of loss. In the event of foreclosure of the Deed of Trust or other transfer of title to the Premises, all right, title and interest of the County in any insurance policies then in force shall pass to the Trustee. Additionally, during the term of this Contract, the County shall continually maintain standard liability insurance as is customarily maintained by like entities with respect to facilities similar to the Premises.

The County may provide for and maintain the insurance required under this Contract partially or wholly by means of an adequate risk retention fund. Reserves for a risk retention fund shall be determined by using actuarial principles. Any risk retention fund shall be reviewed annually by the County's risk

manager or an independent insurance consultant or actuarial consultant.

## ARTICLE VI

### TITLE; LIENS

Section 6.1. **Title.** Title to the Premises and any and all additions, repairs, replacements or modifications thereto shall be in the County from and after the date of execution and delivery of this Contract so long as the County is not in default hereunder. Title to the Premises shall vest permanently in the County on the payment in full of the Purchase Price and all Additional Payments, free and clear of any lien or security interest of the Trustee therein. Simultaneously with the execution and delivery of this Contract, the County shall deliver to the Trustee the Deed of Trust and UCC-1 financing statements in form satisfactory to the Corporation and the Trustee. Upon payment in full of all of the County's obligations hereunder, including the Purchase Price and all other payments due hereunder, the Corporation or its assignee, at the County's expense and request, shall discharge the Indenture and release the lien on the Deed of Trust and this Contract will terminate.

Section 6.2. **Liens.** The County 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 Premises or any interest therein, except for (i) the lien and security interest of the Corporation and the Trustee therein; (ii) utility, access and other easements and rights of way, restrictions and exceptions which do not interfere with or impair the intended use of the Premises; and (iii) such minor defects, irregularities, encumbrances and clouds on title as normally exist with respect to property of the general character of the Premises and as do not materially impair title to the Premises. The County 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 County shall reimburse the Corporation for any expense incurred by it in order to discharge or remove any such mortgage, pledge, lien, security interest, charge, encumbrance or claim.

## ARTICLE VII

### DAMAGE, DESTRUCTION AND CONDEMNATION; USE OF NET PROCEEDS

Section 7.1. **Damage, Destruction or Condemnation.** If, during the term hereof, (i) any portion of the Premises is destroyed or damaged by fire or other casualty; (ii) title to or the temporary or permanent use of any portion of the Premises or the estate of the County or the Corporation or its assignee in any portion of the Premises is taken under the power of eminent domain by any governmental authority; (iii) a material defect in construction of any portion of the Premises becomes apparent; or (iv) title to or the use of any portion of the Premises is lost by reason of a defect in title thereto, then the County shall continue to be obligated, subject to the provisions of Section 7.2, to pay the amounts specified in Section 3.1 at the respective times required.

Section 7.2. **Obligation of the County To Repair and Replace the Premises.** Subject to the provisions of Section 7.3, the Trustee shall cause the Net Proceeds of any insurance policies, performance or payment bonds, if any, condemnation awards with respect to the Premises or Net Proceeds made available by reason of any occurrence described in Section 7.1 with respect to the Premises, to be deposited in a separate fund held by the Trustee. Except as set forth in Section 7.3, all Net Proceeds so deposited shall be applied to the prompt repair, restoration, modification, improvement or replacement of the Premises on receipt of requisitions acceptable to the Trustee approved by a County Representative stating with respect to each payment to be made: (a) the requisition number; (b) the name and address of the person,

firm or corporation to whom payment is due; (c) the amount to be paid; and (d) that each obligation mentioned therein has been properly incurred, is a proper charge against the Acquisition and Construction Fund or such separate fund, and has not been the basis of any previous withdrawal and specifying in reasonable detail the nature of the obligation, accompanied by a bill or a statement of account for such obligation. The Trustee shall cooperate with the County in the administration of such separate fund and shall not unreasonably withhold its approval of requisitions under this Section 7.2. 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 Premises, the County may complete the work and pay any cost in excess of the amount of the Net Proceeds, and the County agrees that, if by reason of any such insufficiency of the Net Proceeds, the County shall make any payments pursuant to the provisions of this Section 7.2, the County is not entitled to any reimbursement therefor from the Corporation, the Trustee or the Owners nor is the County entitled to any diminution of the amounts payable under Section 3.1. Any repair, restoration, modification, improvement or replacement of the Premises paid for in whole or in part out of such Net Proceeds shall be the property of the County, subject to the Deed of Trust, and shall be included as part of the Premises under this Contract and the Deed of Trust.

Section 7.3. ***Discharge of the Obligation of the County To Repair the Premises.*** On the occurrence of an event described in Section 7.1 with respect to the Premises, and if the County does not elect to repair, restore, improve or replace the affected portion of the Premises, the County may elect to proceed under either of the following options to the extent applicable:

(a) If the Net Proceeds are greater than or equal to \$100,000, the obligation of the County to repair or replace the Premises under Section 7.2 may, at the option of the County, be discharged by causing the Net Proceeds of such insurance policies or condemnation awards to be transferred to the Redemption Fund and applied to the prepayment of all or any part of the Purchase Price in accordance with Section 3.5(b). If the Net Proceeds exceed the Purchase Price in accordance with Section 3.5(b), such excess after the payment of any Additional Payments shall be paid to or retained by the County; or

(b) If the Net Proceeds are less than \$100,000 and are not necessary to restore the affected portion of the Premises to its intended use, the County may direct the Trustee to deposit such Net Proceeds in the Bond Fund to be applied toward the next payment of principal and interest with respect to the Obligations.

Within 90 days of the occurrence of an event specified in Section 7.1 with respect to the Premises, the County shall (i) commence the repair, restoration, modification, improvement or replacement of the Premises, or (ii) shall elect, by written notice to the Trustee, to proceed under the provisions of subparagraph (a) or (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 Premises.

Section 7.4. ***Cooperation of the Corporation.*** The Corporation shall cooperate fully with the County and the Trustee in filing any proof of loss with respect to any insurance policy covering the events described in Section 7.1, and hereby assigns to the Trustee any interest it may have in such policies or rights of action for such purposes. In no event shall the Corporation or the County voluntarily settle, or consent to the settlement of, any proceeding arising out of any such insurance claim with respect to the Premises without the written consent of the other and the Trustee.

## ARTICLE VIII

### REPRESENTATIONS, WARRANTIES AND COVENANTS OF THE COUNTY AND THE CORPORATION

Section 8.1. ***Representations, Warranties and Covenants of the County.*** The County warrants and represents to the Corporation and to the Trustee for the benefit of the Owners (all such representations and warranties being continuing) that:

(a) The County is a duly organized and validly existing political subdivision 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 County 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 County to be consolidated with or merge into another political subdivision of the State or permit one or more other municipal corporations or political subdivisions of the State to consolidate with or merge into it, unless the political subdivision of the State created thereby expressly assumes in writing the County's obligations hereunder;

(c) This Contract, the Deed of Trust and all other documents relating hereto and the performance of the County's obligations hereunder and thereunder have been or will be duly and validly authorized, executed and delivered by the County and approved under all laws, regulations and procedures applicable to the County and, assuming due authorization, execution and delivery thereof by the other parties thereto, constitute valid, legal and binding obligations of the County, 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 jurisdiction may impose;

(d) No approval or consent is required from any governmental authority with respect to the entering into or performance by the County of this Contract, the Deed of Trust and all other documents related thereto and the transactions contemplated hereby and thereby or if such approvals or consents are required, they have been or will be duly obtained;

(e) Except as disclosed by the County in writing to the other parties hereto, there is no action, suit, proceeding or investigation at law or in equity before or by any court, public board or body pending or, to the best of the County's knowledge, threatened, against or affecting the County challenging the validity or enforceability of this Contract, the Deed of Trust or any other documents relating hereto and the performance of the County'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 County a breach of or default under, or result in the creation of a lien or other encumbrance on any property of the County (except as contemplated herein or therein) pursuant to any agreement or other instrument to which the County is a party, or any existing law, regulation, court order or consent decree to which the County is subject;

(f) 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 County is now a party or by which the County 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 County and no representation, covenant and warranty herein is false, misleading or erroneous in any material respect;

(g) The County is vested with fee simple title to the Premises, and there are no liens or encumbrances on the Premises other than the lien created by the Deed of Trust and the other liens permitted thereby;

(h) The resolutions relating to the performance by the County 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;

(i) The County reasonably believes funds will be available to satisfy all of its obligations hereunder;

(j) The County shall (i) cause its Budget Officer as statutorily defined to include the Installment Payments and the reasonably estimated Additional Payments coming due in each Fiscal Year in the corresponding annual budget request, (ii) require that the deletion of such funds from the County's final budget or any amended budget be made only pursuant to an express resolution of the Board which explains the reason for such action and (iii) deliver notice to the Trustee, S&P and the Local Government Commission of the State of North Carolina within five days after the adoption by the Board of the resolution described in clause (ii) above. Nothing contained in this paragraph (k) obligates the County to appropriate moneys contained in the proposed budget for the payment of Installment Payments and reasonably estimated Additional Payments coming due under the Contract;

(k) Moneys appropriated by the County to make Installment Payments in any Fiscal Year shall be used for no other purpose; and

(l) The County agrees, in accordance with Rule 15c2-12 (the "*Rule*") promulgated by the Securities and Exchange Commission (the "*SEC*"), as follows:

(1) by not later than seven months after the end of each Fiscal Year, beginning with the Fiscal Year ending June 30, 2022, to provide to the Municipal Securities Rulemaking Board ("MSRB"), the audited financial statements of the County for the preceding Fiscal Year, if available, prepared in accordance with Section 159-34 of the General Statutes of North Carolina, as it may be amended from time to time, or any successor statute, or if such audited financial statements are not then available, unaudited financial statements of the County for such Fiscal Year to be replaced subsequently by audited financial statements of the County to be delivered within 15 days after such audited financial statements become available for distribution;

(2) by not later than seven months after the end of each Fiscal Year, beginning with the Fiscal Year ending June 30, 2022, to provide to the MSRB, (a) the financial and statistical data as of a date not earlier than the end of the preceding Fiscal Year (which data shall be prepared at least annually, shall specify the date as to which such information was prepared and shall be delivered together with any subsequent material events notices specified in subparagraph (3) below) for the type of information included under the captions ["**THE COUNTY—DEBT INFORMATION,**" "**—TAX INFORMATION**" and "**—FINANCIAL INFORMATION**"] in the Official Statement dated [May \_\_], 2022 (the "*2022A Official Statement*") with respect to the 2022A LOBs (excluding any

information on underlying units) and (b) the combined budget of the County for the current Fiscal Year, to the extent such items are not included in the financial statements referred to in paragraph (1) above;

(3) in a timely manner, not in excess of ten (10) Business Days after the occurrence of the event, to provide notice to the MSRB of any of the following events with respect to the 2022A LOBs:

- (a) principal and interest payment delinquencies;
- (b) non-payment related defaults, if material;
- (c) unscheduled draws on the debt service reserves reflecting financial difficulties;
- (d) unscheduled draws on any credit enhancements reflecting financial difficulties;
- (e) substitution of any credit or liquidity providers, or their failure to perform;
- (f) adverse tax opinions, the issuance by the Internal Revenue Service of proposed or final determinations of taxability, Notices of Proposed Issue (IRS Form 5701-TEB) or other material notices or determinations with respect to the tax status of 2022A LOBs, or other material events affecting the tax status of the 2022A LOBs;
- (g) modification to rights of the beneficial owners of the 2022A LOBs, if material;
- (h) call of any of the 2022A LOBs, if material, and tender offers;
- (i) defeasance of any of the 2022A LOBs;
- (j) release, substitution or sale of any property securing repayment of the 2022A LOBs, if material;
- (k) rating changes;
- (l) bankruptcy, insolvency, receivership or similar event of the County;
- (m) the consummation of a merger, consolidation, or acquisition involving the County or the sale of all or substantially all of the assets of the obligated person, other than in the ordinary course of business, the entry into a definitive agreement to undertake such an action or the termination of a definitive agreement relating to such actions, other than pursuant to its terms, if material;
- (n) appointment of a successor or additional trustee or the change of name of a trustee, if material;

- (o) incurrence of a financial obligation by the County, if material, or agreement to covenants, events of default, remedies, priority rights or other similar terms of a financial obligation of the County, any of which affect beneficial owners of the 2022A LOBs, if material;
- (p) default, event of acceleration, termination event, modification of terms, or other similar events under the terms of a financial obligation of the County, any of which reflect financial difficulties; and

(4) in a timely manner, to the MSRB, notice of a failure of the County to provide required annual financial information described in (1) or (2) above on or before the date specified.

The County shall provide the documents referred to above to the MSRB in an electronic format as prescribed by the MSRB and accompanied by identifying information as prescribed by the MSRB.

For purposes of the preceding paragraphs (o) and (p), the term “financial obligation” means a (i) debt obligation; (ii) derivative instrument entered into in connection with, or pledged as security or a source of payment for, an existing or planned debt obligation; or (iii) guarantee of (i) or (ii). The term financial obligation shall not include municipal securities as to which a final official statement has been provided to the MSRB consistent with Rule 15c2-12.

The County may discharge its undertaking described above by transmitting the documents referred to above to any entity and by any method authorized by the SEC.

The County agrees that its undertaking under this paragraph is intended to be for the benefit of the Owners and the beneficial owners of the 2022A LOBs and is enforceable by the Trustee or by any of them, including an action for specific performance of the County's obligations under this paragraph, but a failure to comply will not be an Event of Default under Section 12.1 of the Contract and will not result in acceleration of the principal component of Installment Payments. An action must be instituted, had and maintained in the manner provided in this paragraph for the benefit of all of the Owners and beneficial owners of the 2022A LOBs.

The County may modify from time to time, consistent with the Rule, the information provided or the format of the presentation of such information, to the extent necessary or appropriate in the judgment of the County, but:

(1) any such modification may only be made in connection with a change in circumstances that arises from a change in legal requirements, change in law or change in the identity, nature or status of the County;

(2) the information to be provided, as modified, would have complied with the requirements of the Rule as of the date of the 2022A Official Statement, after taking into account any amendments or interpretations of the Rule as well as any changes in circumstances; and

(3) any such modification does not materially impair the interest of the Owners or the beneficial owners, as determined by the Trustee or nationally recognized

special counsel or by the approving vote of the Owners of a majority in principal amount of the 2022A LOBs pursuant to Section 9.05 of the Indenture as may be amended from time to time.

Any annual financial information containing modified operating data or financial information will explain, in narrative form, the reasons for the modification and the impact of the change in the type of operating data or financial information being provided.

Every notice delivered by the County pursuant to this Section 8.1(1) shall be delivered to each Insurer, if any, at the same time and in the same manner as such notice is given to the party entitled thereto.

The provisions of this paragraph (1) terminate on payment, or provision having been made for payment in a manner consistent with the Rule, in full of the principal and interest with respect to the 2022A LOBs.

Section 8.2. ***Environmental Warranties and Representations.*** (a) The County warrants and represents to the Corporation after thorough investigation as follows:

(1) The County has no knowledge of and, after reasonable inquiry, no reason to believe (A) that any industrial use has been or will be made of the Premises, (B) that the Premises have been or will be used for the storage, treatment or disposal of chemicals or any wastes or materials that are classified by federal, State or local laws as hazardous or toxic substances, (C) that any manufacturing, landfilling or chemical production has occurred or will occur on the Premises, or (D) there is or will be any asbestos or other contaminant on, in or under the Premises.

(2) The Premises are and will remain in compliance with all federal, State and local environmental laws and regulations, including, but not limited to, the Comprehensive Environmental Response, Compensation and Liability Act of 1980 ("*CERCLA*"), Public Law No. 96-510, 94 Stat. 2767, 42 U.S.C. 9601 et seq., and the Superfund Amendments and Reauthorization Act of 1986 ("*SARA*"), Public Law No. 99-499, 100 Stat. 1613.

(3) There are not now and will not be hereafter any hazardous materials, substances, wastes or other environmentally regulated substances (including, without limitation, any materials containing asbestos) located on, in or under the Premises or used in connection therewith and the County is in compliance with Section 1.13 of the Deed of Trust, except for (A) small quantities present in retail containers, (B) quantities and substances necessary and proper for the contemplated use of the Premises, and (C) quantities and substances necessary and proper for the operation and use of the Premises, all of which the County warrants will be stored, handled used and disposed of properly and in accordance with applicable law.

(4) The County will promptly notify the Corporation and the Trustee and each Insurer, if any, of any change in the nature or extent of any hazardous materials, substances or wastes maintained on, in or under the Premises or used in connection therewith, and will send to the Corporation copies of any citations, orders, notices or other material governmental or other communication received with respect to any other hazardous materials, substances, wastes or other environmentally regulated substances affecting the Premises.

(b) To the extent permitted by law, the County shall indemnify and hold the Corporation and Trustee harmless from and against (1) any and all damages, penalties, fines, claims, liens, suits, liabilities, costs (including clean-up costs, judgment and expenses (including attorneys', consultants' or experts' fees and expenses) of every kind and nature suffered by or asserted against the Corporation or the Trustee as a direct or indirect result of any warrant or representation made by the County in subsection (a) above being false or untrue in any material respect, or (2) any requirement under any law, regulation or ordinance, local, State or federal, which requires the elimination or removal of any hazardous materials, substances, wastes or other environmentally regulated substances by the Corporation, the County or any transferee or assignee of the County or the Corporation.

(c) The County's obligations hereunder shall not be limited to any extent by the Contract term or the County's satisfaction of its obligations thereunder, but shall continue in full force and effect notwithstanding satisfaction of such obligation or foreclosure under the Deed of Trust or delivery of a deed in lieu of foreclosure.

Section 8.3. ***Warranties and Representations of the Corporation.*** The Corporation warrants and represents to the County (all such warranties and representations being continuous):

(a) The Corporation is a nonprofit corporation duly organized, existing and in good standing under and by virtue of the laws of the State, has the power to enter into this Contract and the Indenture, and has duly authorized the execution and delivery of this Contract and the Indenture;

(b) The Corporation has duly authorized this Contract and the Indenture and has caused each to be executed on its behalf in accordance with the laws of the State;

(c) Neither the execution and delivery of this Contract or the Indenture, nor the fulfillment of or compliance with the terms and conditions hereof or thereof, nor the consummation of the transactions contemplated hereby or thereby, conflicts with or results in a breach of the terms, conditions or provisions of the charter or bylaws of the Corporation or any agreement or instrument to which the Corporation is now a party or by which the Corporation is bound, or constitutes a default under any of the foregoing; and

(d) To the best of the Corporation's knowledge after due and reasonable investigation, there is no action, suit, proceeding or investigation at law or in equity before or by any court, public board, or body pending or threatened against or affecting the Corporation challenging the validity or enforceability of this Contract, the Indenture or any other documents relating hereto and the performance of the Corporation's obligations hereunder and thereunder.

## **ARTICLE IX**

### **TAX COVENANTS AND REPRESENTATIONS**

The County covenants that it will not take any action, or fail to take any action, if any such action or failure to take action would adversely affect the exclusion from gross income of the interest portion of the Installment Payments created by this Contract under Section 103 of the Code. The County will not, directly or indirectly, use or permit the use of any proceeds of any fund created under the Indenture or of any other funds of the County, or take or omit to take any action that would cause the obligation created by this Contract to be an "arbitrage bond" within the meaning of Section 148(a) of the Code. To that end, the County has executed the Tax Certificate dated the date of delivery of the 2022A LOBs and will comply with all requirements of Section 148 of the Code to the extent applicable. The County further represents

and covenants that the Installment Payments created by this Contract are not and will not constitute a "private activity bond" as defined in Section 141 of the Code.

Without limiting the generality of the foregoing, the County 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 by this Contract from time to time. This covenant shall survive the payment in full of all Installment Payments under this Contract.

Notwithstanding any provision of this Article, if the County shall provide to the Trustee an opinion of nationally recognized bond or special counsel to the effect that any action required under this Section or the Tax Certificate is no longer required, or to the effect that some further action is required, to maintain the exclusion from gross income of the interest portion of the Installment Payments created by this Contract under Section 103 of the Code, the County and the Trustee may rely conclusively on such opinion in complying with the provisions hereof.

## **ARTICLE X**

### **INDEMNIFICATION**

To the extent permitted by applicable law and Article XIV, the County hereby agrees to indemnify, protect and save the Corporation and the Local Government Commission of North Carolina and any member, director, officer, agent or employee thereof and the Trustee harmless from all liability, obligations, losses, claims, damages, actions, suits, proceedings, costs and expenses, including attorneys' fees, arising out of, connected with, or resulting, directly or indirectly, from the Premises, or from the Indenture, the Deed of Trust and this Contract or from the County's performance under each of said documents, including, without limitation, the possession, condition or use of the Premises. The indemnification arising under this Article shall continue in full force and effect notwithstanding the payment in full of all obligations under this Contract.

## **ARTICLE XI**

### **DISCLAIMER OF WARRANTIES**

The County acknowledges that the Corporation has not designed the Premises, that the Corporation has not supplied any plans or specifications with respect thereto and the Corporation (a) is not a manufacturer of, nor a dealer in, any of the component parts of the Premises or similar facilities, (b) has not made any recommendation, given any advice nor taken any other action with respect to (1) the choice of any supplier, vendor or designer of, or any other contractor with respect to, the Premises or any component part thereof or any property or rights relating thereto, or (2) any action taken or to be taken with respect to the Premises or any component part thereof or any property or rights relating thereto at any state of the construction thereof, (c) has not at any time had physical possession of the Premises 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 Premises or any component part thereof or any property or rights relating thereto (1) will not result in or cause injury or damage to persons or property, (2) has been or will be properly designed, or will accomplish the results which the County intends therefor, or (3) is safe in any manner or respect.

**THE CORPORATION MAKES NO EXPRESS OR IMPLIED WARRANTY OR REPRESENTATION OF ANY KIND WHATSOEVER WITH RESPECT TO THE PREMISES OR ANY COMPONENT PART THEREOF, INCLUDING BUT NOT LIMITED TO ANY**

**WARRANTY OR REPRESENTATION WITH RESPECT TO THE MERCHANTABILITY OR THE FITNESS OR SUITABILITY THEREOF FOR ANY PURPOSE**, and further including the design or condition thereof; the safety, workmanship, quality or capacity thereof; compliance thereof with the requirements of any law, rule, specification or contract pertaining thereto; any latent defect; the Premises' ability to perform any function; or any other characteristic of the Premises; it being agreed that the County is to bear all risks relating to the Premises, the completion thereof or the transactions contemplated hereby or by the Deed of Trust or the Indenture, and the County hereby waives the benefits of any and all implied warranties and representations of the Corporation.

## ARTICLE XII

### DEFAULT AND REMEDIES

Section 12.1. **Definition of Event of Default.** The County shall be deemed to be in default hereunder upon the happening of any of the following events of default (each, an "*Event of Default*"):

(a) The County fails to make any Installment Payment by the second Business Day preceding the first day of the month following the date on which such Installment Payment is due;

(b) The County fails to budget and appropriate moneys sufficient to pay all Installment Payments and the reasonably estimated Additional Payments coming due in any Bond Year;

(c) The County 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 (a) or (b) above, or of the Deed of Trust on its part to be observed or performed, or breaches any warranty by the County herein or therein contained, for a period of 30 days after written notice specifying such failure and requesting that it be remedied has been given to the County by the Trustee unless such failure can be corrected and the Trustee shall agree in writing to an extension of such time prior to its expiration; provided, however, that if the failure cannot be corrected within the stated period, Trustee will not unreasonably withhold consent for an extension not longer than 60 days;

(d) Any bankruptcy, insolvency or reorganization proceedings or similar litigation is instituted by the County, or a receiver, custodian or similar officer is appointed for the County 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; or

(e) Any representation or statement made by the County herein, in the Deed of Trust or in any other document executed or delivered in connection herewith is found to be incorrect or misleading in any material respect as of the date made.

Section 12.2. **Remedies on Default.** On the occurrence of any Event of Default, the Trustee may, and, if requested in writing by a majority in aggregate principal amount of the Owners of the Obligations, the Trustee shall, to the extent permitted by applicable law and Article XIV, exercise any one or more of the following remedies as the Trustee shall elect or as shall be directed by a majority in aggregate principal amount of the Owners of the Obligations:

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

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

(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 under this Contract and the Deed of Trust including, without limitation, to the extent permitted by law, re-enter and take possession of the Premises without any court order or other process of law and without liability for entering the premises and sell, lease, sublease or make other disposition of the same in a commercially reasonable manner for the account of the County, and apply the proceeds of any such sale, lease, sublease or other disposition, after deducting all costs and expenses, including court costs and attorneys' fees, incurred with the recovery, repair, storage and other sale, lease, sublease or other disposition, toward the balance due under this Contract and, thereafter, shall pay any remaining proceeds to the County.

NOTWITHSTANDING ANY OTHER PROVISIONS HEREIN, IT IS THE INTENT OF THE PARTIES HERETO TO COMPLY WITH GENERAL STATUTES OF NORTH CAROLINA SECTION 160A-20. NO DEFICIENCY JUDGMENT MAY BE ENTERED AGAINST THE COUNTY IN VIOLATION OF SECTION 160A-20 INCLUDING, WITHOUT LIMITATION, ANY DEFICIENCY JUDGMENT FOR AMOUNTS THAT MAY BE OWED HEREUNDER WHEN THE SALE OF ALL OR ANY PORTION OF THE PREMISES IS INSUFFICIENT TO PRODUCE ENOUGH MONEY TO PAY IN FULL ALL REMAINING OBLIGATIONS UNDER THIS CONTRACT. TO THE EXTENT OF ANY CONFLICT BETWEEN THIS PARAGRAPH AND ANY OTHER PROVISION OF THIS ARTICLE XII, THIS PARAGRAPH SHALL TAKE PRIORITY. THIS SECTION 12.2 IN NO WAY LIMITS THE PROVISIONS OF ARTICLE XIV.

Section 12.3. **Further Remedies.** Notwithstanding the occurrence of an Event of Default hereunder and the exercise of any or all of the remedies listed in Section 12.2, this Contract shall remain in full force and effect and the County, to the extent permitted by applicable law and Article XIV, shall be and remain liable for the full performance of all its obligations hereunder. All remedies of the Trustee 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.

### ARTICLE XIII

#### ASSIGNMENT

Section 13.1. **Assignment by the County.** The County 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 Premises (except for the lien and security interest of the Corporation therein or except for any permitted encumbrances under Section 6.2) without the Trustee's prior written consent, which consent shall not be unreasonably withheld. Notwithstanding the foregoing, the County may lease all or a portion of the Premises subject to the following conditions:

- (a) the obligation of the County to make Installment Payments and Additional Payments under the Contract will remain obligations of the County;
- (b) the County will, at least 30 days before the execution and delivery of any such lease, furnish or cause to be furnished to the Trustee a true and complete copy of such lease;
- (c) no lease will cause the interest component of Installment Payments relating to any Obligations to become includable in gross income for federal income tax purposes; and
- (d) the Trustee shall have received an opinion of Counsel to the County to the effect that such lease is subordinate to the lien of the Deed of Trust and such lease shall terminate upon any foreclosure of such lien.

Section 13.2. **Assignment by the Corporation.** The Corporation has assigned all of its interest in the Premises and this Contract (other than its rights under Article X, certain notice rights and those Additional Payments payable to the Corporation under this Contract), including without limitation, the Corporation's right to receive the Installment Payments, to the Trustee.

## **ARTICLE XIV**

### **LIMITED OBLIGATION OF THE COUNTY**

NOTWITHSTANDING ANY PROVISION OF THIS CONTRACT, THE INDENTURE OR THE DEED OF TRUST WHICH MAY BE TO THE CONTRARY, NO PROVISION OF THIS CONTRACT, THE INDENTURE OR THE DEED OF TRUST SHALL BE CONSTRUED OR INTERPRETED AS CREATING A PLEDGE OF THE FAITH AND CREDIT OF THE COUNTY WITHIN THE MEANING OF THE CONSTITUTION OF THE STATE. NO PROVISION OF THIS CONTRACT, THE INDENTURE OR THE DEED OF TRUST SHALL BE CONSTRUED OR INTERPRETED AS CREATING A DELEGATION OF GOVERNMENTAL POWERS NOR AS A DONATION BY OR A LENDING OF THE CREDIT OF THE COUNTY WITHIN THE MEANING OF THE CONSTITUTION OF THE STATE. THIS CONTRACT, THE INDENTURE AND THE DEED OF TRUST SHALL NOT DIRECTLY OR INDIRECTLY OR CONTINGENTLY OBLIGATE THE COUNTY TO MAKE ANY PAYMENTS BEYOND THOSE APPROPRIATED IN THE SOLE DISCRETION OF THE COUNTY FOR ANY FISCAL YEAR IN WHICH THIS CONTRACT IS IN EFFECT; PROVIDED, HOWEVER, ANY FAILURE OR REFUSAL BY THE COUNTY TO APPROPRIATE FUNDS WHICH RESULTS IN THE FAILURE BY THE COUNTY TO MAKE ANY PAYMENT COMING DUE HEREUNDER WILL IN NO WAY OBIVATE THE OCCURRENCE OF THE EVENT OF DEFAULT RESULTING FROM SUCH NONPAYMENT. NO DEFICIENCY JUDGMENT MAY BE RENDERED AGAINST THE COUNTY IN ANY ACTION FOR BREACH OF A CONTRACTUAL OBLIGATION UNDER THIS CONTRACT, AND THE TAXING POWER OF THE COUNTY IS NOT AND MAY NOT BE PLEDGED DIRECTLY OR INDIRECTLY OR CONTINGENTLY TO SECURE ANY MONEYS DUE UNDER THIS CONTRACT. NO PROVISION OF THIS CONTRACT, THE INDENTURE OR THE DEED OF TRUST SHALL BE CONSTRUED TO PLEDGE OR TO CREATE A LIEN ON ANY CLASS OR SOURCE OF THE COUNTY'S MONEYS, NOR SHALL ANY PROVISION OF THIS CONTRACT, THE INDENTURE OR THE DEED OF TRUST RESTRICT THE FUTURE ISSUANCE OF ANY OF THE COUNTY'S OBLIGATIONS OR ANY OTHER OBLIGATIONS PAYABLE FROM ANY CLASS OR SOURCE OF THE COUNTY'S MONEYS. TO THE EXTENT OF ANY CONFLICT BETWEEN THIS ARTICLE AND ANY OTHER PROVISION OF THIS CONTRACT, THE INDENTURE OR THE DEED OF TRUST, THIS ARTICLE SHALL TAKE PRIORITY.

## **ARTICLE XV**

### **JOINDER BY THE TRUSTEE**

The Trustee hereby executes this Contract to signify its agreement to be bound to the terms of this Contract applicable to it. The County and the Corporation acknowledge and agree that the Trustee shall be entitled to enforce and to benefit from the terms and conditions of this Contract applicable to it.

## **ARTICLE XVI**

### **MISCELLANEOUS**

Section 16.1. **Waiver.** No covenant or condition of this Contract can be waived except by the written consent of the Corporation and the Trustee. Any failure of the Corporation or the Trustee to require strict performance by the County or any waiver by the Corporation or the Trustee of any terms, covenants or contracts herein shall not be construed as a waiver of any other breach of the same or any other term, covenant or contract herein.

Section 16.2. **County's Acceptance of Rights and Responsibilities Under the Indenture.** The County accepts all responsibilities assigned to it under and pursuant to the Indenture.

Section 16.3. **Severability.** If any portion of this Contract other than Article XIV 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 16.4. **Governing Law.** This Contract shall be construed, interpreted and enforced in accordance with the laws of the State, without regard to conflict of law principles.

Section 16.5. **Notices.** Any and all notices, requests, demands, and other communications given under or in connection with this Contract are effective only if in writing and either personally delivered or mailed by registered or certified mail, postage prepaid, return receipt requested, addressed as follows:

If to the Corporation: Cabarrus County Development Corporation  
65 Church Street, SE  
Post Office Box 707  
Concord, North Carolina 28025  
Attention: President

If to the County: County of Cabarrus, North Carolina  
Governmental Center  
65 Church Street, SE  
Post Office Box 707  
Concord, North Carolina 28025  
Attention: Finance Director

If to the Trustee: Regions Bank  
1180 West Peachtree Street  
Atlanta, Georgia 30309  
Attention: Corporate Trust Department

The Corporation, the County and the Trustee may, by written notice to the others, designate any further or different addresses to which subsequent notices, bonds or other communications shall be sent.

Section 16.6. **Section Headings.** All section headings contained herein are for convenience of reference only and are not intended to define or limit the scope of any provision of this Contract.

Section 16.7. **Entire Contract.** This Contract, together with the schedules and Exhibits hereto, constitutes the entire Contract between the parties and this Contract shall not be modified, amended, altered or changed except by written agreement signed by the parties.

Section 16.8. **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 Trustee). The Trustee and each Insurer, if any, shall be a third-party beneficiary hereof.

Section 16.9. **Time.** Time is of the essence of this Contract and each and all of its provisions.

Section 16.10. **If Payment or Performance Date Not a Business Day.** If the date for making 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 16.11. ***Covenants of County, Corporation or Local Government Commission 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, director, agent, officer or employee of the County, the Corporation or the Local Government Commission of North Carolina in his individual capacity, and neither the members of the Board, the Board of Directors of the Corporation, the members of the Local Government Commission of North Carolina nor any other member, director, agent, officer or employee of the Board, the County, the Corporation or the Local Government Commission of North Carolina shall be subject to any personal liability or accountability by reason of the execution and delivery of the Obligations. No member of the Board, the Board of Directors of the Corporation, the Local Government Commission of North Carolina nor any agent, officer or employee of the County, the Corporation or the Local Government Commission of North Carolina shall incur any personal liability under this Contract.

Section 16.12. ***Amounts Remaining in Funds.*** It is agreed by the parties hereto that any amounts remaining in the Bond Fund, the Acquisition and Construction Fund, the Redemption Fund or any other fund or account created under the Indenture, on termination of this Contract and the Indenture, and after payment in full of the Obligations (or provision for payment thereof having been duly made in accordance with the provisions of this Contract or the Indenture) and fees and expenses of the Trustee in accordance with this Contract and the Indenture and all Additional Payments shall have been made, shall be paid to the County by the Trustee as an overpayment of Installment Payments in accordance with the terms of the Indenture.

Section 16.13. ***Amendments to this Contract.*** This Contract shall not be amended by the parties hereto except in accordance with Article IX of the Indenture. In addition, no amendment to this Contract which would increase the amount or maturity of Obligations Outstanding will be effective until it is approved by the Local Government Commission of North Carolina.

Section 16.14. ***Execution in Counterparts.*** This Contract may be executed in any number of counterparts, each of which shall be an original and all of which shall constitute but one and the same instrument.

Section 16.15. ***E-Verify.*** The Corporation 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 Corporation 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 Corporation will require that any subcontractor that it uses in connection with the transactions contemplated by this Contract certify to such subcontractor's compliance with E-Verify.

[Signatures begin on next page]

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

**CABARRUS COUNTY DEVELOPMENT CORPORATION**

[SEAL]

By: \_\_\_\_\_  
Michael K. Downs, President

Attest:

\_\_\_\_\_  
Lauren Linker, Secretary

[Signatures Continued on Following Pages]

Counterpart Signature Page to the Installment Financing Contract  
Dated as of June [1], 2022, Between the Cabarrus County Development Corporation  
and the County of Cabarrus, North Carolina

Counterpart Signature Page to the Installment Financing Contract  
Dated as of June [1], 2022, Between the Cabarrus County Development Corporation  
and the County of Cabarrus, North Carolina

**COUNTY OF CABARRUS, NORTH CAROLINA**

[SEAL]

---

Stephen M. Morris  
Chairman of the Board

Attest:

---

Lauren Linker  
Clerk to the Board

[Signatures Continued on Following Pages]

Counterpart Signature Page to the Installment Financing Contract  
Dated as of June [1], 2022, Between the Cabarrus County Development Corporation  
and the County of Cabarrus, North Carolina

Consented to and Accepted:

**REGIONS BANK,**  
as Trustee

By: \_\_\_\_\_  
Thomas E. Clower, Vice President

[Signatures Continued on the Following Page]

Counterpart Signature Page to the Installment Financing Contract  
Dated as of June [1], 2022, Between the Cabarrus County Development Corporation  
and the County of Cabarrus, North Carolina

THIS CONTRACT HAS BEEN  
APPROVED UNDER THE PROVISIONS  
OF ARTICLE 8, CHAPTER 159 OF THE  
GENERAL STATUTES OF NORTH CAROLINA.

---

Secretary of the Local Government Commission

INSTALLMENT PAYMENT SCHEDULE

[To be inserted]

**EXHIBIT A**

**FORM OF REQUISITION  
2022A LOBS FUND**

Regions Bank, as Trustee  
1180 West Peachtree Street  
Atlanta, Georgia 30309  
Attention: Corporate Trust Department

Re: Direction to Make Disbursements from the 2022A LOBs Fund

Ladies and Gentlemen:

Pursuant to Section 3.11 of the Indenture of Trust dated as of June [1], 2022 (the "*Indenture*") between the Cabarrus County Development Corporation, a North Carolina nonprofit corporation (the "*Corporation*") and Regions Bank, as trustee (the "*Trustee*"), you are hereby directed to disburse from the 2022A LOBs Fund referred to in the Indenture the amount indicated below.

The undersigned hereby certifies:

- 1. This is requisition number \_\_\_\_\_ from the 2022A LOBs 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 2022A LOBs Fund as a Cost of Issuance of the 2022A LOBs; and such obligation has not been the basis of any previous disbursement.

Dated this \_\_\_\_ day of \_\_\_\_\_, 2022.

**COUNTY OF CABARRUS, NORTH CAROLINA**

**By:** \_\_\_\_\_  
County Representative

# CABARRUS COUNTY



## BOARD OF COMMISSIONERS WORK SESSION

**April 4, 2022  
4:00 PM**

---

### **AGENDA CATEGORY:**

Discussion Items for Action

### **SUBJECT:**

Finance - Fire District Property Tax Budget Amendment

### **BRIEF SUMMARY:**

This budget amendment will increase Fire Districts' current year property tax collections as well as increase related districts' turnovers. Per the Fire Tax Districts budget ordinance, Section V. (7), upon notification of funding increases of revenues, the Manager may adjust budgets to match.

### **REQUESTED ACTION:**

Motion to adopt the budget amendment.

### **EXPECTED LENGTH OF PRESENTATION:**

1 Minute

### **SUBMITTED BY:**

Wendi Heglar, Finance Director

### **BUDGET AMENDMENT REQUIRED:**

Yes

### **COUNTY MANAGER'S RECOMMENDATIONS/COMMENTS:**

.

---

### **ATTACHMENTS:**

▣ Budget Amendment

**Budget Revision/Amendment Request**

Date: 4/19/2022

Amount: 535,000.00

Dept. Head: Wendi Heglar (Prepared by Katrina Myers-Arnold)

Department: Finance

Internal Transfer Within Department       Transfer Between Departments/Funds       Supplemental Request

**To increase Fire Districts' current year property tax collections as well as increase related districts' turnovers. Per the Fire Tax Districts budget ordinance, Section V. (7), upon notification of funding increases of revenues, the Manager may adjust budgets to match.**

Fund	Indicator	Department/ Object/ Project	Account Name	Approved Budget	Increase Amount	Decrease Amount	Revised Budget
430	6	2710-6011	Property Tax Current Year Coll	5,909,748.00	535,000.00		6,444,748.00
430	9	2710-975601	Con Rural	51,095.00	5,000.00		56,095.00
430	9	2710-9773	Rimer Fire	212,868.00	25,000.00		237,868.00
430	9	2710-9774	Mt Mitchel	103,322.00	35,000.00		138,322.00
430	9	2710-9775	Gold H VFD	41,311.00	5,000.00		46,311.00
430	9	2710-9776	Mt Pleasant	565,737.00	35,000.00		600,737.00
430	9	2710-9777	Kann Rural	222,337.00	10,000.00		232,337.00
430	9	2710-9778	Georgevill	276,666.00	25,000.00		301,666.00
430	9	2710-9779	Flowes St	449,361.00	20,000.00		469,361.00
430	9	2710-9780	Odell	834,387.00	85,000.00		919,387.00
430	9	2710-9781	Richf VFD	11,363.00	5,000.00		16,363.00
430	9	2710-9783	Jackson Pk	237,112.00	25,000.00		262,112.00
430	9	2710-9784	Cold Water	317,938.00	25,000.00		342,938.00
430	9	2710-9785	Allen	465,666.00	50,000.00		515,666.00
430	9	2710-9786	Midland	775,508.00	75,000.00		850,508.00
430	9	2710-9788	Northeast	190,941.00	25,000.00		215,941.00
430	9	2710-9798	Harris VFD	1,154,136.00	85,000.00		1,239,136.00

**Budget Officer**

**County Manager**

**Board of Commissioners**

Approved

Approved

Approved

Denied

Denied

Denied

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Date

\_\_\_\_\_  
Date

\_\_\_\_\_  
Date

# CABARRUS COUNTY



## BOARD OF COMMISSIONERS WORK SESSION

**April 4, 2022  
4:00 PM**

---

### **AGENDA CATEGORY:**

Discussion Items for Action

### **SUBJECT:**

Finance - Resolution Approving Installment Financing Contract 2022B Draw-Down LOBS for Various School and County Projects Up to \$160,000,000

### **BRIEF SUMMARY:**

Cabarrus County plans to enter into one or more short and/or long-term installment financing contracts, including the use of a drawn down loan structure with the Cabarrus County Development Corporation or one or more third parties, for an amount not to exceed \$160,000,000 to finance all or a portion of the cost of constructing and equipping public school and county facilities and various real and personal property improvements. The public hearing was held March 21, 2022.

The next required step in the financing is the final approval by adoption of the attached Resolution approving the installment contract financing in an amount not-to-exceed \$160,000,000. The LOBS are scheduled for issuance in June 2022, subject to approval by the Local Government Commission.

### **REQUESTED ACTION:**

Motion to adopt the Resolution Approving Installment Contract Financing for Various Public Projects in an Aggregate Principal Amount up to \$160,000,000 and Execution and Delivery by the Cabarrus County Development Corporation of Limited Obligation Bonds Related thereto, Authorizing the Execution and Delivery of Related Documents in Connection therewith, and Providing for Certain other Related Matters.

### **EXPECTED LENGTH OF PRESENTATION:**

5 Minutes

**SUBMITTED BY:**

Wendi Heglar, Finance Director

**BUDGET AMENDMENT REQUIRED:**

No

**COUNTY MANAGER'S RECOMMENDATIONS/COMMENTS:**

.

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**ATTACHMENTS:**

- ▣ Resolution
- ▣ Installment Finance Contract
- ▣ Deed of Trust
- ▣ Trust Indenture
- ▣ Contract of Purchase

RESOLUTION APPROVING LONG-TERM INSTALLMENT CONTRACT FINANCINGS OF VARIOUS PUBLIC PROJECTS IN AN AGGREGATE PRINCIPAL AMOUNT UP TO \$160,000,000; AUTHORIZING INTERIM INSTALLMENT CONTRACT FINANCINGS FOR SUCH PROJECTS IN AN AGGREGATE PRINCIPAL AMOUNT UP TO \$160,000,000; AUTHORIZING THE EXECUTION AND DELIVERY BY THE CABARRUS COUNTY DEVELOPMENT CORPORATION OF ONE OR MORE SERIES OF LIMITED OBLIGATION BONDS AND/OR CERTIFICATES OF PARTICIPATION RELATED THERETO, AND PROVIDING FOR CERTAIN OTHER RELATED MATTERS

WHEREAS, the Board of Commissioners desires to undertake a proposed plan of financing in an aggregate principal amount of up to \$160,000,000, which plan would involve the entry by the County into one or more long-term installment financing contract(s) with the Cabarrus County Development Corporation (the "Corporation") or one or more other third parties pursuant to North Carolina General Statutes §160A-20, as amended, the proceeds of which would be used to pay all or a portion of the costs of (i) the acquisition, construction, installation and equipping of one or more new buildings to be used as new court house facilities for the County, (ii) various site improvements related thereto, (iii) the acquisition, construction, installation and equipping of a new public middle school, (iv) the acquisition, construction, installation and equipping of a new public high school, (v) the acquisition, construction, installation and equipping of a new replacement public elementary school, (vi) the acquisition, construction, installation and equipping of a new emergency services headquarters and related facilities, (vii) the acquisition, construction, installation and equipping of a new public library and senior center, (viii) the acquisition, construction, installation and equipping of a new emergency equipment warehouse/information technology facility, (ix) the acquisition of land for a new regional public park facility, (x) the acquisition, construction, installation and equipping of multiple improvements at Frank Liske Park, (xi) the acquisition, construction, installation and equipping of a new radio tower, (xii) the acquisition, construction, installation and equipping of a new public park facility, (xiii) the construction, installation and equipping of replacement parking lots and driveways at Mt. Pleasant High School, (xiv) the construction, installation and equipping of roof replacements at various public school sites, (xv) the acquisition, construction, installation and equipping of one or more new public schools and related facilities, (xvi) the acquisition, construction, installation and equipping of one or more new public buildings and related facilities, (xvii) the acquisition of any necessary rights-of-way and easements related to each of the foregoing (i) through (xvi) and (xviii) various real and personal property improvements related to each of the foregoing (i) through (xvi)

(collectively, the “2022B Projects”), and under said one or more long-term installment financing contract(s) the County would secure the repayment by the County of the moneys advanced pursuant to such one or more long-term installment financing contract(s) by granting a security interest in and lien on all or some portion of the 2022B Projects and/or all or some portion of the real property upon which the 2022B Projects are located;

WHEREAS, as part of said proposed plan of financing, the Corporation may also execute and deliver one or more series of Limited Obligation Bonds and/or Certificates of Participation in said one or more long-term installment financing contract(s) in an aggregate principal amount not exceeding \$160,000,000 to finance the advancement of moneys to the County pursuant to said one or more long-term installment financing contract(s) between the County and the Corporation or one or more other third parties;

WHEREAS, as part of the proposed plan of financing for the 2022B Projects, the Board of Commissioners further desires to authorize interim financing, which may utilize a draw-down loan structure, for all or some portion of the 2022B Projects in an aggregate principal amount of up to \$160,000,000, which would involve the entry by the County into one or more short-term installment financing contract(s) with one or more third parties pursuant to North Carolina General Statutes §160A-20, as amended, the proceeds of which would be used to provide interim financing for all or some portion of the 2022B Projects pending execution and delivery of said one or more long-term financing contract(s) and the related Limited Obligation Bonds and/or Certificates of Participation, if any, and under said one or more short-term installment financing contract(s) the County would secure the repayment by the County of the moneys advanced pursuant to such short-term installment financing contract(s) by granting a security interest in and lien on all or some portion of the 2022B Projects and/or all or some portion of the real property upon which the 2022B Projects are located; and

WHEREAS, as part of said proposed plan of financing, the Corporation may also execute and deliver one or more series of Limited Obligation Bonds and/or Certificates of Participation in said one or more short-term installment financing contract(s) in an aggregate principal amount not exceeding \$160,000,000 to finance the advancement of moneys to the County pursuant to said one or more short-term installment financing contract(s) between the County and the Corporation or one or more other third parties;

WHEREAS, there have been submitted to this meeting draft forms of the following documents (the “Financing Documents”) with respect to the financing for the 2022B Projects:

(1) an Installment Financing Contract, proposed to be dated on or about June [1], 2022 (or such other date(s) as may be selected by the County), between the County and the Corporation (or one or more third parties) as counterparty (the “Contract(s)”), pursuant to which the Corporation (or such one or more third parties) will advance moneys to the County for the costs of the 2022B Projects and the County agrees to make periodic installment payments (the “Installment Payments”) to repay the moneys so advanced, with or without interest, as applicable;

(2) a Deed of Trust, Security Agreement and Fixture Filing (the “Deed of Trust”), proposed to be dated on or about June [1], 2022, among the County as Grantor, the Corporation (or such one or more third parties) as Beneficiary and the trustee named therein, by which the County would secure its obligations to the Corporation (or such one or more third parties) under the Contract(s);

(3) an Indenture of Trust, proposed to be dated on or about June [1], 2022 (the “Trust Indenture”), between the Corporation and the trustee named therein, as trustee (the “Trustee”), pursuant to which there may be executed and delivered from time to time Certificates of Participation and/or Limited Obligation Bonds, including, without limitation, the Limited Obligation Bonds (County of Cabarrus, North Carolina Installment Financing Contract), Series 2022B (collectively, the “Certificates and/or Bonds”), the proceeds of which will be used to advance the moneys to the County under the Contract(s); and

(4) a Contract of Purchase to be dated on or about June [1], 2022 (the “Contract of Purchase”), pursuant to which the 2022B Limited Obligation Bonds would be purchased from time to time by the purchaser(s) of the 2022B Limited Obligation Bonds;

WHEREAS, the obligations of the County to make Installment Payments and other payments pursuant to the Contract(s) shall constitute limited obligations of the County payable solely from currently budgeted appropriations of the County and shall not constitute a pledge of the faith and credit of the County within the meaning of any constitutional debt limitation;

WHEREAS, no deficiency judgment may be rendered against the County in any action for breach of a contractual obligation under the Contract(s), and the taxing power of the County is not

and may not be pledged in any way directly or indirectly or contingently to secure any moneys due under the Contract(s); and

WHEREAS, the Board of Commissioners desires to approve the Financing Documents and to authorize other actions in connection therewith;

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

Section 1. All actions taken by or on behalf of the County to date to effectuate the proposed financing, including the selection of Nexsen Pruet, PLLC, as special counsel, are hereby ratified, approved and authorized pursuant to and in accordance with the transactions contemplated by the Financing Documents.

Section 2. The Board of Commissioners hereby finds and confirms that (i) the 2022B Projects and the financing thereof by one or more installment financing contracts is necessary and expedient for the County; (ii) financing of the 2022B Projects by one or more installment financing contracts, under the circumstances, is preferable to a bond issue by the County; (iii) the sums to fall due under said one or more installment financing contracts are adequate and not excessive for their proposed purpose; (iv) the County's debt management procedures and policies are good and its debt will continue to be managed in strict compliance with law; (v) the increase in taxes, if any, necessary to meet the sums to fall due under said one or more installment financing contracts will not be excessive; and (vi) the County is not in default regarding any of its debt service obligations.

Section 3. The acquisition, construction and equipping of the 2022B Projects, the financing thereof and the granting of security interests therein, all as provided in the Financing Documents referenced in this Resolution, are hereby ratified and approved.

Section 4. Each of the Contract(s), the Contract of Purchase and the Deed of Trust is hereby approved in substantially the form submitted to this meeting, and each of the Chairman of the Board of Commissioners or the County Manager is hereby authorized to execute and deliver each of those documents in the name and on behalf of the County, with such changes, insertions or omissions as the persons executing such documents may approve, including but not limited to changes, insertions or omissions related to obtaining a policy of municipal bond insurance with respect to all or a portion of any Certificates and/or Bonds, their execution and delivery thereof to

constitute conclusive evidence of such approval. The County Clerk is hereby authorized to affix the seal of the County to each of said documents as may be appropriate and to attest to the same.

Section 5. The Trust Indenture (including the form of Certificate and/or Bond) is hereby approved in substantially the form submitted to this meeting, with such changes, insertions or omissions as appropriate, including but not limited to changes, insertions or omissions related to obtaining a policy of municipal bond insurance with respect to all or a portion of any Certificates and/or Bonds, as the representative(s) of the County executing the Contract(s) may approve, the execution and delivery of the Contract(s) to constitute conclusive evidence of such approval. The Board of Commissioners hereby approves the sale of Certificates and/or Bonds by the Corporation in an aggregate principal amount not in excess of the amount of moneys to be advanced to the County pursuant to the Contract(s).

Section 6. Each of the Chairman of the Board of Commissioners, the County Manager and the Director of Finance are authorized to approve all details of the financing of the 2022B Projects, including, without limitation, the amount advanced under the Contract(s) and the aggregate principal amount of any Certificates and/or Bonds (which shall not exceed \$160,000,000), the maturities, the principal amounts and the interest amounts (if any) of the Installment Payments and any Certificates and/or Bonds, which interest amounts may be either fixed or variable rates and, if fixed rates, (calculated with respect to any Certificates and/or Bonds) shall not exceed [22.00%] per annum on an effective interest cost basis, the prepayment terms and prices (which shall not exceed [103]% of the principal amount being prepaid). Execution of the Contract(s) by the Chairman of the Board of Commissioners or the County Manager shall conclusively evidence such approval of all such details of said financing.

Section 7. The Chairman of the Board of Commissioners, the County Manager, the Director of Finance and the County Attorney are hereby authorized to take any and all such further action, including approval of modifications to the Financing Documents, and to execute and deliver for and on behalf of the County such other documents and certificates (including, without limitation, agreements with securities depositories, financing statements, one or more contracts of purchase or purchase agreements, one or more placement agreements, one or more private placement agreements or other offering documents or memoranda, tax certificates and agreements and other documents and agreements (including repurchase agreements) relating to the investment

of the proceeds from the execution and delivery of the Contract(s)) as they may deem necessary or advisable to carry out the intent of this resolution and to effect the financing pursuant to the Contract(s) and the other Financing Documents. The County Clerk is hereby authorized to affix the seal of the County to such documents and certificates as may be appropriate and to attest to the same and to execute and deliver the same as may be needed.

Section 8. The Finance Director shall prepare and file a sworn statement of debt with the LGC and the Clerk to the Board in accordance with North Carolina General Statutes Section 159-150.

Section 9. The County covenants that, to the extent permitted by the Constitution and laws of the State of North Carolina, it will do and perform all acts and things to comply with the requirements of the Internal Revenue Code of 1986, as amended (the "Code"), in order to assure that interest paid with respect to the 2022B Limited Obligation Bonds will not be includable in the gross income of the owners thereof for purposes of federal income taxation, except to the extent that the County obtains an opinion of bond counsel to the effect that noncompliance would not result in interest with respect to the 2022B Limited Obligation Bonds being includable in the gross income of the owners of the 2022B Limited Obligation Bonds for purposes of federal income taxation.

Section 10. This Resolution shall become effective immediately upon its adoption.

Thereupon, upon motion of Commissioner \_\_\_\_\_, seconded by Commissioner \_\_\_\_\_, the foregoing resolution entitled "RESOLUTION APPROVING LONG-TERM INSTALLMENT CONTRACT FINANCINGS OF VARIOUS PUBLIC PROJECTS IN AN AGGREGATE PRINCIPAL AMOUNT UP TO \$160,000,000; AUTHORIZING INTERIM INSTALLMENT CONTRACT FINANCINGS FOR SUCH PROJECTS IN AN AGGREGATE PRINCIPAL AMOUNT UP TO \$160,000,000; AUTHORIZING THE EXECUTION AND DELIVERY BY THE CABARRUS COUNTY DEVELOPMENT CORPORATION OF ONE OR MORE SERIES OF LIMITED OBLIGATION BONDS AND/OR CERTIFICATES OF PARTICIPATION RELATED THERETO, AND PROVIDING FOR CERTAIN OTHER RELATED MATTERS" was adopted and passed by the following vote:

AYES: \_\_\_\_\_

NOES: \_\_\_\_\_

**INSTALLMENT FINANCING CONTRACT**

**BETWEEN**

**CABARRUS COUNTY DEVELOPMENT CORPORATION**

**AND**

**COUNTY OF CABARRUS, NORTH CAROLINA**

Dated as of  
June [1], 2022

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THIS INSTRUMENT HAS BEEN PRE-AUDITED  
IN THE MANNER REQUIRED BY THE LOCAL  
GOVERNMENT BUDGET AND FISCAL  
CONTROL ACT.

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Wendi Heglar  
Finance Director  
County of Cabarrus, North Carolina

## INSTALLMENT FINANCING CONTRACT

**THIS INSTALLMENT FINANCING CONTRACT**, dated as of June [1], 2022 (the "*Contract*"), is between the **CABARRUS COUNTY DEVELOPMENT CORPORATION**, a North Carolina nonprofit corporation (the "*Corporation*") and the **COUNTY OF CABARRUS, NORTH CAROLINA** (the "*County*"), a political subdivision validly existing under the Constitution, statutes and laws of the State.

### WITNESSETH:

*WHEREAS*, the County of Cabarrus, North Carolina is a duly and regularly created, organized and existing political subdivision validly existing as such under and by virtue of the Constitution, statutes and laws of the State of North Carolina (the "*State*");

*WHEREAS*, the County has the power, pursuant to Section 160A-20 of the General Statutes of North Carolina, as amended, to finance or refinance (1) the purchase of real and personal property used, or to be used, for public purposes, by installment contracts that create in some or all of the property purchased a security interest to secure repayment of the purchase price to the seller or to an individual or entity advancing moneys or supplying financing for the purchase transaction and (2) the construction or repair of fixtures or improvements on real property by contracts that create in some or all of the fixtures or improvements, or in all or some portion of the real property on which such fixtures or improvements are located, or in both, a security interest to secure repayment of money advanced or made available for such construction or repair;

*WHEREAS*, the Board of Commissioners of the County of Cabarrus, North Carolina (the "*Board*") has previously determined, and hereby further determines, that the County is in need of the Project (as hereinafter defined);

*WHEREAS*, in order to obtain funds to acquire, construct, renovate and equip the Project, the County has entered into this Contract with the Corporation under which it will make Installment Payments and Additional Payments in consideration thereof;

*WHEREAS*, there will be executed and delivered pursuant to a certain Indenture of Trust dated as of June [1], 2022 (the "*Indenture*") between the Corporation and Regions Bank, as trustee (the "*Trustee*"), Cabarrus County Development Corporation Limited Obligation Bonds (County of Cabarrus, North Carolina Installment Financing Contract), Series 2022B (the "*2022B LOBs*" and, together with all Additional Obligations (as defined in the Indenture), if any, the "*Obligations*") evidencing proportionate undivided interests in the right to receive certain Revenues (as hereinafter defined) under this Contract;

*WHEREAS*, pursuant to the Indenture, the Corporation has assigned to the Trustee all of its rights, title and interest in and to (i) this Contract (except the rights of the Corporation under Article X, the rights to receive all notices and those Additional Payments payable to the Corporation under this Contract), (ii) the Deed of Trust (as defined herein) and the Premises (as defined herein) and (iii) all moneys and securities

from time to time held by the Trustee under the Indenture in any fund or account, each as further described in the Indenture (collectively, the "Trust Estate");

*WHEREAS*, the Obligations evidence proportionate undivided interests in the right to receive certain Revenues and shall be payable solely from the sources provided in the Indenture;

*WHEREAS*, the execution, performance and delivery of this Contract have been authorized, approved and directed by the Board by a resolution passed and adopted by the Board on [\_\_\_\_\_], 2022;

*WHEREAS*, the execution, delivery and performance of this Contract by the Corporation, and the assignment by the Corporation to the Trustee, pursuant to the Indenture, of the Trust Estate, have been authorized, approved and directed by all necessary and appropriate action of the Corporation;

*WHEREAS*, the obligation of the County to make Installment Payments and Additional Payments shall not constitute a general obligation or other indebtedness of the County within the meaning of the Constitution of the State; and shall not constitute a direct or indirect pledge of the faith and credit or taxing power of the County within the meaning of the Constitution of the State;

*WHEREAS*, in order to secure further the obligation of the County hereunder, the County has entered into a certain Deed of Trust, Security Agreement and Fixture Filing dated as of June [1], 2022 (the "Deed of Trust") with the deed of trust trustee named therein, for the benefit of the Corporation and its assignee; and

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

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

## **ARTICLE I**

### **DEFINITIONS**

All words and phrases defined in Article I of the Indenture shall have the same meaning when used in this Contract. In addition, the following terms shall have the meanings specified below unless the context clearly requires otherwise:

*"Additional Advance"* means each advance of funds, other than the Initial Advance, made hereunder by the Corporation to the County pursuant to an Advance Request.

*"Advances"* means, collectively, the Initial Advance and each Additional Advance.

*"Additional Payments"* means the reasonable and customary expenses and fees of the Trustee and the Corporation, any expenses of the Corporation in defending an action or proceeding in connection with this Contract or the Indenture, 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 County or the Corporation is expressly required to pay as a result of this Contract (together with interest that may accrue thereon in the event that the County fails to pay the same).

*"Advance Request"* has the meaning given such term in Article II.

*“Advance Schedule”* means the Advance Schedule attached hereto as Exhibit B and made a part hereof, which shall set forth the date and amount of the Initial Advance and each Additional Advance and each prepayment of the Advancement, if any, as provided herein.

*“Closing Date”* means June [\_\_], 2022.

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

*“Corporation”* means Cabarrus County Development Corporation, a North Carolina nonprofit corporation.

*“County”* means the County of Cabarrus, North Carolina or any successor to its functions.

*“County Representative”* means (i) the Finance Director or the person or persons at the time designated to act on behalf of the County for the purpose of performing any act under this Contract by a written certificate furnished to the Trustee and the Corporation containing the specimen signatures of such person or persons and signed on behalf of the County by the County Manager and the Finance Director of the County, or (ii) if any or all of the County's rights and obligations are assigned hereunder, the person or persons at the time designated to act on behalf of the County and the assignee by a written certificate similarly furnished and of the same tenor.

*“Deed of Trust”* means the Deed of Trust, Security Agreement and Fixture Filing, dated as of June [1], 2022 from the County to the deed of trust trustee named therein, for the benefit of the Corporation or its assignees, 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.

*“Facilities”* means, collectively, the buildings and other improvements financed with the proceeds of the 2022B LOBs and any additional facilities financed with the proceeds of Additional Obligations.

*“Final Maturity Date”* means \_\_\_\_\_.

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

*“Indenture”* means the Indenture of Trust dated as of June [1], 2022 between the Corporation and the Trustee, as amended or supplemented from time to time, pursuant to which the Obligations are executed and delivered.

*“Initial Advance”* means the advance made to the County on the date of closing as described in Section \_\_\_\_\_.

*“Initial Term Period”* means the period commencing on the date of Closing and ending on \_\_\_\_\_, 20\_\_.

*“Installment Payment Date”* means \_\_\_\_\_.

*“Installment Payments”* means those payments made by the County to the Corporation as described in Article III [and in the Payment Schedule attached hereto.]

"*Net Proceeds*," when used with respect to any (i) proceeds from policies of insurance on the Premises which are payable to the Corporation or the Trustee, (ii) proceeds of any condemnation award arising out of the condemnation of all or any portion of the Premises or the (iii) proceeds from any sale or lease of the Premises pursuant to the Deed of Trust or otherwise subsequent to an Event of Default, 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 attached hereto and incorporated herein by reference, which sets forth the County's Installment Payments.

"*Premises*" means Premises as defined in the Deed of Trust, which includes only those Sites 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 Facilities that are now or hereafter situated on or about such Sites that are subject to the lien of the Deed of Trust, including fixtures.

"*Project*" shall collectively mean the 2022B Project and all other facilities, equipment and assets financed in whole or in part with proceeds derived from the execution and delivery of Additional Obligations pursuant to Section 2.11 of the Indenture.

"*Purchase Price*" means the sum of the Initial Advance plus all Additional Advances advanced by the Corporation to enable the County to acquire, construct, renovate and equip the Project under the terms of this Contract, as such price may be adjusted in connection with the execution and delivery of Additional Obligations pursuant to Section 2.11 of the Indenture.

"*Purchaser*" means \_\_\_\_\_ and its successors and assigns.]

"*Revenues*" means (a) all Net Proceeds not applied to the repair or replacement of the Premises; (b) all Installment Payments; and (c) all investment income on all funds and accounts created under the Indenture.

"*Sites*" means the tract(s) of real property on which the Facilities are located, each as described in Exhibit A attached hereto and incorporated herein by reference.

"*State*" means the State of North Carolina.

"*Trustee*" means Regions Bank, acting in the capacity of trustee for the Owners pursuant to the Indenture, and any successor thereto appointed under the Indenture.

"*2022B Project*" means, collectively, the Sites and the Facilities, each as described on Exhibit A hereto, together with any additions, modifications, attachments, replacements and parts thereof.

## ARTICLE II

### ADVANCE OF PURCHASE PRICE

On the date of Closing, the Corporation will make the Initial Advance to the County in the amount of \$ \_\_\_\_\_. During the Initial Term Period, the County may request the Purchaser to make Additional Advances in an aggregate amount not to exceed \$ \_\_\_\_\_. For each request for an Additional Advance, the County shall submit to the Purchaser at least five (5) Business Days prior to the requested date of disbursement a completed written disbursement request (an "Advance Request") substantially in the form set forth in Exhibit D hereto, together with the documents or other items required

thereunder. The available amount of the Advances shall be non-revolving, and any amounts advanced by the Purchaser under this Contract either as the Initial Advance or an Additional Advance that are subsequently repaid shall permanently reduce the amount remaining available to be advanced under this Contract as an Additional Advance.

Each Advance Request shall be delivered by regular mail or facsimile or electronic communication and executed by the County Manager or the Finance Director of the County (each an "Authorized Officer"). The Purchaser shall remit the proceeds of each Additional Advance to or upon the order of the County in accordance with written instructions provided by the County to the Purchaser in each Advance Request and shall send a written confirmation of the remittance of such Additional Advance (which may be delivered by electronic mail) within four (4) Business Days after the receipt of such Advance Request by the Purchaser. The Initial Advance and all Additional Advances shall not exceed \$\_\_\_\_\_ on a cumulative basis (without regard to repayment of any Advances). The Purchaser shall not be obligated to make any Additional Advances if an Event of Default shall have occurred and be continuing under either this Contract or the Indenture. The Initial Advance and each Additional Advance shall be recorded on the Advance Schedule attached hereto as Exhibit C. The County shall record on the Advance Schedule the amount of the Initial Advance and each Additional Advance made by the Purchaser to or upon the order of the County and the date on which the Initial Advance and each Additional Advance is made. Any failure by the County to record the Initial Advance or any Additional Advance on the Advance Schedule shall not affect the obligations of the County with respect to the Initial Advance or any Additional Advance. The County shall provide a written copy of the current Advance Schedule (which may be delivered by electronic mail) to the Purchaser within two (2) Business Days after the date of the Initial Advance and each Additional Advance.

The Corporation covenants and agrees that the Purchase Price will be applied in accordance with the terms and conditions of this Contract. The proceeds of the Purchase Price have been or will be used to acquire, construct, renovate and equip the Project and to provide money to pay for the cost of financing the acquisition, construction, renovation and equipping of the Project.

### ARTICLE III

#### INSTALLMENT PAYMENTS; ADDITIONAL PAYMENTS

Section 3.1. *Amounts and Times of Installment Payments and Additional Payments.* As consideration for the financing of the Project by the Corporation, the County shall repay to the Trustee, as assignee of the Corporation, the Purchase Price in installments with interest as provided in this Contract and the Payment Schedule attached hereto (each an "*Installment Payment*"). Each installment shall be deemed to be an Installment Payment and shall be paid in the amounts and at the times set forth on the Payment Schedule except as provided herein. There shall be credited against the amount of Installment Payments otherwise payable hereunder amounts equal to (i) the portion of the proceeds of the sale of the Obligations which is deposited in the Bond Fund as accrued interest, if any, (ii) earnings derived from the investment of the Bond Fund and the Redemption Fund and (iii) any other moneys not constituting Installment Payments required to be deposited in the Bond Fund. Installment Payments shall be sufficient in the aggregate to repay the Purchase Price together with interest thereon. As further consideration for the financing of the Project by the Corporation, the County shall also pay the Additional Payments, as required herein, on a timely basis directly to the person or entity to which such Additional Payments are owed.

Notwithstanding the foregoing, the County shall repay the Outstanding principal amount of the 2022B LOBs on the Final Maturity Date, subject to the right of prior prepayment and subject to any required mandatory prepayments. Interest on the Outstanding principal amount of the 2022B LOBs shall be paid on each Installment Payment Date. As long as the Purchaser is the sole registered Owner of the 2022B LOBs,

the County shall make all payments with respect to the 2022B LOBs by wire transfer in immediately available funds to the address specified in writing by the Purchaser by the Record Date.

Section 3.2. **Place of Payments.** All payments required to be made to the Corporation hereunder shall be made at the Trustee's principal office in immediately available funds or as may be otherwise directed in writing by the Trustee. Notwithstanding the foregoing, as long as the Purchaser is the sole registered Owner of the 2022B LOBs, the County shall make all payments with respect to the 2022B LOBs by wire transfer in immediately available funds to the address specified in writing by the Purchaser by the Record Date.

Section 3.3. **Late Charges.** To the extent permitted by law, if the County fails to pay any Installment Payment or any other sum required to be paid to the Trustee by the first day of the month following the due date thereof, the County shall pay a late payment charge equal to the amount of the delinquency times a per diem rate calculated at the rate(s) borne by each respective Obligation.

Section 3.4. **No Abatement.** To the extent permitted by applicable law and Article XIV, there will be no abatement or reduction of the Installment Payments or Additional Payments by the County for any reason, including but not limited to, any failure by the County to appropriate funds to the payment of said Installment Payments or Additional Payments, any defense, recoupment, setoff, counterclaims or any claim (real or imaginary) arising out of or related to the acquisition, construction, renovation and equipping of the Project. The County 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 and Additional Payments shall be made in all events unless the obligation to make such Installment Payments or Additional Payments is terminated as otherwise provided herein.

Section 3.5. **Prepayment of Purchase Price.**

(a) If the County has performed all of its obligations under this Contract, it shall have the option to prepay or provide for the prepayment of the Purchase Price, as set forth in Section 4.01 of the Indenture, on any date on or after June 1, [20\_\_] in full or in part in the amount of \$5,000 or any whole multiple thereof on 45 days' notice to the Trustee, at a prepayment price equal to the then applicable redemption price of the Obligations to be prepaid, including any required redemption premium under Section 4.01 of the Indenture, plus accrued interest to the prepayment date.

(b) In the event that all or any portion of the Premises is damaged, destroyed or taken in eminent domain as evidenced by a certificate of a County Representative delivered to the Trustee and the Net Proceeds are greater than or equal to \$100,000, if the County determines not to apply any Net Proceeds and any other available moneys to the repair or replacement of the Premises, as permitted by Section 7.3(a) of this Contract, and the County has otherwise performed all of its obligations under this Contract, the County shall prepay the Purchase Price on any date selected by the County, in full or in part in the amount of \$5,000 or any whole multiple thereof on 45 days' notice to the Trustee, at a prepayment price equal to 100% of the par amount of the Obligations to be prepaid plus accrued interest to the redemption date, but without premium, under Section 4.01(b) of the Indenture by causing the Trustee to deposit such Net Proceeds and any other available moneys into the Redemption Fund, but if the County uses other available moneys to prepay the Purchase Price in whole or in part, then the amount of such available moneys may not exceed one-third of the amount of Net Proceeds so applied. Notwithstanding the foregoing provisions of this subparagraph (b), only Obligations of the same series of Obligations which financed all or a portion of the cost of the portion of the Premises that has been damaged, destroyed or taken in eminent domain may be redeemed pursuant to the provisions of this subparagraph (b).

(c) In the event of a partial prepayment of the Purchase Price, the Payment Schedule shall be recalculated as necessary by the Trustee in the manner required by Section 3.08 of the Indenture.

## ARTICLE IV

### ACQUISITION AND CONSTRUCTION

Section 4.1. **Acquisition and Construction Fund.** The Corporation has caused \$\_\_\_\_\_ to be deposited with the Trustee for deposit in the Acquisition and Construction Fund, which deposit consists solely of proceeds derived from the sale of the Initial 2022B LOBs. The County will specify the amount, if any, of the proceeds of each Additional Advance are to be deposited with the Trustee to be deposited in the Acquisition and Construction Fund. The proceeds of any Additional Advance which are deposited into the Acquisition and Construction Fund shall thereafter be subject to all of the terms and provisions of this Contract and the Indenture.

Section 4.2. **Disbursements.** Moneys held to the credit of the Acquisition and Construction Fund shall be disbursed by the Trustee in payment of the Cost of Acquisition and Construction on receipt of written requisition from the County substantially in the form set forth in Exhibit B attached hereto, together with any documents or other items as the Trustee may reasonably determine to be necessary, including but not limited to construction invoices, lien waivers, inspection reports, itemization of present and prospective expenditures and a list of items necessary for completion.

Section 4.3. **Termination.** The Acquisition and Construction Fund shall be terminated at the earlier of (a) the final distribution of moneys held in the Acquisition and Construction Fund or (b) the termination of this Contract.

Section 4.4. **Reliance of Trustee on Documents.** The Trustee may act in reliance on any writing or instrument or signature which it, in good faith, believes to be genuine and may assume the validity and accuracy of any statement or assertion contained in such a writing or instrument. The Trustee is not liable in any manner for the sufficiency or correctness as to form, manner and execution, or validity of any instrument nor as to the identity, authority, or right of any person executing the same; and its duties hereunder are limited to the receipt of such moneys, instruments or other documents received by it as the Trustee, and for the disposition of the same in accordance herewith.

Section 4.5. **Indemnification of Trustee.** Unless the Trustee is guilty of negligence or misconduct with regard to its duties hereunder, the County agrees, to the extent permitted by applicable law and Article XIV, to indemnify the Trustee, its officers, directors and agents and hold them harmless from any and all claims, liabilities, losses, actions, suits or proceedings at law or in equity, or any other expenses, fees or charges of any character or nature, which they may incur or with which they may be threatened by reason of its acting as Trustee under this Contract or the Indenture; and in connection therewith, to indemnify the Trustee, its officers, directors and agents against any and all expenses, including reasonable attorneys' fees and the cost of defending any action, suit or proceedings or resisting any claim. The obligations of the County under this Section shall survive the termination of this Contract and the resignation or removal of the Trustee.

Section 4.6. **Discretion of the Trustee To File Civil Action in the Event of Dispute.** If the County and the Trustee disagree about the interpretation of this Contract, or about the rights and obligations, or the propriety of any action contemplated by the Trustee hereunder, the Trustee may, but shall not be required to, file an appropriate civil action to resolve the disagreement. The Trustee shall be indemnified, to the extent permitted by applicable law and Article XIV, for all costs, including reasonable attorneys' fees,

in connection with such civil action and shall be fully protected in suspending all or part of its activities under this Contract until a final judgment in such action is received.

Section 4.7. ***Consultation with Counsel.*** The Trustee may, but is not required to, consult with qualified counsel of its own choice and shall have full and complete authorization and protection in respect of any action taken, suffered or omitted by the Trustee in reliance on the reasonable opinion of such counsel. The Trustee shall otherwise not be liable for any mistakes of fact or errors of judgment, or for any acts or omissions of any kind unless caused by its negligence or misconduct.

Section 4.8. ***Compensation of Trustee.*** The County shall pay to the Trustee reasonable compensation for all services performed by the Trustee hereunder and under the Indenture and also for all reasonable expenses, charges and other disbursements and those of the Trustee's attorneys, agents and employees incurred in and about the administration and execution of the Indenture and the performance of the Trustee's powers and duties hereunder and under the Indenture, as an Additional Payment.

Section 4.9. ***Construction.*** The County shall comply with the provisions of Article 8 of Chapter 143 of the General Statutes of North Carolina and enter into construction contracts. The County shall cause the acquisition, construction, renovation and equipping of the Project to be carried on expeditiously in accordance with the plans and specifications therefor, all applicable ordinances and statutes, and in accordance with the requirements of all regularly constituted authorities having jurisdiction over same. The County shall insure (a) that no portion of the Facilities encroaches on or overhangs any easement or right of way and (b) each of the Facilities, when erected, will be wholly within its respective Site and building restriction lines, however established, and will not violate applicable use or other restrictions contained in prior conveyances or applicable protective covenants or restrictions. The County shall cause all utility lines, septic systems and streets serving the Facilities to be completed in accordance with health department standards and other applicable regulations of any governmental agency having jurisdiction. The County will promptly correct any structural defect in the improvements or any departure from the plans and specifications.

Section 4.10. ***Right of Entry and Inspection.*** The Corporation, the Purchaser, the Trustee and their representatives and agents shall have the right to enter on and inspect the Sites on which the Facilities are located and the improvements thereto and thereon from time to time, during and after acquisition, construction, renovation and equipping, and the County will cause any contractor or subcontractor to cooperate with the Corporation, the Purchaser, the Trustee and their representatives and agents during such inspections. No right of inspection or approval contained herein imposes on the Corporation, the Purchaser or the Trustee any duty or obligation whatsoever to undertake any inspection or to give any approval.

Section 4.11. ***Completion of Construction.*** The County shall proceed with reasonable diligence to complete the acquisition, construction, renovation and equipping of the Project in a timely manner. On completion of the acquisition, construction, renovation and equipping of the Project, a County Representative shall deliver to the Trustee (a) a certificate of a County Representative stating the fact and date of such completion and stating that all of the Cost of Acquisition and Construction has been determined and paid (or that all of such Cost has been paid less specified claims which are subject to dispute and for which a retention in the Acquisition and Construction Fund is to be maintained in the full amount of such claims until such dispute is resolved), and (b) proof of the insurance coverage required by Section 5.10. If the accounting of the Acquisition and Construction Fund by the Trustee shows that moneys in the Acquisition and Construction Fund will remain unexpended for the Cost of Acquisition and Construction, the unexpended funds in the Acquisition and Construction Fund shall be applied in accordance with Section 3.12 of the Indenture.

Section 4.12. ***Payment and Performance Bonds.*** Each contractor entering into a construction contract for the construction of any portion of the Facilities that will also be a part of the Premises shall be required to furnish a performance bond and a separate labor and material payment bond as required by North Carolina General Statutes, Article 3, Chapter 44A, copies of which shall be provided to the Corporation. In lieu of furnishing a performance bond and a separate labor and material payment bond, each contractor may furnish collateral in an amount of their construction contract securing the County pursuant to North Carolina General Statutes, Article 8, Chapter 143 (Section 143-129), copies of the evidence of such collateral which shall be provided to the Corporation. The Trustee shall be listed as a dual obligee on any such bonds described in this Section 4.12.

In the event of any material default by a contractor under any such construction contract, or in the event of a material breach of warranty with respect to any materials, workmanship or performance, the County 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 such construction contract. 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 County of any amounts theretofore paid by the County and not previously reimbursed to the County for correcting or remedying the default or breach of warranty which gave rise to the proceedings against such contractor or surety, shall be paid to the Trustee for deposit into the Acquisition and Construction Fund if received before the completion of the Project (the "*Completion Date*") or, if received thereafter, shall be deposited as otherwise provided in Section 7.2 or otherwise applied as provided in Section 7.3. The net proceeds of any performance or payment bond or insurance policy required by this Section shall likewise be paid into the Acquisition and Construction Fund if received before the Completion Date, or, if received thereafter, shall either be deposited as provided in Section 7.2 or otherwise applied as provided in Section 7.3.

Section 4.13. ***Contractor's General Public Liability and Property Damage Insurance.*** The County shall require each contractor entering into a construction contract for the construction of any portion of the Facilities that will also be a part of the Premises to procure and maintain standard form (a) 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 (b) 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 County, the Corporation and the Trustee as additional named insureds, and shall include a provision prohibiting cancellation or termination without 30 days' prior notice by certified mail to the County and the Trustee. A certificate evidencing such coverage shall be provided to the County or, if such insurance is provided by a private carrier, a completed certificate of insurance, in form acceptable to the County and the Corporation, shall be provided to the County and the Corporation with respect to each contractor entering into such a construction contract. 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 4.14. ***Contractor's Builder's Risk Completed Value Insurance.*** The County will procure and maintain, or will require each contractor entering into a construction contract for the construction of any portion of the Facilities that will also be a part of the Premises to procure and maintain, property insurance (builder's risk) on all acquisition, construction, renovation and equipping of such Facilities (excluding contractor's tools and equipment) at the applicable Site(s) at the full and insurable value thereof. Such policies shall include the County, the Corporation and the Trustee as additional named insureds, and shall include a provision prohibiting cancellation or termination without 30 days' prior notice by certified mail to the County and the Trustee. This insurance will also include the interest of the County

and the contractor as additional insureds; and shall insure against "all risk" subject to standard policy conditions and exclusions. Each such contractor shall purchase and maintain similar property insurance for portions of the work stored off the applicable Site(s) or in transit when such portions of the work are to be included in an application for payment. Each such contractor shall be responsible for the payment of any deductible amounts associated with this insurance.

Section 4.15. **Contractor's Worker's Compensation Insurance.** Each contractor entering into a construction contract for the construction of any portion of the Facilities that will also be a part of the Premises 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 prohibiting cancellation or termination without 30 days' prior notice by certified mail to the County, the Corporation and the Trustee. A certificate evidencing such coverage shall be provided to the County and the Corporation or, if such insurance is provided by a private carrier, a completed certificate of insurance, in form acceptable to the County, the Corporation and the Trustee, shall be provided to the County and the Corporation with respect to each contractor entering into such a construction contract. Each such construction contract shall also provide that each subcontractor of any contractor who is a party to such a construction contract shall be required to furnish similar worker's compensation insurance.

Section 4.16. **Filing With the Trustee.** The County shall provide on the closing date and each anniversary of the closing date, a certificate of a County Representative certifying compliance with Sections 4.12, 4.13, 4.14 and 4.15. In addition to this certificate, the Trustee may request at any time copies of all performance bonds and insurance contracts or approved bonds thereof, as required under Sections 4.12, 4.13, 4.14 and 4.15, to be delivered to the Trustee in a timely manner and in such form as to certify compliance with the provisions of the Sections referred to above.

## ARTICLE V

### RESPONSIBILITIES OF THE COUNTY

Section 5.1. **Care and Use.** Subject to the provisions of applicable law and Article XIV, the County shall use the Premises 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 Premises so as to keep the Premises in good condition, repair, appearance and working order for the purposes intended, ordinary wear and tear excepted. The County shall replace any part of the Premises 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 Premises and all parts thereof shall constitute accessions to the Premises and shall be subject to all the terms and conditions of this Contract and included in the term "Premises" as used in this Contract.

Section 5.2. **Inspection.** The Trustee shall have the right on reasonable prior written notice to the County, and subject to the reasonable direction and supervision of the County, to enter into and on the Sites to inspect the Facilities and observe their use during normal business hours.

Section 5.3. **Utilities.** The County shall pay or cause to be paid 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 Premises. There shall be no abatement of the Installment Payments on account of interruption of any such services.

Section 5.4. **Taxes.** The County agrees to pay or cause to be paid when due any and all taxes relating to the Premises and the County's obligations hereunder 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, licenses and charges imposed on the ownership, possession or use of the Premises by any governmental body or agency, together with any interest and penalties, other than taxes on or measured by the net income of the Corporation.

Section 5.5. **Title Insurance.** The County agrees to obtain, at its own cost and expense, a policy of title insurance from [\_\_\_\_\_ Title Insurance Company], or an endorsement to such a policy, in form satisfactory to the Purchaser, the Corporation and the Trustee, at the time of and dated as of the date of execution and delivery of this Contract, in an amount not less than the Purchase Price, payable to the Trustee, as its interest may appear, insuring fee title of the County to the Premises.

Section 5.6. **Survey.** The County shall provide a foundation survey, acceptable to the Purchaser, covering the Premises and shall require an endorsement to the policy of title insurance delivered pursuant to Section 5.5 in the amount of the Purchase Price insuring matters of survey to and including the date of such survey.

Section 5.7. **Risk of Loss.** The County shall bear all risk (i) of loss or damage to the Project and (ii) of the condemnation of the Sites, the Facilities or any portion of them. In the event of loss or damage to all or any portion of the Project or condemnation of all or any portion of the Sites or the Facilities, the County shall continue to make the Installment Payments due hereunder and at its option either (a) repair or replace the Site(s) or the Facilities, as applicable, that are a part of the Premises, in accordance with Section 7.2, (b) if the Net Proceeds with respect to the Premises are less than \$100,000 and are not necessary to restore the Site(s) or the Facilities that are a part of the Premises to their intended use, direct the Trustee to deposit such Net Proceeds in the Bond Fund created under the Indenture to be applied toward the next payment of principal and interest with respect to the Obligations, or (c) if the Net Proceeds with respect to the Premises are greater than or equal to \$100,000, prepay all or a portion of the then outstanding Purchase Price with Net Proceeds or any other moneys in accordance with Section 3.5(b); provided that if the County has exercised its option to prepay the Purchase Price in part, the County remains liable to make Installment Payments for the remaining Purchase Price which is not prepaid.

Section 5.8. **Performance by the Trustee of the County's Responsibilities.** Any performance required of the County or any payments required to be made by the County may, if not timely performed or paid, be performed or paid by the Trustee, and, in that event, the Trustee shall be immediately reimbursed by the County for these payments or other performance by the Trustee, with interest thereon at a rate equal to the prime rate of the Trustee at the time the payment is made and as adjusted from time to time thereafter until so reimbursed.

Section 5.9. **Financial Statements and Other Information.** The County agrees that it will (i) furnish to the Trustee and each Insurer, if any, annually and at such other reasonable times as the Trustee or an Insurer shall request, current financial statements (including, without limitation, the County's annual budget as submitted or approved), (ii) permit the Trustee and each Insurer, if any, or their respective agents and representatives to inspect the County's books and records and make extracts therefrom and (iii) provide each Insurer, if any, with such additional information as such Insurer may reasonably request. The County will permit each Insurer, if any, to discuss the affairs, finances and accounts of the County or any information such Insurer may reasonably request regarding the security for the series of Obligations for which it has a Policy in effect with appropriate officers of the County. The County will permit each Insurer, if any, to have access to and to make copies of all books and records relating to the series of Obligations for which it has a Policy in effect at any reasonable time. The County represents and warrants to the Trustee that (i) all financial statements which have been or may be delivered to the Trustee do and will fairly and accurately reflect the County's financial condition and (ii) there has been no material adverse change, as of the date of execution of this Contract, in the County's financial condition from the condition as reflected in the financial statements for the Fiscal Year ended June 30, 2021. The County further agrees that it will

furnish a copy of its most recent audited financial statements to any Owner of the Obligations on written request therefor. The County's obligations to an Insurer under this Section 5.9 shall be effective only while that respective Insurer's Policy is in effect and no Insurer Default (as defined in the Indenture) has occurred and is continuing.

Section 5.10. **Property Insurance.** The County shall continually maintain insurance to the full insurable value of the Premises against loss by fire, hazards customarily included in the term "*extended coverage*" and such other hazards as the Trustee may reasonably require in such a manner and in such companies as the Trustee may from time to time reasonably require and shall promptly pay all premiums therefor when due. All insurance policies and renewals thereof shall name the Corporation and the Trustee as additional insureds thereunder, as the respective interests of each of such parties may appear, and have attached thereto a mortgagee long form loss payable clause in favor of and in form acceptable to the Trustee, and provide that no such policy can lapse or be canceled, substantially modified or terminated without at least 30 days prior notice to the Trustee and that any loss payable thereunder shall be made payable and shall be applied as provided in Article VII. In the event of loss, the County shall give immediate notice by mail to the Trustee, who may, but shall not be obligated to, make proof of loss. In the event of foreclosure of the Deed of Trust or other transfer of title to the Premises, all right, title and interest of the County in any insurance policies then in force shall pass to the Trustee. Additionally, during the term of this Contract, the County shall continually maintain standard liability insurance as is customarily maintained by like entities with respect to facilities similar to the Premises.

The County may provide for and maintain the insurance required under this Contract partially or wholly by means of an adequate risk retention fund. Reserves for a risk retention fund shall be determined by using actuarial principles. Any risk retention fund shall be reviewed annually by the County's risk manager or an independent insurance consultant or actuarial consultant.

## ARTICLE VI

### TITLE; LIENS

Section 6.1. **Title.** Title to the Premises and any and all additions, repairs, replacements or modifications thereto shall be in the County from and after the date of execution and delivery of this Contract so long as the County is not in default hereunder. Title to the Premises shall vest permanently in the County on the payment in full of the Purchase Price and all Additional Payments, free and clear of any lien or security interest of the Trustee therein. Simultaneously with the execution and delivery of this Contract, the County shall deliver to the Trustee the Deed of Trust and UCC-1 financing statements in form satisfactory to the Corporation and the Trustee. Upon payment in full of all of the County's obligations hereunder, including the Purchase Price and all other payments due hereunder, the Corporation or its assignee, at the County's expense and request, shall discharge the Indenture and release the lien on the Deed of Trust and this Contract will terminate.

Section 6.2. **Liens.** The County 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 Premises or any interest therein, except for (i) the lien and security interest of the Corporation and the Trustee therein; (ii) utility, access and other easements and rights of way, restrictions and exceptions which do not interfere with or impair the intended use of the Premises; and (iii) such minor defects, irregularities, encumbrances and clouds on title as normally exist with respect to property of the general character of the Premises and as do not materially impair title to the Premises. The County 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 County shall reimburse the

Corporation for any expense incurred by it in order to discharge or remove any such mortgage, pledge, lien, security interest, charge, encumbrance or claim.

## ARTICLE VII

### DAMAGE, DESTRUCTION AND CONDEMNATION; USE OF NET PROCEEDS

Section 7.1. ***Damage, Destruction or Condemnation.*** If, during the term hereof, (i) any portion of the Project is destroyed or damaged by fire or other casualty; (ii) title to or the temporary or permanent use of any portion of the Project or the estate of the County or the Corporation or its assignee in any portion of the Project is taken under the power of eminent domain by any governmental authority; (iii) a material defect in construction of any portion of the Project becomes apparent; or (iv) title to or the use of any portion of the Project is lost by reason of a defect in title thereto, then the County shall continue to be obligated, subject to the provisions of Section 7.2, to pay the amounts specified in Section 3.1 at the respective times required.

Section 7.2. ***Obligation of the County To Repair and Replace the Premises.*** Subject to the provisions of Section 7.3, the Trustee shall cause the Net Proceeds of any insurance policies, performance or payment bonds, if any, condemnation awards with respect to the Premises or Net Proceeds made available by reason of any occurrence described in Section 7.1 with respect to the Premises, to be deposited in a separate fund held by the Trustee. Except as set forth in Section 7.3, all Net Proceeds so deposited shall be applied to the prompt repair, restoration, modification, improvement or replacement of the Premises on receipt of requisitions acceptable to the Trustee approved by a County Representative stating with respect to each payment to be made: (a) the requisition number; (b) the name and address of the person, firm or corporation to whom payment is due; (c) the amount to be paid; and (d) that each obligation mentioned therein has been properly incurred, is a proper charge against the Acquisition and Construction Fund or such separate fund, and has not been the basis of any previous withdrawal and specifying in reasonable detail the nature of the obligation, accompanied by a bill or a statement of account for such obligation. The Trustee shall cooperate with the County in the administration of such separate fund and shall not unreasonably withhold its approval of requisitions under this Section 7.2. 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 Premises, the County may complete the work and pay any cost in excess of the amount of the Net Proceeds, and the County agrees that, if by reason of any such insufficiency of the Net Proceeds, the County shall make any payments pursuant to the provisions of this Section 7.2, the County is not entitled to any reimbursement therefor from the Corporation, the Trustee or the Owners nor is the County entitled to any diminution of the amounts payable under Section 3.1. Any repair, restoration, modification, improvement or replacement of the Premises paid for in whole or in part out of such Net Proceeds shall be the property of the County, subject to the Deed of Trust, and shall be included as part of the Project and the Premises under this Contract and the Deed of Trust.

Section 7.3. ***Discharge of the Obligation of the County To Repair the Premises.*** On the occurrence of an event described in Section 7.1 with respect to the Premises, and if the County does not elect to repair, restore, improve or replace the affected portion of the Premises, the County may elect to proceed under either of the following options to the extent applicable:

- (a) If the Net Proceeds are greater than or equal to \$100,000, the obligation of the County to repair or replace the Premises under Section 7.2 may, at the option of the County, be discharged by causing the Net Proceeds of such insurance policies or condemnation awards to be transferred to the Redemption Fund and applied to the prepayment of all or any part of the Purchase

Price in accordance with Section 3.5(b). If the Net Proceeds exceed the Purchase Price in accordance with Section 3.5(b), such excess after the payment of any Additional Payments shall be paid to or retained by the County; or

(b) If the Net Proceeds are less than \$100,000 and are not necessary to restore the affected portion of the Premises to its intended use, the County may direct the Trustee to deposit such Net Proceeds in the Bond Fund to be applied toward the next payment of principal and interest with respect to the Obligations.

Within 90 days of the occurrence of an event specified in Section 7.1 with respect to the Premises, the County shall (i) commence the repair, restoration, modification, improvement or replacement of the Premises, or (ii) shall elect, by written notice to the Trustee, to proceed under the provisions of subparagraph (a) or (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 Premises.

Section 7.4. ***Cooperation of the Corporation.*** The Corporation shall cooperate fully with the County and the Trustee in filing any proof of loss with respect to any insurance policy covering the events described in Section 7.1, and hereby assigns to the Trustee any interest it may have in such policies or rights of action for such purposes. In no event shall the Corporation or the County voluntarily settle, or consent to the settlement of, any proceeding arising out of any such insurance claim with respect to the Premises without the written consent of the other and the Trustee.

## ARTICLE VIII

### REPRESENTATIONS, WARRANTIES AND COVENANTS OF THE COUNTY AND THE CORPORATION

Section 8.1. ***Representations, Warranties and Covenants of the County.*** The County warrants and represents to the Corporation and to the Trustee for the benefit of the Owners (all such representations and warranties being continuing) that:

(a) The County is a duly organized and validly existing political subdivision 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 County 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 County to be consolidated with or merge into another political subdivision of the State or permit one or more other municipal corporations or political subdivisions of the State to consolidate with or merge into it, unless the political subdivision of the State created thereby expressly assumes in writing the County's obligations hereunder;

(c) This Contract, the Deed of Trust and all other documents relating hereto and the performance of the County's obligations hereunder and thereunder have been or will be duly and validly authorized, executed and delivered by the County and approved under all laws, regulations and procedures applicable to the County and, assuming due authorization, execution and delivery thereof by the other parties thereto, constitute valid, legal and binding obligations of the County, 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 jurisdiction may impose;

(d) No approval or consent is required from any governmental authority with respect to the entering into or performance by the County of this Contract, the Deed of Trust and all other documents related thereto and the transactions contemplated hereby and thereby or if such approvals or consents are required, they have been or will be duly obtained;

(e) Except as disclosed by the County in writing to the other parties hereto, there is no action, suit, proceeding or investigation at law or in equity before or by any court, public board or body pending or, to the best of the County's knowledge, threatened, against or affecting the County challenging the validity or enforceability of this Contract, the Deed of Trust or any other documents relating hereto and the performance of the County'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 County a breach of or default under, or result in the creation of a lien or other encumbrance on any property of the County (except as contemplated herein or therein) pursuant to any agreement or other instrument to which the County is a party, or any existing law, regulation, court order or consent decree to which the County is subject;

(f) 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 County is now a party or by which the County 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 County and no representation, covenant and warranty herein is false, misleading or erroneous in any material respect;

(g) The County is vested with fee simple title to the Premises, and there are no liens or encumbrances on the Premises other than the lien created by the Deed of Trust and the other liens permitted thereby;

(h) The resolutions relating to the performance by the County 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;

(i) The acquisition, construction, renovation, equipping and use of the Project is essential to the proper, efficient and economical operation of the County and the delivery of its services and the Project will provide an essential use and permit the County to carry out public functions that it is authorized by law to perform;

(j) The County reasonably believes funds will be available to satisfy all of its obligations hereunder;

(k) The County shall (i) cause its Budget Officer as statutorily defined to include the Installment Payments and the reasonably estimated Additional Payments coming due in each Fiscal Year in the corresponding annual budget request, (ii) require that the deletion of such funds from the County's final budget or any amended budget be made only pursuant to an express resolution of the Board which explains the reason for such action and (iii) deliver notice to the Trustee, S&P and the Local Government Commission of the State of North Carolina within five days after the adoption by the Board of the resolution described in clause (ii) above. Nothing contained in this paragraph (k) obligates the County to appropriate moneys contained in the proposed budget for the

payment of Installment Payments and reasonably estimated Additional Payments coming due under the Contract; and

(1) Moneys appropriated by the County to make Installment Payments in any Fiscal Year shall be used for no other purpose.

Section 8.2. ***Environmental Warranties and Representations.*** (a) The County warrants and represents to the Corporation after thorough investigation as follows:

(1) The County has no knowledge of and, after reasonable inquiry, no reason to believe (A) that any industrial use has been or will be made of the Facilities or the Sites, (B) that the Facilities or the Sites have been or will be used for the storage, treatment or disposal of chemicals or any wastes or materials that are classified by federal, State or local laws as hazardous or toxic substances, (C) that any manufacturing, landfilling or chemical production has occurred or will occur on the Facilities or the Sites, or (D) there is or will be any asbestos or other contaminant on, in or under the Facilities or the Sites.

(2) The Facilities and the Sites are and will remain in compliance with all federal, State and local environmental laws and regulations, including, but not limited to, the Comprehensive Environmental Response, Compensation and Liability Act of 1980 ("*CERCLA*"), Public Law No. 96-510, 94 Stat. 2767, 42 U.S.C. 9601 et seq., and the Superfund Amendments and Reauthorization Act of 1986 ("*SARA*"), Public Law No. 99-499, 100 Stat. 1613.

(3) There are not now and will not be hereafter any hazardous materials, substances, wastes or other environmentally regulated substances (including, without limitation, any materials containing asbestos) located on, in or under the Facilities or the Sites or used in connection therewith and the County is in compliance with Section 1.13 of the Deed of Trust, except for (A) small quantities present in retail containers, (B) quantities and substances necessary and proper for the contemplated use of the Facilities, and (C) quantities and substances necessary and proper for the construction of the Facilities, all of which the County warrants will be stored, handled used and disposed of properly and in accordance with applicable law.

(4) The County will promptly notify the Corporation and the Trustee and each Insurer, if any, of any change in the nature or extent of any hazardous materials, substances or wastes maintained on, in or under the Facilities or the Sites or used in connection therewith, and will send to the Corporation copies of any citations, orders, notices or other material governmental or other communication received with respect to any other hazardous materials, substances, wastes or other environmentally regulated substances affecting the Facilities or the Sites.

(b) To the extent permitted by law, the County shall indemnify and hold the Corporation and Trustee harmless from and against (1) any and all damages, penalties, fines, claims, liens, suits, liabilities, costs (including clean-up costs, judgment and expenses (including attorneys', consultants' or experts' fees and expenses) of every kind and nature suffered by or asserted against the Corporation or the Trustee as a direct or indirect result of any warrant or representation made by the County in subsection (a) above being false or untrue in any material respect, or (2) any requirement under any law, regulation or ordinance, local, State or federal, which requires the elimination or removal of any hazardous materials, substances, wastes or other

environmentally regulated substances by the Corporation, the County or any transferee or assignee of the County or the Corporation.

(c) The County's obligations hereunder shall not be limited to any extent by the Contract term or the County's satisfaction of its obligations thereunder, but shall continue in full force and effect notwithstanding satisfaction of such obligation or foreclosure under the Deed of Trust or delivery of a deed in lieu of foreclosure.

Section 8.3. ***Warranties and Representations of the Corporation.*** The Corporation warrants and represents to the County (all such warranties and representations being continuous):

(a) The Corporation is a nonprofit corporation duly organized, existing and in good standing under and by virtue of the laws of the State, has the power to enter into this Contract and the Indenture, and has duly authorized the execution and delivery of this Contract and the Indenture;

(b) The Corporation has duly authorized this Contract and the Indenture and has caused each to be executed on its behalf in accordance with the laws of the State;

(c) Neither the execution and delivery of this Contract or the Indenture, nor the fulfillment of or compliance with the terms and conditions hereof or thereof, nor the consummation of the transactions contemplated hereby or thereby, conflicts with or results in a breach of the terms, conditions or provisions of the charter or bylaws of the Corporation or any agreement or instrument to which the Corporation is now a party or by which the Corporation is bound, or constitutes a default under any of the foregoing; and

(d) To the best of the Corporation's knowledge after due and reasonable investigation, there is no action, suit, proceeding or investigation at law or in equity before or by any court, public board, or body pending or threatened against or affecting the Corporation challenging the validity or enforceability of this Contract, the Indenture or any other documents relating hereto and the performance of the Corporation's obligations hereunder and thereunder.

## ARTICLE IX

### TAX COVENANTS AND REPRESENTATIONS

The County covenants that it will not take any action, or fail to take any action, if any such action or failure to take action would adversely affect the exclusion from gross income of the interest portion of the Installment Payments created by this Contract under Section 103 of the Code. The County will not, directly or indirectly, use or permit the use of any proceeds of any fund created under the Indenture or of any other funds of the County, or take or omit to take any action that would cause the obligation created by this Contract to be an "arbitrage bond" within the meaning of Section 148(a) of the Code. To that end, the County has executed the Tax Certificate dated the date of delivery of the 2022B LOBs and will comply with all requirements of Section 148 of the Code to the extent applicable. The County further represents and covenants that the Installment Payments created by this Contract are not and will not constitute a "private activity bond" as defined in Section 141 of the Code.

Without limiting the generality of the foregoing, the County 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 by this Contract from time to time. This covenant shall survive the payment in full of all Installment Payments under this Contract.

Notwithstanding any provision of this Article, if the County shall provide to the Trustee an opinion of nationally recognized bond or special counsel to the effect that any action required under this Section or the Tax Certificate is no longer required, or to the effect that some further action is required, to maintain the exclusion from gross income of the interest portion of the Installment Payments created by this Contract under Section 103 of the Code, the County and the Trustee may rely conclusively on such opinion in complying with the provisions hereof.

## **ARTICLE X**

### **INDEMNIFICATION**

To the extent permitted by applicable law and Article XIV, the County hereby agrees to indemnify, protect and save the Corporation, the Purchaser, the Local Government Commission of North Carolina and any member, director, officer, agent or employee thereof and the Trustee harmless from all liability, obligations, losses, claims, damages, actions, suits, proceedings, costs and expenses, including attorneys' fees, arising out of, connected with, or resulting, directly or indirectly, from the Project, or from the Indenture, the Deed of Trust and this Contract or from the County's performance under each of said documents, including, without limitation, the possession, condition, construction or use of the Project. The indemnification arising under this Article shall continue in full force and effect notwithstanding the payment in full of all obligations under this Contract.

## **ARTICLE XI**

### **DISCLAIMER OF WARRANTIES**

The County acknowledges that the Corporation has not designed the Facilities, that the Corporation has not supplied any plans or specifications with respect thereto and the Corporation (a) is not a manufacturer of, nor a dealer in, any of the component parts of the Facilities or similar facilities, (b) has not made any recommendation, given any advice nor taken any other action with respect to (1) the choice of any supplier, vendor or designer of, or any other contractor with respect to, the Facilities or any component part thereof or any property or rights relating thereto, or (2) any action taken or to be taken with respect to the Facilities or any component part thereof or any property or rights relating thereto at any state of the construction thereof, (c) has not at any time had physical possession of the Facilities 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 Facilities or any component part thereof or any property or rights relating thereto (1) will not result in or cause injury or damage to persons or property, (2) has been or will be properly designed, or will accomplish the results which the County intends therefor, or (3) is safe in any manner or respect.

**THE CORPORATION MAKES NO EXPRESS OR IMPLIED WARRANTY OR REPRESENTATION OF ANY KIND WHATSOEVER WITH RESPECT TO THE FACILITIES OR ANY COMPONENT PART THEREOF, INCLUDING BUT NOT LIMITED TO ANY WARRANTY OR REPRESENTATION WITH RESPECT TO THE MERCHANTABILITY OR THE FITNESS OR SUITABILITY THEREOF FOR ANY PURPOSE**, and further including the design or condition thereof; the safety, workmanship, quality or capacity thereof; compliance thereof with the requirements of any law, rule, specification or contract pertaining thereto; any latent defect; the Facilities' ability to perform any function; that the Purchase Price will be sufficient to pay all Facilities Costs; or any other characteristic of the Facilities; it being agreed that the County is to bear all risks relating to the Facilities, the completion thereof or the transactions contemplated hereby or by the Deed of Trust or the Indenture, and the County hereby waives the benefits of any and all implied warranties and representations of the Corporation.

## ARTICLE XII

### DEFAULT AND REMEDIES

Section 12.1. **Definition of Event of Default.** The County shall be deemed to be in default hereunder upon the happening of any of the following events of default (each, an "*Event of Default*"):

(a) The County fails to make any Installment Payment by the second Business Day preceding the first day of the month following the date on which such Installment Payment is due;

(b) The County fails to budget and appropriate moneys sufficient to pay all Installment Payments and the reasonably estimated Additional Payments coming due in any Bond Year;

(c) The County 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 (a) or (b) above, or of the Deed of Trust on its part to be observed or performed, or breaches any warranty by the County herein or therein contained, for a period of 30 days after written notice specifying such failure and requesting that it be remedied has been given to the County by the Trustee unless such failure can be corrected and the Trustee shall agree in writing to an extension of such time prior to its expiration; provided, however, that if the failure cannot be corrected within the stated period, Trustee will not unreasonably withhold consent for an extension not longer than 60 days;

(d) Any bankruptcy, insolvency or reorganization proceedings or similar litigation is instituted by the County, or a receiver, custodian or similar officer is appointed for the County 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; or

(e) Any representation or statement made by the County herein, in the Deed of Trust or in any other document executed or delivered in connection herewith is found to be incorrect or misleading in any material respect as of the date made.

Section 12.2. **Remedies on Default.** On the occurrence of any Event of Default, the Trustee may, but only with the prior written consent of the Purchaser if the Series 2022B LOBs are then Outstanding, and, if requested in writing by a majority in aggregate principal amount of the Owners of the Obligations, the Trustee shall, to the extent permitted by applicable law and Article XIV, exercise any one or more of the following remedies as the Trustee shall elect or as shall be directed by a majority in aggregate principal amount of the Owners of the Obligations:

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

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

(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 under this Contract and the Deed of Trust including, without limitation, to the extent permitted by law, re-enter and take possession of the Premises without any court order or other process of law and without liability for entering the premises and sell, lease, sublease or make other disposition of the same in a commercially reasonable manner for the account of the County, and apply the proceeds

of any such sale, lease, sublease or other disposition, after deducting all costs and expenses, including court costs and attorneys' fees, incurred with the recovery, repair, storage and other sale, lease, sublease or other disposition, toward the balance due under this Contract and, thereafter, shall pay any remaining proceeds to the County.

NOTWITHSTANDING ANY OTHER PROVISIONS HEREIN, IT IS THE INTENT OF THE PARTIES HERETO TO COMPLY WITH GENERAL STATUTES OF NORTH CAROLINA SECTION 160A-20. NO DEFICIENCY JUDGMENT MAY BE ENTERED AGAINST THE COUNTY IN VIOLATION OF SECTION 160A-20 INCLUDING, WITHOUT LIMITATION, ANY DEFICIENCY JUDGMENT FOR AMOUNTS THAT MAY BE OWED HEREUNDER WHEN THE SALE OF ALL OR ANY PORTION OF THE PREMISES IS INSUFFICIENT TO PRODUCE ENOUGH MONEY TO PAY IN FULL ALL REMAINING OBLIGATIONS UNDER THIS CONTRACT. TO THE EXTENT OF ANY CONFLICT BETWEEN THIS PARAGRAPH AND ANY OTHER PROVISION OF THIS ARTICLE XII, THIS PARAGRAPH SHALL TAKE PRIORITY. THIS SECTION 12.2 IN NO WAY LIMITS THE PROVISIONS OF ARTICLE XIV.

Section 12.3. **Further Remedies.** Notwithstanding the occurrence of an Event of Default hereunder and the exercise of any or all of the remedies listed in Section 12.2, this Contract shall remain in full force and effect and the County, to the extent permitted by applicable law and Article XIV, shall be and remain liable for the full performance of all its obligations hereunder. All remedies of the Trustee 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.

### ARTICLE XIII

#### ASSIGNMENT

Section 13.1. **Assignment by the County.** The County 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 Premises (except for the lien and security interest of the Corporation therein or except for any permitted encumbrances under Section 6.2) without the Trustee's or Purchaser's prior written consent, which consent shall not be unreasonably withheld. Notwithstanding the foregoing, the County may lease all or a portion of the Premises subject to the following conditions:

- (a) the obligation of the County to make Installment Payments and Additional Payments under the Contract will remain obligations of the County;
- (b) the County will, at least 30 days before the execution and delivery of any such lease, furnish or cause to be furnished to the Trustee a true and complete copy of such lease;
- (c) no lease will cause the interest component of Installment Payments relating to any Obligations to become includable in gross income for federal income tax purposes; and
- (d) the Trustee shall have received an opinion of Counsel to the County to the effect that such lease is subordinate to the lien of the Deed of Trust and such lease shall terminate upon any foreclosure of such lien.

Section 13.2. **Assignment by the Corporation.** The Corporation has assigned all of its interest in the Premises and this Contract (other than its rights under Article X, certain notice rights and those Additional Payments payable to the Corporation under this Contract), including without limitation, the Corporation's right to receive the Installment Payments, to the Trustee.

## ARTICLE XIV

### LIMITED OBLIGATION OF THE COUNTY

NOTWITHSTANDING ANY PROVISION OF THIS CONTRACT, THE INDENTURE OR THE DEED OF TRUST WHICH MAY BE TO THE CONTRARY, NO PROVISION OF THIS CONTRACT, THE INDENTURE OR THE DEED OF TRUST SHALL BE CONSTRUED OR INTERPRETED AS CREATING A PLEDGE OF THE FAITH AND CREDIT OF THE COUNTY WITHIN THE MEANING OF THE CONSTITUTION OF THE STATE. NO PROVISION OF THIS CONTRACT, THE INDENTURE OR THE DEED OF TRUST SHALL BE CONSTRUED OR INTERPRETED AS CREATING A DELEGATION OF GOVERNMENTAL POWERS NOR AS A DONATION BY OR A LENDING OF THE CREDIT OF THE COUNTY WITHIN THE MEANING OF THE CONSTITUTION OF THE STATE. THIS CONTRACT, THE INDENTURE AND THE DEED OF TRUST SHALL NOT DIRECTLY OR INDIRECTLY OR CONTINGENTLY OBLIGATE THE COUNTY TO MAKE ANY PAYMENTS BEYOND THOSE APPROPRIATED IN THE SOLE DISCRETION OF THE COUNTY FOR ANY FISCAL YEAR IN WHICH THIS CONTRACT IS IN EFFECT; PROVIDED, HOWEVER, ANY FAILURE OR REFUSAL BY THE COUNTY TO APPROPRIATE FUNDS WHICH RESULTS IN THE FAILURE BY THE COUNTY TO MAKE ANY PAYMENT COMING DUE HEREUNDER WILL IN NO WAY OBIVATE THE OCCURRENCE OF THE EVENT OF DEFAULT RESULTING FROM SUCH NONPAYMENT. NO DEFICIENCY JUDGMENT MAY BE RENDERED AGAINST THE COUNTY IN ANY ACTION FOR BREACH OF A CONTRACTUAL OBLIGATION UNDER THIS CONTRACT, AND THE TAXING POWER OF THE COUNTY IS NOT AND MAY NOT BE PLEDGED DIRECTLY OR INDIRECTLY OR CONTINGENTLY TO SECURE ANY MONEYS DUE UNDER THIS CONTRACT. NO PROVISION OF THIS CONTRACT, THE INDENTURE OR THE DEED OF TRUST SHALL BE CONSTRUED TO PLEDGE OR TO CREATE A LIEN ON ANY CLASS OR SOURCE OF THE COUNTY'S MONEYS, NOR SHALL ANY PROVISION OF THIS CONTRACT, THE INDENTURE OR THE DEED OF TRUST RESTRICT THE FUTURE ISSUANCE OF ANY OF THE COUNTY'S OBLIGATIONS OR ANY OTHER OBLIGATIONS PAYABLE FROM ANY CLASS OR SOURCE OF THE COUNTY'S MONEYS. TO THE EXTENT OF ANY CONFLICT BETWEEN THIS ARTICLE AND ANY OTHER PROVISION OF THIS CONTRACT, THE INDENTURE OR THE DEED OF TRUST, THIS ARTICLE SHALL TAKE PRIORITY.

## ARTICLE XV

### JOINDER BY THE TRUSTEE

The Trustee hereby executes this Contract to signify its agreement to be bound to the terms of this Contract applicable to it. The County and the Corporation acknowledge and agree that the Trustee shall be entitled to enforce and to benefit from the terms and conditions of this Contract applicable to it.

## ARTICLE XVI

### MISCELLANEOUS

Section 16.1. **Waiver.** No covenant or condition of this Contract can be waived except by the written consent of the Corporation and the Trustee. Any failure of the Corporation or the Trustee to require strict performance by the County or any waiver by the Corporation or the Trustee of any terms, covenants or contracts herein shall not be construed as a waiver of any other breach of the same or any other term, covenant or contract herein.

Section 16.2. **County's Acceptance of Rights and Responsibilities Under the Indenture.** The County accepts all responsibilities assigned to it under and pursuant to the Indenture.

Section 16.3. **Severability.** If any portion of this Contract other than Article XIV 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 16.4. **Governing Law.** This Contract shall be construed, interpreted and enforced in accordance with the laws of the State, without regard to conflict of law principles.

Section 16.5. **Notices.** Any and all notices, requests, demands, and other communications given under or in connection with this Contract are effective only if in writing and either personally delivered or mailed by registered or certified mail, postage prepaid, return receipt requested, addressed as follows:

If to the Corporation: Cabarrus County Development Corporation  
65 Church Street, SE  
Post Office Box 707  
Concord, North Carolina 28025  
Attention: President

If to the County: County of Cabarrus, North Carolina  
Governmental Center  
65 Church Street, SE  
Post Office Box 707  
Concord, North Carolina 28025  
Attention: Finance Director

If to the Trustee: Regions Bank  
1180 West Peachtree Street  
Atlanta, Georgia 30309  
Attention: Corporate Trust Department

If to the Purchaser: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
Attention: \_\_\_\_\_

The Corporation, the County, the Purchaser and the Trustee may, by written notice to the others, designate any further or different addresses to which subsequent notices, bonds or other communications shall be sent.

Section 16.6. **Section Headings.** All section headings contained herein are for convenience of reference only and are not intended to define or limit the scope of any provision of this Contract.

Section 16.7. **Entire Contract.** This Contract, together with the schedules and Exhibits hereto, constitutes the entire Contract between the parties and this Contract shall not be modified, amended, altered or changed except by written agreement signed by the parties.

Section 16.8. **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 Trustee). The Trustee and each Insurer, if any, shall be a third-party beneficiary hereof.

Section 16.9. **Time.** Time is of the essence of this Contract and each and all of its provisions.

Section 16.10. **If Payment or Performance Date Not a Business Day.** If the date for making 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 16.11. **Covenants of County, Corporation or Local Government Commission 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, director, agent, officer or employee of the County, the Corporation or the Local Government Commission of North Carolina in his individual capacity, and neither the members of the Board, the Board of Directors of the Corporation, the members of the Local Government Commission of North Carolina nor any other member, director, agent, officer or employee of the Board, the County, the Corporation or the Local Government Commission of North Carolina shall be subject to any personal liability or accountability by reason of the execution and delivery of the Obligations. No member of the Board, the Board of Directors of the Corporation, the Local Government Commission of North Carolina nor any agent, officer or employee of the County, the Corporation or the Local Government Commission of North Carolina shall incur any personal liability under this Contract.

Section 16.12. **Amounts Remaining in Funds.** It is agreed by the parties hereto that any amounts remaining in the Bond Fund, the Acquisition and Construction Fund, the Redemption Fund or any other fund or account created under the Indenture, on termination of this Contract and the Indenture, and after payment in full of the Obligations (or provision for payment thereof having been duly made in accordance with the provisions of this Contract or the Indenture) and fees and expenses of the Trustee in accordance with this Contract and the Indenture and all Additional Payments shall have been made, shall be paid to the County by the Trustee as an overpayment of Installment Payments in accordance with the terms of the Indenture.

Section 16.13. **Amendments to this Contract.** This Contract shall not be amended by the parties hereto except in accordance with Article IX of the Indenture. In addition, no amendment to this Contract which would increase the amount or maturity of Obligations Outstanding will be effective until it is approved by the Local Government Commission of North Carolina.

Section 16.14. **Execution in Counterparts.** This Contract may be executed in any number of counterparts, each of which shall be an original and all of which shall constitute but one and the same instrument.

Section 16.15. **E-Verify.** The Corporation 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 Corporation 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 Corporation will require that any subcontractor that it uses in connection with the transactions contemplated by this Contract certify to such subcontractor's compliance with E-Verify.

[Signatures begin on next page]

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

**CABARRUS COUNTY DEVELOPMENT CORPORATION**

[SEAL]

By: \_\_\_\_\_  
Michael K. Downs, President

Attest:

\_\_\_\_\_  
Lauren Linker, Secretary

[Signatures Continued on Following Pages]

Counterpart Signature Page to the Installment Financing Contract  
Dated as of June [1], 2022, Between the Cabarrus County Development Corporation  
and the County of Cabarrus, North Carolina

Counterpart Signature Page to the Installment Financing Contract  
Dated as of June [1], 2022, Between the Cabarrus County Development Corporation  
and the County of Cabarrus, North Carolina

**COUNTY OF CABARRUS, NORTH CAROLINA**

[SEAL]

---

Stephen M. Morris  
Chairman of the Board

Attest:

---

Lauren Linker  
Clerk to the Board

[Signatures Continued on Following Pages]

Counterpart Signature Page to the Installment Financing Contract  
Dated as of June [1], 2022, Between the Cabarrus County Development Corporation  
and the County of Cabarrus, North Carolina

Consented to and Accepted:

**REGIONS BANK,**  
as Trustee

By: \_\_\_\_\_  
Thomas E. Clower, Vice President

[Signatures Continued on the Following Page]

Counterpart Signature Page to the Installment Financing Contract  
Dated as of June [1], 2022, Between the Cabarrus County Development Corporation  
and the County of Cabarrus, North Carolina

THIS CONTRACT HAS BEEN  
APPROVED UNDER THE PROVISIONS  
OF ARTICLE 8, CHAPTER 159 OF THE  
GENERAL STATUTES OF NORTH CAROLINA.

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Secretary of the Local Government Commission

INSTALLMENT PAYMENT SCHEDULE

[To be inserted]

**EXHIBIT A**

**DESCRIPTION OF 2022B PROJECT  
DESCRIPTION OF SITES**

**2022B PROJECT DESCRIPTION:**

The 2022B Project consists of providing funds to pay all or a portion of the costs of (a) providing funds to pay all or a portion of the costs of \_\_\_\_\_(collectively, the “2022B Project”).

**DESCRIPTION OF SITES:**

[ \_\_\_\_\_ ] Site (Also being the Premises under the Deed of Trust):]

Legal description of the Premises:

[See attached pages A-\_ through and including A-\_.]

[End of Legal Description of [ \_\_\_\_\_ ] Site/Premises]

Remaining Sites (Not part of Premises under the Deed of Trust):

[ \_\_\_\_\_ ]

[ \_\_\_\_\_ ]

**EXHIBIT B**

**FORM OF REQUISITION  
ACQUISITION AND CONSTRUCTION FUND**

Regions Bank, as Trustee  
1180 West Peachtree Street  
Atlanta, Georgia 30309  
Attention: Corporate Trust Department

Re: Direction to Make Disbursements from the Installment Financing Contract Acquisition and Construction Fund

Ladies and Gentlemen:

Pursuant to Section 3.11 of the Indenture of Trust dated as of June [1], 2022 (the "*Indenture*") between the Cabarrus County Development Corporation, a North Carolina nonprofit corporation (the "*Corporation*") and Regions Bank, as trustee (the "*Trustee*"), and Section 4.2 of the Installment Financing Contract dated as of June [1], 2022, (the "*Contract*") between the Corporation and the County of Cabarrus, North Carolina (the "*County*"), you are hereby directed to disburse from the Acquisition and Construction Fund referred to in the Indenture (the "*Acquisition and Construction Fund*") the amount indicated below.

The undersigned hereby certifies:

- 1. This is requisition number \_\_\_\_\_ from the Acquisition and Construction 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 Acquisition and Construction Fund as a Cost of Acquisition and Construction and such obligation has not been the basis of any previous disbursement.

Dated this \_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_.

**COUNTY OF CABARRUS, NORTH CAROLINA**

**By:** \_\_\_\_\_  
County Representative



**ADVANCE REQUEST**

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
Attention: \_\_\_\_\_

Re: Request for Disbursement of Funds – Installment Financing Contract, dated as of February \_\_, 2022 ( the “Contract”) between the Cabarrus County Development Corporation (the “Corporation”) and the County of Cabarrus, North Carolina (the “County”)

Ladies and Gentlemen:

Pursuant to the terms and conditions of the Contract and the Contract of Purchase, dated as of February \_\_, 2022 (the “Contract of Purchase”) between the Corporation and \_\_\_\_\_, the County hereby requests the disbursement of funds to or for the order of the County as an Additional Advance under the Contract and the Contract of Purchase for the costs described below. Capitalized terms used herein but not defined herein shall have the meanings given to such terms in the Contract of the Contract of Purchase.

This is request number \_\_\_\_\_ for disbursement of funds under the Contract and the Contract of Purchase in the amount of \$\_\_\_\_\_. The requested disbursement should be remitted to the County’s account, or to the person, firm or bank referenced below, in accordance with the following instructions:

[Insert name of recipient and wire transfer or other instructions]

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

1. The proceeds of the requested disbursement will be used by the County either to (a) reimburse the County for costs of the 2022B Project or Costs of Issuance previously paid by the County or (b) to pay costs of the 2022B Project or Costs of Issuance incurred by the County but not yet paid by the County.
2. The obligations to be reimbursed or paid with this requested disbursement of funds has not been the subject of any previous Advance Request.
3. To the best knowledge of the undersigned, no Event of Default has occurred and is continuing under either the Contract or the Indenture.
4. The undersigned is and Authorized Officer.

Dated this \_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_.

**COUNTY OF CABARRUS, NORTH CAROLINA**

By: \_\_\_\_\_  
Authorized Officer

Drafted by and  
Return to: Stephen L. Cordell  
Nexsen Pruet, PLLC  
227 W. Trade Street, Suite 1550  
Charlotte, North Carolina 28202

**NORTH CAROLINA**

**CABARRUS COUNTY**

**COLLATERAL IS OR INCLUDES FIXTURES**

**DEED OF TRUST,  
SECURITY AGREEMENT  
AND FIXTURE FILING**

**THIS DEED OF TRUST, SECURITY AGREEMENT AND FIXTURE FILING**, made and entered into as of the 1<sup>st</sup> day of [June], 2022 (the "*Deed of Trust*"), from the **COUNTY OF CABARRUS, NORTH CAROLINA**, a political subdivision regularly created and validly existing under the laws of the state of North Carolina, whose address is Governmental Center, 65 Church Street SE, Post Office Box 707, Concord, North Carolina 28025, as grantor (hereinafter called the "*Grantor*"), to **RICHARD M. KOCH**, as trustee (hereinafter referred to as the "*Trustee*"), for the benefit of the **CABARRUS COUNTY DEVELOPMENT CORPORATION**, a nonprofit corporation duly created, existing and in good standing under the laws of the State of North Carolina, whose address is 65 Church Street, SE, Post Office Box 707, Concord, NC 28025, as grantee (the "*Corporation*") (the Corporation and its successors and assigns, including the bond trustee in its capacity as such under the Indenture of Trust dated as of [June] 1, 2022 (the "*Indenture*") between the Corporation and **REGIONS BANK**, as bond trustee, are hereinafter referred to as the "*Beneficiary*");

**RECITALS:**

The Grantor and the Corporation have entered into an Installment Financing Contract dated as of [June] 1, 2022 (the "*Contract*"), pursuant to which (i) the Corporation has agreed to advance certain monies to enable the Grantor to acquire, construct, renovate and equip the Project (as defined in the Contract), and (ii) the Grantor has agreed to make the Installment Payments (as defined in the Contract) to the Corporation. The Contract is incorporated herein by this reference.

The Corporation has assigned substantially all of its rights under the Contract to Regions Bank, as bond trustee, pursuant to the Indenture under which certificates of participation and/or limited obligation bonds (collectively, the "*Obligations*") evidencing proportionate undivided interests in the right to receive certain Revenues (as defined in the Contract) under the Contract, including the 2022B LOBs (as defined in the Contract) will be executed and delivered. Regions Bank is unwilling to enter into the Indenture and the Beneficiary is unwilling to enter into the Contract unless the Grantor secures the obligations under the Contract and this Deed of Trust by the conveyance of the Sites and the Facilities, each as defined in the Contract and as more fully described herein.

This Deed of Trust has been executed and delivered to secure (i) the obligations of the Grantor to make the Installment Payments (as defined in the Contract), and (ii) the payment and performance of all of the other liabilities and obligations, whether now existing or hereafter arising, of the Grantor to the Corporation under the Contract and this Deed of Trust, all such obligations and liabilities described in (i) or (ii) above hereinafter collectively called the "*Indebtedness*."

It is intended that this Deed of Trust comply with the provisions of Sections 45-67 *et seq.* of the North Carolina General Statutes. For purposes of complying with such provisions, the Grantor hereby represents as follows:

(a) That this Deed of Trust has been executed and delivered by the Grantor to secure future Indebtedness which may be incurred from time to time under the Contract;

(b) That the principal amount of present Indebtedness secured by this Deed of Trust is \$[\_\_\_\_\_];

(c) That the maximum principal amount, including present and future Indebtedness, which may be secured by this Deed of Trust at any one time is \$400,000,000 (exclusive of advances that may be made under the terms of the Contract or this Deed of Trust for fire and extended coverage insurance, taxes, assessment or other necessary expenditures for the preservation of the real property), subject to the limitation that at no time shall the total principal amount of Indebtedness secured hereby exceed said maximum principal sum of \$400,000,000 together with accrued interest and the payment for fire and extended coverage insurance, taxes, assessments or other necessary expenditures for the preservation of the real property; *provided that* the foregoing limitation shall apply only to the lien upon real property located in the State of North Carolina created by this Deed of Trust and shall not in any manner limit, affect or impair any grant of a security interest in or lien on any other real property or any personal property in favor of the Beneficiary;

(d) That the period within which such future Indebtedness may be incurred is the period between the date hereof and the date 30 years from the date hereof; and

(e) It shall not be a requirement for any such future Indebtedness to be secured hereby that the Grantor sign an instrument or other notation stipulating that such Indebtedness is secured by this Deed of Trust, as no such future Indebtedness is required, under the Contract or otherwise, to be evidenced by a written instrument or notation.

The Grantor desires to secure (a) the payment of the Indebtedness and any renewals, modifications or extensions thereof, in whole or in part, and (b) the additional payments hereinafter agreed to be made by or on behalf of the Grantor, by a conveyance of the lands and security interests hereinafter described.

*NOW, THEREFORE*, in consideration of the premises and for the purposes aforesaid, and in further consideration of the sum of Ten Dollars (\$10.00) paid to the Grantor by the Trustee and other valuable considerations, receipt of which is hereby acknowledged, the Grantor has given, granted, bargained and sold, and by these presents does give, grant, bargain, sell and convey unto the Trustee, its heirs, successors and assigns, the following property (hereinafter collectively referred to as the "*Premises*"):

(a) The tracts of real property lying and being in Cabarrus County, North Carolina and described below in the legal description attached as an exhibit hereto (hereinafter referred to as the "*Sites*"):

SEE EXHIBIT "A" ATTACHED HERETO FOR A DESCRIPTION OF THE SITES, WHICH EXHIBIT "A" IS INCORPORATED HEREIN BY REFERENCE

(b) All buildings, structures, additions and improvements of every nature whatsoever now or hereafter situated on or about the Sites (the "*Improvements*").

(c) All gas and electric fixtures, radiators, heaters, engines and machinery, boilers, ranges, elevators and motors, plumbing and heating fixtures, carpeting and other floor coverings, fire extinguishers and any other safety equipment required by governmental regulation or law, washers, dryers, water heaters, mirrors, mantels, air conditioning apparatus, refrigerating plants, refrigerators, cooking apparatus and appurtenances, window screens, awnings and storm sashes and other machinery, equipment or other tangible personal property, which are or shall be so attached to the Improvements, including all extensions, additions, improvements, betterments, renewals, replacements and substitutions, or proceeds from a permitted sale of any of the foregoing, as to be deemed to be fixtures under North Carolina law (collectively, the "*Fixtures*") and accessions to the Sites and a part of the Premises as between the parties hereto and all persons claiming by, through or under them, and which shall be deemed to be a portion of the security for the Indebtedness. The location of the collateral described in this paragraph is also the location of the Sites, and the record owner of the Sites is the Grantor.

(d) All easements, rights-of-way, strips and gores of land, vaults, streets, ways, alleys, passages, sewer rights, waters, water courses, water rights and powers, minerals, flowers, shrubs, crops, trees, timber and other emblements now or hereafter located on the Sites or under or above the same or any part or parcel thereof, and all estates, rights, titles, interests, privileges, liberties, tenements, hereditaments and appurtenances, reversion and reversions, remainder and remainders, whatsoever, in any way belonging, relating or appertaining to the Premises or any part thereof, or which hereafter shall in any way belong, relate or be appurtenant thereto, whether now owned or hereafter acquired by Grantor.

(e) All leases affecting the Premises or any part thereof and all income, rents and issues of the Premises and the Improvements now or hereafter located thereon from time to time accruing (including without limitation all payments under leases or tenancies, proceeds of insurance, condemnation payments, tenant security deposits whether held by the Grantor or in a trust account, and escrow funds), and all the estate, right, title, interest, property, possession, claim and demand whatsoever at law, as well as in equity, of the Grantor of, in and to the same; reserving only the right to the Grantor to collect and apply the same (other than insurance proceeds and condemnation payments) so long as the Grantor is not in Default hereunder.

*TO HAVE AND TO HOLD*, the Premises unto the Trustee, its heirs, successors and assigns, in fee simple forever, upon the trusts, terms and conditions and for the uses and purposes hereinafter set out;

And the Grantor covenants with the Trustee that the Grantor is lawfully seized of the Premises in fee simple and has the right to convey the same in fee simple; that, except for Permitted Encumbrances (as defined in Exhibit B attached hereto and incorporated herein by reference), the same are free and clear of all encumbrances, and that the Grantor will warrant and defend the title to the same against the claims of all persons whomsoever arising by, under or through the Grantor.

*THIS CONVEYANCE IS MADE UPON THIS SPECIAL TRUST*, that if the Grantor shall pay the Indebtedness in accordance with the terms of the Contract, together with interest thereon, and any renewals or extensions thereof in whole or in part, and shall comply with all the covenants, terms and conditions of this Deed of Trust, then this conveyance shall be null and void and may be canceled of record at the request and at the cost of the Grantor.

*TO PROTECT THE SECURITY OF THIS DEED OF TRUST*, the Grantor hereby further covenants and agrees as follows:

## ARTICLE I

1.01. ***Payment of Indebtedness.*** The Grantor will pay the Indebtedness and all other sums now or hereafter secured hereby promptly as the same shall become due.

1.02. ***Taxes, Liens and Other Charges.*** The Grantor will comply with the terms of the Contract in all matters relating to taxes, liens and other charges.

1.03. ***Insurance.*** The Grantor shall comply with the terms of the Contract in all matters relating to insurance.

1.04. ***Condemnation.*** The Grantor shall comply with the terms of the Contract in all matters relating to condemnation.

1.05. ***Care of Premises.*** The Grantor shall comply with the Contract in all matters relating to the care of the Premises.

1.06. ***Leases and Other Agreements Affecting the Premises.*** The Grantor will duly and punctually perform all terms, covenants, conditions and agreements binding upon it under any lease or any other agreement of any nature whatsoever which involves or affects the Premises or any part thereof. The Grantor will, at the request of Beneficiary, furnish Beneficiary with executed copies of all leases now or hereafter created upon the Premises or any part thereof, and all leases now or hereafter entered into will be in form and substance subject to the prior written approval of Beneficiary (which approval will not be unreasonably withheld or delayed). The Grantor will not, without the express written approval of Beneficiary (which approval will not be unreasonably withheld or delayed), modify, surrender or terminate, either orally or in writing, any lease now existing or hereafter created upon the Premises or any part thereof, nor will the Grantor permit an assignment or a subletting by any tenant without the prior express written approval of Beneficiary (which approval will not be unreasonably withheld or delayed). The Grantor will not accept payment of rent more than one month in advance without the prior express written approval of Beneficiary.

1.07. ***Security Agreement and Fixture Filing.*** With respect to the Fixtures, this Deed of Trust is hereby made and declared to be a security agreement in favor of Beneficiary encumbering each and every item of such property included herein as a part of the Premises, in compliance with the provisions of the

Uniform Commercial Code as enacted in the State of North Carolina, and the Grantor hereby grants a security interest to Beneficiary in and to all of such Fixtures. This Deed of Trust shall constitute a financing statement filed as a fixture filing in accordance with N.C. Gen. Stat. §25-9-402 (or any amendment thereto). For purposes of complying with the requirements of N.C. Gen. Stat. §25-9-402, the name of Grantor, as Debtor, and Beneficiary, as Secured Party, and the respective addresses of Grantor, as Debtor, and Beneficiary, as Secured Party, are set forth on the first page of this Deed of Trust. Grantor authorizes Beneficiary to effect any filing or recording of any additional financing statements relating to the Fixtures or amendments thereto where appropriate to perfect and continue the security interest in, and to protect and preserve, the Fixtures. Subject to Article XIV of the Contract and the limitations on remedies in Article XI of the Contract, the remedies for any violation of the covenants, terms and conditions of the security agreement contained in this Deed of Trust shall be (i) as prescribed herein, or (ii) as prescribed by general law, or (iii) as prescribed by the specific statutory consequences now or hereafter enacted and specified in said Uniform Commercial Code, all at Beneficiary's sole election. The mention in any such financing statement or statements of the rights in and to (i) the proceeds of any fire and/or hazard insurance policy, or (ii) any award in eminent domain proceedings for a taking or for loss of value, or (iii) the Grantor's interest as lessor in any present or future lease or rights to rents, issues or awards growing out of the use and/or occupancy of the Premises, whether pursuant to lease or otherwise, shall not in any way alter any of the rights of Beneficiary as determined by this Deed of Trust or affect the priority of Beneficiary's security interest granted hereby or by any other recorded document, it being understood and agreed that such mention in such financing statement or statements is solely for the protection of Beneficiary in the event any court shall at any time hold with respect to the foregoing clauses (i), (ii) or (iii) of this sentence that notice of Beneficiary's priority of interest, to be effective against a particular class of persons, must be filed in the Uniform Commercial Code records.

1.08. **Further Assurances; After Acquired Property.** At any time, and from time to time, upon request by the Beneficiary, the Grantor will make, execute and deliver or cause to be made, executed and delivered, to the Beneficiary and/or the Trustee and, where appropriate and on request of the Trustee or the Beneficiary, cause to be recorded and/or filed and from time to time thereafter to be re-recorded and/or refiled at such time and in such offices and places as shall be deemed desirable by Beneficiary, any and all such other and further deeds of trust, security agreements, financing statements, continuation statements, instruments of further assurance, certificates and other documents as may, in the opinion of Beneficiary, be necessary or desirable in order to effectuate, complete, or perfect, or to continue and preserve (a) the obligations of the Grantor under the Contract or this Deed of Trust and (b) the lien of this Deed of Trust as a first and prior lien, subject to Permitted Encumbrances, upon and security title in and to all of the Premises, whether now owned or hereafter acquired by Grantor. Upon any failure by the Grantor so to do, Beneficiary may make, execute, record, file, re-record and/or refile any and all such deeds of trust, security agreements, financing statements, continuation statements, instruments, certificates, and documents for and in the name of the Grantor and the Grantor hereby irrevocably appoints Beneficiary as its agent and attorney-in-fact to do so.

1.09. **Expenses.** To the extent permitted by applicable law and Article XIV of the Contract, the Grantor will pay or reimburse Beneficiary and Trustee, upon demand therefor, for all reasonable attorneys' fees, costs and expenses actually incurred by Beneficiary and the Trustee in any suit, action, legal proceeding or dispute of any kind in which Beneficiary and/or Trustee is made a party or appears as party plaintiff or defendant, affecting the Indebtedness secured hereby, this Deed of Trust or the interest created herein, or the Premises, including, but not limited to, the exercise of the power of sale contained in this Deed of Trust, any condemnation action involving the Premises or any action to protect the security hereof, but excepting therefrom any negligence or misconduct by Beneficiary or any breach of this Deed of Trust by Beneficiary; and all such amounts paid by Beneficiary shall be added to the Indebtedness.

1.10. **Limit of Validity.** If from any circumstances whatsoever fulfillment of any provision of this Deed of Trust or the Contract, at the time performance of such provision shall be due, shall involve transcending the limit of validity presently prescribed by any applicable usury statute or any other applicable law, with regard to obligations of like character and amount, then ipso facto the obligation to be fulfilled shall be reduced to the limit of such validity, so that in no event shall any exaction be possible under this Deed of Trust or the Contract that is in excess of the current limit of such validity, but such obligation shall be fulfilled to the limit of such validity.

1.11. **Use and Management of the Premises.** Unless required by applicable law, the Grantor shall not materially alter or change the use of the Premises or abandon the Premises without the prior written consent of Beneficiary which shall not be unreasonably withheld; provided, however, that nothing contained in this Section 1.11 or elsewhere in the Deed of Trust shall be deemed or construed so as to in any way estop, limit or impair the Grantor from exercising or performing any regulatory, policing, legislative, governmental or other powers or functions of a political subdivision pursuant to applicable law.

1.12. **Acquisition of Collateral.** The Grantor shall not acquire any portion of the personal property, if any, covered by this Deed of Trust, subject to any security interest, conditional sales contract, title retention arrangement or other charge or lien taking precedence over the security title and lien of this Deed of Trust without the prior written consent of the Beneficiary (which consent will not be unreasonably withheld or delayed).

1.13. **Hazardous Material.**

(a) The Grantor represents, warrants and agrees that, except as previously disclosed to the Corporation and the Insurer (as defined in the Indenture), if any, in writing, (i) the Grantor has not used or installed any Hazardous Material (as hereinafter defined) in violation of applicable Environmental Laws (as hereinafter defined) on, from or in the Premises and to the Grantor's actual knowledge no other person has used or installed any Hazardous Material on, from or in the Premises; (ii) to the Grantor's knowledge, no other person has violated any applicable Environmental Laws relating to or affecting the Premises or any other property owned by the Grantor except as previously disclosed to Beneficiary; (iii) to the best of the Grantor's knowledge the Premises are presently in compliance with all applicable Environmental Laws, and there are no facts or circumstances presently existing upon or under the Premises, or relating to the Premises, which may violate any applicable Environmental Laws, and there is not now pending or, to the best knowledge of the Grantor, threatened any action, suit, investigation or proceeding against the Grantor or the Premises (or against any other party relating to the Premises) seeking to enforce any right or remedy against the Grantor or the Premises under any of the Environmental Laws; (iv) the Premises shall be kept free of Hazardous Materials to the extent required by applicable Environmental Laws, and shall not be used to generate, manufacture, refine, transport, treat, store, handle, dispose, transfer, produce, or process Hazardous Materials other than the processing of materials in the ordinary course of the Grantor's business as of the date hereof; (v) the Grantor shall not cause or permit the installation of Hazardous Materials in, on, over or under the Premises or a Release (as hereinafter defined) of Hazardous Materials unto or from the Premises or suffer the presence of Hazardous Materials in, on, over or under the Premises in violation of applicable Environmental Laws; (vi) the Grantor shall comply with Environmental Laws applicable to the Premises, all at no cost or expense to Beneficiary or Trustee; (vii) the Grantor has obtained and will at all times continue to obtain and/or maintain all licenses, permits and/or other governmental or regulatory actions necessary for the Premises to comply with applicable Environmental Laws (the "*Permits*") and the Grantor will be and at all times remain in full compliance with the terms and provisions of the Permits; (viii) to the best of the Grantor's knowledge there has been no Release of any Hazardous Materials on or from the Premises in violation of applicable Environmental Laws, whether or not such Release emanated from the Premises or any contiguous real estate which has not been abated and any resulting violation of applicable Environmental Laws abates; (ix) the Grantor shall immediately give the Beneficiary oral and

written notice in the event that the Grantor receives any notice from any governmental agency, entity, or any other party with regard to Hazardous Materials on, from or affecting the Premises and the Grantor shall conduct and complete all investigations, studies, sampling, and testing, and all remedial, removal, and other actions necessary to clean up and remove all Hazardous Materials on, from or affecting the Premises in accordance with all applicable Environmental Laws.

(b) To the extent permitted by applicable law and Article XIV of the Contract, the Grantor hereby agrees to indemnify Beneficiary and Trustee and hold Beneficiary and Trustee harmless from and against any and all liens, demands, defenses, suits, proceedings, disbursements, liabilities, losses, litigation, damages, judgments, obligations, penalties, injuries, costs, expenses (including, without limitation, attorneys' and experts' fees) and claims of any and every kind whatsoever paid, incurred, suffered by, or asserted against Beneficiary, Trustee and/or the Premises for, with respect to, or as a direct or indirect result of: (i) the presence of Hazardous Materials in, on or under the Premises, or the escape, seepage, leakage, spillage, discharge, emission or Release on or from the Premises of any Hazardous Materials; (ii) the violation of any Environmental Laws applicable to the Premises or the Grantor; (iii) the failure by the Grantor to comply fully with the terms and provisions of this Section 1.13; (iv) the violation of any of the Environmental Laws in connection with any other property owned by the Grantor, which violation gives or may give rise to any rights whatsoever in any party with respect to the Premises by virtue of any of the Environmental Laws; or (v) any warranty or representation made by the Grantor in paragraph (a) of Section 1.13 being false or untrue in any material respect.

(c) In the event Beneficiary has a reasonable basis to suspect that the Grantor has violated any of the covenants, warranties, or representations contained in this Section 1.13, or that the Premises are not in compliance with the applicable Environmental Laws for any reason, the Grantor shall take such steps as Beneficiary reasonably requires by written notice to the Grantor in order to confirm or deny such occurrences, including, without limitation, the preparation of environmental studies, surveys or reports. In the event that the Grantor fails to take such action, Beneficiary may take such action as Beneficiary reasonably believes necessary to protect its interest, and the cost and expenses of all such actions taken by Beneficiary, including, without limitation, Beneficiary's reasonable attorneys' fees, shall be added to the Indebtedness.

(d) For purposes of this Deed of Trust: (i) "*Hazardous Material*" or "*Hazardous Materials*" means and includes, without limitation, (a) hazardous waste, as defined in the Resource Conservation and Recovery Act of 1980, or in any applicable state or local law or regulation, (b) hazardous substances, as defined in CERCLA, or in any applicable state or local law or regulation, (c) toxic substances, as defined in the Toxic Substances Control Act of 1976, or in any applicable state or local law or regulation or (d) insecticides, fungicides, or rodenticides, as defined in the Federal Insecticide, Fungicide, and Rodenticide Act of 1975, or in any applicable state or local law or regulation, as each such Act, statute or regulation may be amended from time to time; (ii) "*Release*" shall have the meaning given such term, in the Environmental Laws, including, without limitation, Section 101(22) of CERCLA; and (iii) "*Environmental Law*" or "*Environmental Laws*" shall mean any "*Super Fund*" or "*Super Lien*" law, or any other federal, state or local statute, law, ordinance or code, regulating, relating to or imposing liability or standards of conduct concerning any Hazardous Materials as may now or at any time hereafter be legally in effect, including, without limitation, the following, as same may be amended or replaced from time to time, and all regulations promulgated and officially adopted thereunder or in connection therewith: the Super Fund Amendments and Reauthorization Act of 1986 ("*SARA*"); the Comprehensive Environmental Response, Compensation and Liability Act of 1980 ("*CERCLA*"); The Clean Air Act ("*CAA*"); the Clean Water Act ("*CWA*"); The Toxic Substance Control Act ("*TSCA*"); the Solid Waste Disposal Act ("*SWDA*"), as amended by the Resource Conservation and Recovery Act ("*RCRA*"); the Hazardous Waste Management System; and the Occupational Safety and Health Act of 1970 ("*OSHA*"). To the extent permitted by applicable and by Article XIV of the Contract, the obligations and liabilities of the Grantor under this

Section 1.13 which arise out of events or actions occurring prior to the satisfaction of this Deed of Trust shall survive the exercise of the power of sale under or foreclosure of this Deed of Trust, the delivery of a deed in lieu of foreclosure of this Deed of Trust, the cancellation or release of record of this Deed of Trust, and/or the payment in full of the Indebtedness.

(e) The parties expressly agree that an event under the provisions of this Section 1.13 which may be deemed to be a default under this Deed of Trust shall not be a default until the Grantor has received notice of such event and such grace period as specified in the Contract for the cure of such default. Further, in terms of compliance with future governmental laws, regulations or rulings applicable to environmental conditions, the Grantor shall be permitted to afford itself of any defense or other protection against the application or enforcement of any such law, regulation or ruling.

1.14. **Release of Premises.** Notwithstanding any other provision of this Deed of Trust, at any time and from time to time, so long as no Event of Default has occurred and is continuing, the Trustee and the Beneficiary, with the prior written consent of the Insurer, if any, will release the Premises or any part thereof from the lien and security interest of this Deed of Trust, but only when and if the following requirements have been fulfilled:

(1) In connection with any release of the Premises, or any part thereof, there shall be filed with the Beneficiary a certified copy of the resolution of the Board of Commissioners for the Grantor stating the purpose for which the Grantor desires such release of the Premises, giving an adequate legal description of the part of the Premises to be released, requesting such release and providing for the payment by the Grantor of all expenses in connection with such release.

(2) In connection with the release of any part of the Premises constituting less than the entire Premises, (a) either (i) the value of the Premises remaining after the proposed release (as such value is evidenced by or derived from (A) an appraisal of the remaining Premises prepared by a certified MAI-approved appraiser, (B) the insured value of the remaining Premises or (C) the assessed tax valuation of the remaining Premises) is not less than 50% of the aggregate principal components of the Installment Payments relating to the Obligations then Outstanding or (ii) the Grantor (A) provides for substitution other property (the "*Substitute Property*") that will be made subject to the lien of this Deed of Trust that has a value such that the combined value of the remaining Premises and the Substitute Property, (as such value is evidenced by or derived from (I) an appraisal of the remaining Premises and the Substitute Property prepared by a certified MAI-approved appraiser, (II) the insured value of the remaining Premises and the Substitute Property or (III) the assessed tax valuation of the remaining Premises and the Substitute Property) is not less than the value of the Premises immediately before the proposed substitution or is not less than 50% of the aggregate principal components of the Installment Payments relating to the Obligations then Outstanding, and (b) the Grantor delivers to the Trustee, the Beneficiary, the Purchaser (as defined in the Contract) and the Insurer, if any, an opinion of bond or special counsel to the Grantor to the effect that (i) the substitution of such Substitute Property is permitted by law and is permitted under the terms of the Indenture and this Deed of Trust and (ii) for any Obligations with respect to which the interest component of the Installment Payments is intended to be excludable from the gross income of the owners thereof for federal or State income tax purposes, that such release and substitution will not adversely affect the excludability of interest with respect to such Obligations from the gross income of the owners thereof for federal and state income tax purposes, and (c) the Grantor records a release, amendment or modification to this Deed of Trust or such other instruments necessary to reflect such release of a part of the Premises

and, if applicable, substitution of Substitute Property at the place and in the manner required by the laws of the State.

(3) In connection with the release of any part of the Premises constituting less than the entire Premises, such release shall not prohibit Grantor's ingress, egress and regress to and from the remainder of the Premises not being released, or materially interfere with the use of the remainder of the Premises not being released.

(4) In connection with the release of all property constituting the entire Premises, there is paid to the Beneficiary an amount sufficient to provide for the payment in full of all Outstanding Obligations in accordance with Article VI of the Indenture.

## ARTICLE II

2.01. **Events of Default.** The terms "*Default*", "*Event of Default*" or "*Events of Default*", wherever used in this Deed of Trust, shall mean any one or more of the following events:

(a) Failure by the Grantor to pay any Additional Payment when due or any Installment Payment by the second Business Day preceding the first day of the month following the date on which such Installment Payment is due; or

(b) The occurrence of any other "*Event of Default*" under the Contract or the Indenture.

2.02. **Acceleration upon Default, Additional Remedies.** If an Event of Default shall have occurred and is continuing, the Beneficiary may declare all Indebtedness to be due and payable and the same shall thereupon become due and payable in accordance with the Contract and this Deed of Trust without any presentment, demand, protest or notice of any kind. Thereafter, Beneficiary may, to the extent permitted by applicable law and Article XIV of the Contract:

(a) Either in person or by agent, with or without bringing any action or proceeding, or by a receiver appointed by a court and without regard to the adequacy of its security, enter upon and take possession of the Premises, or any part thereof, in its own name or in the name of Trustee, and do any acts which it deems necessary or desirable to preserve the value, marketability or rentability of the Premises, or part thereof or interest therein, increase the income therefrom or protect the security hereof, and, with or without taking possession of the Premises, sue for or otherwise collect the rents and issues thereof, including those rents and issues past due and unpaid, and apply the same, less costs and expenses of operation and collection including attorney's fees, upon any Indebtedness, all in such order as Beneficiary may determine. The entering upon and taking possession of the Premises, the collection of such rents and issues and the application thereof as aforesaid, shall not cure or waive any Event of Default or notice of Event of Default hereunder or invalidate any act done in response to such Default or pursuant to such notice of Default and notwithstanding the continuance in possession of the Premises or the collection, receipt and application of rents and issues, Trustee or Beneficiary, to the extent permitted by applicable law and Article XIV of the Contract, shall be entitled to exercise every right provided for in any instrument securing or relating to the Indebtedness or by law upon occurrence of any Event of Default, including the right to exercise the power of sale;

(b) Commence an action to foreclose this Deed of Trust as a mortgage, specially enforce any of the covenants hereof, or cause the Trustee to foreclose this Deed of Trust by power of sale; and

(c) To the extent permitted by applicable law and Article XIV of the Contract, exercise any or all of the remedies available to a secured party under the Uniform Commercial Code of North Carolina or under any other applicable laws.

(d) NOTWITHSTANDING ANY PROVISIONS HEREIN, IT IS THE INTENT OF THE PARTIES TO COMPLY WITH THE PROVISIONS OF NORTH CAROLINA GENERAL STATUTES SECTION 160A-20. NO DEFICIENCY JUDGMENT MAY BE ENTERED AGAINST THE GRANTOR IN FAVOR OF THE BENEFICIARY IN VIOLATION OF SECTION 160A-20, INCLUDING, WITHOUT LIMITATION, ANY DEFICIENCY JUDGMENT FOR AMOUNTS THAT MAY BE OWED UNDER THE CONTRACT OR THIS DEED OF TRUST WHEN THE SALE OF ALL OR ANY PORTION OF THE PREMISES IS INSUFFICIENT TO PRODUCE ENOUGH MONEY TO PAY IN FULL ALL REMAINING OBLIGATIONS UNDER THE CONTRACT OR THIS DEED OF TRUST. TO THE EXTENT OF ANY CONFLICT BETWEEN THIS PARAGRAPH AND ANY OTHER PROVISION OF THIS DEED OF TRUST, THIS PARAGRAPH SHALL TAKE PRIORITY AND SHALL INCORPORATE HEREIN BY REFERENCE ARTICLE XIV OF THE CONTRACT. NOTWITHSTANDING ANY PROVISION TO THE CONTRARY IN THIS DEED OF TRUST, NO DEFICIENCY JUDGMENT MAY BE RENDERED AGAINST THE GRANTOR IN ANY ACTION TO COLLECT ANY OF THE INDEBTEDNESS SECURED BY THIS DEED OF TRUST AND THE TAXING POWER OF THE GRANTOR IS NOT AND MAY NOT BE PLEDGED DIRECTLY OR INDIRECTLY OR CONTINGENTLY TO SECURE ANY MONIES DUE OR SECURED UNDER THIS DEED OF TRUST.

2.03. **Foreclosure by Power of Sale.** Should Beneficiary elect to foreclose by exercise of the power of sale herein contained, Beneficiary shall notify Trustee and shall deposit with Trustee this Deed of Trust and such receipts and evidence of expenditures made and secured hereby as Trustee may require.

Upon application of Beneficiary, it shall be lawful for and the duty of Trustee, and Trustee is hereby authorized and empowered to expose to sale and to sell the Premises at public auction for cash, after having first complied with all applicable requirements of North Carolina law with respect to the exercise of powers of sale contained in deeds of trust and upon such sale, Trustee shall convey title to the purchaser in fee simple. After retaining from the proceeds of such sale just compensation for Trustee's services and all expenses incurred by Trustee, including a reasonable trustee's commission not exceeding one-half of one percent (.5%) of the bid and reasonable attorneys' fees for legal services actually performed, Trustee shall apply the residue of the proceeds first to the payment of all sums expended by Beneficiary under the terms of this Deed of Trust; second, to the payment of the Indebtedness and interest thereon secured hereby; and the balance, if any, shall be paid to the Grantor. The Grantor agrees that in the event of sale hereunder, Beneficiary shall have the right to bid thereat. Trustee may require the successful bidder at any sale to deposit immediately with Trustee cash or certified check in an amount not to exceed twenty-five percent (25%) of the bid, provided notice of such requirement is contained in the advertisement of the sale. The bid may be rejected if the deposit is not immediately made and thereupon the Trustee shall at the same time and place again offer the Premises for sale. Such deposit shall be refunded in case a resale is had; otherwise, it shall be applied to the purchase price.

2.04. **Performance by Beneficiary on Defaults by the Grantor.** If the Grantor shall Default in the payment, performance or observance of any term, covenant or condition of this Deed of Trust, Beneficiary may, at its option, pay, perform or observe the same, and all payments made or costs or expenses incurred by Beneficiary in connection therewith, shall be secured hereby and shall be, without demand, immediately repaid by the Grantor to Beneficiary with interest thereon at the rate provided in the

Contract. Beneficiary shall be the sole judge of the necessity for any such actions and of the amounts to be paid. Beneficiary is hereby empowered to enter and to authorize others to enter upon the Premises or any part thereof for the purpose of performing or observing any such defaulted term, covenant or condition without thereby becoming liable to the Grantor or any person in possession holding under the Grantor.

2.05. ***Waiver of Appraisement, Valuation, Stay, Extension and Redemption Laws.*** The Grantor agrees to the full extent permitted by law, that in case of a Default hereunder, neither the Grantor nor anyone claiming through or under it shall or will set up, claim or seek to take advantage of any appraisement, valuation, stay, extension, exemption or redemption laws now or hereafter in force, in order to prevent or hinder the enforcement or foreclosure of this Deed of Trust, or the absolute sale of the Premises, or the final and absolute putting into possession thereof, immediately after such sale, of the purchasers thereat, and the Grantor, for itself and all who may at any time claim through or under it, hereby waives to the full extent that it may lawfully so do, the benefit of all such laws, and any and all right to have the assets comprised in the security intended to be created hereby marshaled upon any foreclosure of the lien hereof.

2.06. ***Leases.*** Beneficiary and Trustee, or either of them, at their option and to the extent permitted by law, are authorized to foreclose this Deed of Trust subject to the rights of any tenants of the Premises, and the failure to make any such tenants parties to any such foreclosure proceedings and to foreclose their rights will not be, nor be asserted to be by Grantor, a defense to any proceedings instituted by Beneficiary and Trustee to collect the sums secured hereby.

2.07. ***Discontinuance of Proceedings and Restoration of the Parties.*** In case Beneficiary and Trustee, or either of them, shall have proceeded to enforce any right, power or remedy under this Deed of Trust by foreclosure, entry or otherwise, and such proceedings shall have been discontinued or abandoned for any reason, or shall have been determined adversely to Beneficiary and Trustee, or either of them, then and in every such case the Grantor and Beneficiary and Trustee, and each of them, shall be restored to their former positions and rights hereunder, and all rights, powers and remedies of Beneficiary and Trustee, and each of them, shall continue as if no such proceeding had been taken.

2.08. ***Remedies Not Exclusive.*** To the extent permitted by applicable law and Article XIV of the Contract, Trustee and Beneficiary, and each of them, shall be entitled to enforce payment and performance of any Indebtedness or obligations secured hereby and to exercise all rights and powers under this Deed of Trust or any other agreement securing or relating to the Indebtedness secured hereby or any laws now or hereafter in force, notwithstanding some of the Indebtedness and obligations secured hereby may now or hereafter be otherwise secured, whether by mortgage, deed of trust, pledge, lien, assignment or otherwise. Neither the acceptance of this Deed of Trust nor its enforcement, whether by court action or pursuant to the power of sale or other powers herein contained, shall prejudice or in any manner affect Trustee's or Beneficiary's right to realize upon or enforce any other security now or hereafter held by Trustee or Beneficiary, it being agreed that Trustee and Beneficiary, and each of them, shall be entitled to enforce this Deed of Trust and any other security now or hereafter held by Beneficiary or Trustee in such order and manner as they or either of them may in their absolute discretion determine. No remedy herein conferred upon or reserved to Trustee or Beneficiary is intended to be exclusive of any other remedy herein or by law provided or preclusive of any other remedy herein or by law provided or permitted, but each shall be cumulative and shall be in addition to every other remedy given hereunder or now or hereafter existing at law or in equity or by statute. Every power or remedy given by any instrument securing or relating to the Indebtedness secured hereby to Trustee or Beneficiary or to which either of them may be otherwise entitled, may be exercised, concurrently or independently, from time to time and as often as may be deemed expedient by Trustee or Beneficiary and either of them may pursue inconsistent remedies.

2.09. ***Waiver.*** No delay or omission of Beneficiary or the Trustee to exercise any right, power or remedy accruing upon any Default shall exhaust or impair any such right, power or remedy or shall be

construed to be a waiver of any such Default, or acquiescence therein; and every right, power and remedy given by this Deed of Trust to Beneficiary and Trustee, and each of them, may be exercised from time to time and as often as may be deemed expedient by Beneficiary and Trustee, and each of them. No consent or waiver, expressed or implied, by Beneficiary to or of any breach or Default by the Grantor in the performance of the obligations thereof hereunder shall be deemed or construed to be a consent or waiver to or of any other breach or Default in the performance of the same or any other obligations of the Grantor hereunder. Failure on the part of Beneficiary to complain of any act or failure to act or to declare an Event of Default, irrespective of how long such failure continues, shall not constitute a waiver by Beneficiary of its rights hereunder or impair any rights, powers or remedies consequent on any breach or Default by the Grantor.

2.10. ***Suits to Protect the Premises.*** Beneficiary and Trustee, and each of them, shall have power (a) to institute and maintain such suits and proceedings as they may deem expedient to prevent any impairment of the Premises by any acts which may be unlawful or in violation of this Deed of Trust, with notice of commencement of such suits and proceedings to be given to the Grantor, (b) to preserve or protect their interest in the Premises and in the rents and issues arising therefrom, and (c) to restrain the enforcement of or compliance with any legislation or other governmental enactment, rule or order that may be unconstitutional or otherwise invalid, if the enforcement of or compliance with such enactment, rule or order would impair the security hereunder or be prejudicial to the interest of Beneficiary.

2.11 ***Beneficiary May File Proofs of Claim.*** In the case of any receivership, insolvency, bankruptcy, reorganization, arrangement, adjustment, composition or other proceedings affecting the Grantor, its creditors or its property, Beneficiary, to the extent permitted by law, shall be entitled to file such proofs of claim and other documents as may be necessary or advisable in order to have the claims of Beneficiary allowed in such proceedings for the entire amount due and payable by the Grantor under this Deed of Trust at the date of the institution of such proceedings and for any additional amount which may become due and payable by the Grantor hereunder after such date.

### ARTICLE III

3.01. ***Successors and Assigns.*** This Deed of Trust shall inure to the benefit of and be binding upon the parties hereto and their respective heirs, executors, legal representatives, successors and assigns. Whenever a reference is made in this Deed of Trust to Grantor, Trustee or Beneficiary such reference shall be deemed to include a reference to the heirs, executors, legal representatives, successors and assigns of Grantor, Trustee or Beneficiary, respectively.

3.02. ***Terminology.*** All personal pronouns used in this Deed of Trust whether used in the masculine, feminine or neuter gender, shall include all other genders; the singular shall include the plural, and vice versa. Titles and Articles are for convenience only and neither limit nor amplify the provisions of this Deed of Trust itself, and all references herein to Articles, Sections or subsections thereof, shall refer to the corresponding Articles, Sections or subsections thereof, of this Deed of Trust unless specific reference is made to such Articles, Sections or subsections thereof of another document or instrument.

3.03. ***Severability.*** If any provision of this Deed of Trust or the application thereof to any person or circumstance shall be invalid or unenforceable to any extent, then subject to applicable law and Article XIV of the Contract, the remainder of this Deed of Trust and the application of such provisions to other persons or circumstances shall not be affected thereby and shall be enforced to the greatest extent permitted by law.

3.04. **Applicable Law.** This Deed of Trust shall be interpreted, construed and enforced according to the laws of the State of North Carolina.

3.05. **Notices, Demands and Request.** All notices, demands or requests provided for or permitted to be given pursuant to this Deed of Trust must be in writing and shall be deemed to have been properly given or served by personal delivery or by depositing in the United States Mail, prepaid and registered or certified return receipt requested, and addressed to the addresses set forth in the Contract. All notices, demands and requests shall be effective upon personal delivery or upon being deposited in the United States Mail. However, the time period in which a response to any notice, demand or request must be given, if any, shall commence to run from the date of receipt of the notice, demand or request by the addressee thereof. Rejection or other refusal to accept or the inability to deliver because of changed address of which no notice was given shall be deemed to be receipt of the notice, demand or request sent. By giving at least thirty (30) days written notice thereof, the Grantor, the Trustee or Beneficiary shall have the right from time to time and at any time during the term of this Deed of Trust to change their respective addresses and each shall have the right to specify as its address any other address within the United States of America.

3.06. **Appointment of Successor Trustee.** Beneficiary shall at any time have the irrevocable right to remove Trustee herein named without notice to such Trustee or cause and to appoint a successor thereto by an instrument in writing, duly acknowledged, in such form as to entitle such written instrument to be recorded in this state, and in the event of the death or resignation of Trustee named herein, Beneficiary shall have the right to appoint a successor thereto by such written instrument, and any Trustee so appointed shall be vested with the title to the Premises and shall possess all the powers, duties and obligations herein conferred on Trustee in the same manner and to the same extent as though such were named herein as Trustee. In the event of such substitution of Trustee, Beneficiary shall furnish notice thereof to the Grantor.

3.07. **Trustee's Powers.** At any time, or from time to time, without liability therefor and without notice, upon written request of the Beneficiary and the Grantor, but only with (a) the Purchaser's written consent and (b) the Insurer's written consent, if any, and presentation of this Deed of Trust, and without affecting the liability for payment of the Indebtedness secured hereby or the effect of this Deed of Trust upon the remainder of said Premises, the Trustee may (i) reconvey any part of said Premises, (ii) consent in writing to the making of any map or plat thereof, (iii) join in granting any easement therein, or (iv) join in any extension agreement or any agreement subordinating the lien or charge hereof. This provision shall not limit the powers of Trustee under applicable law or Section 2.03 hereof.

3.08. **Beneficiary's Powers.** Without affecting the liability for the payment of any obligation herein mentioned, and without affecting the lien or charge of this Deed of Trust upon any portion of the Premises not then or theretofore released as security for the full amount of all unpaid obligations, the Beneficiary may, with (a) the Purchaser's written consent and (b) the Insurer's written consent, if any, from time to time and without notice (i) release any person so liable, (ii) extend the maturity or alter any of the terms of any such obligation, (iii) grant other indulgences, (iv) cause to be released or reconveyed at any time at Beneficiary's option, any parcel, portion or all of the Premises in accordance with the provisions of this Deed of Trust, (v) take or release any other or additional security for any obligation herein mentioned, or (vi) make compositions or other arrangements in relation thereto. The provisions of N.C. Gen. Stat. Section 45-45.1 or any similar statute hereafter enacted in replacement or in substitution thereof shall be inapplicable to this Deed of Trust.

3.09. **Acceptance by Trustee.** Trustee accepts this Trust when this Deed of Trust, duly executed and acknowledged, is made of public record as provided by law.

3.10. **E-Verify.** The Corporation 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 Corporation 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 Corporation will require that any subcontractor that it uses in connection with the transactions contemplated by this Contract certify to such subcontractor's compliance with E-Verify.

3.11. **Miscellaneous.** The covenants, terms and conditions herein contained shall bind, and the benefits and powers shall inure to the respective heirs, executors, administrators, successors and assigns of the parties hereto. Whenever used herein, the singular number shall include the plural, the plural the singular, and the term "Beneficiary" shall include any payee of the indebtedness hereby secured and any transferee or assignee thereof, whether by operation of law or otherwise.

[Signatures begin on next page]

*IN WITNESS WHEREOF*, the Grantor has caused this Deed of Trust to be executed under seal the day and year first above written.

[SEAL]

**County of Cabarrus, North Carolina**

By: \_\_\_\_\_  
Stephen M. Morris  
Chairman of the Board of Commissioners

Attest:

\_\_\_\_\_  
Lauren Linker  
Clerk to the Board of Commissioners

**STATE OF NORTH CAROLINA**

**COUNTY OF CABARRUS**

I, \_\_\_\_\_, a Notary Public for said County and State, certify that Stephen M. Morris personally came before me this day, and being by me duly sworn, acknowledged that he is the Chairman of the Board of Commissioners of the County of Cabarrus, North Carolina, a political subdivision organized and existing under the Constitution and laws of the State of North Carolina, and that, by authority duly given and as the act of such political subdivision, the foregoing instrument was signed in its name by him as the Chairman of its Board of Commissioners, sealed with its seal, and attested by Lauren Linker as Clerk to the Board of Commissioners.

Witness my hand and notarial seal, this \_\_\_\_ day of [June], 2022.

My commission expires: \_\_\_\_\_

\_\_\_\_\_  
Notary Public \_\_\_\_\_, 20\_\_\_\_.

**EXHIBIT A**

**DESCRIPTION OF SITES**

[ \_\_\_\_\_ ] and [ \_\_\_\_\_ ] (collectively, the Premises):

Legal description of the Premises:

[ \_\_\_\_\_ ]:

[Insert legal description]

[ \_\_\_\_\_ ]:

[Insert legal description]

[End of Legal Description of the Premises]

## **EXHIBIT B**

### **PERMITTED ENCUMBRANCES**

*"Permitted Encumbrances"* means, as of any particular time: (a) this Deed of Trust; (b) the Contract, as it may be amended from time to time, including any liens or encumbrances permitted by the terms of the Contract, as so amended; (c) the Indenture; (d) utility, access and other easements and rights of way, restrictions and exceptions which exist of record as of the closing date which do not interfere with or impair the intended use of the Premises; (e) such minor defects, irregularities, encumbrances and clouds on title as normally exist with respect to property of the general character of the Premises and as do not materially impair title to the Premises; and (f) any other encumbrances described in the policy evidencing the title insurance required pursuant to Section 5.5 of the Contract.

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**CABARRUS COUNTY DEVELOPMENT CORPORATION**

AND

**REGIONS BANK,**  
AS TRUSTEE

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**INDENTURE OF TRUST**

Dated as of  
June [1], 2022

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This instrument has been entered into by the within-described parties in order to secure certain Cabarrus County Development Corporation Limited Obligation Bonds (County of Cabarrus, North Carolina Installment Financing Contract), Series 2022B, as more fully described herein.

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EXHIBIT A FORM OF 2022B LIMITED OBLIGATION BOND

## INDENTURE OF TRUST

THIS INDENTURE OF TRUST dated as of June [1], 2022 (the "Indenture"), by and between the Cabarrus County Development Corporation, a North Carolina nonprofit corporation (the "Corporation") and Regions Bank, as trustee (the "Trustee"), and related to the issuance of not exceeding [\$\_\_\_\_\_] Cabarrus County Development Corporation Limited Obligation Bonds (County of Cabarrus, North Carolina Installment Financing Contract), Series 2022B (the "2022B LOBs," and together with all Additional Obligations, if any, the "Obligations").

### WITNESSETH:

WHEREAS, the County of Cabarrus, North Carolina (the "County") is a duly and regularly created, organized and existing political subdivision validly existing as such under and by virtue of the Constitution, statutes and laws of the State of North Carolina (the "State");

WHEREAS, the County, for the purpose of acquiring, renovating and equipping the Project and for the specific current purpose of (a) providing funds to pay all or a portion of the costs of [insert 2022B Project Description \_\_\_\_\_] (collectively, the "2022B Project") and (b) paying certain expenses incurred in connection with the execution and delivery of the 2022B LOBs;

WHEREAS, pursuant to this Indenture, the Corporation has assigned all of its rights, title and interest in and to (i) the Contract (as defined herein) (except the rights of the Corporation under Article X, the rights to receive all notices and those Additional Payments payable to the Corporation under the Contract), (ii) the Deed of Trust (as defined herein) and the Premises (as defined in the Deed of Trust) and (iii) all moneys and securities from time to time held by the Trustee under this Indenture in any fund or account, each as further described herein (collectively, the "Trust Estate");

WHEREAS, the Obligations, including the 2022B LOBs, evidence proportionate undivided interests in the right to receive certain Revenues payable by the County under and pursuant to the Contract and shall be payable solely from the sources provided for in this Indenture;

WHEREAS, pursuant to the Contract, the County will pay certain Installment Payments in consideration for the advancement by the Corporation of the Purchase Price (as such terms are defined in the Contract) of the Project, which Installment Payments will be deposited by the Trustee in the funds and accounts established hereunder in accordance with the terms hereof and of the Contract;

WHEREAS, the execution, delivery and performance of the Contract by the Corporation, and the assignment by the Corporation to the Trustee, pursuant to this Indenture, of the Trust Estate have been authorized, approved and directed by all necessary and appropriate action of the Corporation;

WHEREAS, the Trustee has entered into this Indenture for and on behalf of the Owners, and will hold its rights hereunder, except as otherwise specifically provided herein, for the equal and proportionate benefit of the Owners, and will disburse moneys received by the Trustee in accordance with this Indenture;

WHEREAS, the obligation of the County to make Installment Payments and Additional Payments under and pursuant to the Contract shall not constitute a pledge of the faith and credit of the County within the meaning of the Constitution of the State;

WHEREAS, in order to further secure the obligations of the County under the Contract, the County will enter into the Deed of Trust, Security Agreement and Fixture Filing, dated of even date herewith, as amended from time to time (the "Deed of Trust"), with the deed of trust trustee named therein, for the benefit of the Corporation and its assignee;

WHEREAS, no deficiency judgment may be rendered against the County in any action for its breach of the Contract, and the taxing power of the County is not and may not be pledged in any way directly or indirectly or contingently to secure any moneys due under the Contract; and

WHEREAS, all things necessary to make the Obligations, when executed and delivered by the Corporation and authenticated by the Trustee as provided in this Indenture, legal, valid and binding obligations, as herein provided, and to constitute this Indenture a valid, binding and legal instrument for the security of the Obligations in accordance with its terms, have been done and performed;

NOW, THEREFORE, THIS INDENTURE OF TRUST WITNESSETH:

That the Corporation, in consideration of the premises and the mutual covenants herein contained and for the benefit of the Owners and the sum of One Dollar (\$1.00) to it duly paid by the Trustee at or before the execution of these presents, and for other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, in order to secure the payment of the principal, premium, if any, and interest with respect to all Obligations at any time Outstanding under this Indenture, according to their tenor and effect, and to secure the performance and observance of all the covenants and conditions in the Obligations and herein contained, and to declare the terms and conditions on and subject to which the Obligations are executed, delivered and secured, has executed and delivered this Indenture and has granted, warranted, aliened, remised, released, conveyed, assigned, pledged, set over and confirmed, and by these presents does grant, warrant, alien, remise, release, convey, assign, sell, set over and confirm unto Regions Bank, as the Trustee, and to its successors and assigns forever, all and singular the following described property, franchises and income:

(a) All rights, title and interest of the Corporation in the Contract, except its rights under Article X thereof, its rights to receive all notices and those Additional Payments payable to the Corporation under the Contract;

(b) All rights, title and interest of the Corporation in the Deed of Trust and the Premises (as defined in the Deed of Trust); and

(c) All moneys and securities from time to time held by the Trustee under this Indenture in any fund or account and any and all other personal property of every name and nature from time to time hereafter by delivery or by writing of any kind specially pledged or hypothecated, as and for additional security hereunder, by the Corporation, or by anyone on its behalf, in favor of the Trustee, which is hereby authorized to receive any and all such property at any and all times and to hold and apply the same subject to the terms hereof.

TO HAVE AND TO HOLD the same with all privileges and appurtenances hereby conveyed and assigned, or agreed or intended to be, to the Trustee and its successors in said trust and assigns forever;

IN TRUST, NEVERTHELESS, on the terms herein set forth for the equal and proportionate benefit, security and protection of all Owners, without privilege, priority or distinction as to the lien or otherwise of any of the Obligations over any other of the Obligations;

PROVIDED, HOWEVER, that if the principal with respect to the Obligations and the premium, if any, and the interest with respect thereto, shall be paid at the times and in the manner mentioned in the

Obligations according to the true intent and meaning thereof, and if there are paid to the Trustee all sums of money due or to become due to the Trustee in accordance with the terms and provisions hereof, then on such final payment this Indenture and the rights hereby granted shall cease, terminate and be void; otherwise this Indenture to be and remain in full force and effect.

THIS INDENTURE FURTHER WITNESSETH and it is expressly declared, that all Obligations executed and delivered and secured hereunder are to be executed, authenticated and delivered and all said property, rights, interests, revenues and receipts hereby pledged, assigned and mortgaged are to be dealt with and disposed of under, on and subject to the terms, conditions, stipulations, covenants, agreements, trusts, uses and purposes as hereinafter expressed, and the Corporation has agreed and covenanted, and does hereby agree and covenant, with the Trustee for the benefit of the Owners, as follows:

## ARTICLE I

### DEFINITIONS AND INTERPRETATIONS

Section 1.01. *Definitions.* All words and phrases defined in Article I of the Contract have the same meaning in this Indenture and are incorporated herein by reference. In addition, the following terms, except where the context indicates otherwise, have the respective meanings set forth below.

"Acquisition and Construction Fund" means the special fund created under Section 3.11 of this Indenture.

"Additional Obligations" means Obligations executed and delivered in accordance with Section 2.11.

"Additional 2022B LOBs" means 2022B LOBS purchased by the Purchaser after the date of Closing.

"Bond Fund" means the special fund created under Section 3.02 of this Indenture.

"Bond Year" means initially the period beginning the date of the initial issuance of the 2022B LOBs and ending June 30, 2022 and thereafter the period beginning July 1 of each year and ending on the ensuing June 30.

"Business Day" means a day on which either the Trustee, the Purchaser or the County are not required to open or are authorized by law to remain closed.

"Code" means the Internal Revenue Code of 1986, as amended.

"Contract" means the Installment Financing Contract dated as of June [1], 2022 between the Corporation and the County and any amendments or supplements thereto including the Exhibits attached thereto.

"Contract of Purchase" means the Contract of Purchase dated as of June [\_\_\_], 2022 between the Corporation and the Purchaser and any amendments or supplements thereto.

"Corporation" means Cabarrus County Development Corporation, a North Carolina nonprofit corporation.

"Corporation Representative" means any person or persons at the time designated to act on behalf of the Corporation for purposes of performing any act on behalf of the Corporation under the Contract and this

Indenture by a written certificate furnished to the County and the Trustee containing the specimen signature of such person or persons and signed on behalf of the Corporation by its President.

"Cost of Acquisition and Construction" includes payment of or reimbursement for the following items:

- (a) the Costs of Issuance;
- (b) obligations incurred or assumed for the Project in connection with the acquisition, construction, renovation and equipping thereof, including, without limitation, costs of obtaining title insurance for, environmental assessments of and surveys of the Sites;
- (c) the cost of acquisition, construction, renovation and equipping of the Project, including, without limitation, the Corporation's fees and expenses, fees and expenses of the Local Government Commission of the State (the "LGC"), taxes, inspection costs, an insurance policy, if any, a financial surety bond, if any, permit fees, filing and recording costs and advertising expenses in connection with the acquisition, construction, renovation and equipping of the Project; and
- (d) all other costs which are considered to be a part of the cost of acquisition, construction, renovation and equipping of the Project in accordance with generally accepted accounting principles and which will not adversely affect the exclusion from gross income for federal income tax purposes of the designated interest component of Installment Payments payable by the County hereunder, including sums required to reimburse the County for advances made by the County that are properly chargeable to the acquisition, construction, renovation and equipping of the Project.

"Costs of Issuance" means the costs incurred in connection with the initial issuance of any Obligations, including, without limitation, all printing expenses in connection with this Indenture, the Contract, and the documents and certificates contemplated hereby, the Preliminary Official Statement and the Official Statement for such Obligations, and the legal fees and expenses of counsel to the Corporation, special counsel, counsel to the County, other counsel, counsel to the underwriter(s) or purchaser(s) of such Obligations, rating agency fees, North Carolina Municipal Council (or its successor) assessments, any accounting expenses incurred in connection with determining that such Obligations are not "arbitrage bonds" within the meaning of the Code, the Trustee's initial fees and expenses (including attorney's fees), and state license fees, on the submission of requisitions by the County signed by a County Representative stating the amount to be paid, to whom it is to be paid and the reason for such payment, and that the amount of such requisition is justly due and owing and has not been the subject of another requisition which was paid and is a proper expense of executing and delivering such Obligations.

"Event of Default" means those defaults specified in Section 7.01 of this Indenture.

"Federal Securities" means, subject to any limitations set forth in any supplemental indenture and, to the extent such investments qualify under Section 159-30 of the General Statutes of North Carolina, as amended from time to time, (a) direct obligations (other than an obligation subject to variation in principal repayment) of the United States of America ("United States Treasury Obligations"), (b) obligations fully and unconditionally guaranteed as to timely payment of principal and interest by the United States of America, (c) obligations fully and unconditionally guaranteed as to timely payment of principal and interest by any agency or instrumentality of the United States of America when such obligations are backed by the full faith and credit of the United States of America, or (d) evidences of ownership of proportionate interests in future interest and principal payments on obligations described above held by a bank or trust company as custodian, under which the owner of the investment is the real party in interest and has the right to proceed directly and individually against the obligor and the underlying

government obligations are not available to any person claiming through the custodian or to whom the custodian may be obligated.

“Initial 2022B LOBs” means the \$ \_\_\_\_\_ principal amount of 2022B LOBs purchased by the Purchaser pursuant to the Contract of Purchase on the date of Closing.

"Insurer" means, with respect to a series of Obligations, that insurance company, if any, or its successor, insuring the scheduled payment when due of the principal and interest with respect to such series of Obligations.

"Insurer Default" means, subject to any modification set forth in a supplemental indenture, the following: (a) the failure of the Insurer to make any payment required under the Policy when the same shall become due and payable and such failure has not been cured or waived, (b) the Insurer contests the binding validity of the Policy and such Policy shall have been declared null and void or unenforceable in a final determination by a court of law, (c) a decree or order for relief shall be entered by a court or insurance regulatory authority having jurisdiction over the Insurer in an involuntary case under an applicable bankruptcy, insolvency or other similar law now or hereafter in effect, or appointing a conservator, rehabilitator, receiver, liquidator, custodian, trustee, sequestrator (or similar official) of the Insurer or for a substantial part of the property of the Insurer or ordering the winding-up or liquidation of the affairs of the Insurer, and the continuance of any such decree or order shall be unstayed and remain in effect for a period of ninety (90) consecutive days thereafter; or (d) the Insurer shall voluntarily suspend transaction of its business and shall commence a voluntary case under any applicable bankruptcy, insolvency or other similar law now or hereafter in effect, shall consent to the entry of an order for relief in an involuntary case under any such law or shall consent to the appointment of or taking possession by a conservator, rehabilitator, receiver, liquidator, assignee, trustee, custodian or sequestrator (or other similar official) of the Insurer or for any substantial part of its property, or shall make a general assignment for the benefit of creditors.

"Obligations" means the 2022B LOBs and any Additional Obligations executed and delivered pursuant to Section 2.11.

"Opinion of Counsel" means an opinion in writing of legal counsel, who may be counsel to the Trustee, the County or the Corporation.

"Outstanding" or "Obligations Outstanding" means all Obligations which have been executed and delivered, except:

- (a) Obligations canceled or which shall have been surrendered to the Trustee for cancellation;
- (b) Obligations in lieu of which other Obligations have been authenticated under Sections 2.08 or 2.09;
- (c) Obligations which shall have been redeemed as provided in Article IV (including Obligations redeemed on a partial payment as provided in Section 4.01); and
- (d) Obligations which shall be deemed to have been paid under Article VI.

The term "Outstanding" or "Obligations Outstanding" specifically includes any Obligations with respect to which the principal or interest has been paid by the Insurer for such series of Obligations.

"Owner" or "Owners" means the registered owner or owners of any Obligation fully registered as shown in the registration books of the Trustee.

"Permitted Investments" means, any investment to the extent otherwise permitted by applicable law (including, without limitation, Section 159-30 of the North Carolina General Statutes), subject to any limitations set forth in any supplemental indenture or imposed by an Insurer.

"Person" or "person" means natural persons, firms, associations, banks and public bodies.

"Policy" shall mean with respect to a series of Obligations, a municipal bond insurance policy, if any, which insures the scheduled payment when due of the principal and interest with respect to such series of Obligations as provided in said Policy.

"Project" shall collectively mean the 2022B Project and all other facilities, equipment and assets financed in whole or in part with proceeds derived from the execution and delivery of Additional Obligations pursuant to Section 2.11 of this Indenture.

"Record Date" means the fifteenth day (whether or not a Business Day) of the month next preceding an Installment Payment Date.

"Redemption Fund" means the special fund created under Section 3.08.

"Tax Certificate" means, with respect to the 2022B LOBs, collectively (a) the Certificate as to Non-Arbitrage and Other Matters dated the date of delivery of the 2022B LOBs, executed by the County and (b) the Tax Compliance Agreement dated the date of delivery of the 2022B LOBs, executed by the County and the Corporation.

"Trust Estate" means the property pledged and assigned to the Trustee pursuant to the granting clauses hereof.

"Trustee Representative" means the person or persons at the time designated to act on behalf of the Trustee for purposes of performing any act on behalf of the Trustee under this Indenture by a written certificate furnished to the County and the Corporation containing the specimen signature of such person or persons and signed on behalf of the Trustee by any duly authorized officer of the Trustee.

"2022B LOBs" means the not to exceed [ \$ \_\_\_\_\_ ] Cabarrus County Development Corporation Limited Obligation Bonds (County of Cabarrus, North Carolina Installment Financing Contract), Series 2022B evidencing proportionate and undivided interests in the right to receive certain Revenues pursuant to the Contract.

"2022B Project" means, collectively, the Facilities financed with the 2022B LOBs and the Site(s) on which the Facilities financed with the 2022B LOBs are located, each as described in Exhibit A of the Contract, together with any additions, modifications, attachments, replacements and parts thereof.

Section 1.02. ***Interpretations.*** For purposes of this Indenture:

(a) ***Successors.*** References to specific persons, positions or officers shall include those who or which succeed to or perform their respective functions, duties or responsibilities.

(b) ***Laws.*** References to the Code, or to the laws or Constitution of the State, or rules or regulations thereunder, or to a section, division, paragraph or other provision thereof, shall include those laws and rules and regulations, and that section, division, paragraph or other provision thereof as from time to time amended, modified, supplemented, revised or superseded, provided that no such amendment, modification, supplementation, revision or supersession shall be applied to alter the obligation to pay the principal, premium, if any, or interest due and owing with respect to the Obligations Outstanding in the

amount and manner, at the times, and from the sources provided in this Indenture, except as otherwise herein permitted.

(c) *Singular/Plural.* Unless the context otherwise indicates, words importing the singular number include the plural number and words importing the plural number include the singular number.

(d) *Computations.* Unless otherwise provided in this Indenture or the facts are then otherwise, all computations required for the purposes of this Indenture shall be made on the assumptions that: (i) all Installment Payments are paid as and when the same become due; and (ii) all credits required by this Indenture to be made to any fund or account are made in the amounts and at the times required.

(e) *Exclusion of Obligations Held by or for the County and the Corporation.* In determining whether the Owners of the requisite principal amount of Obligations Outstanding have given any request, demand, authorization, direction, notice, consent or waiver hereunder, Obligations owned by the County or the Corporation shall be disregarded and deemed not to be Outstanding, except that, in determining whether the Trustee is protected in relying on any such request, demand, authorization, direction, notice, consent or waiver, only Obligations which the Trustee knows to be so owned shall be disregarded.

(f) *Obligations and Opinions.* Except as otherwise specifically provided in this Indenture, each certificate or opinion with respect to compliance with a condition or covenant provided for in this Indenture shall include an identification of any certificates or opinions relied on in such certificate or opinion, and a statement: (i) that the person making the certificate or opinion has read the covenant or condition and the definitions herein relating thereto; (ii) as to the nature and scope of the examination or investigation on which the statements or opinions contained in the certificate or opinion are based; (iii) that in the opinion of such person, he or she has made such examination and investigation as is necessary to enable him or her to express an informed opinion as to whether the covenant or condition has been complied with; and (iv) as to whether, in the opinion of such person, the condition or covenant has been complied with.

(g) *Counsel Opinions.* Any Opinion of Counsel may be qualified by reference to the constitutional powers of the United States of America and the State, the police and sovereign powers of the State, judicial discretion, and bankruptcy, insolvency, reorganization, moratorium and other laws affecting creditors' rights and similar matters.

(h) *Consolidated Certifications, Opinions and Instruments.* When several matters are required to be certified by, or covered by an opinion of, any specified person, it is not necessary that all such matters be certified by, or covered by the opinion of, only one such person, or that they are so certified or covered by only one document, but one such person may certify or give an opinion with respect to some matters and one or more other such persons as to other matters, and any such person may certify or give an opinion as to such matters in one or several documents. When any person is required to make, give or execute two or more applications, requests, consents, certificates, statements, opinions or other instruments under this Indenture, such instruments may, but need not, be consolidated and form one instrument.

(i) *Opinions and Certifications of County and Corporation.* Any certificate or opinion of an officer of the County or the Corporation may be based, insofar as it relates to legal matters, on a certificate or opinion of, or representations by, counsel, unless such officer knows, or in the exercise of reasonable care should know, that the certificate or opinion or representations with respect to the matters on which his or her certificate or opinion is based are erroneous. Any such certificate or opinion may be based, insofar as it relates to factual matters, on a certificate or opinion of, or representations by, an officer or officers of the Corporation or the County stating that the information with respect to such factual matters is in the possession of the County or the Corporation, unless such officer knows, or in the exercise of reasonable

care should know, that the certificate or opinion or representations with respect to such factual matters are erroneous.

(j) *References to Indenture.* The terms "herein," "hereunder," "hereby," "hereto," "hereof" and any similar terms refer to this Indenture as a whole and not to any particular article, section or subdivision hereof; and the term "heretofore" means before the date of execution of this Indenture, the term "now" means at the date of execution of this Indenture, and the term "hereafter" means after the date of execution of this Indenture.

(k) *Section and Article References.* References in this Indenture to Section or Article numbers, without added references to other documents, are to the indicated Sections or Articles in this Indenture.

(l) *Gender.* Words of the masculine gender include correlative words of the feminine and neuter genders.

(m) *Captions.* The captions or headings of this Indenture and the table of contents appended to copies hereof are for convenience only and in no way define, limit or describe the scope or intent of any provisions, articles or sections of this Indenture.

(n) *Remedies.* Nothing expressed or implied in this Indenture is intended or shall be construed to confer on or to give any Person, other than the County, the Trustee, the Corporation and the Owners of the Obligations, any right, remedy or claim under or by reason of this Indenture or any covenant, agreement, condition or stipulation hereof.

(o) *References to Fees and Expenses.* Whenever this Indenture contains a reference to fees or expenses, such reference is deemed to include the word "reasonable" as an antecedent thereto.

## ARTICLE II

### AUTHORIZATION, TERMS AND ISSUANCE OF OBLIGATIONS

Section 2.01. *Authorized Amount of Obligations.* No Obligations may be executed and delivered hereunder except in accordance with this Article II. The aggregate principal amount of 2022B LOBs that may be executed and delivered pursuant to Section 2.08 is not in excess of [\$\_\_\_\_\_\_]. Additional Obligations may be delivered as provided in Section 2.11 of this Indenture.

Section 2.02. *Execution and Delivery of Obligations; Details of 2022B LOBs; Payment; Registration and Exchange.*

(a) No Obligations may be executed and delivered except in accordance with the provisions of this Indenture. All Obligations shall constitute proportionate undivided interests in the right to receive Revenues under the Contract. All covenants, agreements and provisions of this Indenture shall be for the benefit and security of all present and future Owners without preference, priority or distinction as to lien or otherwise, except as otherwise provided herein, of any one Obligation over any other Obligation by reason of priority in the issue, sale or negotiation thereof, or otherwise.

(b) The 2022B LOBs evidence proportionate undivided interests in the right to receive certain Revenues pursuant to the Contract. The 2022B LOBs will be executed and delivered as fully registered limited obligation bonds in denominations of \$100,000 and any principal amount in excess thereof. The 2022B LOBs will be numbered from R-1 upwards. The 2022B LOBs may have endorsed thereon such

legends or text as may be necessary or appropriate to conform to any applicable rules and regulations of any governmental authority.

(c) The 2022B LOBs will be dated as of the date of their delivery and will be issued as a single term bond maturing (subject to the right of prior redemption as hereinafter set forth) on June [\_\_\_], 2025. The 2022B LOBs will be subject to optional redemption as set forth in Section 4.01 of this Indenture. The 2022B LOBS will bear interest (computed on the basis of a 360 day year of twelve 30 day months) payable on each Installment Payment Date at a variable rate of interest as set forth in the Contract. A single definitive certificated 2022B LOBs is to be delivered to the Purchaser.

The Purchaser shall notify the County of the [Insert Interest Rates], as applicable, for each interest period within two (2) Business Days of establishing such rate in writing by facsimile or email communication delivered to the Finance Director of the County. The Purchaser shall also notify the County not less than two (2) Business Days prior to each Installment Payment Date of the amount of interest due on such Installment Payment Date, such notice to be given in writing by facsimile or email communication, confirmed by first-class mail, postage prepaid, and addressed to the Finance Director of the County. Notwithstanding the foregoing, the Purchaser's failure to provide the County with any notice described in this paragraph shall not in any way relieve the County of its obligation to make any Installment Payments due on the dates and in the amounts provided in the Contract.

(d) Both the principal and interest with respect to the 2022B LOBs and any premiums on the redemption thereof prior to maturity, if any, are payable in any lawful coin or currency of the United States of America which on the respective dates of payment thereof is legal tender for the payment of public and private debts. The 2022B LOBs shall bear interest until the principal sum thereof has been paid, but if the 2022B LOBs have matured or have been called for redemption and the Redemption Date has occurred and funds are available for the payment thereof in full in accordance with the terms of this Indenture, the 2022B LOBs shall then cease to bear interest as of the maturity date or Redemption Date.

(e) The 2022B LOBs will be dated as of their date of initial execution and delivery, except that 2022B LOBs executed and delivered in exchange for or on the registration of transfer of 2022B LOBs will be dated as of the Installment Payment Date preceding the day of authentication thereof, unless (1) the date of such authentication precedes their date of initial execution and delivery, in which case they will be dated as of their date of initial execution and delivery; (2) it is authenticated after a Record Date and before the following Installment Payment Date, in which event interest with respect thereto shall be payable from such following Installment Payment Date; or (3) the date of such authentication is an Installment Payment Date to which interest with respect to the 2022B LOBs has been paid in full or duly provided for in accordance with the terms of this Indenture, in which case they will be dated as of such Installment Payment Date; except that if, as shown by the records of the Trustee, interest with respect to the 2022B LOBs is in default, 2022B LOBs executed and delivered in exchange for or on registration of transfer of 2022B LOBs will be dated as of the date to which interest with respect to the 2022B LOBs has been paid in full. If no interest has been paid with respect to the 2022B LOBs, 2022B LOBs executed and delivered in exchange for or on the registration of transfer of 2022B LOBs will be dated as of their date of initial execution and delivery.

(f) The 2022B LOBs and any premiums on the redemption thereof prior to maturity, if any, are payable at the designated corporate trust office of the Trustee on presentation and surrender. Interest with respect to the 2022B LOBs will be paid by the Trustee by check or draft mailed on the Installment Payment Date to each Owner as its name and address appear on the register kept by the Trustee at the close of business on the Record Date. Any Owner of a 2022B LOB or 2022B LOBs in an aggregate principal amount of not less than \$500,000 may, by prior written instructions filed with the Trustee not later than three Business Days prior to the Installment Payment Date (which instructions shall remain in effect until revoked by subsequent written instructions), instruct that interest payments for any period be made by wire

transfer to an account in the continental United States or other means acceptable to the Trustee. As long as the Purchaser is the sole registered Owner of the 2022B LOBs, the County shall make all payments with respect to the 2022B LOBs by wire transfer in immediately available funds to the address specified in writing by the Purchaser[ by the Record Date].

(g) The 2022B LOBs, upon surrender thereof at the designated corporate trust office of the Trustee, together with an assignment duly executed by the Owner or such Owner's attorney or legal representative in such form as shall be satisfactory to the Trustee, may, at the option of the Owner thereof, be exchanged for an equal aggregate principal amount of 2022B LOBs of the same series and maturity, of any denomination or denominations authorized by this Indenture, bearing interest at the same rate, and in the same form as the registered 2022B LOBs surrendered for exchange. The County shall make provision for the exchange of the 2022B LOBs at the designated corporate trust office of the Trustee.

(h) The Trustee shall keep the registration books for the registration and registration of transfer of the 2022B LOBs as provided in this Indenture. The registration books shall be available at all reasonable times for inspection by the County and its agents and representatives, and the Trustee shall provide to the County, upon written request, an accurate copy of the names and addresses of the Owners set forth in the registration books.

(i) The transfer of any 2022B LOBs may be registered only upon the registration books upon surrender thereof to the Trustee together with an assignment duly executed by the Owner or such Owner's attorney or legal representative in such form as shall be satisfactory to the Trustee. Upon any such registration of transfer the Corporation shall execute and the Trustee shall authenticate and deliver in exchange for such 2022B LOBS a new registered 2022B LOB or 2022B LOBs, registered in the name of the transferee, of any denomination or denominations authorized by this Indenture in the aggregate principal amount equal to the principal amount of such 2022B LOB surrendered or exchanged, of the same maturity, and bearing interest at the same rate.

(j) In all cases in which 2022B LOBs shall be exchanged or the transfer of 2022B LOBs shall be registered hereunder, the Corporation shall execute and the Trustee shall authenticate and deliver at the earliest practicable time 2022B LOBs in accordance with the provisions of this Indenture. All 2022B LOBs surrendered in any such exchange or registration of transfer shall forthwith be cancelled by the Trustee. Registrations of transfer or exchanges of 2022B LOBs shall be without charge to the Owners of such 2022B LOBs, but any taxes or other governmental charges required to be paid with respect to the same shall be paid by the Owner of the 2022B LOBs requesting such registration of transfer or exchange as a condition precedent to the exercise of such privilege. Neither the Corporation nor the Trustee shall be required (i) to issue, transfer or exchange 2022B LOBs during a period beginning at the opening of business fifteen (15) days before the day of the mailing of a notice of redemption of 2022B LOBs pursuant to Section 2.02 of this Indenture and ending at the close of business on the day of such mailing or (ii) to transfer or exchange any 2022B LOBs so selected for redemption in whole or in part.

(k) Notwithstanding any provision of this Section 2.02 to the contrary, no transfer of a 2022B LOB shall be registered under this Indenture unless such transfer is to (i) a bank (including a Federal Reserve Bank), (ii) another recognized financial institution, (iii) an insurance company, (iv) any governmental agency that regulates financial institutions, including, but not limited to, the Federal Deposit Insurance Corporation, or (v) any affiliate of the Purchaser; provided, however, that if such affiliate ceases to be an affiliate of such Purchaser and at the time it ceases to be an affiliate of such Purchaser it would not qualify as a permitted transferee under this paragraph, such affiliate agrees to transfer such 2022B LOB to a permitted transferee before it ceases to be an affiliate of such Purchaser. The Trustee shall be entitled to receive and rely upon a certificate from the proposed transferee regarding the satisfaction of the foregoing

provisions of this paragraph. Prior to making any such transfer, the Purchaser shall give notice to the Local Government Commission and the County of such transfer and the name of the transferee.

Section 2.03. **Limited Obligation.** Each Obligation evidences a proportionate undivided interest in the right to receive certain Revenues under the Contract. The Obligations are payable solely from Revenues (as defined in the Contract) as, when and if the same are received by the Trustee, which Revenues are to be held in trust by the Trustee for such purposes in the manner and to the extent provided herein. The Owner of each Obligation is not entitled to receive more than the amount of principal, premium, if any, and interest with respect to such Obligation. The Obligations do not constitute a debt of the County or any assignee of the County under the Contract.

NOTWITHSTANDING ANY PROVISION OF THIS INDENTURE, THE CONTRACT OR THE DEED OF TRUST WHICH MAY BE TO THE CONTRARY, NO PROVISION OF THIS INDENTURE, THE CONTRACT OR THE DEED OF TRUST SHALL BE CONSTRUED OR INTERPRETED AS CREATING A PLEDGE OF THE FAITH AND CREDIT OF THE COUNTY WITHIN THE MEANING OF THE CONSTITUTION OF THE STATE. NO PROVISION OF THIS INDENTURE, THE CONTRACT OR THE DEED OF TRUST SHALL BE CONSTRUED OR INTERPRETED AS CREATING A DELEGATION OF GOVERNMENTAL POWERS NOR AS A DONATION BY OR A LENDING OF THE CREDIT OF THE COUNTY WITHIN THE MEANING OF THE CONSTITUTION OF THE STATE. THIS INDENTURE, THE CONTRACT OR THE DEED OF TRUST SHALL NOT DIRECTLY OR INDIRECTLY OR CONTINGENTLY OBLIGATE THE COUNTY TO MAKE ANY PAYMENTS BEYOND THOSE APPROPRIATED IN THE SOLE DISCRETION OF THE COUNTY FOR ANY FISCAL YEAR IN WHICH THE CONTRACT IS IN EFFECT; PROVIDED, HOWEVER, ANY FAILURE OR REFUSAL BY THE COUNTY TO APPROPRIATE FUNDS, WHICH RESULTS IN THE FAILURE BY THE COUNTY TO MAKE ANY PAYMENT COMING DUE UNDER THE CONTRACT WILL IN NO WAY OBLIATE THE OCCURRENCE OF THE EVENT OF DEFAULT RESULTING FROM SUCH NONPAYMENT. NO DEFICIENCY JUDGMENT MAY BE RENDERED AGAINST THE COUNTY IN ANY ACTION FOR ANY BREACH OF THE CONTRACT, THIS INDENTURE OR THE DEED OF TRUST, AND THE TAXING POWER OF THE COUNTY IS NOT AND MAY NOT BE PLEDGED DIRECTLY OR INDIRECTLY OR CONTINGENTLY TO SECURE ANY MONEYS DUE UNDER THIS INDENTURE, THE CONTRACT OR THE DEED OF TRUST. TO THE EXTENT OF ANY CONFLICT BETWEEN THIS PARAGRAPH AND ANY OTHER PROVISION OF THIS INDENTURE, THIS PARAGRAPH SHALL TAKE PRIORITY AND SHALL INCORPORATE HEREIN BY REFERENCE ARTICLE XIV OF THE CONTRACT.

Section 2.04. **Execution of the Obligations.** The Obligations shall be executed on behalf of the Corporation with the manual or facsimile signature of its President or Vice President and shall have impressed or imprinted thereon, by facsimile or otherwise, the official seal of the Corporation, and be attested with the manual or facsimile signature of its Secretary. If any officer of the Corporation whose signature or whose facsimile signature appears on the Obligations ceases to be such officer before the authentication of such Obligations, such signature or the facsimile thereof shall nevertheless be valid and sufficient for all purposes as if he had remained in office until authentication; and any Obligation may be signed on behalf of the Corporation by such persons as are at the time of execution of such Obligation proper officers of the Corporation, even though at the date of this Indenture, such person was not such officer.

Section 2.05. **Authentication.** No Obligation is valid or becomes obligatory for any purpose or is entitled to any security or benefit under this Indenture unless and until a certificate of authentication on such Obligation substantially in the form included in Exhibit A hereto has been duly executed by the Trustee and such executed certificate of the Trustee on any such Obligation is conclusive evidence that such Obligation has been authenticated and delivered under this Indenture. The Trustee's certificate of

authentication on any Obligation shall be deemed to have been executed by it if signed by an authorized officer or signatory of the Trustee, but it is not necessary that the same officer or signatory sign the certificate of authentication on all of the Obligations executed and delivered hereunder.

Section 2.06. **Form of 2022B LOBs.** The 2022B LOBs shall be substantially in the form set forth in Exhibit A to this Indenture, with such appropriate variations, omissions and insertions as may be permitted or required hereby.

Section 2.07. **Delivery of the 2022B LOBs.** On the execution and delivery of this Indenture, the Corporation shall issue the Initial 2022B LOBs in the aggregate principal amount of \$\_\_\_\_\_ to the Trustee, and the Trustee shall authenticate the Initial 2022B LOBs and shall deliver them to the original Purchaser thereof as directed by the Corporation as hereinafter in this Section provided. Additional 2022B LOBs will be issued in the amounts and at the times the Purchaser purchases such Additional 2022B LOBs in accordance with the provisions of the Contract of Purchase.

(a) Before the authentication and delivery of any of the Initial 2022B LOBs, the Trustee has received:

(i) an originally executed counterpart of the Contract, this Indenture and the Deed of Trust and a certified copy of the resolution adopted by the Board of Commissioners of the County, approving the Contract;

(ii) a request and authorization to the Trustee on behalf of the Corporation and signed by a Corporation Representative to authenticate and deliver the Initial 2022B LOBs.

(iii) a certificate of a County Representative as required by Section 4.16 of the Contract.

(b) Then, the Trustee shall deliver the Initial 2022B LOBs to the Purchaser, on payment by the Purchaser to the Trustee of the sum of \$\_\_\_\_\_. Such sum shall be deposited in the Acquisition and Construction Fund pursuant to Article III or applied as otherwise directed in writing by the County.

(c) The Trustee shall deliver (or be deemed to deliver by notation on the schedule attached to Bond R-1) any Additional 2022B LOBs to the Purchaser on payment by the Purchaser to the Trustee of the purchase price of such Additional 2022B LOBs. The purchase price of any Additional 2022B LOBs shall be deposited in the Acquisition and Construction Fund pursuant to Article III or applied as otherwise directed in writing by the County. No Additional 2022B LOBs may be delivered after June [\_\_\_], 2025. The Trustee shall maintain a record on a schedule attached to Bond R-1 of the principal amount of the Initial 2022B LOBs and the principal amount and delivery date of all Additional 2022B LOBs.

Section 2.08. **Mutilated, Lost, Stolen or Destroyed Obligations.** If any Obligation is mutilated, lost, stolen or destroyed, a new Obligation may be executed and delivered on behalf of the Corporation, of like date, maturity, denomination and series as that mutilated, lost, stolen or destroyed, upon execution of the Corporation and authentication of the Trustee; provided that the Trustee has received indemnity of the County, the Corporation and the Trustee from the Owner of the Obligation satisfactory to the Trustee and provided further, in case of any mutilated Obligation, that such mutilated Obligation is first surrendered to the Trustee, and in the case of any lost, stolen or destroyed Obligation, that there is first furnished to the Trustee evidence of such loss, theft or destruction satisfactory to the Trustee. If any such Obligation has matured, instead of delivering a duplicate Obligation, the Trustee may pay the same without surrender thereof. The Trustee may charge the Owner of the Obligation with its reasonable fees and expenses in this connection.

Section 2.09. **Registration of Obligations; Persons Treated as Owners; Transfer of Obligations.** Books for the registration and for the transfer of Obligations shall be kept by the Trustee which is hereby appointed the registrar. On surrender for transfer of an Obligation at the principal corporate trust office of the Trustee, duly endorsed for transfer or accompanied by an assignment duly executed by the Owner or his attorney duly authorized in writing, the Trustee shall deliver in the name of the transferee or transferees a new authenticated and fully registered Obligation or Obligations of the same series.

The Trustee is not required to register the transfer of any Obligations during the period of 15 days next preceding the mailing of notice calling such Obligation for redemption as herein provided, or after any Obligation has been selected for redemption.

As to any Obligation, the person in whose name the same is registered shall be deemed and regarded as the absolute owner thereof for all purposes, and payment of either principal or interest with respect to such Obligation shall be made only to or on the written order of the Owner thereof or his legal representative, but such registration may be changed as hereinabove provided. All such payments shall be valid and effectual to satisfy and discharge such Obligation to the extent of the sum or sums paid.

The Trustee shall require the payment, by any Owner requesting transfer of Obligations, of any tax, trustee fee, fee or other governmental charge required to be paid with respect to such transfer. If any transfer requires that more than one Obligation be executed and delivered, the principal amounts of which equal the principal amount of the Obligations surrendered for transfer, an additional fee (including the cost of printing the Obligations, if necessary) will be required.

Section 2.10. **Cancellation of Obligations.** Whenever any Outstanding Obligations are delivered to the Trustee for cancellation pursuant to this Indenture, on payment thereof or for or after replacement pursuant to Section 2.08 or 2.09 of this Indenture, such Obligations shall be promptly canceled and burned or otherwise destroyed by the Trustee, and counterparts of a certificate of destruction evidencing such burning or other destruction shall be furnished by the Trustee to the County.

Section 2.11. **Additional Obligations.** So long as the Contract remains in effect and no Event of Default has occurred and is continuing, Additional Obligations, which may consist of certifications of participation, limited obligation bonds or any combination of certificates of participation and/or limited obligation bonds, may be executed and delivered on the terms and conditions provided herein.

Additional Obligations may be delivered by the Trustee to provide funds to pay: (i) the cost of renovating, equipping or expanding the Project or acquiring, constructing, renovating and equipping other facilities or acquiring equipment and other capital assets for utilization by the County for public purposes; (ii) the cost of refunding of all or any portion of the Obligations then Outstanding, any other installment financing obligations of the County or any other debt obligations of the County; and (iii) the cost of the execution, delivery and sale of the Additional Obligations, including such other costs reasonably related to a refunding under subparagraph (ii) hereof.

Additional Obligations may be executed and delivered only on there being filed with the Trustee:

(a) Originally executed counterparts of a supplemental indenture and an amendment to the Contract adopted in accordance with the requirements of Article IX and approved by the LGC, if so required by law, including requirements regarding approval of the Owners, if applicable, and, if the County, acting in its sole discretion, has determined that all or any portion of any property, buildings or equipment related to the facilities being financed (but not refinanced), is to be subjected to the Deed of Trust, also expressly providing that, for all the purposes hereof, the property covered by the Deed of Trust shall include such portion, if any, designated by the County of the property, buildings or equipment related to the facilities

being financed (but not refinanced) by the Additional Obligations, and that the Obligations being executed and delivered, as well as any Obligations and Additional Obligations theretofore or thereafter executed and delivered, shall be secured on a parity with all Obligations Outstanding, including the 2022B LOBs, except that the date or dates of the Additional Obligations, the rate or rates of interest with respect to the Additional Obligations, the time or times of payment of the interest with respect thereto and the principal amount with respect thereto, and provisions for the redemption thereof, if any, all shall be as provided in the supplemental indenture and amendment to the Contract, and further providing for an increase in the Purchase Price and the Installment Payments required or authorized to be paid to the Trustee under the Contract in such amount as shall be necessary to pay (assuming that no Event of Default shall occur), the principal, premium, if any, and interest with respect to the Additional Obligations. Notwithstanding the foregoing provisions of this paragraph, if Additional Obligations are issued to finance (but not refinance) property, buildings or equipment, if any amount of the 2022B LOBs is then Outstanding, such property, buildings and equipment shall be subjected to the lien of the Deed of Trust.

(b) A written Opinion or Opinions of Counsel with recognized expertise in tax-exempt financing and mutually acceptable to the County, the Corporation and the Trustee, to the effect that the amendment to the Contract and the authentication of the Additional Obligations have been duly authorized, that the amendment to the Contract is valid and enforceable against the County and that the exclusion from gross income for federal income tax purposes of the interest component of the Installment Payments will not be adversely affected by the issuance of the Additional Obligations, and that the sale and delivery of the Additional Obligations will not constitute a default under the Contract or this Indenture or cause any violation of the covenants, agreements or representations herein or therein.

(c) A written order to the Trustee to deliver the Additional Obligations to the purchaser or purchasers therein identified on payment to the Trustee of a specified sum plus accrued interest.

Each of the Additional Obligations executed and delivered pursuant to this Section 2.11 shall be secured, *pari passu*, with the 2022B LOBs originally executed and delivered and all other series of Additional Obligations, if any, executed and delivered pursuant to this Section 2.11, without preference, priority or distinction of any Obligations or Additional Obligations over any other.

### ARTICLE III

#### REVENUES AND FUNDS

Section 3.01. *Source of Payment of Obligations; Deposit of Obligation Proceeds.* All Obligations evidence proportionate undivided interests in the right to receive Revenues under the Contract. Installment Payments, when, as and if received by the Trustee, shall be held hereunder for payment of the principal, premium, if any, and interest with respect to the Obligations as provided in this Indenture. Unless otherwise specified in writing by the County, the proceeds from the sale of any 2022B LOBs shall be deposited to the credit of the Acquisition and Construction Fund. The proceeds of any Additional Obligations, executed and delivered pursuant to Section 2.11, shall be applied by the Trustee as directed in a certificate signed by a County Representative.

Section 3.02. *Creation of the Bond Fund.* A special fund is hereby created and established with the Trustee, to be designated "Cabarrus County Development Corporation Limited Obligation Bonds (County of Cabarrus, North Carolina Installment Financing Contract) Bond Fund" (the "Bond Fund"), the moneys in which shall be used to pay the principal, premium, if any, and interest with respect to the Obligations. Within the Bond Fund, there are hereby created and ordered established an Interest Account and a Principal Account, the moneys in which shall be used as set forth in Section 3.06.

Notwithstanding the foregoing, as long as the Purchaser is the sole registered Owner of the 2022B LOBs, the County shall make all payments with respect to the 2022B LOBs by wire transfer in immediately available funds to the address specified in writing by the Purchaser by the Record Date.

Section 3.03. **Payments into the Interest Account of the Bond Fund.** There shall be deposited into the Interest Account of the Bond Fund (a) all accrued interest received at the time of the sale and delivery of the respective series of Obligations, if any; (b) that portion of each payment of Installment Payments which is designated and paid as interest under the Contract (except as such amount is reduced pursuant to Section 3.05); (c) investment earnings on the Bond Fund and the Redemption Fund, as provided in Section 5.01; (d) Net Proceeds from any lease of the Premises after an Event of Default to the extent required to pay the next installment of interest with respect to the Obligations or any previous installment of interest not paid; and (e) all other moneys received by the Trustee under this Indenture accompanied by written directions from the County that such moneys are to be deposited into the Interest Account of the Bond Fund. The Trustee shall credit all amounts deposited into the Interest Account of the Bond Fund, including particularly the amounts set forth in Section 3.1 of the Contract, toward the Installment Payment then due and payable under the Contract. The Trustee shall notify the County of all amounts credited toward Installment Payments within 30 days of such credit.

Notwithstanding the foregoing, as long as the Purchaser is the sole registered Owner of the 2022B LOBs, the County shall make all payments with respect to the 2022B LOBs by wire transfer in immediately available funds to the address specified in writing by the Purchaser by the Record Date

Section 3.04. **Payments Into the Principal Account of the Bond Fund.** There shall be deposited into the Principal Account of the Bond Fund (a) that portion of each payment of Installment Payments which is designated and paid as principal under the Contract; (b) Net Proceeds from any lease of the Premises after an Event of Default after the deposit required by Section 3.03; and (c) all other moneys received by the Trustee under this Indenture accompanied by written directions from the County that such moneys are to be deposited into the Principal Account of the Bond Fund.

Notwithstanding the foregoing, as long as the Purchaser is the sole registered Owner of the 2022B LOBs, the County shall make all payments with respect to the 2022B LOBs by wire transfer in immediately available funds to the address specified in writing by the Purchaser by the Record Date

Section 3.05. [Reserved]

Section 3.06. **Use of Moneys in the Bond Fund.** Moneys in the Interest Account of the Bond Fund shall be used solely for the payment of the interest with respect to the Obligations as the same becomes due and payable. Moneys in the Principal Account of the Bond Fund shall be used solely for the payment of the principal with respect to the Obligations. Investment earnings on moneys on deposit in the Bond Fund shall be applied to the next payment of Installment Payments or transferred from time to time upon written direction from a County Representative to the Acquisition and Construction Fund and applied in accordance with the provisions of the Acquisition and Construction Fund. If the Obligations are to be redeemed in whole pursuant to Section 4.01, any moneys remaining in the Bond Fund shall be applied to such redemption along with other moneys held by the Trustee for such purpose.

Section 3.07. **Custody of the Bond Fund.** The Bond Fund shall be in the custody of the Trustee. The Trustee shall withdraw sufficient funds from the Bond Fund to pay the principal and interest with respect to the Obligations as the same become due and payable, which responsibility, to the extent of the moneys therein, the Trustee hereby accepts.

Section 3.08. ***Creation of the Redemption Fund.*** There is hereby created and established with the Trustee the "Cabarrus County Development Corporation Limited Obligation Bonds (County of Cabarrus, North Carolina Installment Financing Contract) Redemption Fund" (the "Redemption Fund") into which shall be deposited all Net Proceeds and other available funds, to the extent the same is required to be deposited therein under Article VII or Section 3.5 of the Contract, and any other moneys provided by the County to be applied to a redemption of principal components of Installment Payments. Moneys on deposit in the Redemption Fund shall be disbursed for redemption of the Obligations as provided in Sections 4.01(a) and (b) of this Indenture. Any income from investment of moneys in the Redemption Fund not disbursed in accordance with the preceding sentence shall be deposited into the Interest Account of the Bond Fund and applied to the next payment of the Installment Payments. Whenever any moneys on deposit in the Redemption Fund are disbursed for redemption of less than all of the Outstanding Obligations, the Installment Payments set forth in the Contract shall be recalculated by the Trustee to reflect the reduction in the outstanding principal amount of the Obligations after such redemption. The Installment Payments, as recalculated, shall be payable [May 26 and November 25] in amounts equal to the amount necessary to pay the principal and interest with respect to the Obligations coming due on the next occurring June 1 or December 1, as the case may be.

Section 3.09. ***Nonpresentment of Obligations.*** If any Obligation is not presented for payment when due, if funds sufficient to pay such Obligation have been made available to the Trustee for the benefit of the Owner thereof, it is the duty of the Trustee to hold such funds without liability for interest thereon, for the benefit of the Owner of such Obligation, who shall be restricted exclusively to such funds for any claim of whatever nature on his or her part under the Contract or this Indenture or on or with respect to such Obligation.

Any money that is so set aside or transferred and that remains unclaimed by the Owners for a period of five years after the date on which such Obligations have become payable will be treated as abandoned property under Chapter 116B of the General Statutes of North Carolina, as amended, and the Trustee shall report and remit this property to the Escheat Fund according to the requirements of Section 116B-51 et seq. of the General Statutes of North Carolina, as amended. Thereafter, the Owners may look to the Escheat Fund for payment and then only to the extent of the amounts so received without any interest thereon, and the Trustee, the Corporation and the County shall have no responsibility with respect to such money.

Section 3.10. ***Creation of Additional Accounts in Supplemental Indentures.*** The supplemental indenture for each series of Obligations executed and delivered hereunder may establish accounts within the funds established hereunder.

Section 3.11. ***Creation of the Acquisition and Construction Fund.*** A special fund is hereby created and established with the Trustee to be designated "Cabarrus County Development Corporation Limited Obligation Bonds (County of Cabarrus, North Carolina Installment Financing Contract) Acquisition and Construction Fund" (the "Acquisition and Construction Fund"). Unless otherwise specified in writing by the County, the balance of the proceeds from the sale of the Initial 2022B LOBs remaining after funding any deposits set forth in Section 3.01, if any, shall be deposited in the Acquisition and Construction Fund. Unless otherwise specified in writing by the County, the proceeds from the sale of any Additional 2022B LOBs shall be deposited in the Acquisition and Construction Fund. In addition, the Trustee shall deposit into the Acquisition and Construction Fund such amounts as the County may designate in a certificate signed by a County Representative in connection with the issuance of Additional Obligations pursuant to Section 2.11. The Trustee shall create accounts within the Acquisition and Construction Fund on the County's written direction. Any moneys held in the Acquisition and Construction Fund or any account thereof shall be invested and reinvested by the Trustee in accordance with this Indenture, and the income therefrom shall be retained in the Acquisition and Construction Fund or any account thereof and used (together with all other moneys held in the Acquisition and Construction Fund) to pay the Cost of

Acquisition and Construction attributable to the Project, as directed by the County. Moneys held in the Acquisition and Construction Fund shall be disbursed in accordance with Section 4.2 of the Contract. After the completion of the Project or any project funded with the proceeds of Additional Obligations, the proceeds of the applicable series of Obligations may be moved from one account to another account in the Acquisition and Construction Fund on the County's written direction.

Section 3.12. ***Application of Acquisition and Construction Fund Subsequent to Completion of Acquisition and Construction.*** The balance, if any, remaining in the Acquisition and Construction Fund on completion of the acquisition, construction, renovation and equipping of the 2022B Project, as certified in writing to the Trustee by a County Representative, (i) may be applied by the Trustee for any purpose permitted by applicable law which, in the opinion of nationally recognized bond counsel, will not cause interest with respect to the 2022B LOBs to become includable in the gross income of the owners thereof for federal income tax purposes or (ii) absent the delivery of such an opinion to the Trustee, will be deposited first to the credit of the Interest Account and next to the Principal Account of the Bond Fund and applied to the future Installment Payments coming due under the Contract with respect to the 2022B LOBs in the order of their due date.

Section 3.13. ***Moneys To Be Held in Trust; Reports to County.*** The ownership of the Bond Fund, the Redemption Fund, the Acquisition and Construction Fund and any other fund or account created hereunder or under the Contract shall be in the Trustee, for the benefit of the Owners as specified in the Indenture. Not less than once during each calendar year, the Trustee shall provide the County with an accounting for all receipts to and disbursements from each fund or account.

Section 3.14. ***Repayment to the County From the Trustee.*** After payment in full of the Obligations, the interest with respect thereto, any premium thereon, the fees, charges and expenses of the Trustee and all other amounts required to be paid hereunder and under the Contract, any amounts remaining in the Bond Fund, the Redemption Fund, the Acquisition and Construction Fund or otherwise held by the Trustee pursuant hereto shall be paid to the County on the expiration or sooner termination of the Contract as a return of an overpayment of Installment Payments.

Section 3.15. ***Custody of Separate Trust Fund.*** The Trustee is authorized and directed to hold all Net Proceeds from any insurance proceeds or condemnation awards (which shall be in a separate fund) and disburse such proceeds in accordance with Article VII of the Contract. If the County directs that any portion of such Net Proceeds be applied to redeem Obligations in accordance with the Contract, the Trustee covenants and agrees to take and cause to be taken the necessary steps to redeem on the next succeeding redemption date the amount of Obligations so specified by the County.

## ARTICLE IV

### REDEMPTION OF OBLIGATIONS

Section 4.01. ***Redemption Dates and Prices.*** The 2022B LOBs are subject to redemption, in whole or in part, as set forth below:

(a) ***Optional Redemption.*** The 2022B LOBs may be redeemed before their maturities at the option of the County, from any funds that may be available for such purpose, in whole on any date on 2 Business Days' written notice to the Purchaser and the Trustee. The 2022B LOBs called for redemption under this paragraph will be redeemed at a redemption price equal to 100% of the principal amount of the 2022B LOBs to be redeemed, together with accrued interest to the date fixed for redemption.

(b) *Extraordinary Optional Redemption.* If the County elects to prepay the Purchase Price in full or in part in accordance with Section 3.5(b) of the Contract, the 2022B LOBs shall be called for redemption in whole or in part, as applicable, on any date selected by the County before maturity from the Net Proceeds and other available moneys described in Section 3.5(b) of the Contract and deposited into the Redemption Fund. The 2022B LOBs called for redemption under this subsection shall be redeemed at the redemption price of 100% of the principal amount thereof, together with accrued interest to the redemption date, without premium.

In the case of any partial redemption of 2022B LOBs, the County will select the maturity or maturities of the 2022B LOBs to be redeemed and the Trustee will select the 2022B LOBs to be redeemed by lot in such manner as the Trustee in its discretion may deem proper, unless otherwise directed in writing by the Purchaser. For this purpose, each authorized denomination of principal amount represented by any 2022B LOB will be considered a separate 2022B LOB for purposes of selecting the 2022B LOBs to be redeemed.

When Obligations are to be redeemed in part, the schedule of Installment Payments set forth in the Contract shall be recalculated as necessary by the Trustee in the manner required by Section 3.08.

The Trustee shall pay to the Owners of Obligations so redeemed the amounts due on their respective Obligations at the principal corporate trust office of the Trustee on presentation and surrender of the Obligations; provided, however, that, if redeemed in part, the Obligations may be redeemed only in authorized denominations. Redemptions shall be accompanied by a written designation prepared by the Trustee stating the portion of the payment representing the unpaid principal amount of the Obligation immediately before the payment, the portion of the payment representing interest, and the remaining portion, if any, which shall be designated and paid as a redemption premium.

Section 4.02. *Notice of Redemption.* Except with respect to an optional redemption of the 2022B LOBs, notice of redemption identifying the Obligations or portions thereof to be redeemed shall be given by the Trustee in writing (or by other means acceptable to the Owners) not less than 30 days nor more than 60 days before the date fixed for redemption by first-class mail, postage prepaid (i) to the then-registered Owners of the Obligations to be redeemed at their addresses appearing on the registration books maintained by the Trustee and (ii) to the LGC; provided, however, that a notice of redemption is not required for mandatory sinking fund redemptions pursuant to Section 4.01(c) of this Indenture.

Notwithstanding the foregoing, (i) if notice is given, the failure to receive an appropriate notice shall not affect the validity of the proceedings for such redemption, (ii) the failure to give any such notice or any defect therein shall not affect the validity of the proceedings for the redemption of the Obligations or portions thereof to be redeemed with respect to which notice was correctly given, and (iii) the failure to give any such notice to the parties described in clause (iii) in the preceding paragraph, or any defect therein, shall not affect the validity of any proceedings for the redemption of the Obligations.

Notice of redemption shall specify, as applicable, (i) that the Obligations or a designated portion thereof are to be redeemed, (ii) the CUSIP numbers of the Obligation or Obligations to be redeemed, if any, (iii) the redemption date, (iv) the redemption price, (v) the redemption agent's name and address, (vi) the date of original issue of the Obligations to be redeemed, (vii) the interest rate with respect to the Obligations to be redeemed, (viii) the maturity date of the Obligations to be redeemed and (ix) if a redemption in part, called amounts for the Obligations to be redeemed.

Any notice mailed as provided in this Section shall be conclusively presumed to have been duly given, whether or not the Owner receives the notice.

If at the time of mailing of notice of redemption there shall not have been deposited with the Trustee moneys sufficient to redeem all the Obligations or portions thereof called for redemption, which moneys are or will be available for redemption of said Obligations, such notice will state that it is conditional on the deposit of the redemption moneys with the Trustee not later than the opening of business on the redemption date, and such notice shall be of no effect unless such moneys are so deposited.

Section 4.03. **Redemptions.** Except with respect to an optional redemption of the 2022B LOBs, before the date fixed for redemption, funds shall be deposited with the Trustee to pay, and the Trustee is hereby authorized and directed to apply such funds to the payment of, the Obligations or portions thereof called for redemption, together with accrued interest thereon to the redemption date, and any required premium. On the giving of notice and the deposit of such funds for redemption pursuant to this Indenture (which, in the case of redemption pursuant to Section 4.01(a) and (b) above, may be less than the full principal amount of the Outstanding Obligations and accrued interest thereon to the redemption date), interest with respect to the Obligations or portions thereof thus called shall no longer accrue after the date fixed for redemption.

The Obligations or portions thereof called for redemption shall be due and payable on the redemption date at the redemption price, together with accrued interest thereon to the redemption date and any applicable redemption premium. If any required notice of redemption has been given and moneys sufficient to pay the redemption price, together with accrued interest thereon to the redemption date and any required redemption premium, have been deposited with the Trustee, the Obligations or portions thereof so called for redemption shall cease to be entitled to any benefit or security under this Indenture and the Owners of such Obligations shall have no rights in respect of such Obligations or portions thereof so called for redemption except to receive payment of the redemption price and accrued interest to the redemption date from such funds held by the Trustee.

Anything in this Indenture to the contrary notwithstanding, if an Event of Default occurs and is continuing, there will be no redemption of less than all of the Obligations Outstanding.

Section 4.04. **Cancellation.** All Obligations which have been redeemed shall not be redelivered but shall be canceled and burned or otherwise destroyed by the Trustee in accordance with Section 2.10.

Section 4.05. **Delivery of New Obligations On Partial Redemption of Obligations.** On surrender and cancellation of the Obligations called for redemption in part only, a new Obligation or Obligations of the same maturity and interest rate and of authorized denominations, in an aggregate principal amount equal to the unredeemed portion thereof, shall be executed on behalf of the Corporation and authenticated and delivered by the Trustee. The expenses of such execution, authentication, delivery and exchange shall be paid by the County as Additional Payments under the Contract.

## ARTICLE V

### INVESTMENTS

Section 5.01. **Investment of Moneys.** All moneys held as part of the Bond Fund, the Redemption Fund, the Acquisition and Construction Fund or any other fund or account created hereunder or under the Contract shall be deposited or invested and reinvested from time to time by the Trustee, at the written direction of the County as agent of the Corporation, in deposits or investments, which are Permitted Investments subject to the following restrictions:

(a) Moneys in the Acquisition and Construction Fund shall be invested only in obligations which will by their terms mature not later than the date the County estimates the moneys represented by the particular investment will be needed for withdrawal from the Acquisition and Construction Fund;

(b) Moneys in the Bond Fund shall be invested only in obligations which will by their terms mature on such dates as to ensure that on the date of each interest and principal payment, there will be in the Bond Fund from matured obligations and other moneys already in the Bond Fund, cash equal to the interest and principal payable on such payment date; and

(c) Moneys in the Redemption Fund shall be invested in obligations which will by their terms mature, or will be subject to redemption at the option of the owner thereof, on or before the date funds are expected to be required for expenditure or withdrawal.

Any and all such deposits or investments shall be held by or under the control of the Trustee. The Trustee may make any and all such deposits or investments through its own investment department or the investment department of any bank or trust company under common control with the Trustee. The Trustee is specifically authorized to enter into agreements with itself or any other person, which agreements guarantee the repurchase of specific Permitted Investments at specific prices. Except as expressly provided in Article III of this Indenture, deposits or investments, shall at all times be a part of the fund or account from which the moneys used to acquire such deposits or investments shall have come, and all income and profits on such deposits or investments shall be credited to, and losses thereon shall be charged against, such fund or account. In computing the amount in any fund or account held under the provisions of this Indenture, obligations purchased as a deposit or investment of moneys therein shall be valued exclusive of accrued interest. The Trustee shall sell and reduce to cash a sufficient amount of such deposits or investments whenever the cash balance in any fund or account created hereunder is insufficient to satisfy the purposes of such fund or account.

The value of all Permitted Investments in the funds and accounts established under this Indenture shall be determined by the Trustee three (3) Business Days prior to each Installment Payment Date. In addition, the value of the Permitted Investments in such funds and accounts shall be determined by the Trustee at any time requested in writing by the County or the Corporation on reasonable notice to the Trustee (which period of notice may be waived or reduced by the Trustee); provided, however, that the Trustee shall not be required to determine the value of the Permitted Investments more than once in any calendar month.

Section 5.02. *Arbitrage Certification.* In reliance on the County's direction of investments as provided in Section 5.01 of this Indenture, and in reliance on the County's covenant in Article IX of the Contract, the Trustee certifies and covenants to and for the benefit of the Owners that so long as any of the Obligations remain Outstanding, moneys in any fund or account held by the Trustee under this Indenture, whether or not such moneys were derived from the proceeds of the sale of the Obligations or from any other source, will not, with actual knowledge, be deposited or invested in a manner which will cause the Obligations to be classified as "arbitrage bonds" within the meaning of Section 148 of the Code.

## ARTICLE VI

### DISCHARGE OF INDENTURE

If, when the Obligations secured hereby become due and payable in accordance with their terms or otherwise as provided in this Indenture, the whole amount of the principal, premium, if any, and interest due and payable with respect to all of the Obligations shall be paid or provision has been made for the payment of the same, together with all other sums payable hereunder and any amounts owed to an Insurer, if any, then the right, title and interest of the Trustee in and to the Trust Estate and all covenants, agreements and other obligations of the Corporation to the Trustee and the Owners shall then cease, terminate and

become void and be discharged and satisfied. In such event, on the written request of the County, the Trustee shall transfer and convey to the County all property assigned or pledged to the Trustee by the Corporation then held by the Trustee pursuant to this Indenture, and the Trustee shall execute such documents as may be reasonably required by the County and shall turn over to the County any surplus in any fund created under this Indenture.

Outstanding Obligations shall, before the maturity or redemption date thereof, be deemed to have been paid within the meaning and with the effect expressed in this Article VI if (a) in case said Obligations are to be redeemed on any date before their maturity, the County has given to the Trustee in form satisfactory to the Trustee irrevocable instructions to give on a date in accordance with the provisions of Section 4.02 notice of redemption of such Obligations on said redemption date, (b) there has been deposited with the Trustee either moneys in an amount which shall be sufficient, or Federal Securities that are Permitted Investments which shall not contain provisions permitting the redemption thereof at the option of the County, the principal of and the interest on which when due, and without any reinvestment thereof, will provide moneys which, together with the moneys, if any, deposited with or held by the Trustee at the same time, sufficient to pay, when due, the principal, premium, if any, and interest due and to become due with respect to the Obligations on the redemption date or maturity date thereof, as the case may be, and (c) in the event said Obligations are not by their terms subject to redemption within the next 60 days, the County has given the Trustee in form satisfactory to it (i) irrevocable instructions to give, as soon as practicable in the same manner as the notice of redemption is given pursuant to Section 4.02, a notice to the Owners of such Obligations that the deposit required by (b) above has been made with the Trustee and that said Obligations are deemed to have been paid in accordance with this Section and stating such maturity or redemption date on which moneys are to be available for the payment of the principal, premium, if any, and interest with respect to said Obligations, (ii) verification from an accountant or other verification agent satisfactory to the Trustee that the moneys or Federal Securities deposited with the Trustee will be sufficient to pay when due the principal, premium, if any, and interest due and to become due with respect to the Obligations on the redemption date or maturity date thereof, as the case may be and (iii) an Opinion of Counsel with recognized expertise in tax-exempt financing that such deposit of moneys or Federal Securities will not adversely affect the exclusion from gross income for federal income tax purposes of interest with respect to the Obligations. Neither the Federal Securities nor moneys deposited with the Trustee pursuant to this Article VI or principal or interest payments on any such Federal Securities shall be withdrawn or used for any purpose other than, and shall be held in trust for, the payment of the principal, premium, if any, and interest with respect to the Obligations; provided any cash received from such principal or interest payments on such Federal Securities deposited with the Trustee, if not then needed for such purpose, shall, to the extent practicable, be reinvested in Federal Securities of the type described in clause (b) of this paragraph maturing at the times and in amounts sufficient (together with any other moneys or Federal Securities then held by the Trustee as described above) to pay when due the principal, premium, if any, and interest to become due with respect to said Obligations on or before such redemption date or maturity date thereof, as the case may be. At such time as any Obligations shall be deemed paid as aforesaid, such Obligations shall no longer be secured by or entitled to the benefits of this Indenture and the Contract, except for the purpose of exchange and transfer and any payment from such moneys or Federal Securities deposited with the Trustee.

The release of the obligations of the Corporation under this Section is without prejudice to the rights of the Trustee to be paid reasonable compensation for all services rendered by it hereunder and all its reasonable expenses, charges and other disbursements incurred with respect to the administration of the trust hereby created and the performance of its powers and duties hereunder.

Notwithstanding anything in this Indenture to the contrary, in the event that the principal or interest due with respect to any of the Obligations is paid by an Insurer pursuant to its Policy with respect to such series of Obligations, such series of Obligations shall remain Outstanding for all purposes, shall not be defeased or otherwise satisfied and shall not be considered paid, and the assignment and pledge of the Trust Estate and all covenants, agreements and other obligations of the County and the Corporation to the Owners of such series of

Obligations shall continue to exist and shall run to the benefit of the Insurer, and the Insurer shall be subrogated to the rights of the Owners of such series of Obligations.

## ARTICLE VII

### DEFAULTS AND REMEDIES

Section 7.01. ***Events of Default.*** If any of the following events occur it is hereby defined as and shall be deemed an "Event of Default" under this Indenture:

- (a) Default in the payment of the principal or premium, if any, with respect to any Obligation when the same becomes due and payable, whether at the stated maturity thereof or on proceedings for redemption.
- (b) Default in the payment of any installment of interest with respect to any Obligation when the same becomes due and payable.
- (c) The occurrence of an "Event of Default" as provided in the Contract or the Deed of Trust.

Section 7.02. ***Remedies on Default.***

(a) On the occurrence and continuance of an Event of Default, the Trustee may, but only with the prior written consent of the Purchaser if the Series 2022B LOBs are then Outstanding, and, if requested in writing by a majority in aggregate principal amount of the Owners of the Obligations then Outstanding shall, declare the obligations of the County as to the principal component of the Installment Payments and the aggregate principal amount of Obligations to be immediately due and payable, whereupon they will, without further action, become due and payable; provided, however, that as long as a Policy for a series of Obligations is in effect and no Insurer Default has occurred and is continuing, the Obligations of that series are not subject to acceleration unless the Trustee receives the prior written consent of the Insurer of that series to such acceleration.

(b) The provisions of the preceding paragraph are subject to the condition that if, after the principal with respect to any of the Installment Payments and the Obligations has been so declared to be due and payable, and before the earlier of (i) the exercise of rights granted under the Deed of Trust or (ii) to the extent permitted by applicable law and Section 2.03, any judgment or decree for the payment of the moneys due has been obtained or entered as hereinafter provided, the defaulting party (the "Defaulting Party") shall cause to be deposited with the Trustee a sum sufficient to pay all matured installments of the principal and interest with respect to all Obligations which have become due otherwise than by reason of such declaration (with interest on such overdue installments of principal and interest, to the extent permitted by law, at the rate or rates per annum borne by the Obligations) and such amount as is sufficient to cover reasonable compensation and reimbursement of expenses payable to the Trustee, and all Events of Default hereunder other than nonpayment of the principal with respect to the Obligations which have become due by said declaration have been remedied, then, in every such case with the consent of the Insurer, such Event of Default shall be deemed waived and such declaration and its consequences rescinded and annulled, and the Trustee shall promptly give written notice of such waiver, rescission or annulment to the Defaulting Party and shall give notice thereof by first-class mail to all Owners; but no such waiver, rescission and annulment shall extend to or affect any subsequent Event of Default or impair any right or remedy consequent thereon.

The provisions of paragraph (a) are further subject to the condition that any waiver of any event of default under the Contract and a rescission and annulment of its consequences shall constitute a waiver of the

corresponding Event of Default under this Indenture and a rescission and annulment of the consequences thereof. If notice of such event of default under the Contract has been given as provided herein and if the Trustee thereafter has received notice that such event of default has been waived, the Trustee shall promptly give written notice of such waiver, rescission or annulment to the Defaulting Party and shall give notice thereof by first-class mail to all Owners; but no such waiver, rescission and annulment shall extend to or affect any subsequent Event of Default or impair any right or remedy consequent thereon.

(c) On the occurrence and continuance of any Event of Default, then and in every such case the Trustee in its discretion may, to the extent permitted by Section 2.03 and applicable law, and on the written direction of the Owners of not less than a majority in aggregate principal amount of the Obligations then Outstanding and receipt of indemnity to its satisfaction shall, in its own name and as the Trustee of an express trust:

(i) by mandamus, or other suit, action or proceeding at law or in equity, enforce all rights of the Owners, and require the Defaulting Party to carry out any agreements with or for the benefit of the Owners and to perform its or their duties under the Contract and this Indenture, provided that any such remedy may be taken only to the extent permitted under the applicable provisions of the Contract or this Indenture, as the case may be; and

(ii) take whatever action at law or in equity is permissible and may appear necessary or desirable to enforce its rights against the Defaulting Party or the Premises (as defined in the Deed of Trust) held as security therefor, including all remedies available to the Beneficiary under the Deed of Trust.

No right or remedy is intended to be exclusive of any other rights or remedies, but each and every such right or remedy shall be cumulative and in addition to any other remedy given hereunder or now or hereafter existing at law or in equity or by statute. If any Event of Default has occurred and if requested in writing by the Owners of a majority in aggregate principal amount of Obligations then Outstanding and indemnified as provided in Section 8.01(m), the Trustee is obligated to exercise, to the extent permitted by Section 2.03 and applicable law, such one or more of the rights and powers conferred by this Section as the Trustee, being advised by counsel, shall deem most expedient in the interests of the Owners.

Notwithstanding anything in this Indenture to the contrary, upon the occurrence and continuance of an Event of Default and so long as no Insurer Default has occurred and is continuing, the Insurer shall be entitled to control and direct the enforcement of all rights and remedies granted to the Owners of the series of Obligations insured by such Insurer or the Trustee for the benefit of the Owners of such series of Obligations under this Indenture, including, without limitation, (i) the right to accelerate the principal with respect to the Obligations as described in this Indenture, and (ii) the right to annul any declaration of acceleration of such series of Obligations, and the Insurer shall also be entitled to approve all waivers of Events of Default relating to such series of Obligations pursuant to Section 7.09.

Section 7.03. **Majority of Owners May Control Proceedings.** The Owners of a majority in aggregate principal amount of the Obligations then Outstanding have the right, at any time, to the extent permitted by law, by an instrument or instruments in writing issued to the Trustee, to direct the time, method and place of conducting all proceedings to be taken in connection with the enforcement of the terms and conditions of this Indenture, or for the appointment of a receiver, and any other proceedings hereunder; provided that such direction shall not be otherwise than in accordance with the provisions hereof. The Trustee is not required to act on any direction given to it pursuant to this Section until the indemnity described in Section 8.01(m) of this Indenture is furnished to it by such Owners.

Section 7.04. ***Rights and Remedies of Owners.*** No Owner shall have any right to institute any suit, action or proceeding in equity or at law for the enforcement of this Indenture or for the execution of any trust hereof or for the appointment of a receiver or any other remedy hereunder, unless (i) a default has occurred of which the Trustee has been notified in writing as provided in Section 8.01(h), or of which by said Section it is deemed to have notice, and such default has become an Event of Default as defined in Section 7.01; (ii) the Owners of not less than a majority in aggregate principal amount of Obligations then Outstanding have made written request to the Trustee and shall have offered the Trustee reasonable opportunity either to proceed to exercise the powers hereinbefore granted or to institute such action, suit or proceedings in its own name and they shall have also offered to the Trustee indemnity as provided in Section 8.01(m); and (iii) the Trustee thereafter fails or refuses to exercise the powers hereinbefore granted or to institute such action, suit or proceeding in its own name. Such notification, request and offer of indemnity are hereby declared in every case at the option of the Trustee to be conditions precedent to the execution of the powers and trusts of this Indenture, and to any action or cause of action for the enforcement of this Indenture, or for the appointment of a receiver or for any other remedy hereunder; it being understood and intended that no one or more Owners have any right in any manner whatsoever to affect, disturb or prejudice the lien of this Indenture by his action or to enforce any right hereunder except in the manner herein provided and that all proceedings at law or in equity shall be instituted, had and maintained in the manner herein provided and for the equal benefit of the Owners of all Obligations then Outstanding. Nothing contained in this Indenture shall, however, affect or impair the right of any Owner to enforce the payment of the principal, premium, if any, and interest with respect to any Obligation at and after the maturity thereof to the extent permitted by Section 2.03 and applicable law.

Section 7.05. ***Trustee May Enforce Rights Without Obligations.*** All rights of action and claims under this Indenture or any of the Obligations Outstanding hereunder may be enforced by the Trustee without the possession of any of the Obligations or the production thereof in any trial or proceedings relative thereto; and any suit or proceeding instituted by the Trustee shall be brought in its name as the Trustee, without the necessity of joining as plaintiffs or defendants any Owners of the Obligations, and any recovery of judgment shall be for the ratable benefit of the Owners of the Obligations, subject to the provisions of this Indenture.

Section 7.06. ***Delay or Omission No Waiver.*** No delay or omission of the Trustee or of any Owner to exercise any right or power accruing on any default shall exhaust or impair any such right or power or shall be construed to be a waiver of any such default, or acquiescence therein; and every power and remedy given by this Indenture, to the extent permitted by Section 2.03 and applicable law, may be exercised from time to time and as often as may be deemed expedient.

Section 7.07. ***No Waiver of One Default to Affect Another.*** No waiver of any default hereunder, whether by the Trustee, the Insurer of a series of Obligations or the Owners, shall extend to or affect any subsequent or any other then existing default or shall impair any rights or remedies consequent thereon.

Section 7.08. ***Discontinuance of Proceedings on Default; Position of Parties Restored.*** If the Trustee has proceeded to enforce any right under this Indenture and such proceedings have been discontinued or abandoned for any reason, or have been determined adversely to the Trustee, then and in every such case the Corporation, the County, the Trustee and the Owners shall be restored to their former positions and rights hereunder with respect to the Trust Estate, and all rights, remedies and powers of the Trustee shall continue as if no such proceedings had been taken.

Section 7.09. ***Waivers of Events of Default.*** The Trustee may in its discretion with the consent of the Insurer, if any, waive any Event of Default hereunder and its consequences, and notwithstanding anything else to the contrary contained in this Indenture shall do so on the written request of the Owners of a majority in aggregate principal amount of all Obligations then Outstanding; provided, however, that there

shall not be waived without the consent of the Owners of 100% of that series of Obligations as to which the Event of Default exists (a) any Event of Default in the payment of the principal or premium with respect to any Outstanding Obligations at the date of maturity specified therein or (b) any default in the payment when due of the interest with respect to any such Obligations, unless before such waiver or rescission, all arrears of interest and all arrears of payments of principal and premium, if any, then due, as the case may be (both with interest on all overdue installments at the rate or rates borne by the Obligations), and all expenses of the Trustee in connection with such default have been paid or provided for. In case of any such waiver, or in case any proceedings taken by the Trustee on account of any such default have been discontinued or abandoned or determined adversely to the Trustee, then and in every such case the Corporation, the County, the Trustee and the Owners shall be restored to their former positions and rights hereunder, respectively, but no such waiver or rescission shall extend to any subsequent or other default, or impair any right consequent thereon.

Section 7.10. ***Application of Moneys.*** All moneys received by the Trustee pursuant to any right given or action taken under the provisions of this Article shall, after payment of the costs and expenses of the proceedings resulting in the collection of such moneys and of the expenses, liabilities and advances incurred or made by the Trustee, be deposited in the Bond Fund and applied as follows:

(a) Unless the principal with respect to all of the Obligations have become or have been declared due and payable, all such moneys shall be applied:

**FIRST** - To the payment to the persons entitled thereto of all installments of interest then due with respect to the Obligations, in the order of the maturity of the installments of such interest beginning with the earliest such maturity and, if the amount available is not sufficient, to pay in full any particular installment, then to the payment ratably, according to the amounts due on such installment, to the persons entitled thereto, without any discrimination or privilege; and

**SECOND** - To the payment to the persons entitled thereto of the unpaid principal and premium, if any, with respect to any of the Obligations which shall have become due (other than Obligations matured or called for redemption for the payment of which moneys are held pursuant to the provisions of this Indenture), in the order of their due dates and beginning with the earliest due date and, if the amount available is not sufficient to pay in full all Obligations due on any particular date, then to the payment ratably, according to the amount of principal due on such date, to the persons entitled thereto without any discrimination or privilege; and

**THIRD** - The payment to the persons entitled thereto of interest on overdue installments of principal, premium, if any, and interest, to the extent permitted by law, and if the amount available is not sufficient to pay in full any particular installment, then to the payment ratably, according to the amounts due on such particular installment, to the persons entitled thereto, without any discrimination or privilege; and

**FOURTH** - To be held for the payment to the persons entitled thereto, as the same become due, of the principal, premium, if any, and interest with respect to the Obligations which may thereafter become due in accordance with the terms of this Indenture.

(b) If the principal with respect to all of the Obligations has become due or has been declared due and payable, all such moneys shall be applied to the payment of the principal and interest then due and unpaid with respect to the Obligations, without preference or priority of principal over interest or of interest over principal, or of any installment of interest over any other installment of interest, or of any Obligation over any other Obligation, ratably, according to the amounts due, respectively, for principal and interest, to

the persons entitled thereto without any discrimination or privilege, with interest on overdue installments of interest or principal, to the extent permitted by law.

Whenever moneys are to be applied pursuant to the provisions of this Section, such moneys shall be applied at such times, and from time to time, as the Trustee shall determine, having due regard to the amount of such moneys available for application and the likelihood of additional moneys becoming available for such application in the future. Whenever the Trustee shall apply such funds, it shall fix the date (which shall be an Installment Payment Date unless it shall deem another date more suitable) on which such application is to be made and on such date interest on the amounts of principal to be paid on such dates shall cease to accrue. The Trustee shall give such notice as it may deem appropriate of the deposit with it of any such moneys and of the fixing of any such date, and shall not be required to make payment to the Owner of any Obligation until such Obligation shall be presented to the Trustee for appropriate endorsement or for cancellation if fully paid.

Whenever the principal, premium, if any, and interest with respect to all of the Obligations have been paid under the provisions of this Section 7.10 and all expenses and charges of the Trustee and all amounts owed to any Insurer have been paid, any balance remaining in the Bond Fund shall be paid to the County.

## ARTICLE VIII

### CONCERNING THE TRUSTEE

Section 8.01. *Duties of the Trustee.* The Trustee hereby accepts the trusts imposed on it by this Indenture and agrees to perform said trusts, but only on and subject to the following express terms and conditions, and no implied covenants or obligations shall be read into this Indenture against the Trustee:

(a) The Trustee, before the occurrence of an Event of Default and after the curing of all Events of Default which may have occurred, undertakes to perform such duties and only such duties as are specifically set forth in this Indenture. In case an Event of Default has occurred (which has not been cured or waived) the Trustee shall exercise such of the rights and powers vested in it by this Indenture, and use the same degree of care and skill in their exercise as a reasonable and prudent person would exercise or use under the circumstances in the conduct of his or her own affairs.

(b) The Trustee may execute any of the trusts or powers hereof and perform any of its duties by or through attorneys, agents, receivers or employees but shall be answerable for the conduct of the same in accordance with the standard specified above, and shall be entitled to act on an Opinion of Counsel concerning all matters of trust hereof and the duties hereunder, and may in all cases pay such reasonable compensation to all such attorneys, agents, receivers and employees as may reasonably be employed in connection with the trusts hereof. The Trustee may act on an Opinion of Counsel and shall not be responsible for any loss or damage resulting from any action or non-action taken by or omitted to be taken in good faith in reliance on such Opinion of Counsel.

(c) The Trustee shall not be responsible for any recital herein or in the Obligations (except in respect to the execution of the certificate of authentication on behalf of the Trustee), or for the recording or rerecording, filing or refiling of the Contract or this Indenture or of any supplements thereto or hereto or instruments of further assurance, or insuring the security for the Obligations or the Project, or collecting any insurance moneys or for the validity of the execution by the Corporation of this Indenture or of any supplements hereto or instruments of further assurance, or for the sufficiency of the security for the Obligations executed and delivered hereunder or intended to be secured hereby, or for the value of or title to the Project, or for the maintenance of the security for the Obligations, and the Trustee shall not be bound to ascertain or inquire as to the performance or observance of any covenants, conditions or agreements on the part of the Corporation or the County, except as provided herein; but the Trustee may require of the

Corporation or the County full information and advice as to the performance of the covenants, conditions and agreements aforesaid. The Trustee shall have no obligation to perform any of the duties of the County or the Corporation under the Contract; and the Trustee shall not be responsible or liable for any loss suffered in connection with any investment of funds made by it in accordance with Article V.

(d) The Trustee may become the Owner of the Obligations with the same rights which it would have if not the Trustee.

(e) The Trustee shall be protected in acting on any notice, request, consent, certificate, order, affidavit, letter, telegram or other paper or document believed to be genuine and correct and to have been signed or sent by the proper person or persons. Any action taken by the Trustee pursuant to this Indenture on the request or authority or consent of any person who at the time of making such request or giving such authority or consent is the Owner of any Obligation shall be conclusive and binding on all future Owners of the same Obligation and on any Obligations executed and delivered in place thereof.

(f) As to the existence or nonexistence of any fact or as to the sufficiency or validity of any instrument, paper or proceeding, the Trustee shall be entitled to rely on a certificate signed on behalf of the Corporation by a Corporation Representative, or on behalf of the County by a County Representative or such other person as may be designated for such purpose by a certified resolution, as sufficient evidence of the facts therein contained, and, before the occurrence of a default of which the Trustee has been notified as provided in subsection (h) of this Section or of which by said subsection it is deemed to have notice, shall also be at liberty to accept a similar certificate to the effect that any particular dealing, transaction or action is necessary or expedient, but shall in no case be bound to secure the same.

(g) The permissive right of the Trustee to do things enumerated in this Indenture shall not be construed as a duty and the Trustee shall not be answerable for other than its negligence or default.

(h) The Trustee shall not be required to take notice or be deemed to have notice of any default hereunder except failure by the County or the Corporation to cause to be made any of the payments to the Trustee required to be made by Article III hereof, unless the Trustee shall be specifically notified in writing of such default by the Corporation or the County or by the Owners of at least 25% in aggregate principal amount of Obligations then Outstanding, and all notices or other instruments required by this Indenture to be delivered to the Trustee, must, in order to be effective, be delivered at the principal corporate trust office of the Trustee, and in the absence of such notice so delivered or express knowledge to the contrary, the Trustee may conclusively assume there is no default except as aforesaid.

(i) All moneys received by the Trustee shall, until used or applied or invested as herein provided, be held in trust in the manner and for the purposes for which they were received but need not be segregated from other funds except to the extent required by this Indenture or law. The Trustee shall not be under any liability for interest on any moneys received hereunder except such as may be agreed on.

(j) At any and all reasonable times the Trustee, and its duly authorized agents, attorneys, experts, engineers, accountants and representatives, shall have the right, but shall not be required, to inspect any and all of the property pledged herein, including all books, papers and records of the Corporation or the County pertaining to the Project.

(k) The Trustee shall not be required to give any bond or surety in respect of the execution of the said trusts and powers or otherwise in respect of the premises.

(l) Notwithstanding anything in this Indenture to the contrary, the Trustee shall have the right, but shall not be required, to demand in respect of the execution and delivery of any Obligations, the

withdrawal of any cash, or any action whatsoever within the purview of this Indenture, any showings, certificates, opinions, appraisals or other information, or corporate action or evidence thereof, in addition to that by the terms hereof required, as a condition of such action by the Trustee deemed desirable for the purpose of establishing the right of the Corporation or the County to the execution and delivery of any Obligations, the withdrawal of any cash, or the taking of any other action by the Trustee.

(m) Before taking any action hereunder (except for the acceleration of the Obligations under Section 7.02(a)) the Trustee may require that satisfactory indemnity be furnished to it by the Owners for the reimbursement of all expenses which it may incur and to protect it against all liability, except liability which may result from its negligence or default, by reason of any action so taken.

(n) The Trustee may use the services of an agent to carry out the duties, responsibilities and obligations required of the Trustee hereunder and where the Trustee is required to act, the agent of the Trustee may act in the place and stead of the Trustee; provided, however, that the use of any agent shall not relieve the Trustee of any of its obligations under the Indenture. Where any act is to be performed or any event is to occur under the Indenture at the principal corporate trust office of the Trustee, such act or event may be performed or occur, as the case may be, at the office of the agent of the Trustee.

(o) The Trustee may not serve as the provider of any financial guaranty instrument under this Indenture or any subsequent supplemental indenture.

(p) The Trustee shall not be liable to the Corporation or the County for any loss suffered as a result of or in connection with any investment of funds made by the Trustee in good faith as instructed by or approved by the County.

(q) The Trustee shall not be accountable for the use by the Corporation or the County of the proceeds of the Obligations.

(r) The Trustee shall have no duty or responsibility to examine or review, and shall have no liability for the contents of, any documents submitted to or delivered to any Owner in the nature of a preliminary or final placement memorandum, official statement, offering circular or similar disclosure document.

(s) The Trustee shall not be liable for any debts contracted or for damages to persons or to personal property injured or damaged, or for salaries or nonfulfillment of contracts, relating to the Project. The Trustee shall have no duty to inspect or oversee the construction or completion of the Project or to verify the truthfulness or accuracy of the certifications made by the Corporation or the County with respect to the Trustee's disbursements for Costs of Acquisition and Construction in accordance with this Indenture and the Contract.

Section 8.02. ***Fees and Expenses of Trustee.*** The Trustee shall be entitled to payment and reimbursement for its reasonable fees for its services rendered hereunder as and when the same become due and all expenses reasonably and necessarily made or incurred by the Trustee in connection with such services as and when the same become due as provided in Section 4.8 of the Contract.

Section 8.03. ***Resignation or Replacement of Trustee.*** The Trustee may resign by giving written notice to the County, the Corporation and each Insurer not less than 60 days before such resignation is to take effect. Such resignation shall take effect only on the appointment of a successor qualified as provided in the third paragraph of this Section 8.03. However, if a successor Trustee is not appointed within 60 days after the Trustee gives notice of resignation, the Trustee shall have the right to petition a court of competent jurisdiction to appoint a successor Trustee. The Trustee may be removed at any time (i) by the Corporation,

at the written direction of the County, (ii) by an instrument in writing, executed by the Owners of a majority in aggregate principal amount of the Obligations then Outstanding, or (iii) by an Insurer for cause. The Corporation may not, however, remove the Trustee if an Event of Default under this Indenture has occurred and is continuing and no removal will be effective until a successor Trustee has been appointed and until such appointment has been accepted.

If the Trustee shall at any time resign or be removed or otherwise become incapable of acting, a successor may be nominated by the County and appointed by the Corporation, or if there is an Event of Default by the County under the Contract, by the Owners of a majority in aggregate principal amount of the Obligations then Outstanding by an instrument or concurrent instruments signed by such Owners, or their attorneys-in-fact duly appointed; provided that the Corporation may, by an instrument executed by it, appoint a successor until a new successor shall be appointed by the Owners as herein authorized. The Corporation on making such appointment shall forthwith give notice thereof, to each Owner and to the County, which notice may be given concurrently with the notice of resignation given by any resigning Trustee. Any successor so appointed by the Corporation shall immediately and without further act be superseded by a successor appointed in the manner above provided by the Owners of a majority in aggregate principal amount of the Obligations Outstanding.

Every successor Trustee shall be a bank or trust company in good standing, qualified to act hereunder, and having a capital and surplus of not less than \$100,000,000. In addition, the appointment of a successor Trustee hereunder shall be subject to the prior written consent of each Insurer and the Secretary of the LGC, which consents shall not be unreasonably withheld. Any successor appointed hereunder shall execute, acknowledge and deliver to the County and to the Corporation an instrument accepting such appointment hereunder, and thereon such successor shall, without any further act, deed or conveyance, become vested with all the estates, properties, rights, powers and trusts of its predecessor in the trust hereunder with like effect as if originally named as Trustee herein; but the Trustee retiring shall, nevertheless, on the written demand of its successor, execute and deliver an instrument conveying and transferring to such successor, on the trusts herein expressed, all the estates, properties, rights, powers and trusts of the predecessor, which shall duly assign, transfer and deliver to the successor all properties and moneys held by it under this Indenture. Should any instrument in writing from the County or the Corporation be required by any successor for more fully vesting in and confirming to it all the estates, properties, rights, powers and trusts of the predecessor, the said deeds, conveyances and instruments in writing shall be made, executed, acknowledged and delivered by the County or the Corporation on request of such successor.

The instruments evidencing the resignation or removal of the Trustee and the appointment of a successor hereunder, together with all other instruments provided for in this Section shall be filed and/or recorded by the successor Trustee in each recording office, if any, where this Indenture shall have been filed and/or recorded.

Section 8.04. ***Conversion, Consolidation or Merger of Trustee.*** Any bank or trust company into which the Trustee or its successor may be converted or merged, or with which it may be consolidated, or to which it may sell or transfer its trust business as a whole shall be the successor of the Trustee under this Indenture with the same rights, powers, duties and obligations and subject to the same restrictions, limitations and liabilities as its predecessor, all without the execution or filing of any papers or any further act on the part of any of the parties hereto or thereto, anything herein or therein to the contrary notwithstanding; provided, however, that such merged or successor entity meets the qualifications of a successor Trustee under Section 8.03. In case any of the Obligations to be executed and delivered hereunder shall have been authenticated, but not delivered, any successor Trustee may adopt the certificate of any predecessor Trustee, and deliver the same as authenticated; and, in case any of such Obligations shall not have been authenticated, the Corporation may authenticate the Obligation and any successor Trustee may deliver the same in the manner provided in Article II of this Indenture.

Section 8.05. ***Intervention by Trustee.*** In any judicial proceeding to which the Corporation or the County is a party and which in the opinion of the Trustee and its counsel has a substantial bearing on the interests of Owners of the Obligations, the Trustee may intervene on behalf of Owners of the Obligations, and shall do so if requested in writing by the Owners of at least 25% in aggregate principal amount of the Obligations then Outstanding.

Section 8.06. ***Power to Appoint Co-Trustees.*** At any time or times, for the purpose of meeting any legal requirements of any jurisdiction in which any part of the Project may at the time be located, the Corporation and the Trustee shall have power to appoint and, upon the request of the Trustee or of the Owners of a majority of the aggregate principal amount of the Obligations then Outstanding, the Corporation shall for such purpose join with the Trustee in the execution, delivery and performance of all instruments and agreements necessary or proper to appoint, one or more persons approved by the Trustee and the County either to act as co-trustee or co-trustees, jointly with the Trustee of all or any part of the Project, or to act as separate trustee or separate co-trustees all or any part of the Project, and to vest in such person or persons, in such capacity, such title to the Project or any part thereof, and such rights, powers, duties, trusts or obligations as the Corporation and the Trustee may consider necessary or desirable, subject to the remaining provisions of this section.

Any co-trustee or separate trustee shall be a bank or trust company with trust powers organized under the laws of the United States of America or any state of the United States or the District of Columbia, having a combined capital stock, surplus and undivided profits aggregating at least \$100,000,000.

The Trustee and co-trustee, if any, may by written instrument between them designate and assign either the Trustee or the co-trustee or both of them to perform all or any part of the responsibilities and duties of the Trustee under this Indenture.

If the Corporation shall not have joined in such appointment within 30 days after the receipt by it of a written request to do so, or in case an Event of Default shall have occurred and be continuing, the Trustee and the County shall have the power to make such appointment.

The Corporation shall execute, acknowledge and deliver all such instruments as may be required by any such co-trustee or separate trustee for more fully confirming such title, rights, powers, trusts, duties and obligations to such co-trustee or separate trustee.

Every co-trustee or separate trustee appointed pursuant to this section, to the extent permitted by law or any applicable contract, shall be subject to the following terms, namely:

(a) This Indenture shall become effective at the time the Obligations shall be authenticated and delivered, and thereupon such co-trustee or separate trustee shall have all rights, powers, trusts, duties and obligations by this Indenture conferred upon the Trustee in respect of the custody, control or management of moneys, papers, securities and other personal property.

(b) All rights, powers, trusts, duties and obligations conferred or imposed upon the trustees shall be conferred or imposed upon and exercised or performed by the Trustee, or by the Trustee and such co-trustee or co-trustees, or separate trustee or separate trustees, as shall be provided in the instrument appointing such co-trustee or co-trustees or separate trustee or separate trustees, except to the extent that, under the law of any jurisdiction in which any particular act or acts are to be performed, the Trustee shall be incompetent or unqualified to perform such act or acts, in which even such act or acts shall be performed by such co-trustee or co-trustees or separate trustee or separate trustees.

(c) Any request in writing by the Trustee to any co-trustee or separate trustee to take or to refrain from taking any action hereunder shall be sufficient warrant for the taking, or the refraining from taking, of such action by such co-trustee or separate trustee.

(d) Any co-trustee or separate trustee, to the extent permitted by law, may delegate to the Trustee the exercise of any right, power, trust, duty or obligation, discretionary or otherwise.

(e) The Trustee at any time, by an instrument in writing, with the concurrence of the County and the Corporation evidenced by a resolution, may accept the resignation of any co-trustee or separate trustee appointed under this Section, and, in case an Event of Default shall have occurred and be continuing, the Trustee shall have power to accept the resignation of, or remove, any such co-trustee or separate trustee without the concurrence of the Corporation and the County. Upon the request of the Trustee, the Corporation and the County shall join with the Trustee in the execution, delivery and performance of all instruments and agreements necessary or proper to effectuate such resignation or removal. A successor to any co-trustee or separate trustee so resigned or removed may be appointed in the manner provided in this Section.

(f) No co-trustee or separate trustee hereunder shall be personally liable by reason of any act or omission of any other trustee hereunder.

(g) Any moneys, paper, securities or other items of personal property received by any such co-trustee or separate trustee hereunder shall forthwith, so far as may be permitted by law, be turned over to the Trustee.

Upon the acceptance in writing of such appointment by any such co-trustee or separate trustee, it or he shall be vested with such rights, powers, duties, trusts or obligations, as shall be specified in the instrument of appointment jointly with the Trustee (except insofar as applicable law makes it necessary for any such co-trustee or separate trustee to act alone) subject to all the terms of this Indenture. Every such acceptance shall be filed with the Trustee.

In case any co-trustee or separate trustee shall die, become incapable of acting, resign or be removed, all rights, powers trusts, duties and obligations of said co-trustee or separate trustee shall, so far as permitted by law, vest in and be exercised by the Trustee unless and until a successor co-trustee or separate trustee shall be appointed in the same manner as provided for with respect to the appointment of a successor Trustee pursuant to Section 8.03 hereof.

## ARTICLE IX

### SUPPLEMENTAL INDENTURES AND AMENDMENTS OF THE CONTRACT

Section 9.01. *Supplemental Indentures Not Requiring Consent of Owners.* The Trustee and the Corporation may, with the written consent of the County, but without the consent of, or notice to, the Owners, enter into such indentures supplemental hereto for any one or more or all of the following purposes, as long as such supplemental indenture does not adversely affect the interests of the Owners:

- (a) To add to the covenants and agreements of the Corporation contained in this Indenture other covenants and agreements to be thereafter observed by the Corporation;
- (b) To cure any ambiguity, or to cure, correct or supplement any defect or omission or inconsistent provision contained in this Indenture, or to make any provisions with respect to matters arising under this Indenture or for any other purpose if such provisions are necessary or desirable and do not adversely affect the interests of the Owners; or
- (c) To execute and deliver Additional Obligations as provided in Section 2.11.

Section 9.02. *Supplemental Indentures Requiring Consent of Owners.* Exclusive of supplemental indentures covered by Section 9.01, the written consent of the County and the consent of the Owners of not less than a majority in aggregate principal amount of the Obligations then Outstanding is required for the execution by the Corporation and the Trustee of any indenture or indentures supplemental hereto; provided, however, that without the consent of the Owners of all the Obligations at the time Outstanding affected thereby nothing herein contained shall permit, or be construed as permitting:

- (a) A change in the terms of redemption or maturity of the principal amount of or the interest with respect to any Outstanding Obligation, or a reduction in the principal amount of or premium payable on any redemption of any Outstanding Obligation or the rate of interest thereon;
- (b) The deprivation of the Owner of any Obligation then Outstanding of the lien created by this Indenture (other than as originally permitted hereby);
- (c) A privilege or priority of any Obligation or Obligations over any other Obligation or Obligations; or
- (d) A reduction in the aggregate principal amount of the Obligations required for consent to such supplemental indenture.

If at any time the County or the Corporation requests the Trustee to enter into such supplemental indenture for any of the purposes of this Section, the Trustee shall, on being satisfactorily indemnified with respect to expenses, cause notice of the proposed execution of such supplemental indenture to be mailed by first-class mail to the Owners of the Obligations then Outstanding at the address shown on the registration books maintained by the Trustee. Such notice shall briefly set forth the nature of the proposed supplemental indenture and shall state that copies thereof are on file at the principal corporate trust office of the Trustee for inspection by all Owners. If, within 60 days or such longer period as is prescribed by the County and the Corporation following the giving of such notice, the Owners of not less than a majority in aggregate principal amount of the Obligations then Outstanding at the time of the execution of any such supplemental indenture have consented to and approved the execution thereof as herein provided, no Owner shall have any right to object to any of the terms and provisions contained therein, or in the operation thereof, or in

any manner to question the propriety of the execution thereof, or to enjoin or restrain the Trustee or the Corporation from executing the same or from taking any action pursuant to the provisions thereof.

Section 9.03. ***Execution of Supplemental Indenture.*** The Trustee is authorized to join with the Corporation in the execution of any such supplemental indenture and to make further agreements and stipulations which may be contained therein, but the Trustee is not obligated to enter into any such supplemental indenture which affects its rights, duties or immunities under this Indenture. Any supplemental indenture executed in accordance with the provisions of this Article shall thereafter form a part of this Indenture; and all the terms and conditions contained in any such supplemental indenture as to any provision authorized to be contained therein shall be deemed to be part of this Indenture for any and all purposes. In case of the execution and delivery of any supplemental indenture, express reference may be made thereto in the text of the Obligations executed and delivered thereafter, if any, if deemed necessary or desirable by the Trustee.

Section 9.04. ***Amendments of the Contract or the Deed of Trust Not Requiring Consent of Owners.*** The Corporation and the Trustee may, with the written consent of the County and the Insurer, but without the consent of or notice to the Owners, consent to any amendment, change or modification of the Contract or the Deed of Trust that does not materially adversely affect the interests of the existing Owners as may be required (a) by the provisions of the Contract, the Deed of Trust or this Indenture; (b) for the purpose of curing any ambiguity or formal defect or omission in the Contract or the Deed of Trust; (c) in order to more precisely identify the Premises (as defined in the Deed of Trust) or to add or substitute improvements acquired in accordance with the Contract, the Deed of Trust and this Indenture; (d) in order to execute and deliver Additional Obligations as provided in Section 2.11; (e) to amend the County's continuing disclosure obligation as provided in Article VIII of the Contract; or (f) in connection with any other change therein which, in the judgment of the Trustee, does not materially adversely affect the interests of the existing Owners.

Section 9.05. ***Amendments of the Contract or the Deed of Trust Requiring Consent of Owners.*** Except for the amendments, changes or modifications permitted by Section 9.04, neither the Corporation nor the Trustee shall consent to any other amendment, change or modification of the Contract or the Deed of Trust without the giving of notice thereof to the Owners and receipt of consent by the Owners of not less than a majority in aggregate principal amount of the Obligations at the time Outstanding given and procured as provided in Section 9.02. If the County and the Corporation request the consent of the Trustee to any such proposed amendment, change or modification of the Contract or the Deed of Trust, the Trustee shall, on being satisfactorily indemnified with respect to expenses, cause notice of such proposed amendment, change or modification to be given in the same manner as provided in Section 9.02. Such notice shall briefly set forth the nature of such proposed amendment, change or modification and shall state that copies of the instrument embodying the same are on file at the principal corporate trust office of the Trustee for inspection by all Owners.

Section 9.06. ***[Reserved].***

## ARTICLE X

[RESERVED]

## ARTICLE XI

### MISCELLANEOUS

Section 11.01. ***Evidence of Signature of Owners and Ownership of Obligations.*** Any request, consent or other instrument which this Indenture may require or permit to be signed and executed by the Owners may be in one or more instruments of similar tenor, and shall be signed or executed by such Owners in person or by their attorneys appointed in writing. Proof of the execution of any such instrument or of an instrument appointing any such attorney, or the ownership of Obligations shall be sufficient (except as otherwise herein expressly provided) if made in the following manner, but the Trustee may, nevertheless, in its discretion require further or other proof in cases where it deems the same desirable:

(a) The fact and date of the execution by any Owner or his or her attorney of such instrument may be proved by the certificate of any officer authorized to take acknowledgments in the jurisdiction in which he or she purports to act that the person signing such request or other instrument acknowledged to him or her the execution thereof, or by an affidavit of a witness of such execution, duly sworn to before a notary public.

(b) The ownership of the Obligations shall be proved by the registration books kept under the provisions of Section 2.09.

Any request or consent of the Owner of any Obligation shall bind all future Owners of such Obligation in respect of anything done or suffered to be done by the County or the Trustee in accordance therewith.

Section 11.02. ***Covenants of Corporation.*** The Corporation agrees that the Trustee as assignee of the Corporation under the Contract may enforce, in its name or in the name of the Corporation, all rights of the Corporation and all obligations of the County under the Contract, for and on behalf of the Owners, whether or not the Corporation is in default under this Indenture. The Trustee and the Corporation hereby agree that the Corporation shall not be obligated to make any payments or to take any other action with respect to the Project under the Contract.

Section 11.03. ***Inspection of the Project.*** The Trustee and its duly authorized agents have the right, on reasonable notice to the County, at all reasonable times, to examine and inspect the Project. The Trustee and its duly authorized agents shall also be permitted, at all reasonable times, to examine the books, records, reports and other papers of the County with respect to the Project.

Section 11.04. ***Parties Interested Herein.*** Nothing in this Indenture expressed or implied is intended or shall be construed to confer on, or to give to any person other than the County, the Corporation, the Trustee, an Insurer and the Owners, any right, remedy or claim under or by reason of this Indenture or any covenant, condition or stipulation hereof; and all the covenants, stipulations, promises and agreements in this Indenture contained by and on behalf of the Corporation or the Trustee shall be for the sole and exclusive benefit of the County, the Corporation, the Trustee, each Insurer and the Owners.

Section 11.05. ***Titles, Headings and Captions.*** The titles, captions and headings of the articles, sections and subdivisions of this Indenture have been inserted for convenience of reference only and shall in no way modify or restrict any of the terms or provisions hereof.

Section 11.06. ***Severability.*** If any provision of this Indenture, other than Section 2.03, is held invalid or unenforceable by any court of competent jurisdiction, such holding shall not invalidate or render unenforceable any other provision hereof. In the event any one or more of the provisions provided in this Indenture shall be construed to be held invalid or unenforceable, the parties hereto shall, in the alternative,

agree to replace such provision with a lawful provision which most nearly approximates the provision held to be invalid or unenforceable.

Section 11.07. **Governing Law.** This Indenture shall be construed, interpreted, governed and enforced in accordance with the laws and Constitution of the State, without regard to conflicts of law principles.

Section 11.08. **Execution in Counterparts.** This Indenture may be executed in several counterparts, each of which shall be an original and all of which shall constitute but one and the same instrument.

Section 11.09. **Notices.** All notices, certificates or other communications shall be sufficiently given and shall be deemed given when delivered or mailed by certified or registered mail, postage prepaid, as follows:

If to the County:	County of Cabarrus, North Carolina Governmental Center 65 Church Street, SE Post Office Box 707 Concord, North Carolina 28025 Attention: Finance Director
If to the Corporation:	Cabarrus County Development Corporation 65 Church Street, SE Post Office Box 707 Concord, North Carolina 28025 Attention: President
If to the Trustee:	Regions Bank 1180 West Peachtree Street, Suite 1200 Atlanta, Georgia 30309 Attention: Corporate Trust Department

The County, the Corporation, the Trustee, and each Insurer, if any, may, by written notice, designate any further or different addresses to which subsequent notices, certificates or other communications shall be sent.

A copy of all notices given by the Trustee to the Owners of the Obligations hereunder shall be delivered to each Insurer at the same time and in the same manner of delivery.

Section 11.10. **Payments Due on Holidays.** If the date for making any payment or the last day for performance of any act or the exercising of any right, as provided in this Indenture, 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 Indenture.

Section 11.11. **Corporation, County, and Trustee Representatives.** Whenever under the provisions hereof the approval of the Corporation, the County or the Trustee is required, or the County, the Corporation or the Trustee is required to take some action at the request of the other, unless otherwise provided, such approval or such request shall be given for the Corporation by a Corporation Representative, for the County by a County Representative and for the Trustee by a Trustee Representative, and the Corporation, the County and the Trustee shall be authorized to act on any such approval or request.

Section 11.12. ***E-Verify***. The Trustee 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 Trustee 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 Trustee will require that any subcontractor that it uses in connection with the transactions contemplated by this Indenture certify to such subcontractor's compliance with E-Verify.

[Signatures begin on next page]

*IN WITNESS WHEREOF*, the Corporation and the Trustee have caused this Indenture to be executed in their respective corporate names and their respective corporate seals to be hereto affixed and attested by their duly authorized officials or officers, all as of the date first above written.

**CABARRUS COUNTY DEVELOPMENT CORPORATION**

[SEAL]

By: \_\_\_\_\_  
Michael K. Downs, President

Attest:

By: \_\_\_\_\_  
Lauren Linker, Secretary

**REGIONS BANK,**  
as Trustee

[SEAL]

By: \_\_\_\_\_  
Sean A. Julien, Vice President

Attest:

By: \_\_\_\_\_  
Assistant Secretary



the Trustee. Notwithstanding the foregoing, so long as the Purchaser is the registered Owner of all of the 2022B LOBs, the principal and interest with respect to this 2022B LOB shall be paid by wire transfer in immediately available funds on each principal payment date and Installment Payment Date to the address specified in writing by the Purchaser by the Record Date.

Under the conditions described in the Indenture, and without the approval or consent of the owners of any of the Obligations then Outstanding under the Indenture, Additional Obligations may be executed and delivered from time to time under the Indenture to provide funds for various purposes permitted by the terms of the Indenture. All such Additional Obligations, if any, will be secured *pari passu* with the 2022B LOBs originally executed and delivered under the Indenture and all other Additional Obligations, if any, executed and delivered from time to time pursuant to the terms of the Indenture, without preference, priority or distinction of any Obligation over any other Obligation.

EACH OBLIGATION EVIDENCES A PROPORTIONATE UNDIVIDED INTEREST IN THE RIGHT TO RECEIVE CERTAIN REVENUES UNDER THE CONTRACT. THE OBLIGATION OF THE COUNTY TO MAKE INSTALLMENT PAYMENTS AND ADDITIONAL PAYMENTS (AS HEREINAFTER DEFINED) IS A LIMITED OBLIGATION OF THE COUNTY, PAYABLE SOLELY FROM CURRENTLY BUDGETED APPROPRIATIONS OF THE COUNTY; DOES NOT CONSTITUTE A GENERAL OBLIGATION OR OTHER INDEBTEDNESS OF THE COUNTY WITHIN THE MEANING OF THE CONSTITUTION OF THE STATE OF NORTH CAROLINA; AND DOES NOT CONSTITUTE A DIRECT OR INDIRECT PLEDGE OF THE FAITH AND CREDIT OR TAXING POWER OF THE COUNTY WITHIN THE MEANING OF THE CONSTITUTION OF THE STATE OF NORTH CAROLINA.

This 2022B LOB is one of the limited obligation bonds evidencing proportionate undivided interests in the right to receive certain revenues, as defined in the Contract (the "*Revenues*"), pursuant to the Contract and the Indenture, in an aggregate principal amount not in excess of \$130,000, and executed and delivered under the Indenture for the purpose, among others, of (a) providing funds to pay all or a portion of the costs of (i) the renovation/replacement of the Governmental Center's existing skylight and roof, (ii) the design of various types of large mechanical, plumbing, fire protection and electrical equipment to be associated with the new Courthouse facility including, without limitation, elevators, chillers and generators, (iii) site development and stabilization of the site of a new Courthouse facility including, without limitation, (A) demolition of the existing Courthouse Annex, (B) any and all related utilities relocation, (C) excavation of the existing Courthouse Annex parking lot, (D) utility and road shoring for the new Courthouse facility, (iv) the acquisition of any necessary rights-of-way and easements related to each of the foregoing and (v) various real and personal property improvements related to each of the foregoing (collectively, the "2022B Project") and (b) paying certain expenses incurred in connection with the execution and delivery of the 2022B LOBs. Under the Contract, the Corporation has agreed to advance to the County the Purchase Price (as defined in the Contract), the proceeds from which will be used to finance the 2022B Project, and the County has agreed to pay directly to the Trustee semiannual payments (the "*Installment Payments*") in repayment of the Purchase Price, the proceeds of which are required by the Indenture to be distributed by the Trustee to the payment of the principal, premium, if any, and interest with respect to the Obligations. In addition to the Installment Payments, the County has agreed to make certain other payments (the "*Additional Payments*") sufficient to pay the fees and expenses of the Trustee and the Corporation and other expenses required to be paid by the County under the Contract. The County has covenanted in the Contract to pay the Installment Payments and the Additional Payments as they become due, and issued as security for that payment obligation the Deed of Trust, Security Agreement and Fixture Filing dated as of June [1], 2022 (the "*Deed of Trust*") from the County to the Deed of Trust trustee named therein for the benefit of the Corporation with respect to the 2022B Project. In the event the Contract is terminated by a reason of an Event of Default (as defined in the Contract), the principal amount of this 2022B LOB and the interest with respect to will be payable from such moneys, if any, as may be available for such purpose, including any moneys received by the Trustee from the sale, lease, sublease or other disposition of the Project pursuant to the Deed of Trust. The Contract may also be terminated in the event

that the County shall exercise its option to prepay in full the Purchase Price. In the event that the County shall prepay the Purchase Price in full, the proceeds thereof are required to be used to pay the principal, premium, if any, and interest with respect to the Obligations. Reference is hereby made to the Contract and the Indenture for a description of the rights, duties and obligations of the County, the Corporation, the Trustee and the Owners, the terms on which the Obligations are secured, the terms and conditions on which the Obligations will be deemed to be paid at or before maturity or redemption of the Obligations on the making of provision for the full or partial payment thereof, and the rights of the Owners on the occurrence of an Event of Default. All capitalized, undefined terms used herein shall have the meanings ascribed thereto in the Contract and the Indenture.

The 2022B LOBs are executed and delivered solely as fully registered limited obligation bonds without coupons in denominations of \$100,000 and any principal amount in excess thereof. A single definitive certificated 2022B LOB is to be delivered to the Purchaser.

This 2022B LOB is transferable by the Owner hereof in person or by his or her attorney duly authorized in writing on the registration books kept at the corporate trust office of the Trustee on surrender of this 2022B LOB together with a duly executed written instrument of transfer satisfactory to the Trustee. On such transfer, a new fully registered 2022B LOB or 2022B LOBs without coupons of the same maturity, of authorized denomination or denominations, for the same aggregate principal amount, will be executed and delivered to the transferee in exchange herefor, all on payment of the charges and subject to the terms and conditions set forth in the Indenture. The Trustee shall deem the person in whose name this 2022B LOB is registered as the absolute owner hereof, whether or not this 2022B LOB shall be overdue, for the purpose of receiving payment and for all other purposes, and neither the County nor the Trustee shall be affected by any notice to the contrary.

No transfer of a 2022B LOB shall be registered by the Trustee unless such transfer is to (i) a bank (including a Federal Reserve Bank), (ii) another recognized financial institution, (iii) an insurance company, (iv) any governmental agency that regulates financial institutions, including, but not limited to, the Federal Deposit Insurance Corporation, or (v) any affiliate of the Purchaser; provided, however, that if such affiliate ceases to be an affiliate of the Purchaser and at the time it ceases to be an affiliate of the Purchaser it would not qualify as a permitted transferee under this paragraph, such affiliate agrees to transfer such 2022B LOB to a permitted transferee before it ceases to be an affiliate of the Purchaser. The Trustee shall be entitled to receive and rely upon a certificate from the proposed transferee regarding the satisfaction of the foregoing provisions of this paragraph. Prior to making any such transfer, the Purchaser shall give notice to the Local Government Commission and the County of such transfer and the name of the transferee.

If this 2022B LOB is called for redemption in part only, on surrender and cancellation of this 2022B LOB, a new fully registered 2022B LOB or 2022B LOBs of the same maturity, of authorized denominations, in an aggregate principal amount equal to the unredeemed portion hereof, shall be executed and delivered by the Trustee to the Owner hereof.

The 2022B LOBs are subject to redemption, in whole or in part, as follows:

(a) *Optional Redemption.* The 2022B LOBs may be redeemed before their maturities at the option of the County, from any funds that may be available for such purpose, in whole on any date on 2 Business Days' written notice to the Purchaser and the Trustee. The 2022B LOBs called for redemption under this paragraph will be redeemed at a redemption price equal to [100]% of the principal amount of the 2022B LOBs to be redeemed, together with accrued interest to the date fixed for redemption.

(b) *Extraordinary Optional Redemption.* If the County elects to prepay all or a portion of the Purchase Price pursuant to the Contract on the occurrence of the loss, damage or taking in eminent domain of all or any portion of the Project, the 2022B LOBs shall be redeemed in whole or in part on any date selected by the County at the redemption price of 100% of the principal amount thereof, together with accrued interest to the redemption date, without premium, from Net Proceeds and certain available moneys of the County as described in the Indenture.

In the case of any partial redemption of 2022B LOBs, the County will select the maturity or maturities of the 2022B LOBs to be redeemed and the Trustee will select the 2022B LOBs to be redeemed by lot in such manner as the Trustee in its discretion may deem proper. For this purpose, each authorized denomination of principal amount represented by any 2022B LOB will be considered a separate 2022B LOB for purposes of selecting the 2022B LOBs to be redeemed.

If a 2022B LOB subject to redemption is in a denomination larger than the minimum authorized denomination, a portion of such 2022B LOB may be redeemed, but only in a principal amount such that the unredeemed portion of such 2022B LOB is equal to an authorized denomination. For any 2022B LOB in a denomination of more than the minimum authorized denomination, the Trustee shall treat each such 2022B LOB as representing a single 2022B LOB in the minimum authorized denomination plus that number of 2022B LOBs that is obtained by dividing the remaining principal amount of such 2022B LOB by the minimum authorized denomination.

If it is determined that one or more, but not all, of the authorized denominations of principal amount represented by any 2022B LOB is to be called for redemption, then, on notice of intention to redeem such authorized denominations of principal amount with respect to such 2022B LOB, the Owner of such 2022B LOB, on surrender of such 2022B LOB to the Trustee for payment of the principal amount with respect to such 2022B LOB, will be entitled to receive new 2022B LOBs in the aggregate principal amount of the unredeemed balance of the principal amount with respect to such 2022B LOB. New 2022B LOBs representing the unredeemed balance of the principal amount with respect to such 2022B LOBs will be executed and delivered to the Owner thereof without charge therefor.

If the Owner of any 2022B LOB of a denomination greater than the amount being redeemed fails to present such 2022B LOB to the Trustee for payment and exchange as aforesaid, such 2022B LOB will, nevertheless, become due and payable on the date fixed for redemption to the extent of the denomination being redeemed and to that extent only.

Anything in the Indenture to the contrary notwithstanding, if an Event of Default occurs and is continuing, there will be no redemption of less than all of the Obligations Outstanding except for mandatory sinking fund redemptions required by the Indenture.

[The County shall provide to the Purchaser on a date that is not less than five (5) Business Days and not more than ten (10) prior to the Final Maturity Date a certificate stating that (i) no Event of Default has occurred and is continuing under Section 12.1 of the Contract and (ii) the County has been unable to refinance the outstanding 2022B LOBs. In the event that the County does not deliver to the Purchaser such certificate, the outstanding principal amount of the 2022B LOBs shall be paid on the Final Maturity Date, together with accrued interest from the prior Installment Payment Date. In the event that such certificate is so delivered by the County, such outstanding principal balance shall be subject to repayment to the Purchaser in ten (10) equal semi-annual principal installments, commencing on [\_\_\_\_\_], 2025 and continuing on each [\_\_\_\_\_] and [\_\_\_\_\_] thereafter, with the final payment of principal due on [\_\_\_\_\_], 2030. During the Term Loan Period, interest shall accrue on the unpaid outstanding principal balance at the Term Loan Rate and shall be payable on the first Business Day of each month, commencing on [\_\_\_\_\_] 1, 2025, with the final payment of interest due on [\_\_\_\_\_],

2030. The outstanding principal balance of the Term Loan can be prepaid in whole on any date on 2 Business Days' written notice to the Purchaser at a redemption price equal to 100% of the principal amount of the Term Loan to be redeemed, together with accrued interest to the date fixed for redemption.]

The Term Loan is a continuation of the then outstanding principal balance of the 2022B LOBs and the 2022B LOBs shall remain Outstanding for all purposes, notwithstanding the conversion of the payment terms under the 2022B LOBs to a Term Loan. The 2022B LOBs shall remain Outstanding until the Term Loan thereunder is paid in full or fully defeased.

The Indenture permits supplements and amendments thereto and to the Contract and the Deed of Trust on the agreement of the Corporation and the Trustee and with the approval of the Owners of not less than a majority or, in certain instances, 100% in aggregate principal amount of the Obligations at the time Outstanding. The Indenture also contains provisions permitting the Corporation and the Trustee to enter into amendments to the Indenture and the Contract without the consent of the Owners of the Obligations for certain purposes.

Any consent or request by the Owner of this 2022B LOB shall be conclusive and binding on such Owner and on all future Owners of this 2022B LOB and of any certificate executed and delivered on the transfer of this 2022B LOB, whether or not notation of such consent or request is made on this 2022B LOB.

This 2022B LOB is executed and delivered with the intent that the laws of the State of North Carolina shall govern its legality, validity, enforceability and construction.

This 2022B LOB shall not be entitled to any right or benefit under the Indenture, or be valid or become obligatory for any purposes until this 2022B LOB shall have been authenticated by the execution by the Trustee, or its successors as Trustee, of the certificate of authentication inscribed hereon.

*[Signature Pages Follow]*

*IN WITNESS WHEREOF*, Cabarrus County Development Corporation has caused this 2022B LOB to be executed with the manual or facsimile signature of its President and its corporate seal or a facsimile thereof to be impressed or imprinted hereon and attested with the manual or facsimile signature of its Secretary, all as of the Dated Date set forth above.

**CABARRUS COUNTY DEVELOPMENT CORPORATION**

[Seal]

By: \_\_\_\_\_  
Michael K. Downs, President

Attest:

By: \_\_\_\_\_  
Lauren Linker, Secretary

**CERTIFICATE OF AUTHENTICATION**

This is one of the Limited Obligation Bonds (County of Cabarrus, North Carolina Installment Financing Contract), Series 2022B evidencing a proportionate undivided interest in the right to receive certain Revenues pursuant to the within mentioned Contract and Indenture.

**REGIONS BANK**, as Trustee

Dated: June [\_\_], 2022

By: \_\_\_\_\_  
Sean A. Julien, Vice President

Schedule I

Schedule of Initial 2022B LOBs and Additional 2022B LOBs

Initial 2022B LOBs:

<u>Date</u>	<u>Principal Amount</u>
[05/__/2022]	\$XX,000,000

Additional 2022B LOBs:

<u>Date</u>	<u>Principal Amount</u>
-------------	-------------------------

[Insert Date and Principal Amount on date of each draw/deemed delivery of Additional 2022B LOBs]

[FORM OF ASSIGNMENT]

ASSIGNMENT

*FOR VALUE RECEIVED* the undersigned hereby sells, assigns and transfers unto

---

(Please print or typewrite Name and Address,  
including Zip Code, and Federal Taxpayer Identification or  
Social Security Number of Assignee)

---

the within 2022B LOB and all rights thereunder, and hereby irrevocably constitutes and appoints

---

Attorney to register the transfer of the within 2022B LOB on the books kept for registration thereof,  
with full power of substitution in the premises.

Dated: \_\_\_\_\_

Signature guaranteed by:

---

**NOTICE:** Signature must be guaranteed by a Participant in the Securities Transfer Agent Medallion Program ("Stamp") or similar program.

---

**NOTICE:** The signature to this assignment must correspond with the name as it appears on the face of the within 2022B LOB in every particular, without alteration, enlargement or any change whatever.

**TRANSFER FEE MAY BE REQUIRED**

**\$XX,000,000**  
**County of Cabarrus, North Carolina**  
**Limited Obligation 2022B LOBs**  
**(County of Cabarrus, North Carolina Installment Financing Contract), Series 2022B**

**CONTRACT OF PURCHASE**

**June \_\_, 2022**

Cabarrus County Development Corporation  
Concord, North Carolina

Ladies and Gentlemen:

The undersigned, \_\_\_\_\_ (the “Bank”), hereby offers to enter into this Contract of Purchase with the Cabarrus County Development Corporation (the “Corporation”) for the purchase by the Bank and sale by the Corporation of the Corporation’s Limited Obligation Bonds (County of Cabarrus, North Carolina Installment Financing Contract), Series 2022B in the aggregate principal amount of up to \$XX,000,000 (the “2022B LOBs”). This offer is made subject to acceptance by the Corporation prior to 11:00 A.M., Raleigh, North Carolina time, on the date hereof, and upon such acceptance and approval this Contract of Purchase shall be in full force and effect in accordance with its terms and shall be binding upon the Corporation and the Bank. Capitalized terms used in this Contract of Purchase which are not defined herein are used with the meanings given such terms in the Contract and the Indenture described below.

1. Upon the terms and conditions and based on the representations, warranties, covenants and agreements hereinafter set forth, the Bank hereby agrees to purchase from the Corporation, and the Corporation hereby agrees to sell to the Bank, the 2022B LOBs at an aggregate purchase price of \$XX,000,000 (representing the aggregate principal amount of the Initial 2022B LOBs and the permitted Additional 2022B LOBs ). The Bank agrees to purchase \$\_\_,000,000 principal amount of the 2022B LOBs (the “Initial 2022B LOBs”) on the date hereof at a purchase price equal to the principal amount of such 2022B LOBs (the “Initial Purchase Price”). Until June \_\_, 202\_\_, the Bank agrees to purchase additional 2022B LOBs (the “Additional 2022B LOBs”) on each date the Bank approves an Advance Request (as defined in the Contract defined below) in accordance with Section 2.07 of the Indenture in a principal amount equal to the approved amount of such Advance Request at a purchase price equal to such principal amount. The Bank shall pay the purchase price of Additional 2022B LOBs directly to the Bond Trustee for deposit into the Construction and Acquisition Fund (as defined in the Indenture) or as otherwise directed in writing by the County of Cabarrus, North Carolina (the “County”) at the time of purchase of such Additional 2022B LOBs. In connection with each purchase of Additional 2022B LOBs, the County shall amend the Advance Schedule of the Contract to reflect the date such Additional 2022B LOBs were purchased and the principal amount of Additional 2022B LOBs purchased. When the County certifies pursuant to Section 3.12 of the Indenture that the acquisition, construction and equipping of the 2022B Project (as defined in the Contract) has been completed and the Cost of Acquisition and Construction of the 2022B Project has been paid or provision for such payment shall have been made, the Bank shall be released from any further

obligation to purchase Additional 2022B LOBs if the Bank has not already purchased all of the 2022B LOBs; provided, however, that no Additional 2022B LOBs may be delivered after June \_\_, 202\_\_.

2. The 2022B LOBs represent undivided interests in rights to receive Revenues pursuant to an Installment Financing Contract dated as of June 1, 2022 (the “Contract”), between the Corporation and the County. The 2022B LOBs will be executed and delivered pursuant to and secured by an Indenture of Trust dated as of June 1, 2022 (the “Indenture”) between the Corporation and Regions Bank, as trustee (the “Trustee”) and will mature, subject to the right of prepayment, as more fully described in the Indenture. As security for the 2022B LOBs, the Corporation will assign to the Trustee for the benefit of the registered owners of the 2022B LOBs substantially all its rights under the Contract and certain moneys and securities held by the Trustee under the Indenture. To further secure the performance by the County of its obligations under the Contract, including the payment of the Installment Payments thereunder, the County will execute and deliver to the deed of trust trustee (the “Deed of Trust Trustee”) for the benefit of the Corporation, a Deed of Trust, Security Agreement and Fixture Filing dated as of June 1, 2022 (the “Deed of Trust”), granting a first lien of record on the real property on which the \_\_\_\_\_ is located and all improvements thereon, as more particularly described in Exhibit A to the Deed of Trust (the “Premises”), subject only to certain permitted encumbrances as described in the Contract. The Corporation has assigned all of its rights in the Deed of Trust to the Trustee pursuant to the Indenture.

3. The Corporation makes the following representations and warranties to the Bank, all of which shall survive the execution and delivery of the 2022B LOBs:

(a) the Corporation is a nonprofit corporation duly created and validly existing and in good standing under the laws of the State of North Carolina and has the power and authority and all necessary licenses and permits to conduct its business;

(b) the execution and delivery by the Corporation of this Contract of Purchase, the Indenture and the Contract were duly approved by the Corporation’s Board of Directors in complete conformity with the Articles of Incorporation and the Bylaws of the Corporation and North Carolina law;

(c) the approval, execution and delivery of this Contract of Purchase, the Indenture and the Contract, and compliance with the provisions thereof and hereof under the circumstances contemplated thereby and hereby, do not and will not conflict with, constitute a breach of or default under, or result in the creation of a lien on any property of the Corporation (except as contemplated therein) pursuant to applicable law or any indenture, bond order, deed of trust, mortgage, agreement or other instrument to which the Corporation is a party, or conflict with or violate any applicable law, administrative rule, regulation, judgment, court order or consent decree to which the Corporation is subject;

(d) 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 the best of its knowledge, threatened (i) contesting the corporate existence or powers of the Corporation or

the titles of the officers of the Corporation to their respective offices, (ii) seeking to prohibit, restrain or enjoin the collection of revenues by the Corporation or the application of the proceeds of the 2022B LOBs wherein an unfavorable decision, ruling or finding would materially adversely affect the financial position of the Corporation or the validity or enforceability of the 2022B Bonds, the Indenture, the Contract or this Contract of Purchase or (iii) contesting or affecting the validity of the Indenture, the Contract or this Contract of Purchase (nor, to the best knowledge of the Corporation, is there any basis therefor);

(e) the Corporation is not in default in the payment of the principal of or interest on any indebtedness for borrowed money or under any instrument under or subject to which any indebtedness has been incurred, and to the best of its knowledge, no event has occurred or is continuing that, with the lapse of time or the giving of notice or both, would constitute an event of default under any such agreement;

(f) any certificate signed by any officer of the Corporation and delivered to the Bank will be deemed to be a representation and warranty by the Corporation to the Bank as to the statements made therein;

(g) when duly executed and delivered at the Closing in accordance with the provisions of this Contract of Purchase, the Indenture and the Contract will have been duly authorized, executed and delivered by the Corporation and will constitute valid and binding agreements of the Corporation enforceable in accordance with their terms, except insofar as the enforcement thereof may be limited by bankruptcy, insolvency or similar laws relating to the enforcement of creditors' rights; and

(h) when duly executed and delivered at the Closing in accordance with the provisions of this Contract of Purchase, the 2022B LOBs will constitute valid and binding proportionate undivided interests in the Corporation's right to receive Installment Payments pursuant to the Contract, enforceable in accordance with its terms.

4. The Bank represents and warrants to and covenants with the Corporation as follows, all of which survive the execution and delivery of the 2022B LOBs:

(a) (1) the Bank is familiar with the County; (2) the Bank has been furnished financial information about the County; (3) the County has made available to the Bank the opportunity to obtain additional information to verify the accuracy of the information supplied and to evaluate the merits and risks of purchasing the 2022B LOBs; (4) the Bank had the opportunity to ask questions of and receive answers from County representatives, including officers, attorneys and accountants, concerning the terms and conditions of the 2022B LOBs, the information supplied to the Bank and the County's condition, financial and otherwise; (5) the County has provided to the Bank all the information the Bank has requested; and (6) the Bank is purchasing the 2022B LOBs for its own account and has no current intent to sell or transfer the 2022B LOBs;

(b) The Bank is capable of evaluating the merits and risks of purchasing the 2022B LOBs and has agreed to purchase the 2022B LOBs although no formal offering

material has been provided to it in connection therewith. The Bank has no present intention of reselling or disposing of any interest in the 2022B LOBs;

(c) The Bank acknowledges that it may need to bear the risks of this investment for an indefinite period of time, because any sale or assignment of the 2022B LOBs may not be possible or, if possible, may be at a price below that which it is paying for the 2022B LOBs; and

(d) The Bank has conducted its own investigation relating to the County and the 2022B LOBs and acknowledges that it is not relying on any party or person other than the County to furnish or verify information relating to the County.

5. At Noon, Raleigh, North Carolina time, on the date hereof, or at such other time as mutually agreed upon by the parties hereto (herein called the “Closing”), the Corporation will deliver or cause to be delivered to the Bank the Initial 2022B LOBs as described herein in typewritten form duly executed and authenticated. Upon such delivery of the Initial 2022B LOBs, the Bank will pay the full Initial Purchase Price thereof by immediately available federal funds payable to the County or as otherwise directed by the County. One fully-registered 2022B LOB shall be issued to and registered in the name of the Bank.

6. The Bank has entered into this Contract of Purchase in reliance upon the representations, warranties, covenants and agreements of the Corporation herein and the performance by the Corporation of its obligations hereunder, all as of the date hereof. The Bank hereby certifies that all conditions precedent to its purchase of the Initial 2022B LOBs set forth in the Contract have been satisfied or waived.

7. All fees and expenses of the County and the Corporation incident to the performance of their respective obligations in connection with the authorization, execution and delivery of the 2022B LOBs to the Bank (including, but not limited to, meals, transportation, lodging and entertainment of employees of such entities), the fees and expenses of consultants, the fees and expenses of Bond Counsel, counsel for the County, counsel for the Corporation and counsel to the Bank, and the fees and expenses of any other counsel or expert retained by the County or the Corporation, shall be paid from the proceeds of the Initial 2022B LOBs or any other available funds of the County or the Corporation at or prior to the Closing.

8. Any notice or other communication to be given under this Contract of Purchase shall be given by delivering the same in writing to:

**CORPORATION:** CABARRUS COUNTY DEVELOPMENT  
CORPORATION  
65 Church Street, S.E.  
Concord, North Carolina 28025  
Attention: President

**COUNTY:** CABARRUS COUNTY  
65 Church Street, S.E.  
Concord, North Carolina 28025  
Attention: Finance Director

**BANK:** \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
Attention: \_\_\_\_\_

9. This Contract of Purchase is made solely for the benefit of the Corporation and the Bank, including the successors or assigns of any of said parties, and no other person, partnership, association or corporation shall acquire or have any right hereunder or by virtue hereof. All representations, warranties, covenants and agreements of the Corporation in this Contract of Purchase shall remain operative and in full force and effect regardless of any investigation made by or on behalf of the Bank and shall survive the delivery of and payment for the 2022B LOBs, but such representations and agreements shall only apply as of such date of delivery and payment. The members, officers, employees or agents of the County and the Corporation will not be personally liable for the performance of any obligation under this Contract of Purchase. No recourse shall be had by the Bank for any claims based on this Contract of Purchase or otherwise against any member, officer, employee or agent of the County or the Corporation in his or her individual capacity, all such liabilities, if any, being expressly waived and released by the Bank.

10. This Contract of Purchase shall be construed under and enforced in accordance with the internal laws of the State of North Carolina.

11. To the extent any provision of this Contract of Purchase is prohibited by or invalid under applicable law, such provision shall be ineffective to the extent of such prohibition or invalidity, without invalidating the remainder of such provision or the remaining provisions of this Contract of Purchase.

12. The Bank understands that "E-Verify" is a federal program operated by the United States Department of Homeland Security and other federal agencies, or any successor or equivalent program used to verify the work authorization of newly hired employees pursuant to federal law in accordance with Section 64-25(5) of the General Statutes of North Carolina, as amended. The Bank 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 Bank will require that any subcontractor that it uses in connection with the transactions contemplated by this Contract of Purchase certify to such subcontractor's compliance with E-Verify.

13. This Contract of Purchase may be executed in several counterparts, each of which shall be an original and all of which shall constitute but one and the same instrument.

14. This Contract of Purchase shall become legally effective upon its acceptance by the Corporation and the Bank, as evidenced by the signature of their respective authorized representatives in the space provided therefor below.

*[Signatures are contained on following pages.]*

**SIGNATURE PAGE TO CONTRACT OF PURCHASE  
COUNTY OF CABARRUS, NORTH CAROLINA  
LIMITED OBLIGATION BONDS  
(COUNTY OF CABARRUS, NORTH CAROLINA INSTALLMENT FINANCING  
CONTRACT), SERIES 2022B**

**DATED MAY \_\_, 2022**

\_\_\_\_\_ **BANK**

By: \_\_\_\_\_  
Name:  
Title:

**SIGNATURE PAGE TO CONTRACT OF PURCHASE  
COUNTY OF CABARRUS, NORTH CAROLINA  
LIMITED OBLIGATION BONDS  
(COUNTY OF CABARRUS, NORTH CAROLINA INSTALLMENT FINANCING  
CONTRACT), SERIES 2022B**

**DATED MAY \_\_, 2022**

**Approved:**

**CABARRUS COUNTY DEVELOPMENT CORPORATION**

By: \_\_\_\_\_

Name:

Title:

# CABARRUS COUNTY



## BOARD OF COMMISSIONERS WORK SESSION

**April 4, 2022  
4:00 PM**

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**AGENDA CATEGORY:**

Discussion Items for Action

**SUBJECT:**

Finance - Roberta Road Middle School Road Improvements

**BRIEF SUMMARY:**

The bid for Roberta Road Middle School Road Improvements came in well over budget. The budget was \$1.7m and the bid was just over \$2.8m. After value engineering the cost will be less than \$2.5m. All cost are reimbursable by NC Department of Transportation. The attached budget amendment increases the revenue from NCDOT as well as the expenditures.

**REQUESTED ACTION:**

Cabarrus County Schools request a motion to suspend the Rules of Procedure due to time constraints.

Motion to approve the budget amendment and capital project ordinance.

**EXPECTED LENGTH OF PRESENTATION:**

5 Minutes

**SUBMITTED BY:**

Wendi Heglar, Finance Director

Brian Cone, Cabarrus County Schools Director of Architecture, Planning and Construction

**BUDGET AMENDMENT REQUIRED:**

Yes

**COUNTY MANAGER'S RECOMMENDATIONS/COMMENTS:**

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**ATTACHMENTS:**

- ▣ Budget Amendment
- ▣ Project Ordinance

**Budget Revision/Amendment Request**

Date: 4/4/2022

Amount: 1,000,000.00

Dept. Head: Wendi Heglar

Department: Finance - School Capital Projects

Internal Transfer Within Department

Transfer Between Departments/Funds

Supplemental Request

**Cabarrus County School request additional funds to cover road construction for Roberta Road Middle School. Bids came in over budget. The cost will be reimbursed by NCDOT.**

Fund	Indicator	Department/ Object/ Project	Account Name	Approved Budget	Increase Amount	Decrease Amount	Revised Budget
390	9	7346 9802	Road Construction	1,700,000	800,000		2,500,000
390	6	7346 6439	Architects	500,000	800,000		1,300,000

**Budget Officer**

- Approved
- Denied

**County Manager**

- Approved
- Denied

**Board of Commissioners**

- Approved
- Denied

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Date

\_\_\_\_\_  
Date

\_\_\_\_\_  
Date

# CABARRUS COUNTY SCHOOL CAPITAL PROJECTS BUDGET ORDINANCE

**BE IT ORDAINED** by the Board of Commissioners of Cabarrus County, North Carolina that, Pursuant to Section 13.2 of Chapter 159 of the General Statutes of North Carolina, the following capital project ordinance is hereby adopted:

Section I.

- A. The project authorized is for the construction and renovations of School Facilities. Details of the project are listed in section C. of this Project Ordinance.
- B. The officers of this unit are hereby directed to proceed with this capital project within the terms of the Generally Accepted Accounting Principles (GAAP) and the budget contained herein.

It is estimated that the following revenues will be available to complete capital projects as listed.

Contribution from General Fund/CIF	\$ 19,765,958
Contribution from Capital Projects Fund	9,522,511
Debt Proceeds 2020 Draw Note	46,620,222
Debt Proceeds 2022 Draw Note	55,711,930
Contribution from Capital Reserve Fund	1,662,314
NC Department of Transportation	1,300,000

<b>TOTAL REVENUES</b>	<b>\$134,582,935</b>
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- C. The following appropriations are made as listed.

CCS Mobile Unit Renovation	\$ 3,300,000
Concord High Fire Alarm Replacement	89,314
Northwest High Fire Alarm Replacement	89,314
JM Robinson Renovation	81,195
R. Brown McAllister Replacement	39,950,000
Roberta Road Middle School	56,604,300
CCS New High School	9,508,821
Kannapolis Middle School	138,897
AL Brown Football Stadium ADA/Drainage	228,000
AL Brown Roof Replacement	190,000
RCCC Building 1000 Boiler	62,780
RCCC Building 2000 Roof Replacement	154,500
RCCC CBTC HVAC	244,291
Contribution to Capital Reserve	5,001,114
Early College Mobile Units	1,850,000
Deferred Maintenance Cabarrus County Schools	13,431,125
Deferred Maintenance Kannapolis City School	2,451,284
Deferred Maintenance Rowan Cabarrus Community College	1,208,000

<b>TOTAL EXPENDITURES</b>	<b>\$134,582,935</b>
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<b>GRAND TOTAL – REVENUES</b>	<b>\$134,582,935</b>
<b>GRAND TOTAL – EXPENDITURES</b>	<b>\$134,582,935</b>

## Section II.

- A. Special appropriations to non-profit organizations shall be distributed after the execution of an agreement which ensures that all County funds are used for statutorily permissible public purposes.
- B. The County Manager or designee is hereby authorized to transfer appropriations within or between funds, or modify revenue and expenditure projections as contained herein under the following conditions:
  - 1. The Manager may transfer amounts between objects of expenditure and revenues within a function without limitation.
  - 2. The County Manager may transfer amounts up to \$500,000 between functions of the same fund.
  - 3. The County Manager may transfer amounts between contingency funds which are set aside for a specific project for budgetary shortfalls or upon the appropriate approval of a change order.
  - 4. The County Manager is authorized to transfer funds from the General Fund or Capital Reserve Fund to the appropriate fund for projects approved within the Capital Improvement Plan for the current fiscal year.
  - 5. Upon notification of funding increases or decreases to existing grants or revenues, or the award of grants or revenues, the Manager or designee may adjust budgets to match, including grants that require a County match for which funds are available.
  - 6. The Manager or designee may adjust debt financing from estimated projections to actual funds received.
  - 7. The County Manager may enter into and execute change orders or amendments to construction contracts in amounts less than \$90,000 when the appropriate annual budget or capital project ordinance contains sufficient appropriated but unencumbered funds.
  - 8. The County Manager may award and execute contracts which are not required to be bid or which G.S. 143-131 allows to be let on informal bids so long as the annual budget or appropriate capital project ordinance contains sufficient appropriated but unencumbered funds for such purposes.
  - 9. The County Manager may execute contracts with outside agencies to properly document budgeted appropriations to such agencies where G.S. 153 A-248(b), 259, 449 and any similar statutes require such contracts.
  - 10. The County Manager may reject formal bids when deemed appropriate and in the best interest of Cabarrus County pursuant to G.S. 143-129(a).
  - 11. The County Manager may reduce revenue projections consistent with prevailing economic conditions, and also reduce expenditures correspondingly.

## Section III.

This ordinance and the budget documents shall be the basis of the financial plan for the County of Cabarrus.

- a. The Finance Director is hereby directed to maintain within the Capital Project Fund sufficient detailed accounting records to satisfy the requirements of the law.
- b. The Finance Director is directed to report, at the request of the Board, on the financial status of each project element in Section I and on the total revenues received or claimed.
- c. Copies of this capital project ordinance shall be furnished to the Clerk to the governing Board, and to the Finance Director for direction in carrying out this project.
- d. At the completion of a construction project, all unrestricted excess funds are transferred to the General Fund, Community Investment Fund or other Capital Project Fund and the portion of the Capital Project associated with the project is closed.

Adopted this 4<sup>th</sup> day of April, 2022.

CABARRUS COUNTY BOARD OF COMMISSIONERS

BY: \_\_\_\_\_  
Stephen M. Morris, Chairman

ATTEST:

\_\_\_\_\_  
Clerk to the Board

# CABARRUS COUNTY



## BOARD OF COMMISSIONERS WORK SESSION

**April 4, 2022  
4:00 PM**

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**AGENDA CATEGORY:**

Discussion Items for Action

**SUBJECT:**

Fire Marshal's Office - Ordinance Approval

**BRIEF SUMMARY:**

At the March 2022 meeting, the board took action and requested staff to forward GIS generated data to the Office of the State Fire Marshal reflecting the recommended fire tax district changes to the following districts: Flowes Store, Georgeville, Allen, Harrisburg, and Midland. No additional information is needed from the State Fire Marshal's Office to allow adoption of this ordinance.

**REQUESTED ACTION:**

Motion to adoption the proposed fire district ordinance.

**EXPECTED LENGTH OF PRESENTATION:**

5 Minutes

**SUBMITTED BY:**

Steven Langer, Emergency Management Director

**BUDGET AMENDMENT REQUIRED:**

No

**COUNTY MANAGER'S RECOMMENDATIONS/COMMENTS:**

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**ATTACHMENTS:**

- ▣ Ordinance
- ▣ Exhibit A



**AN ORDINANCE CHANGING THE BOUNDARIES  
OF THE RURAL FIRE PROTECTION DISTRICTS  
WITHIN CABARRUS COUNTY**

**WHEREAS**, notwithstanding N.C.G.S. 69-25.11, the Cabarrus County Board of Commissioners may change the boundaries of fire districts in Cabarrus County by ordinance pursuant to section 19.1 of Chapter 558 of the 1987 Session Laws, as added by N.C. Sess. Laws 2006-1, and amended by N.C. Sess. Laws 2010-17; and

**WHEREAS**, the Cabarrus County Board of Commissioners held a public hearing on this ordinance on March 21, 2022, after public notice was given on February 23, 2022; and

**WHEREAS**, a map showing the proposed changes to the rural fire protection districts within Cabarrus County were made available in the office of the Clerk to the Board of Commissioners; and

**WHEREAS**, no area in the proposed fire districts will be in more than one district; and

**WHEREAS**, no area in the proposed fire districts will be within the corporate limits of a municipality.

**NOW, THEREFORE BE IT ORDAINED** by the Cabarrus County Board of Commissioners as follows:

**Section 1. Revision of Rural Fire Protection District Boundaries.**

The boundaries of the Rural Fire Protection Districts within Cabarrus County, North Carolina are revised as indicated in the map identified as “Proposed Fire Districts”, which is attached to this ordinance and identified as Attachment A.

**Sec. 2. Effective date.**

This ordinance shall become effective on July 1, 2022.

**ADOPTED** this 19<sup>th</sup> day of April, 2022.

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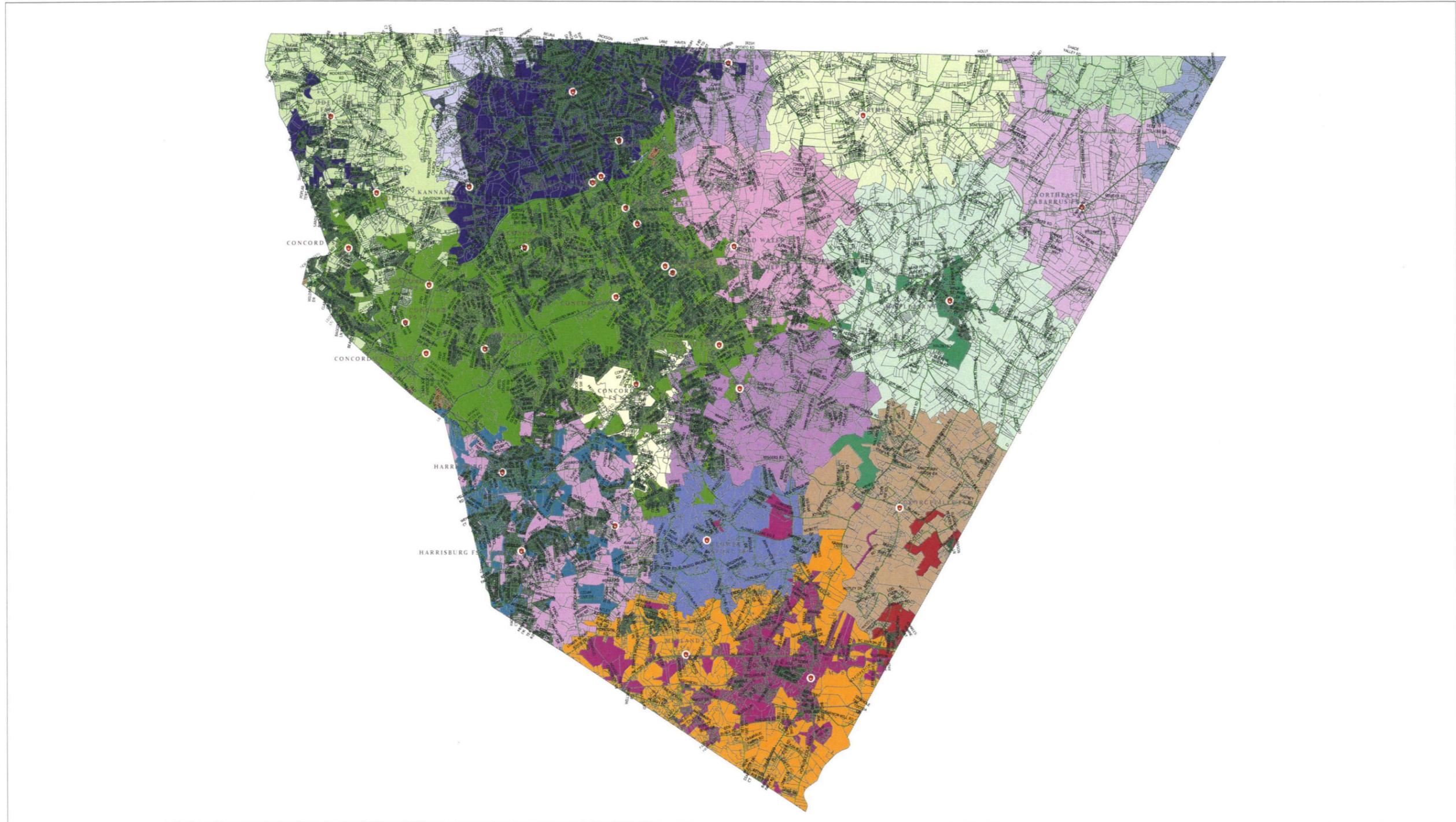
Stephen M. Morris, Chairman  
Cabarrus County Board of Commissioners

Attest:

---

Clerk to the Board

# Proposed Fire Districts



Legend	
Streets	Gold Hill
Fire Stations	Harrisburg Rural
<b>Layer</b>	Jackson Park
<b>Proposed Response Districts</b>	Kannapolis/Rural
Albemarle	Midland
Cold Water	NE Mitchell
Concord Rural	NE Pleasant
Flowers Store	NE Cabarrus
Georgeville	Oselt
	Richfield
	Riner
	<b>Municipal Districts</b>
	CITY OF CONCORD
	CITY OF KANNAPOLIS
	CITY OF LOCUST
	TOWN OF HARRISBURG
	TOWN OF HARTSEVILLE
	TOWN OF MIDLAND
	TOWN OF MOUNT PLEASANT
	Tax Parcels

Cabarrus County shall not be held liable for any errors in this data. This includes errors of omission, commission, errors concerning the content of the data, and relative and positional accuracy of the data. This data cannot be construed to be a legal document. Primary sources from which these data were compiled must be consulted for verification of information contained within the data.  
 Map Prepared by Cabarrus County ITS, March 2022.

# CABARRUS COUNTY



## BOARD OF COMMISSIONERS WORK SESSION

**April 4, 2022  
4:00 PM**

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### **AGENDA CATEGORY:**

Discussion Items for Action

### **SUBJECT:**

Infrastructure and Asset Management - Courthouse Expansion Public Art Award

### **BRIEF SUMMARY:**

The County received seventy-seven public art request for qualifications submittals on December 20th, 2021. After several months of evaluation and interviews the Public Art Selection Committee decided on three (3) finalists who provide a proposal and 60 minute interview for the project. Those interviews took place during the last week of March 2022. Staff will present the committee's selected finalists for the Courthouse Expansion Public Art Award.

### **REQUESTED ACTION:**

Motion to suspend the Rules of Procedure due to time constraints.

Motion to approve the bid award and authorize the County Manager to execute the contract between Cabarrus County and Norman Lee subject to revision by the County Attorney.

### **EXPECTED LENGTH OF PRESENTATION:**

10 Minutes

### **SUBMITTED BY:**

Kyle Bilafer, Area Manager of Operations

### **BUDGET AMENDMENT REQUIRED:**

No

### **COUNTY MANAGER'S RECOMMENDATIONS/COMMENTS:**

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**ATTACHMENTS:**

- ▣ Cabarrus County Courthouse Expansion Call for Art RFQ
- ▣ Norman Lee - Woven Scroll



CABARRUS COUNTY  
*America Thrives Here*



# CALL FOR ARTISTS PUBLIC ART OPPORTUNITY

## Cabarrus County Courthouse Expansion

SIGNATURE ARTWORK - REQUEST FOR QUALIFICATIONS (RFQ)

PUBLIC ART BUDGET: \$350,000

DEADLINE: MONDAY DECEMBER 20<sup>th</sup>, 2021, 3:00 P.M. EDT

### ESTIMATED TIMELINE:

- Qualifications Due: .....Monday, December 20, 2021 by 3:00 p.m. EDT.
- Panel Review: .....Dec. 2021 - Jan 2022
- 2021 Semi-Finalist Interviews: .....Late January 2022
- Three Finalists to develop proposals: ..... February 2022
- Artists Present Proposals: ..... March 2022
- Artist(s) Selected by: ..... April 2022
- Artwork installed: ..... November 2022

***All dates subject to change-***

## SUMMARY

Cabarrus County, North Carolina is seeking artists or artist collaborations to create innovative, original, and site-specific artwork for the Cabarrus County Courthouse Expansion that is currently under construction in downtown Concord, NC.

The Art Selection Committee for this project is seeking an artist or artist team who can understand and express, in a suspended, permanently-installed, large scale piece, the Courthouse's role in providing sound and fair justice. The location of the art will be in the main public lobby, where high windows afford views of the artwork from outside the building on three sides, as well as inside.

## BUDGET/COMMISSION

The total public art budget for the Project, including all aspects of design, fabrication, transport and installation, is **\$350,000**. One (1) to three (3) finalists will each receive a \$2,500 stipend to cover design costs for their proposal and travel/ presentation.

## PROJECT DESCRIPTION

When completed, the new Cabarrus County Courthouse will be a 313,000 SF court facility that includes a new 240,000 SF addition to the existing 1975 courthouse.

Together with the new construction, the existing 73,000 SF facility will also undergo complete interior renovation and repurposing to fulfill long-term, multi-generational space requirements.

As noted in the Designers' Narrative for the project (below), "While the existing courthouse fronting Union Street will be completely renovated, a new addition and public entry [off Means Ave Pedestrian Plaza] will reshape the identity of the courthouse campus. The intentional siting of this new primary entry is the defining element of the concept..."

Similarly, the artwork commissioned for this project will reshape and help define the perceptions of those entering or passing the Courthouse, and frame a new experience of a 'house of justice.'

The artwork will not only complement the architecture of the building, and provide an attraction - and distraction - for those entering; it shall also help shift mindsets. More details about the Courthouse Expansion Project, and the services and role of the courts, is below for additional context.

## ELIGIBILITY

Open to all U.S. artists who meet qualifications.

## / Cabarrus County Courthouse Expansion

CONCORD, NORTH CAROLINA

PERSPECTIVE  
View from County Government Building



## ART REQUIREMENTS

The artwork will be sited overhead in the public lobby, prior to entrance into the security queuing area. The artwork must be durable, low maintenance, and appropriate to the location. This is to be an original, site-specific artwork; replications of previous works are not desired.

The committee prefers materials that are durable and relatively maintenance-free; artworks made of fabric, paper or other materials that are likely to be difficult to clean, or to break or decompose, are not appropriate for this project.

Artists are sought who can conceive, design, execute and install a completely original, seminal work, that is eye-catching and iconic while also demonstrating keen sensitivity to the varied contexts of experiences in which those who encounter it, could be immersed.

The Art Selection Committee desires that the public art shall evoke the County Courthouse's role in providing sound and fair justice. The Design Team of Architects spent time on the ground understanding the history and context of the County to inform their choices of structure and movement, light and materials. Building upon that, the Art Selection Committee has discussed what role this artwork can play. Certain desired emotional responses have been carefully considered and articulated. Of note, are the following key terms:

- Balance
- Texture
- Calm
- Transparency
- Equity & Equality
- Fairness & Justice
- Inclusion
- Interconnectivity; the woven connection of people and place

### **Conceptually, this artwork(s) should:**

- *Create Interest and Shift Assumptions;*
- *Provide a 'stopping moment' for those at high emotional level, to reconsider, re-frame and breathe;*
- *Inspire a sensation of calm, or beauty, or of connection, etc.; i.e. impart a sense of one or all the key words above.*

Please see the '**Background**' section below, for more in-depth information on the Courthouse Expansion.

## SUBMISSION GUIDELINES

**PLEASE READ CAREFULLY AND MAKE SURE ALL CRITERIA ARE MET.**

### **Application packaging**

Applications must be by electronic submission only, via upload & submission form on the Submission website; instructions and link, below. Do not email your application. No paper or hard-copy applications will be accepted.

To apply: Please submit all uploaded materials in PDF Format; *Please read instructions carefully.*

**Images** and their info should be all in ONE (1) single PDF document, not to exceed total size of 25 MB;

**Letter of Interest** can be entered as text (pasted or typed) into the relevant box within the Submission form on the online Submission Site, linked below;

**Resumé** should be a separate, single PDF document (multiple pages are fine, but all in ONE (1) PDF doc.), 5 MB or smaller.

All should be uploaded and/or entered in to the County's Submission Form Website, given below. **DO NOT EMAIL** your application. For any questions or technical difficulty, see 'Contact Person' below.

**Images** - To be considered for this project, the artist must submit up to ten (10) images of previously completed artwork. All examples should represent work completed within the last 5 years. **EACH** image must be labeled with the following, in a sidebar next to each image (do not obscure images with overlaid text); *make sure each photo occupies one slide/ page:*

- Artist Name
- Image Number
- Title of the Work
- Approximate Size and Weight of Work
- Medium/materials of construction
- Total Art Project Budget
- Location of Work
- Year Completed

**Letter of Interest** - submit a short statement (500 words max) addressing artist's conceptual approach, potential approach to the project in question, and the relationship of the work shown to

the requirements of this particular project. This is not a request for a specific proposal; do not include drawings or plans as they will not be considered. **Not to exceed 500 words.**

**Resumé** - submit a current professional resumé that outlines your professional accomplishments as an artist, including exhibition history, public collections, public commissions and site-specific experience. Catalogs and reviews may be included. Include current contact information.

## **DEADLINE**

**Application Deadline: Monday, December 20, 2021 by 3:00 p.m. EDT**

Applications must be received by this date and time. The Art Selection Committee will not review incomplete or late submissions.

## **ADDITIONAL INSTRUCTIONS AND INFORMATION:**

**Maintenance and Durability** - All applicants are requested to consider the issues of long-term conservation and maintenance of public art. Public Art Projects should be fabricated of highly durable, low-maintenance materials. Artists' proposals and awarded contracts will be reviewed by the Cabarrus County Infrastructure and Asset Management department.

**Project Evaluation** -The Courthouse Public Art Selection Committee (CPASC) supervises the selection process and is responsible for final approval on all art selected for the public lobby. The CPASC includes members of the Courthouse staff, County Officials, Cabarrus County staff, members of Cabarrus Arts Council, and members of the design team. The CPASC is responsible for reviewing the site, establishing criteria and writing a Call for Artists, reviewing applications, short-listing and interviewing finalists.

**Selection Process** – Up to five (5) artists will be selected for interviews. Interviews will be in person but if the artist is unable to travel, virtual interviews will be arranged. Travel costs are to be covered by the artist and will not be reimbursed by Cabarrus County. Artists will be selected for interviews based on materials submitted- please see Submission Guidelines.

One (1) to three (3) artists will be short-listed after the interviews and asked to prepare proposals. Any

proposal request will be compensated with an honorarium of \$2,500. These artists will receive more specific information about the project and will have the opportunity to talk to a member(s) of the CPASC prior to the proposal submission. One artist/ artist team will be selected as finalist for the project. The nominated finalist and proposal will be presented to the Cabarrus County Board of Commissioners. If no proposal is approved, the CPASC reserves the right to re-open the search for artists or take whatever action is deemed appropriate to complete the selection process.

**Criteria-** Artist applications will be judged on past work as illustrated in images, including all aspects of the following: creative concept, use and understanding of materials, quality of fabrication, appropriateness of site-specific works to the context of their environment, scale of works completed, and suitability of the artist's work and style to the context and demands of this project.

Also considered will be an artist's professional experience, including experience creating public art or other site-specific projects, exhibition history, and art education background. The relevance and quality of the Letter of Interest may also be a factor.

The artist must demonstrate the ability to read, comprehend, and respond to all the requirements listed in the call to artists.

Artists should only display original and unique works designed and created by themselves. If displaying artworks created in a team collaboration, please be sure to state what part of it you were responsible for.

Artists should document experience and abilities with regards to coordination with sub contractors, logistics, equipment usage, and collaboration with teams. All necessary subcontracted labor, equipment, and transportation is to be handled by the contracted artist, within the contract budget.

### **Submission Site:**

<https://cabarruscounty.us/resources/courthouse-expansion-call-for-public-art-rfq>

**Contact Person:** If you encounter any technical difficulties, or have any questions, you may contact Cabarrus County Area Manager of Operations, Kyle Bilafer at [kdbilafer@cabarruscounty.us](mailto:kdbilafer@cabarruscounty.us).

## ARTWORK LOCATION

### / Cabarrus County Courthouse Expansion Lobby Public Art Installation

37'-4" Long X 8'-6" High



**Diagrams illustrate probable area limitations for interior public art. Installations are not required to extend to the maximum limits of illustrated area.**

### / Cabarrus County Courthouse Expansion Lobby Public Art Installation

28'-0" Wide X 8'-6" High



# / Cabarrus County Courthouse Expansion

CONCORD, NORTH CAROLINA

PERSPECTIVE  
Entry Lobby Interior



# / Cabarrus County Courthouse Expansion

CONCORD, NORTH CAROLINA

PERSPECTIVE  
Entry Lobby Interior



8,885 Cubic Feet



## BACKGROUND

# Design Narrative Of The Cabarrus County Courthouse Project

Representing a significant architectural development within the urban core of Concord, and expounding on the social and civic legacy of the courthouse site, the new Cabarrus County Courthouse will take a bold first step in contributing to the continued revitalization of the downtown. While the existing courthouse fronting Union Street will be completely renovated, a new addition and public entry will reshape the identity of the courthouse campus. The intentional siting of this new primary entry is the defining element of the concept and establishes a new public plaza space that honors the historic notion of courthouse entry while informing future redevelopment North along Church Street and beyond.



The new Cabarrus County Courthouse aims to weave the building into the existing fabric of downtown Concord in order to create a new interconnected composition that is intimately familiar to the residents of Cabarrus County and is contextually tied to its place and time. The materials, colors, and forming of the existing courthouse subtly inform the exterior design of the new addition through a critical reinterpretation to create a new architectural language that both honors the existing building and establishes the new addition within a contemporary setting. The new addition and existing courthouse are woven together through the use of similar materials and detailing, and the new public plaza weaves the building into the larger downtown fabric by providing pedestrian friendly open spaces that directly connect Union and Church Streets.

As a way of further instilling a sense of cultural familiarity to the residents of Cabarrus County, the region's legacy of the textile industry serves as a subtle concept in the forming of the Courthouse's architectural character. The patterns, materials, technologies, and processes of the textile industry abstractly inform the architectural character of the project through such details as delicate "loom" sunshades, "shuttlecock" public entry, the "warp and weft" of window framing patterns, and interior linear wood ceiling "threads." Woven and overlapping flooring patterns can be seen both in the interior public spaces as well as in the exterior public plaza.

# / Cabarrus County Courthouse Expansion

CONCORD, NORTH CAROLINA

PERSPECTIVE  
Means Plaza



## What Goes On In the Cabarrus County Courthouse

The Cabarrus County Courthouse provides workspace for approximately 200 County and State employees each day. In addition to employees, an average of 750 to 1,000 citizens, attorneys, bail bondsmen, and law enforcement officers enter the building to address a variety of legal business, as varied as can be:

- Pricing or purchasing foreclosed real estate
- Paying speeding tickets
- Preparing a witness or crime victim to testify in a trial
- Administering the estate of a deceased family member
- Meeting with an attorney before a hearing
- Hearings on divorce, child custody or other family law issues
- Criminal misdemeanor or felony hearings
- Cases involving abused or neglected children
- Paying civil judgments or criminal court costs
- Mediating child custody disputes
- Participating in Teen Court
- Attending a continuing education course for legal or law enforcement professionals
- Meeting with a probation officer or juvenile court counselor
- Submitting a request for records, criminal or civil
- Establishing a guardianship for a loved one
- Providing DNA samples to law enforcement
- Arbitration of a small claims issue or civil dispute

At any given time, Courthouse patrons can range in age from toddlers to elderly people, from all walks of life and all segments of society. Many of those people are experiencing strong emotions before and after their business in the courthouse is completed. All of them are seeking justice and order. Many of the patrons of the Courthouse are experiencing a traumatic event, which may involve the loss of their home, the breakup of their family, or the loss of their liberty due to incarceration. There is at least some element of coercion in their presence at the courthouse because most people do not want to confront these emotions willingly. Some patrons return repeatedly due to the nature of their case and some only enter the building once in their lives. The Courthouse is the closest modern approximation to the public square of old, where all members of the community stated their business publicly to be addressed by the governing body of that time.

The courthouse houses the following courts, judicial and support offices:

- Superior Court
- District Court
- Judges' Offices
- District Attorney Offices
- Community Corrections Office Suite
- Juvenile Justice Office
- Guardian Ad Litem Offices

Additionally, the courthouse provides space for attorney/client consultation, witnesses, mediation proceedings, and jury assembly.

## What the Expansion Provides

The space planning provides for the long-term growth of the courts anticipated to match the population growth and caseload trends of Cabarrus County. When construction is complete, it will include twelve fully functioning courtrooms to meet the current requirements of the Superior Court, District Court, and Clerk of Courts. Shell space will be included within the facility to accommodate as many as seven additional courtrooms, and provisions for long-term staff growth for each judicial and support office is included in each office suite.

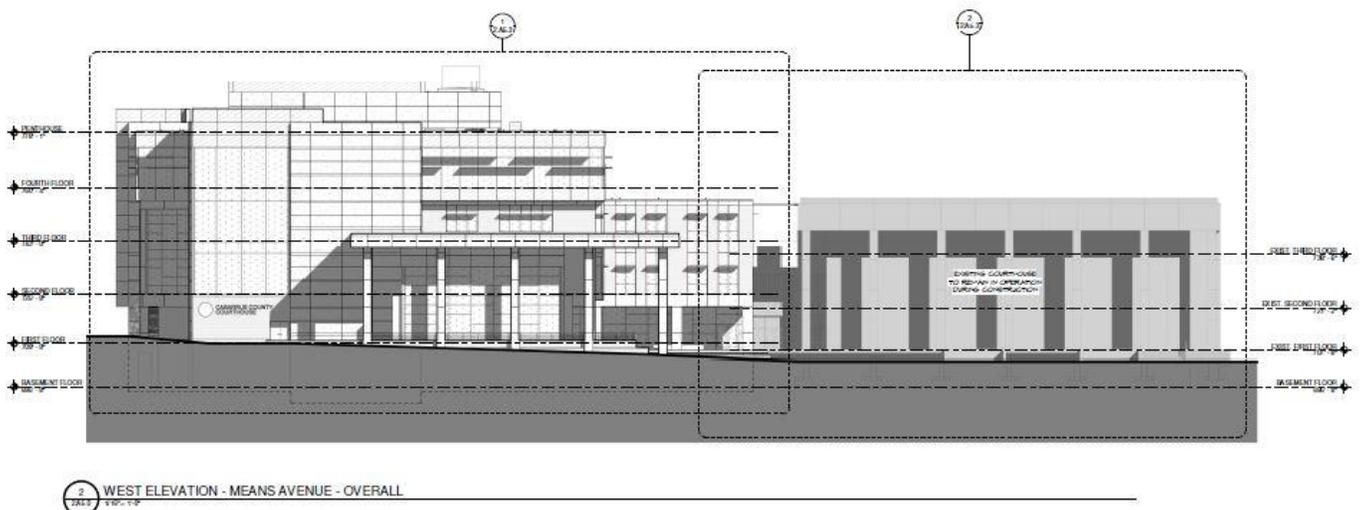
The new courthouse will enable a modernization of court operations and a greater efficiency of case processing. The facility will ultimately promote a smarter allocation of court staff and resources resulting in a focus on more serious criminal cases and thus public safety.

The design incorporates spatial organization and state-of-the-art security technology features to provide efficient operations, management, and safety to the public, staff, and court participants. It includes modern courthouse zoning techniques and circulation systems. A limited amount of secure, below-grade parking is included and linked to dedicated staff circulation systems.

The courthouse is being constructed in three phases allowing continued court operations in the 1975 courthouse. The initial phase included partial demolition, site utilities, and site excavation to be completed and is currently complete. The 240,000 SF second phase is to be completed in late 2022 and is currently underway. Upon occupancy of the new courthouse in early 2023, the third phase of the project will include the renovation of the 1975 courthouse with final completion in the spring of 2024.

The estimated project cost is \$130 million including construction cost of \$110 million and soft costs of \$20 million.

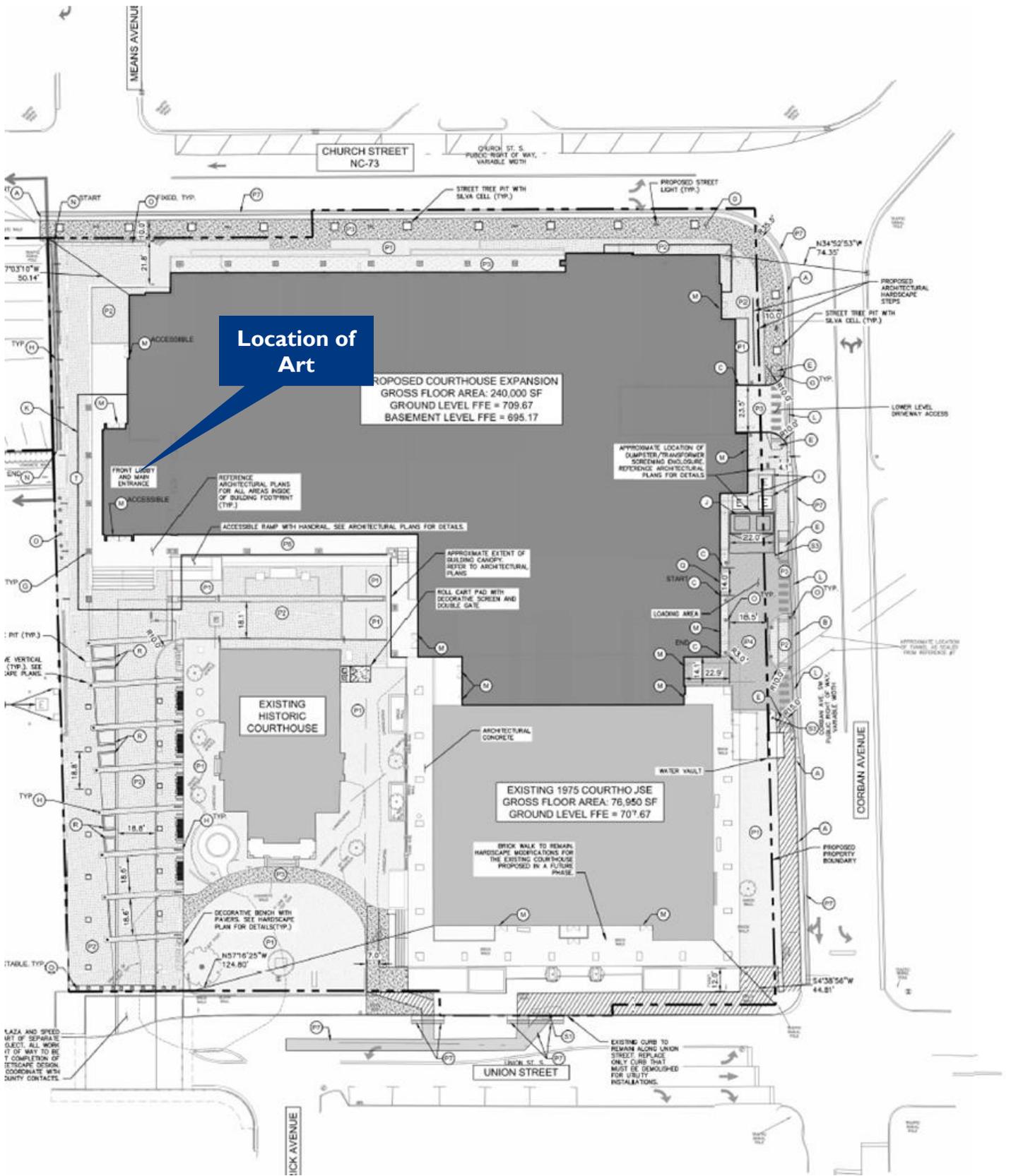
## Additional Images: Site Photos, Building Elevations, and Terrazzo

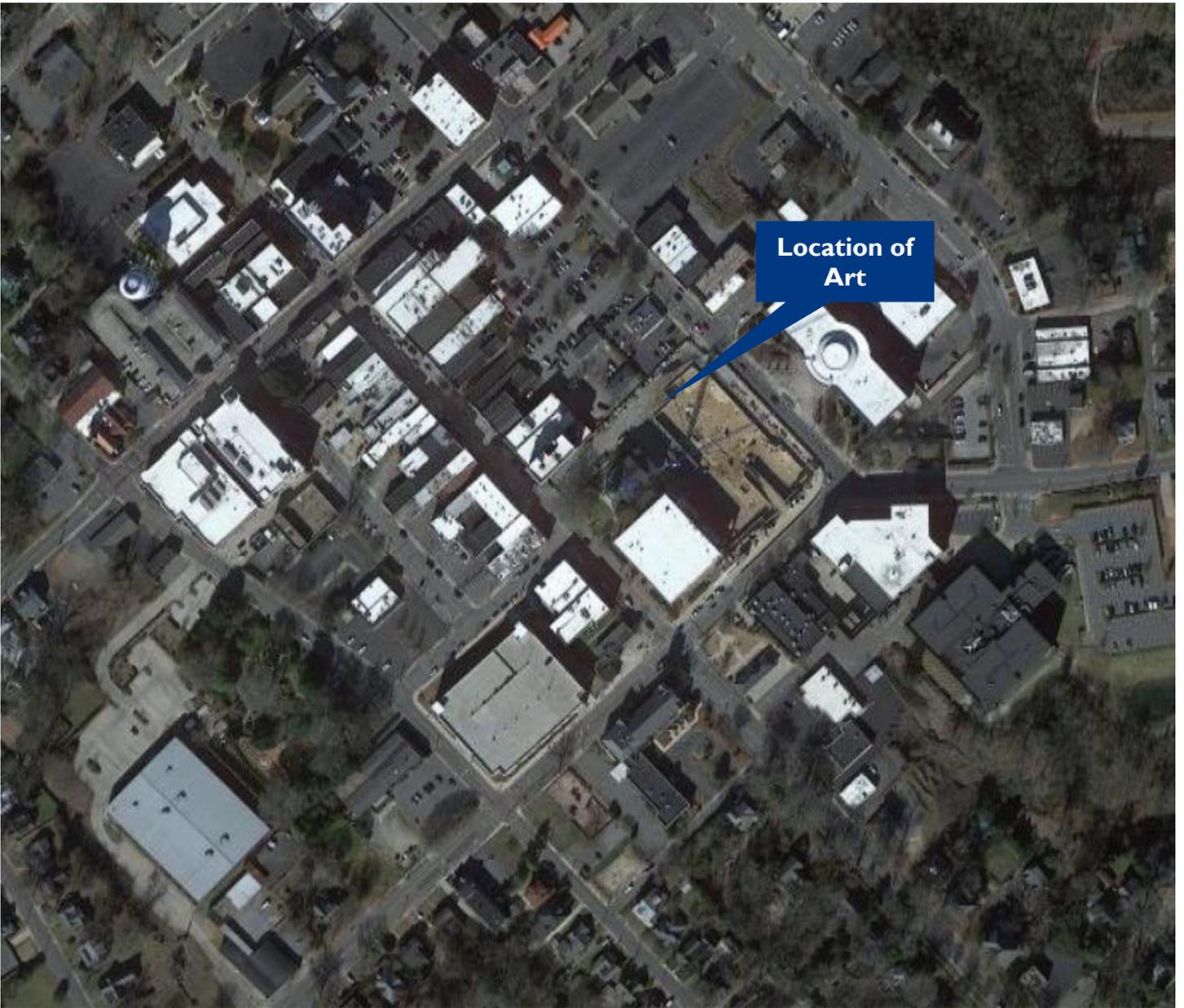




### Public Lobby Terrazzo Floor Color-Pattern Selections







Address: 61 and 77 Union Street South, Concord, NC 28025



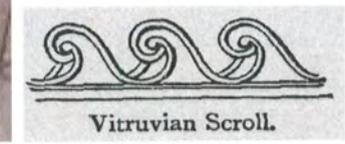
Cabarrus County Courthouse Expansion | Public Art Proposal

# WOVEN SCROLL

RE:site | Shane Allbritton and Norman Lee

## INSPIRATION | SCROLL OF JUSTICE

Justice has often been symbolized in courthouses by scales, a blindfolded woman, the gavel, and the sword, but we wanted to offer fresh imagery that connects with people in a new way. We draw on another ancient symbol of justice, the scroll. Scrolls evoke learning and knowledge, and that true justice demands that we continue to learn as our life unfolds. This dynamic form speaks to how the law is made and remade by people in their own historical context.



# INSPIRATION | EMPOWERING VOICES

The gesture of unfurling a scroll represents how the law is embodied by people, that justice requires personal action.

Unfurling Voices by RE:site



## INSPIRATION | CONNECTING MOTIFS

In addition to parchment and papyrus, many of the earliest scrolls were fabric or woven together using materials such as leaves and various fibers. Our proposal, *Woven Scroll*, forges a narrative synergy between the symbolism of the scroll and the weaving motif of the new Courthouse evoking themes of inclusion, diversity, and empowering voices of all people.



## INSPIRATION | TAPESTRY METAPHOR

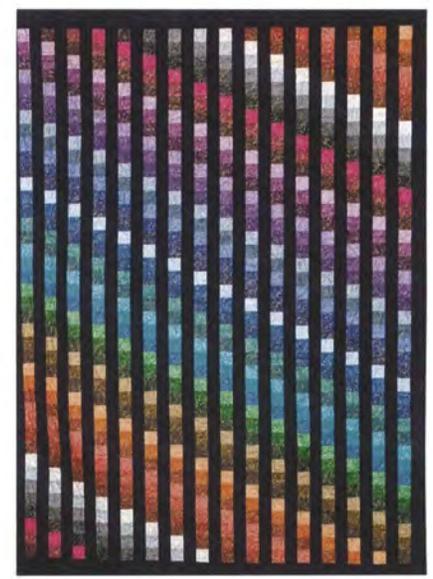
In the words of Maya Angelou,

*We all should know that diversity makes for a rich tapestry,  
and we must understand that all the threads of the tapestry  
are equal in value no matter what their color.*

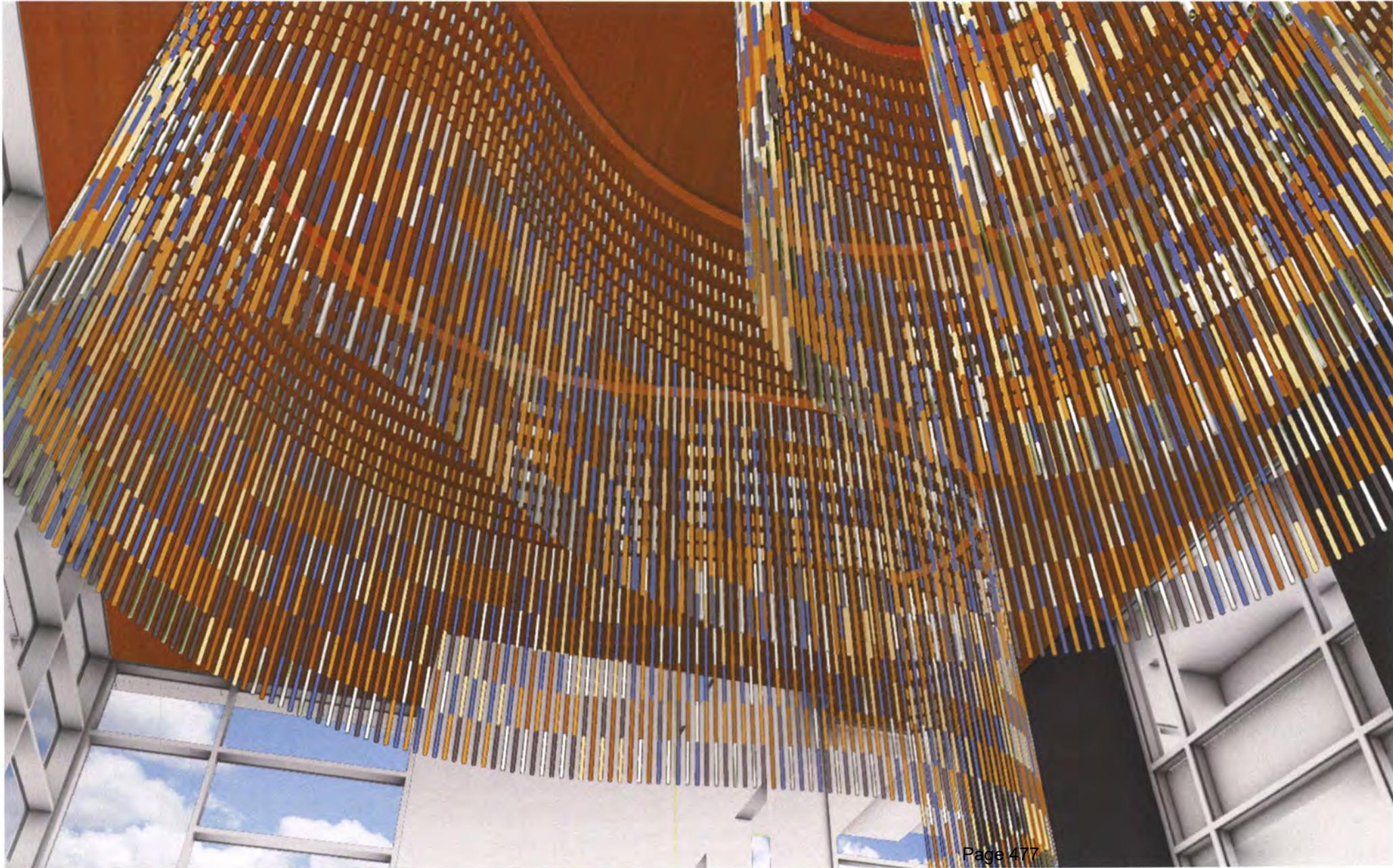


## INSPIRATION | QUILTING AS A UNIQUE AMERICAN TRADITION

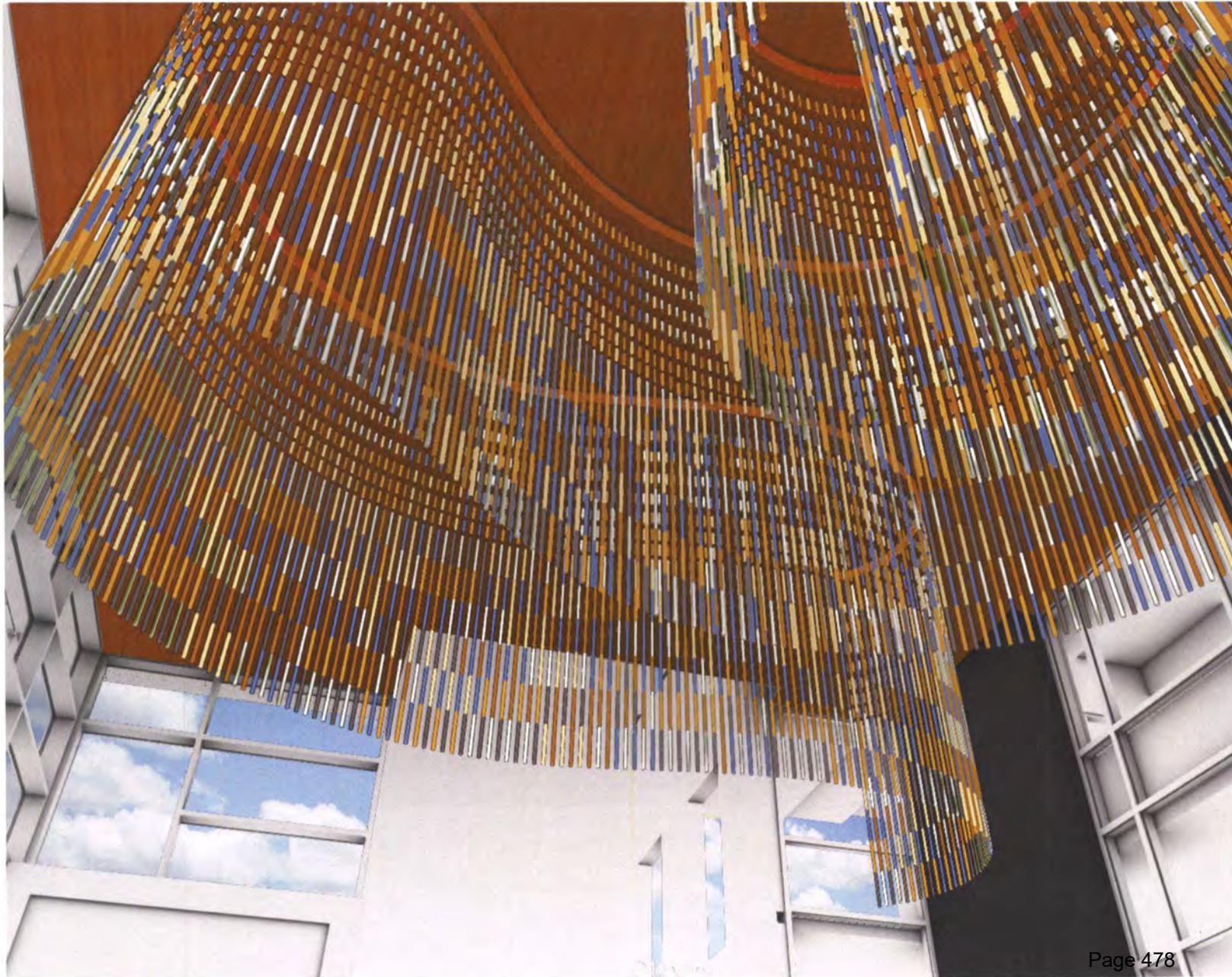
Quilting is a unique American tradition because it has been developed as a union of different ethnic and cultural traditions. Quilting has come to symbolize the union of African and European traditions in a unique manner - as union, rather than a separation, of two, often contrasting or forcibly separated cultures and traditions. This idea has resonance to North Carolina and Cabarrus County, connecting people and place in a powerful sculptural gesture.



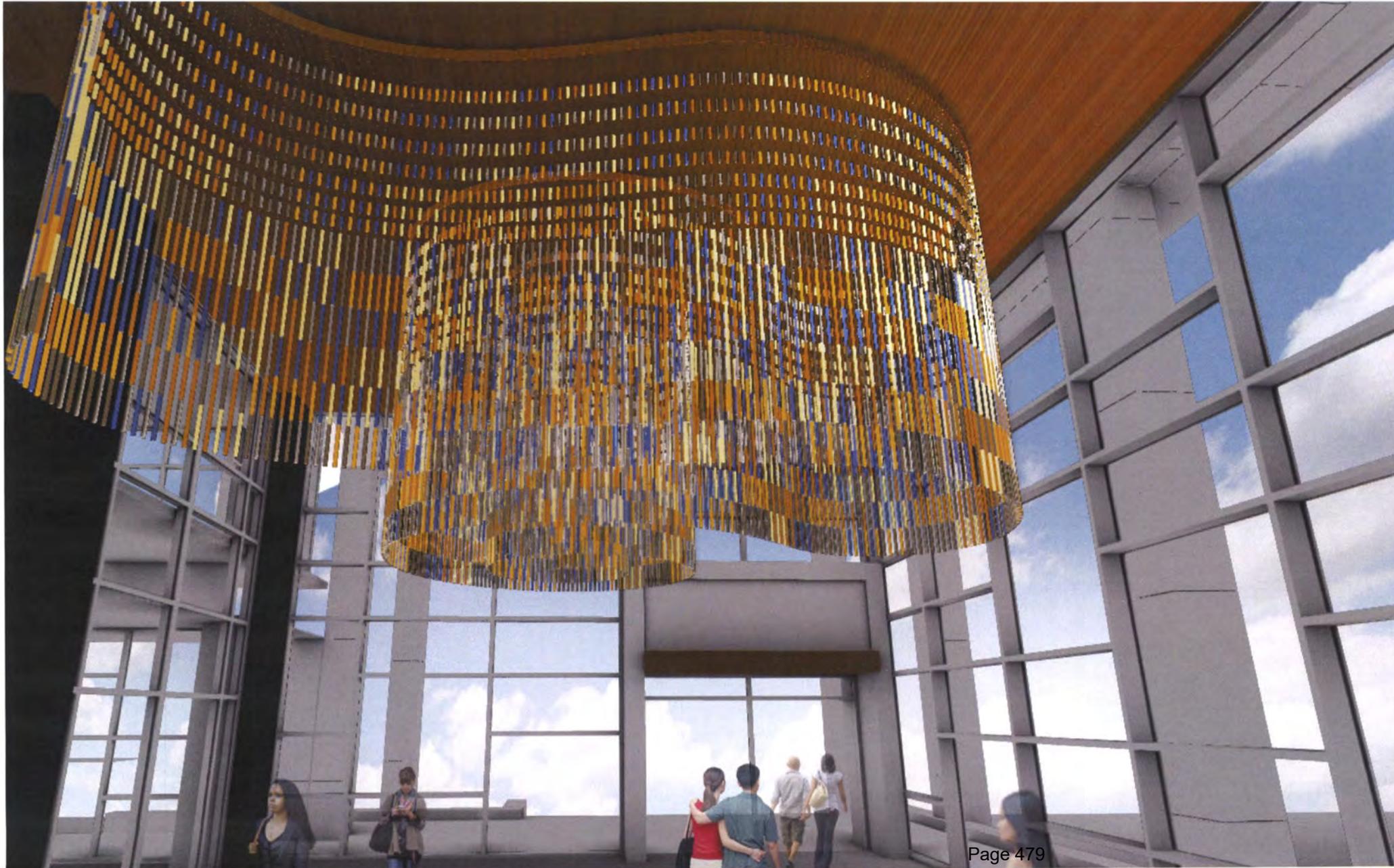
*Woven Scroll* evokes a long quilt being unrolled, a tapestry in the process of being woven, and a scroll being unfurled. This dynamic form is suspended above visitors as they enter the Courthouse lobby. This double-gesture of unfurling and weaving together is a rich metaphor for learning, knowledge, and inclusive justice.



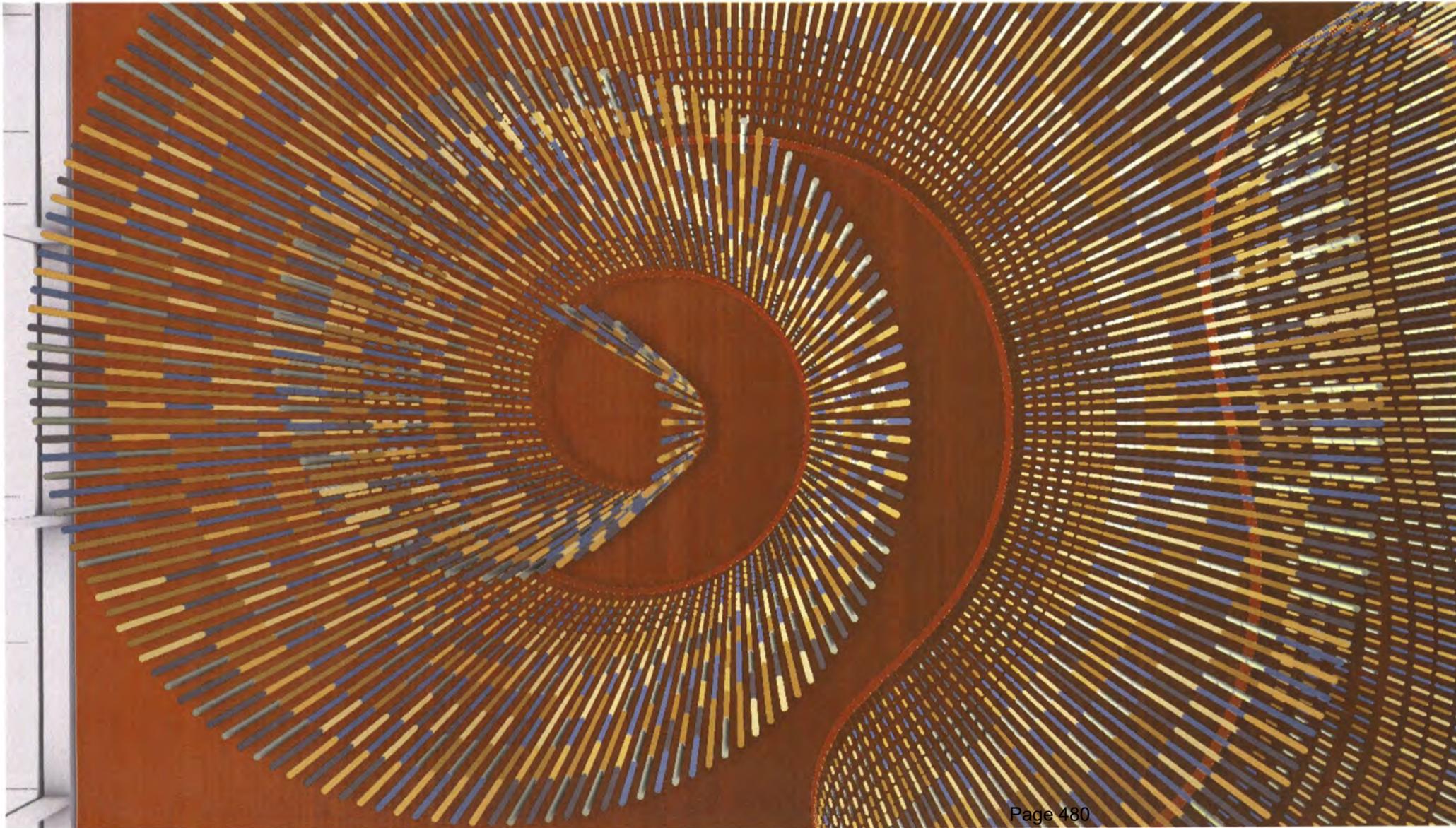
*Woven Scroll* features thousands of individually hand-wrapped colored steel wire sections. Stacked vertically and suspended by a winding array of stainless-steel cables, the hand-wrapped segments of steel wire suggest how thread is spooled onto bobbins used in weaving.



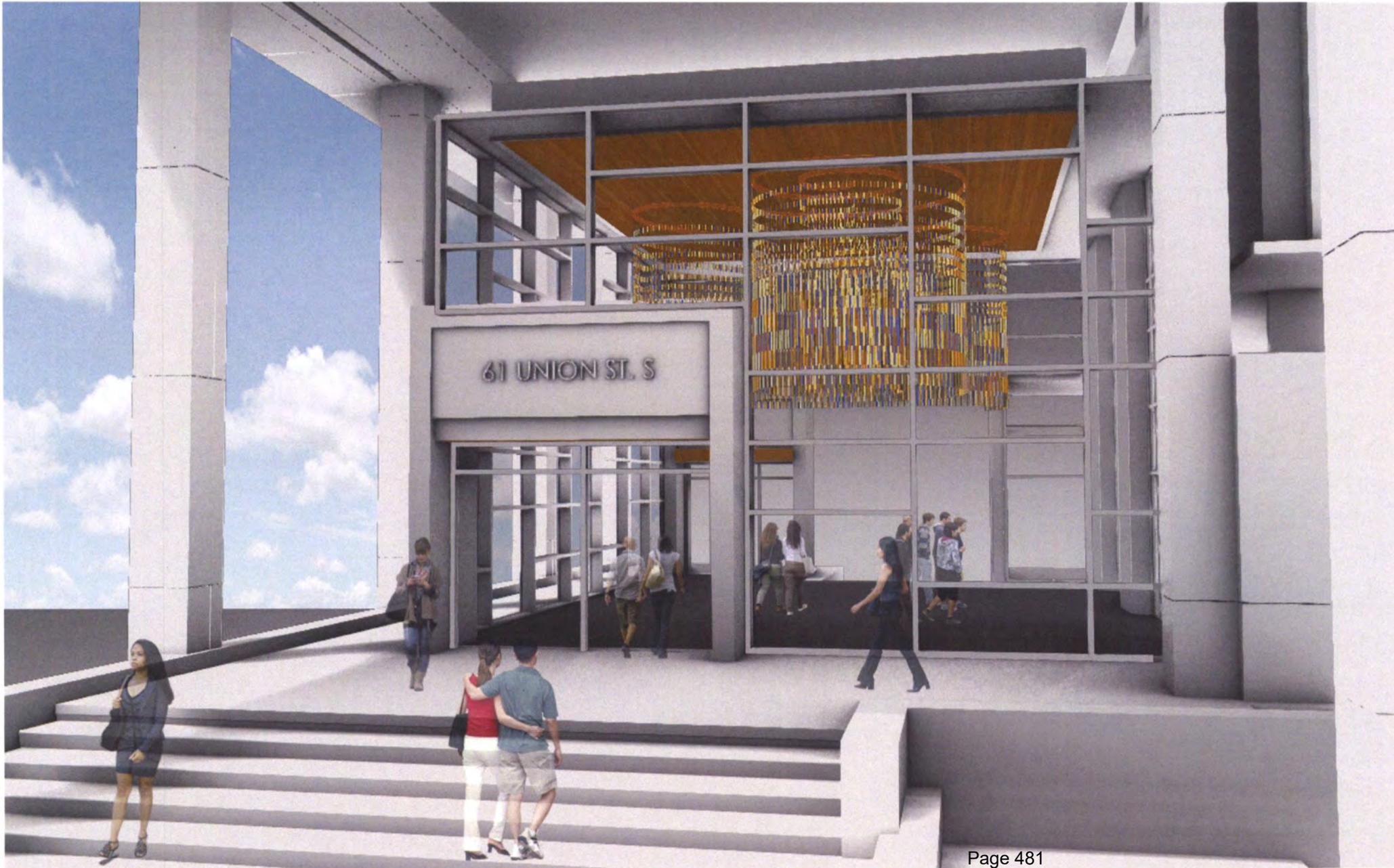
The sculptural segments are composed like colored pixels to create a striated pattern of colors that integrate well with the expansion's material palette and tonally appropriate for a county courthouse.



The steel wire not only gives the artwork a material permanence, but the steel's reflective quality gives the artwork a nuanced textural luster when natural or artificial light reflects upon it.



The motif of various threads coming together to create a unified whole and the gestures of unfurling and in-process weaving are poetic metaphors for continued learning and knowledge.



The sculpture connects past and present, reinforcing the weaving together of the old and new Courthouse buildings and connecting all people as part of the community fabric of Cabarrus County.



## COMMUNITY ENGAGEMENT / RESEARCH

As dialogue-driven artists, we envision our process including community engagement and/or conversations with local historians and cultural experts to identify culturally relevant quilt patterns that will be used to inspire the sculptural composition.

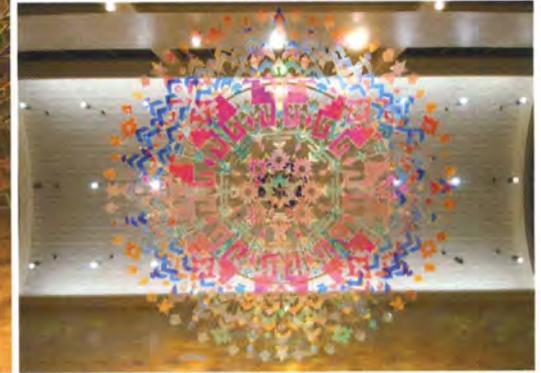
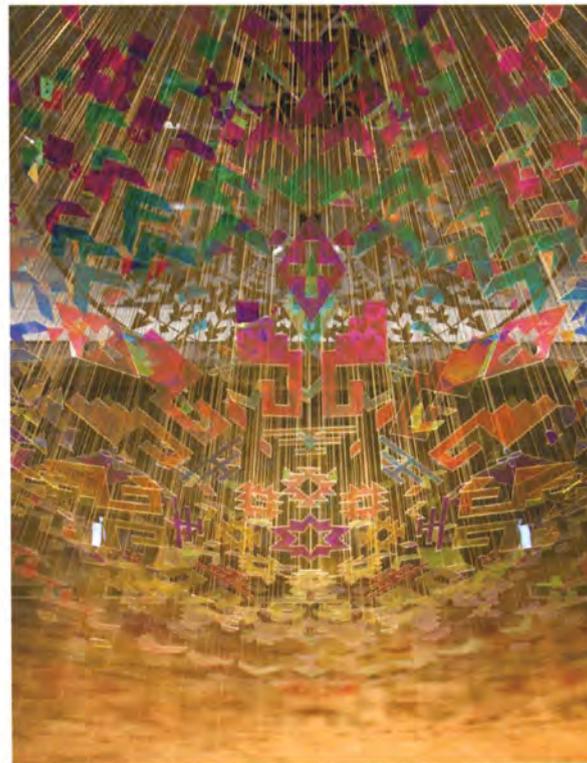
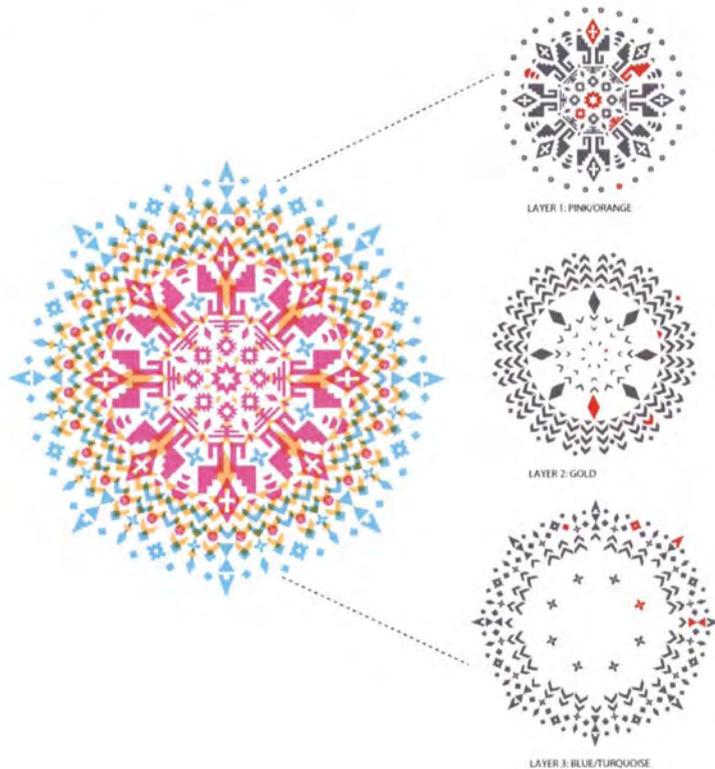


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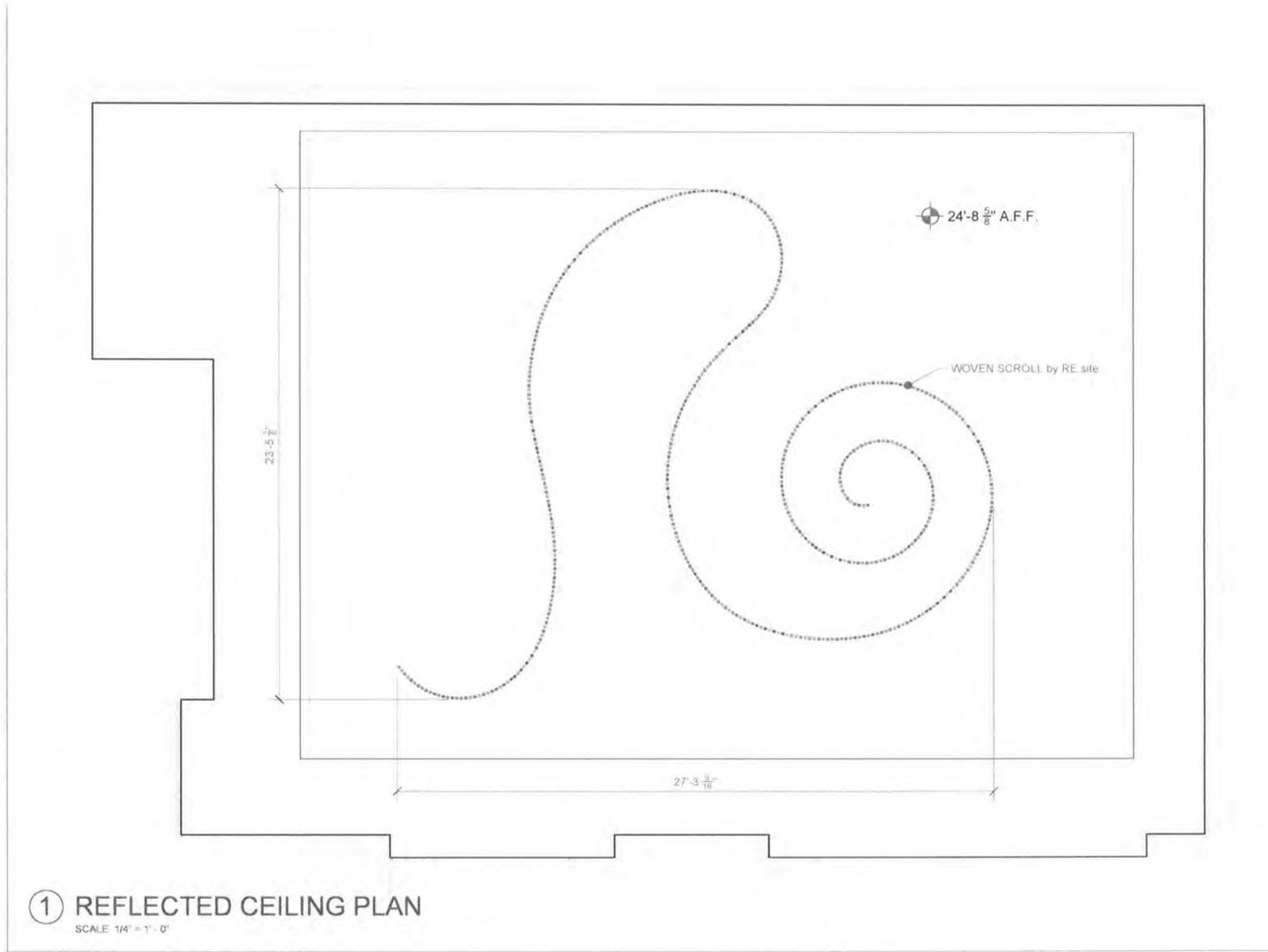
## PRIORITIZED CONTRIBUTING CULTURES (EP Historical Society)

America, Mexico, Spain, England, Ireland, Scotland, Germany, China, Russia, Latvia



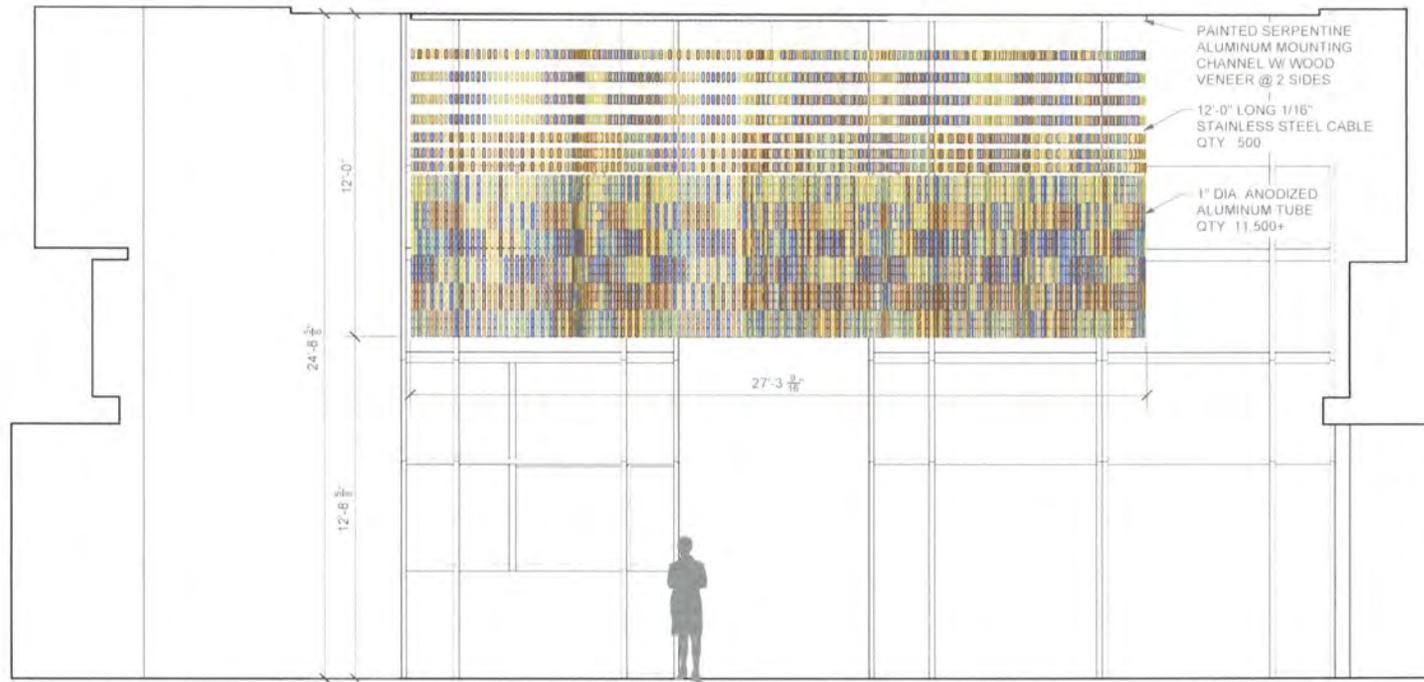
Radiance by RE:site

# ARTWORK PLAN



① REFLECTED CEILING PLAN  
SCALE 1/4" = 1' - 0"

# ARTWORK SIDE ELEVATION



① ELEVATION  
SCALE 1/4" = 1'-0"



## ARTWORK INSTALLATION

Each of the 450 assemblies will be pre-assembled and crated for easy installation to the serpentine mounting rail at the ceiling. The mounting rail - nearly 100 feet long - will be shipped in pieces from 8 to 12 feet in length with cable coupler bases pre-attached to the mounting rail using machining screws and locking nuts.

After the mounting rail is installed tight to the slat ceiling, each of the 450 assemblies will be attached by screwing the cable coupler to its base. A 3-person crew will sort and install the columns using a scissor lift. Floor protection will be provided. Installation is expected to take 3 days.

If there is concern of movement due to wind gust through open doors, or air velocity through nearby HVAC grilles, a discrete 1/2" x 1/8" serpentine aluminum rail can be attached to the bottom nylon spacer / stop, or the nylon stop one pixel above the bottom. This minimal piece would prevent independent movement and swinging thus locking the scroll-like form in place.

## ARTWORK MAINTENANCE

*Woven Scroll* will require no maintenance other than light feather dusting. All materials are UV resistant and color fast and there are no electronics or moving parts.

*Raining Reeds* by RE:site



## PRELIMINARY BUDGET

DESCRIPTION	VENDOR	CONTROL ESTIMATE
ARTIST FEE	RE:site	\$70,000
DESIGN AND DOCUMENTATION	METALAB	\$28,000
PROJECT MANAGEMENT	METALAB	\$50,400
STRUCTURAL ENGINEERING	Lysaght and Associates	\$5,000
SERPENTINE CHANNELS Substructure, beam clamps, aluminum channels, matching wood veneer	TBD	\$25,000
ALUMINUM HANGING "COLUMN" MATERIALS Nylon Spacer / Stops, Aluminum Tubes, Wire Winding	TBD	\$35,000
MATERIAL FINISHING Painting and/or Anodizing Aluminum Tubes	TBD	\$15,000
HANGING "COLUMN" ASSEMBLY Labor to assemble Hanging Column Materials into patterned linear assemblies	TBD	\$20,000
CABLE HARDWARE Stainless Steel Cable, Swage Locks, Cable Couplers (Connections to Serpentine Channel)	Systematic Art	\$16,500
PROTOTYPE	TBD	\$3,500
SITE PREPARATION Connections to Primary Structure Above Ceiling, if Needed	TBD	\$6,000
CRATING	TBD	\$5,000
INSTALLATION 3 Person Crew, 3 days, Includig Scissor Lift Rental and Floor Protection	TBD	\$22,500
SHIPPING	TBD	\$7,500
TRAVEL	METALAB / ARTIST	\$5,000
	SUBTOTAL	\$314,400
	CONTINGENCY - 10%	\$35,600
	<b>PROJECT BUDGET</b>	<b>\$350,000</b>

# PRELIMINARY SCHEDULE

DESCRIPTION	VENDOR	May-22	Jun-22	Jul-22	Aug-22	Sep-22	Oct-22	Nov-22	FORMAL DEDICATION
<b>DESIGN DEVELOPMENT</b> <small>Structural Engineering Coordination, Detailed Pricing</small>	METALAB								
<b>FABRICATION DOCUMENTS</b> <small>Construction Documentation, Permitting</small>	METALAB								
<b>FABRICATION / PRODUCTION</b>	TBD								
<b>SITE WORK</b>	TBD						SITE PREPARATION		
<b>SHIPPING / TRANSPORTING</b>	TBD								
<b>ONSITE ASSEMBLY / INSTALLATION</b>	TBD								
<b>PUNCH LIST / COMMISSIONING</b>	METALAB								
<b>PROJECT MANAGEMENT</b>	METALAB								

DESIGN WORK
OFF SITE WORK / FABRICATION
ON SITE WORK / PREPARATION
SHIPPING
ON SITE ASSEMBLY
PUNCHLIST / COMMISSIONING

## CONCEPT STATEMENT

*Woven Scroll* evokes a long quilt being unrolled, a tapestry in the process of being woven, and a scroll being unfurled. This dynamic form is suspended above visitors as they enter the Courthouse lobby. This double-gesture of unfurling and weaving together is a rich metaphor for learning, knowledge, and inclusive justice.

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# WOVEN SCROLL

RE:site | Shane Allbritton and Norman Lee



# CABARRUS COUNTY



## BOARD OF COMMISSIONERS WORK SESSION

**April 4, 2022  
4:00 PM**

---

### **AGENDA CATEGORY:**

Discussion Items for Action

### **SUBJECT:**

Infrastructure and Asset Management - Mt. Pleasant Library-Senior Center-Park Complex Update

### **BRIEF SUMMARY:**

Staff will provide an update on the programming, community engagement, and cost estimating processes taking place for the planned Mt. Pleasant Library-Senior Center-Park complex.

### **REQUESTED ACTION:**

Motion to approve the scope of the project and cost as outlined by county staff.

### **EXPECTED LENGTH OF PRESENTATION:**

15 Minutes

### **SUBMITTED BY:**

Kyle Bilafer, Area Manager of Operations  
Rodney Harris, Deputy County Manager

### **BUDGET AMENDMENT REQUIRED:**

No

### **COUNTY MANAGER'S RECOMMENDATIONS/COMMENTS:**

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### **ATTACHMENTS:**

▢ Master Site Plan

# Virginia Eury Foil Athletic Complex | Master Site Plan

Mt. Pleasant, North Carolina



Cabarrus County | 02.23.2022



# CABARRUS COUNTY



## BOARD OF COMMISSIONERS WORK SESSION

**April 4, 2022  
4:00 PM**

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### **AGENDA CATEGORY:**

Discussion Items for Action

### **SUBJECT:**

Planning and Development - Community Development Division- Housing and Home Improvement Budget Amendment

### **BRIEF SUMMARY:**

Community Development staff has received \$390 of program revenue for the Housing and Home Improvement program that is required by the grant rules to be allocated back to the program to expand services. The associated budget amendment is attached.

### **REQUESTED ACTION:**

Motion to adopt the budget amendment.

### **EXPECTED LENGTH OF PRESENTATION:**

1 Minute

### **SUBMITTED BY:**

Kelly Sifford, AICP  
Planning and Development Director

### **BUDGET AMENDMENT REQUIRED:**

Yes

### **COUNTY MANAGER'S RECOMMENDATIONS/COMMENTS:**

---

### **ATTACHMENTS:**

▢ Budget Amendment

**Budget Revision/Amendment Request**

Date:

Amount:

Dept. Head:

Department:

Internal Transfer Within Department     
  Transfer Between Departments/Funds     
  Supplemental Request

Allocate Housing and Home Improvement Program consumer contributions per grant guidelines.

Fund	Indicator	Department/ Object/ Project	Account Name	Approved Budget	Increase Amount	Decrease Amount	Revised Budget
001	6	3250-6622	Home Improvement Program Fees	370.00	390.00		760.00
001	9	3250-9493-HHIFA	HHIFA Operations	25,370.00	390.00		25,760.00
							0.00
							0.00
							0.00
							0.00
							0.00
							0.00
							0.00

**Total**      0.00

**Budget Officer**

Approved  
 Denied

**County Manager**

Approved  
 Denied

**Board of Commissioners**

Approved  
 Denied

\_\_\_\_\_  
*Signature*

\_\_\_\_\_  
*Signature*

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*Signature*

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*Date*

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*Date*

# CABARRUS COUNTY



## BOARD OF COMMISSIONERS WORK SESSION

**April 4, 2022  
4:00 PM**

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**AGENDA CATEGORY:**

Discussion Items for Action

**SUBJECT:**

Proclamation - Week of the Young Child

**BRIEF SUMMARY:**

The following proclamation proclaims April 10-16, 2021 as Week of the Young Child in Cabarrus County and encourages all citizens to work hard to support and invest in early childhood in Cabarrus County.

**REQUESTED ACTION:**

Motion to adopt the proclamation.

**EXPECTED LENGTH OF PRESENTATION:**

5 Minutes

**SUBMITTED BY:**

Carla Brown, Early Childhood Education Coordinator

**BUDGET AMENDMENT REQUIRED:**

No

**COUNTY MANAGER'S RECOMMENDATIONS/COMMENTS:**

---

**ATTACHMENTS:**

- Proclamation



**PROCLAMATION  
WEEK OF THE YOUNG CHILD**

**WHEREAS**, the Early Childhood Foundation of Cabarrus County along with the Cabarrus Partnership for Children, in conjunction with the North Carolina Association for the Education of Young Children (NCAEYC) and National Association for the Education of Young Children (NAEYC), are celebrating the Week of the Young Child™ April 2-8, 2022, and the Month of the Young Child throughout April; and

**WHEREAS**, these organizations are working to promote and inspire high quality early childhood experiences for our state's youngest citizens, that can provide a foundation of learning and success for children in Cabarrus County; and

**WHEREAS**, teachers and others who work with or on behalf of young children birth through age eight, who make a difference in the lives of young children in Cabarrus County deserve thanks and recognition; and

**WHEREAS**, public policies that support early learning for all young children are crucial to young children's futures and to the prosperity of our society.

**NOW, BE IT PROCLAIMED**, that the Cabarrus Board of County Commissioners for Cabarrus County, North Carolina, do hereby proclaim April 2-8, 2022 as

**WEEK OF THE YOUNG CHILD™**

In Cabarrus County and encourage all citizens to work to support and invest in early childhood in Cabarrus County.

Adopted this 4<sup>th</sup> day of April, 2022.

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Stephen M. Morris, Chairman  
Cabarrus County Board of Commissioners

# CABARRUS COUNTY



## BOARD OF COMMISSIONERS WORK SESSION

**April 4, 2022  
4:00 PM**

---

**AGENDA CATEGORY:**

Approval of Regular Meeting Agenda

**SUBJECT:**

BOC - Approval of Regular Meeting Agenda

**BRIEF SUMMARY:**

The proposed agenda for the April 19, 2022 regular meeting is attached.

**REQUESTED ACTION:**

Motion to approve the agenda for the April 19, 2022 regular meeting as presented.

**EXPECTED LENGTH OF PRESENTATION:**

1 Minute

**SUBMITTED BY:**

Lauren Linker, Clerk to the Board

**BUDGET AMENDMENT REQUIRED:**

No

**COUNTY MANAGER'S RECOMMENDATIONS/COMMENTS:**

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**ATTACHMENTS:**

- Proposed April 19, 2022 Regular Meeting Agenda

# CABARRUS COUNTY



## BOARD OF COMMISSIONERS REGULAR MEETING

**April 19, 2022  
6:30 PM**

---

### MISSION STATEMENT

THROUGH VISIONARY LEADERSHIP AND GOOD STEWARDSHIP, WE WILL ADMINISTER STATE REQUIREMENTS, ENSURE PUBLIC SAFETY, DETERMINE COUNTY NEEDS, AND PROVIDE SERVICES THAT CONTINUALLY ENHANCE QUALITY OF LIFE

### CALL TO ORDER BY THE CHAIRMAN

### PRESENTATION OF COLORS

### INVOCATION

Tony Hall, Conquerors Church

### A. APPROVAL OR CORRECTIONS OF MINUTES

1. Approval or Correction of Meeting Minutes

### B. APPROVAL OF THE AGENDA

### C. RECOGNITIONS AND PRESENTATIONS

1. Active Living and Parks - Older Americans Month Proclamation

### D. INFORMAL PUBLIC COMMENTS

### E. OLD BUSINESS

### F. CONSENT AGENDA

*(Items listed under consent are generally of a routine nature. The Board may take action to approve/disapprove all items in a single vote. Any item may be withheld from a general action, to be discussed and voted upon separately at the discretion of the Board.)*

1. Active Living and Parks - Senior Center Grants
2. Appointments - Nursing Home Community Advisory Committee
3. Appointments (Removals) - Industrial Facilities and Pollution Control Financing

Authority

4. BOC - Resolution Dissolving Advisory Board
5. DHS - Transportation Drug and Alcohol Policy
6. DHS - Transportation Federal Transit Administration Resolution
7. DHS - Transportation System Safety Plan
8. Finance - American Rescue Plan Act Funds for Broadband and Nonprofits
9. Finance - American Rescue Plan Act Funds for Cooperative Christian Ministry
10. Finance - Appropriate Insurance Refund for Ambulance Repair
11. Finance - Debt Refunding of Limited Obligations Bonds - 2022A
12. Finance - Fire District Property Tax Budget Amendment
13. Finance - Resolution Approving Installment Financing Contract 2022B Draw-Down LOBS for Various School and County Projects Up to \$160,000,000
14. Fire Marshal's Office - Ordinance Approval
15. Infrastructure and Asset Management - Mt. Pleasant Library-Senior Center-Park Complex Update
16. Planning and Development - Community Development Division- Housing and Home Improvement Budget Amendment
17. Tax Administration - Refund and Release Reports – March 2022

**G. NEW BUSINESS**

**H. REPORTS**

1. BOC - Receive Updates From Commission Members who Serve as Liaisons to Municipalities or on Various Boards/Committees
2. BOC - Request for Applications for County Boards/Committees
3. Budget - Monthly Budget Amendment Report
4. Budget - Monthly Financial Update
5. County Manager - Monthly Building Activity Reports
6. County Manager - Monthly New Development Report
7. EDC - March 2022 Monthly Summary Report

**I. GENERAL COMMENTS BY BOARD MEMBERS**

**J. WATER AND SEWER DISTRICT OF CABARRUS COUNTY**

**K. CLOSED SESSION**

**L. ADJOURN**

**Scheduled Meetings**

<b>April 20</b>	<b>Cabarrus Summit</b>	<b>6:00 p.m.</b>	<b>Cabarrus Arena</b>
<b>May 2</b>	<b>Work Session</b>	<b>4:00 p.m.</b>	<b>Multipurpose Room</b>
<b>May 16</b>	<b>Regular Meeting</b>	<b>6:30 p.m.</b>	<b>BOC Meeting Room</b>
<b>June 6</b>	<b>Work Session</b>	<b>4:00 p.m.</b>	<b>Multipurpose Room</b>

<b>June 9</b>	<b>Budget Meeting</b>	<b>4:00 p.m.</b>	<b>Multipurpose Room</b>
<b>June 20</b>	<b>Regular Meeting</b>	<b>6:30 p.m.</b>	<b>BOC Meeting Room</b>

**Mission:** Through visionary leadership and good stewardship, we will administer state requirements, ensure public safety, determine county needs, and provide services that continually enhance quality of life.

**Vision:** Our vision for Cabarrus is a county where our children learn, our citizens participate, our dreams matter, our families and neighbors thrive, and our community prospers.

**Cabarrus County Television Broadcast Schedule  
Cabarrus County Board of Commissioners' Meetings**

The most recent Commissioners' meeting is broadcast at the following days and times. Agenda work sessions begin airing after the 1st Monday of the month and are broadcast for two weeks up until the regular meeting. Then the regular meeting begins airing live the 3rd Monday of each month and is broadcast up until the next agenda work session.

<b>Sunday - Saturday</b>	<b>1:00 P.M.</b>
<b>Sunday - Tuesday</b>	<b>6:30 P.M.</b>
<b>Thursday &amp; Friday</b>	<b>6:30 P.M.</b>

In accordance with ADA regulations, anyone who needs an accommodation to participate in the meeting should notify the ADA Coordinator at 704-920-2100 at least forty-eight (48) hours prior to the meeting.

# CABARRUS COUNTY



## BOARD OF COMMISSIONERS WORK SESSION

**April 4, 2022  
4:00 PM**

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**AGENDA CATEGORY:**

Closed Session

**SUBJECT:**

Closed Session - Pending Litigation and Economic Development

**BRIEF SUMMARY:**

A closed session is needed to discuss matters related to pending litigation and economic development as authorized by NCGS 143-318.11(a)(3) and (4).

**REQUESTED ACTION:**

Motion to go into closed session to discuss matters related to pending litigation and economic development as authorized by NCGS 143-318.11(a)(3) and (4).

**EXPECTED LENGTH OF PRESENTATION:**

30 Minutes

**SUBMITTED BY:**

Mike Downs, County Manager

**BUDGET AMENDMENT REQUIRED:**

No

**COUNTY MANAGER'S RECOMMENDATIONS/COMMENTS:**

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