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INSTALLMENT FINANCING CONTRACT

BETWEEN

SOUTHERN BANK AND TRUST COMPANY

AND

TOWN OF NAGS HEAD, NORTH CAROLINA

\$500,000.00

Dated as of March ____, 2014

TABLE OF CONTENTS

SECTION 1. DEFINITIONS.....	1
1.1 Bank	1
1.2 Borrower	1
1.3 Deed of Trust	2
1.4 Hazardous Materials	2
1.5 Installment Payments	2
1.6 Loan Amount	2
1.7 Net Proceeds	2
1.8 Payment Schedule.....	2
1.9 Promissory Note or Note	2
1.10 Real Property	2
SECTION 2. ADVANCE OF LOAN AMOUNT	2
SECTION 3. INSTALLMENT PAYMENTS AND OTHER PAYMENTS	3
3.1 Amounts and Times of Installment Payments and Other Payments.....	3
3.2 Place of Payments.	3
3.3 Late Charges.	3
3.4 Abatement of Installment Payments	3
3.5 Prepayment of Installment Payments.....	3
3.6 Non-Appropriation/Early Termination	3
SECTION 4. EXHIBITS TO CONTRACT.....	3
SECTION 5. RESPONSIBILITIES AND COVENANTS OF THE BORROWER	4
5.1 Care and Use	4
5.2 Inspection.....	4
5.3 Utilities.....	4
5.4 Title Insurance	4
5.5 Survey	5
5.6 Flood Insurance.....	5
5.7 Risk of Loss	5
5.8 Performance by the Bank of the Borrower's Responsibilities	5
5.9 Financial Statements	6
5.10 Environmental Statements	6
5.11 Other Responsibilities and Conditions.....	6
5.12 Special Tax Covenants.....	7
5.13 Environmental Representations and Covenants.....	8
5.14 Fees and Expenses to Borrower	8
SECTION 6. SECURITY; LIENS.....	8
6.1 Security	8
6.2 Liens.....	8

SECTION 7. DAMAGE, DESTRUCTION AND CONDEMNATION; USE OF NET PROCEEDS	9
7.1 Damage, Destruction or Condemnation.....	9
7.2 Obligation of the Borrower to Repair and Replace the Real Property	9
7.3 Insufficiency of Net Proceeds; Discharge of the Obligation of the Borrower to Repair the Real Property	9
7.4 Insurance	10
7.5 Cooperation of Borrower	11
SECTION 8. WARRANTIES AND REPRESENTATIONS OF THE BORROWER.....	11
SECTION 9. INDEMNIFICATION.....	12
SECTION 10. DISCLAIMER OF WARRANTIES	13
10.1 No Representations by the Bank.....	13
10.2 Disclaimer By the Bank	13
SECTION 11. DEFAULT AND REMEDIES.....	13
11.1 Definition of Event of Default	13
11.2 Remedies on Default.....	13
11.3 Further Remedies	14
SECTION 12. ASSIGNMENT	14
12.1 Assignment by the Borrower	14
12.2 Assignment by the Bank	14
SECTION 13. LIMITED OBLIGATION OF THE BORROWER.....	15
SECTION 14. TAX-EXEMPT INTERES.....	16
SECTION 15. MISCELLANEOUS	16
15.1 Waiver.....	16
15.2 Severability	16
15.3 Governing Law	16
15.4 Notices	16
15.5 Section Headings	17
15.6 Entire Contract	17
15.7 Binding Effect.....	17
15.8 Time	17
15.9 Execution in Counterparts.....	17

INSTALLMENT FINANCING CONTRACT

THIS INSTALLMENT FINANCING CONTRACT, dated as of March _____, 2014 (the "Contract"), by and between **SOUTHERN BANK AND TRUST COMPANY**, a North Carolina banking corporation (the "Bank"); and the **TOWN OF NAGS HEAD, NORTH CAROLINA**, a public body of the State of North Carolina (the "Borrower").

W I T N E S S E T H:

WHEREAS, the Borrower is a validly organized and existing political subdivision, existing under the Constitution and laws of the State of North Carolina; and

WHEREAS, the Borrower has the power, pursuant to Section 160A-20 of the General Statutes of North Carolina, to enter into installment contracts to finance the purchase of real or personal property; and

WHEREAS, the Bank desires to advance certain funds to enable the Borrower to purchase the Real Property (as hereinafter defined) and the Borrower desires to obtain said advance from the Bank and to purchase the Real Property pursuant to the terms and conditions hereinafter set forth; and

WHEREAS, the obligation of the Borrower to make Installment Payments (as hereinafter defined) and other payments required under Section 3 hereof shall constitute a limited obligation payable solely from budgeted appropriations of the Borrower and shall not constitute a pledge of the faith and credit of the Borrower within the meaning of any constitutional debt limitation or an obligation otherwise prohibited by the North Carolina Constitution; and

WHEREAS, in order to further secure the obligations of the Borrower hereunder, the Borrower will execute and deliver the Deed of Trust (as hereunder defined) for the benefit of the Bank; and

WHEREAS, the Bank and the Borrower have duly authorized the execution and delivery of this Contract.

NOW, THEREFORE, for and in consideration of the premises and of the covenants hereinafter contained and other valuable consideration, the parties hereto agree as follows:

SECTION 1. DEFINITIONS

For purposes of this Contract, the following definitions will apply:

- 1.1. "Bank" has the meaning as set forth in the preamble to this Contract.
- 1.2. "Borrower" has the meaning as set forth in the preamble to this Contract.

1.3. "Deed of Trust" means the Deed of Trust which creates a lien on and security interest in the Real Property, dated as of the date of execution and delivery of this Contract, from the Borrower to the Deed of Trust trustee, 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. The Deed of Trust shall be in the form of the Bank's standard deed of trust form.

1.4. "Hazardous Materials" means any flammable explosives, radioactive materials, hazardous materials, hazardous wastes, hazardous or toxic substances, or related materials, asbestos or any materials containing asbestos or petroleum, petroleum hydrocarbons, or any other substance or material as defined by (or for purposes of) any federal, state or local environmental law, ordinance, rule or regulation including, without limitation, the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, as amended (42 U.S.C. sections 9601 et seq.), the Hazardous Materials Transportation Act, as amended (49 U.S.C. sections 1801 et seq.), the Resource Conservation and Recovery Act, as amended (42 U.S.C. sections 9601 et seq.), and the regulations adopted and publications promulgated pursuant thereto.

1.5. "Installment Payments" means those payments made by the Borrower to the Bank as described in Section 3 of this Contract and in the Payment Schedule.

1.6. "Loan Amount" means the principal amount of **FIVE HUNDRED THOUSAND AND 00/100 DOLLARS (\$500,000.00)** which will be advanced by the Bank to enable the Borrower to acquire the Real Property under the terms of this Contract.

1.7. "Net Proceeds," when used with respect to any proceeds from policies of insurance required hereunder or under the Deed of Trust or proceeds of any condemnation award arising out of the condemnation of all or any portion of the Real Property, 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.

1.8. "Payment Schedule" means the document entitled "Payment Schedule" attached hereto as Exhibit B and incorporated herein by reference which describes the Borrower's Installment Payments.

1.9. "Promissory Note" or "Note" means the Promissory Note dated as of the date of execution and delivery of this Contract in the form attached hereto as Exhibit E, from the Borrower for the benefit of the Bank, all of terms, definitions, conditions and covenants of which are incorporated herein by reference and made a part of this Contract as if fully set forth herein.

1.10. "Real Property" means the real property as described in the Deed of Trust.

SECTION 2. ADVANCE OF LOAN AMOUNT

The Bank agrees to make an advance to the Borrower of the Loan Amount and the Borrower hereby borrows and accepts from the Bank the Loan Amount to be applied in accordance with the terms and conditions of this Contract. The Loan Amount shall be used to purchase the Real Property.

SECTION 3. INSTALLMENT PAYMENTS AND OTHER PAYMENTS

3.1. Amounts and Times of Installment Payments and Other Payments. Subject to the provisions of Section 13 hereof entitled "Limited Obligation of the Borrower," the Borrower shall repay the Loan Amount in installments as provided in this Contract. 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. The Borrower's obligation to repay the Loan Amount plus accrued interest shall be evidenced by the Promissory Note. Installment Payments shall be sufficient in the aggregate to repay the Loan Amount, together with interest thereon at the per annum rate stated in the Note. A portion of each Installment Payment is interest. All payments shall be applied first to any late payment charges, then to interest accrued to the date of payment, and thereafter to the unpaid principal balance.

3.2. Place of Payments. All payments required to be made to the Bank hereunder shall be made at the Bank's principal office or as may be otherwise directed by the Bank or its assignee.

3.3. Late Charges. Should the Borrower fail to pay any Installment Payment or any other sum required to be paid to the Bank within fifteen (15) days after the due date thereof, the Borrower shall pay a late payment charge equal to four percent (4%) of the delinquent payment.

3.4. Abatement of Installment Payments. Subject to Section 13 hereof entitled "Limited Obligation of the Borrower," there shall be no abatement or reduction of the Installment Payments or other payments by the Borrower for any reason, including but not limited to, any defense, recoupment, setoff, counterclaim, or any claim (real or contingent) arising out of or related to the Real Property. The Borrower assumes and shall bear the entire risk of loss and damage to the Real Property from any cause whatsoever, it being the intention of the parties that the Installment Payments and other payments shall be made in all events unless the obligation to make such Installment Payments and other payments is terminated as otherwise provided herein.

3.5. Prepayment of Installment Payments. Provided the Borrower is not in default of its obligations hereunder, it shall have the option to repay the outstanding Loan Amount by prepaying the portions of the Installment Payments designated as principal, in full or in part at any time, together with accrued interest to the date of prepayment and all other accrued but unpaid sums due in the amount prepaid from Borrower under this Contract, the Promissory Note, and the Deed of Trust, upon thirty (30) days prior written notice to the Bank.

3.6. Non-Appropriation/Early Termination. Borrower shall exercise its best efforts to obtain annual appropriation to meet fiscal year Installment Payments. In the event of non-appropriation, this Contract may be terminated without penalty, subject to the Bank's rights and remedies under Section 11 of this Contract

SECTION 4. EXHIBITS TO CONTRACT

The Exhibits to the Contract are as follows:

Exhibit A: Description of the Real Property.

Exhibit B: Payment Schedule.

Exhibit C: Form of the Incumbency and Authorization Certificate *(to be furnished by the Borrower to the Bank at closing)*.

Exhibit D: Form of the Opinion Letter of Borrower's Counsel *(to be delivered to the Bank at closing)*.

Exhibit E: Form of Promissory Note *(from the Borrower to the Bank as described in Sections 1.9 and 3.1)*.

SECTION 5. RESPONSIBILITIES AND COVENANTS OF THE BORROWER

5.1 Care and Use. The Borrower shall use the Real Property in a careful and proper manner, in compliance with all applicable laws and regulations, and, at its sole cost and expense, shall service, repair and maintain the Real Property so as to keep the Real Property in good condition, repair, appearance and working order for the purposes intended, ordinary wear and tear excepted, and shall replace any part of the Real Property as may from time to time become worn out, lost, stolen, destroyed or damaged or unfit for use. Any and all additions and improvements to the Real Property shall be subject to and covered by the Deed of Trust.

5.2 Inspection. The Bank shall have the right upon reasonable prior notice to the Borrower to enter into and upon the Real Property to inspect the Real Property and observe its use during normal business hours.

5.3 Utilities. The Borrower shall pay or cause to be paid all charges for gas, water, steam, electricity, light, heat, power, telephone or other utility service furnished to or used on or in connection with the Real Property. There shall be no abatement of the Installment Payments on account of interruption of any such services.

5.4 Title Insurance. The Borrower agrees to obtain, at its own cost and expense, an American Land Title Association lender's title insurance commitment (to be issued to and reviewed and approved by the Bank prior to closing) and title insurance policy in the amount of the Loan Amount issued by a title insurance company licensed to do business in the State of North Carolina and acceptable to the Bank, committing to insure and insuring, respectively, the Bank's first lien position with respect to the Real Property. The commitment shall commit to insure and the policy shall affirmatively insure reasonable means of ingress and egress to and from the Real Property. The policy shall contain no matters objectionable to the Bank, including, without limitation, exceptions with respect to mechanics' and materialmen's liens, prior years' taxes, matters of survey, deed restrictions, prior encumbrances of any nature, restrictive covenants, or setback lines. Prior to closing, the Bank must be provided with copies of all exceptions noted in the commitment and policy prior to closing. The policy shall be issued at or after closing in accordance with the commitment. The Borrower also agrees to obtain, at its own cost and expense, such endorsements to such policy as the Bank may require including without limitation (i) a zoning endorsement (ALTA Endorsement Form 3), (ii) an ALTA Endorsement Form 9 (restrictions and encroachments), and if applicable to this transaction, (iii) a future advances endorsement, (iv) a variable interest rate endorsement, and (v) an ALTA 22-06 Endorsement

location (type of improvement and street address); and (vi) such additional Endorsements and affirmative coverage as the Bank, in its sole discretion, requires.

5.5 Survey. The Borrower shall provide a current perimeter and foundation survey covering the Real Property satisfactory to the Bank. The policy of title insurance delivered pursuant to Section 5.4 hereof shall insure matters of survey to and including the date of each survey

5.6 Flood Insurance. The Bank requires a certification by Flood Data Services, Inc. as to whether the Real Property is located in a flood hazard area. The Bank will order the certification and Borrower will be responsible for paying the fee for the certification. If the certification indicates that any part of the Improvements is in a flood hazard area, flood insurance will be required. If flood insurance is required, the Borrower must obtain, maintain for the term of the Contract, and provide the Bank with a copy of a flood insurance policy covering the Improvements. The flood insurance policy must be in the name of the owner of the Real Property and identify the Bank as mortgagee and loss payee using the following language: "*Southern Bank and Trust Company, its successors and assigns as their interests may appear.*" The policy must provide for written notice to the Bank at least thirty (30) days prior to cancellation, termination, or modification of the insurance coverage. The dollar amount of the policy and the insurance company issuing the policy must be approved by the Bank. If at any time during the term of the Loan, the Bank determines that the required flood insurance is not in force or the policy is in an amount less than the Bank requires, and the Borrower fails to purchase the required insurance within forty five (45) days after notice of the deficiency, the Bank may replace the flood insurance on the Borrower's behalf and charge the Borrower the cost of the premiums and fees incurred in purchasing the flood insurance. If the Bank decides to replace the flood insurance on the Borrower's behalf and the Bank, or one of its related entities, sells the required flood insurance, the replacement insurance may be purchased from the Bank or its related entity in the Bank's discretion. Such lender-placed coverage may be substantially more expensive, may not cover the Borrower as an insured, may not cover the Borrower's equity, and may not provide the same scope of coverage as flood insurance obtained by the Borrower (for instance, there may be no coverage for personal effects). Any loan servicer or one of its affiliates may be paid a commission for its placement of the lender-placed coverage.

5.7 Risk of Loss. Subject to the provisions of Section 13 hereof entitled "Limited Obligation of the Borrower," the Borrower shall bear all risk of loss to and condemnation of the Real Property. In the event of loss or damage to or condemnation of the Real Property, the Borrower shall either (a) continue to make the Installment Payments due hereunder and repair the Real Property, or (b) prepay in full the principal components of the outstanding Installment Payments in accordance with Section 3.5 hereof. Said repair of the Real Property shall meet with the satisfaction of the Bank.

5.8 Performance by the Bank of the Borrower's Responsibilities. Subject to Section 13 hereof, entitled "Limited Obligation of the Borrower," any performance required of the Borrower or any payments required to be made by the Borrower may, if not timely performed or paid, be performed or paid by the Bank, and, in that event, the Bank shall be immediately reimbursed by the Borrower for such payments and for any costs and expenses, legal or otherwise, associated with the payments or other performance by the Bank, with interest thereon at a per

annum rate equal to the Bank's Prime Rate in effect on the last business day of the calendar month preceding the payment (but not exceeding the maximum rate, if any, permitted by applicable law).

5.9 Financial Statements. The Borrower agrees that it will furnish the Bank, at such reasonable times as the Bank shall request, current financial statements (including, without limitation, the Borrower's annual budget as submitted or approved), and permit the Bank or its agents and representatives to inspect the Borrower's books and records and make extracts therefrom at its own expense during regular business hours and in a manner which will not disrupt the normal business routine of the Borrower. The Borrower represents and warrants to the Bank that all financial statements which have been delivered to the Bank fairly and accurately reflect the Borrower's financial condition and there has been no material adverse change in the Borrower's financial condition as reflected in the financial statements since the date thereof.

5.10 Environmental Statements. The Borrower shall complete and deliver (and cause to be completed and delivered) to the Bank, prior to the closing of the transaction contemplated by this Contract and when otherwise requested by the Bank, the Bank's standard environmental questionnaires and forms with respect to the Real Property and with respect to any adjoining property as required by the Bank. If requested by the Bank, the Borrower also shall deliver, or cause to be delivered to the Bank, evidence that the Real Property complies with all applicable laws and regulations pertaining to the protection and preservation of the environment. In the Bank's discretion, such evidence may include (without limitation) a certificate, prepared by an environmental engineer acceptable to the Bank, attesting to the satisfactory environmental condition of the Real Property and certifying that all occupants of the Real Property have complied and are complying with all federal, state and local environmental statutes, laws, and regulations. Following the review of any such report, the Bank may require additional testing at the Borrower's expense. The Bank will not be required to advance any funds if the Real Property is subject to any existing or threatened contamination, contains any hazardous materials, or violates (or its intended use will violate) any environmental law or regulation. The Borrower covenants that no violation of any environmental law or regulation shall exist with respect to the Real Property.

5.11 Other Responsibilities and Conditions. Simultaneously with the execution of this Contract and prior to the advancement of any funds hereunder by the Bank, the Borrower shall cause to be provided to the Bank the following:

- (a) An Incumbency and Authorization Certificate in the form of Exhibit C attached hereto;
- (b) An Opinion Letter of counsel for the Borrower in the form of Exhibit D attached hereto;
- (c) A certificate or other proof of insurance on the Real Property, in a form satisfactory to the Bank;
- (d) Certified copies of resolutions of the Borrower's governing body authorizing the Borrower to enter into this Contract and carry out its terms;

- (e) The title insurance commitment described in Section 5.4 hereof (and any endorsements thereto which are required by the Bank);
- (f) A Non-Arbitrage Certificate in the form required by the Bank;
- (g) Certification, in form and substance satisfactory to the Bank, which states that the interest on the Borrower's obligations under the Contract will not be included in the gross income of the Bank for federal and state income tax purposes, and will not be an item of tax preference for purposes of the federal alternative minimum income tax;
- (h) Written evidence that the Real Property and its intended use are in compliance with all applicable zoning ordinances and land use laws and regulations without regard to any conditional or non-conforming use permit. Such evidence may consist of a certification from the appropriate governmental authority(ies), a legal opinion from an attorney satisfactory to the Bank, or a zoning endorsement to the title insurance policy referred to in Section 5.4 above; and
- (i) Executed originals of all other documents and instruments required by this Contract (including but not limited to the documents required by Sections 3.1 (the Note) and 6.1 (the Deed of Trust and other security documents)).

5.12 Special Tax Covenants. The Borrower covenants that: (a) it will make no use of the monies advanced by the Bank and any interest earned thereon (the "proceeds") which would cause the Note or this Contract to be an "arbitrage bond" within the meaning of Section 148 of the Internal Revenue Code of 1986, as amended (the "Code"), or the Treasury Regulations promulgated thereunder; (b) so long as the Contract remains in effect, the Borrower will comply with the requirements of Section 148 of the Code and the applicable Treasury Regulations promulgated thereunder and will not take or omit to take any action which will cause the interest paid or payable under this Contract to be includable in the gross income of the registered owner hereof; (c) the proceeds and the Real Property shall be used exclusively for essential governmental purposes of the Borrower and no use shall be made of the proceeds or of the Real Property, directly or indirectly, which would cause the Note or this Contract to be a "private activity bond" within the meaning of Section 141 of the Code; (d) no part of the payment of principal or interest under this Contract is or shall be guaranteed, in whole or in part, by the United States or any agency or instrumentality thereof; (e) no portion of the proceeds shall be used, directly or indirectly, in making loans the payment of principal or interest with respect to which are to be guaranteed, in whole or in part, by the United States or any agency or any instrumentality thereof; and (f) the Borrower shall not lease or otherwise make any of the Real Property available to any entity if such lease or other availability would cause the interest portion of the Installment Payments to be included in the gross income of the Bank for federal income tax purposes.

The Borrower shall file on or before its due date IRS Form 8038-G and shall furnish the Bank with a certified copy of such filing. The Borrower shall not take or omit to take any action that may cause a loss of the federal or state tax-exempt status of the Note or this Contract or the interest thereon.

5.13 Environmental Representations and Covenants. Borrower represents that, to the best of the Borrower's knowledge, the Real Property is not now and has not ever been used to generate, manufacture, refine, transport, treat, store, handle, dispose, transfer, produce or process Hazardous Materials and that no Hazardous Materials have ever been installed on the Real Property. The Borrower covenants that the Real Property shall be kept free of Hazardous Materials and shall not be used to generate, manufacture, refine, transport, treat, store, handle, dispose, transfer, produce or process Hazardous Materials. The Borrower shall not cause or permit as a result of any intentional or unintentional act or omission on the part of the Borrower or any lessee, tenant, subtenant, licensee, guest, invitee, employee, agent or contractor, the installation of Hazardous Materials in or on the Real Property or a release of Hazardous Materials onto the Real Property or suffer the presence of Hazardous Materials on the Real Property. The Borrower shall comply with and ensure compliance by all sublessees, tenants, subtenants, licensees, guests, invitees, employees, agents and contractors with all applicable federal, state and local laws, ordinances, rules and regulations with respect to Hazardous Materials and shall keep the Real Property free and clear of any liens imposed pursuant to such laws, ordinances, rules and regulations. The Borrower has not received any notice from any governmental agency, entity or any other person with regard to Hazardous Materials on, from or affecting the Real Property. In the event the Borrower does receive any such notice, the Borrower shall immediately notify the Bank. The Borrower, at no expense to the Bank, shall conduct and complete all investigations, studies, sampling and testing and all remedial, removal and other actions necessary to comply with all applicable laws relating to the protection of the environment.

5.14 Fees and Expenses to Borrower. Borrower will be responsible for Bank's closing fee of ONE THOUSAND and No/100 Dollars (\$1,000.00), which will cover the Bank's closing costs and legal fees in this transaction, provided that the Bank may, with prior notice to the Borrower, increase the closing fee if the transaction issues become unusually complex. Additionally, the Borrower will be responsible for all of its own legal fees. The Borrower's attorney shall be expected to complete and certify all title work, prepare a deed of trust on the Bank's form, and provide related services in connection with the closing. Borrower shall be responsible for all stamps, taxes recording fees, survey, appraisal, environmental impact certification, and similar expenses.

SECTION 6. SECURITY; LIENS

6.1 Security. Simultaneously with the execution and delivery of this Contract, the Borrower shall deliver to the Bank the Deed of Trust creating a lien security interest in the Real Property. The Bank is authorized to file Uniform Commercial Code financing statements and such other documentation as may be required to provide the Bank with a perfected first lien security interest in any fixtures on the Real Property. Upon payment in full of all of the Borrower's obligations hereunder, including the Installment Payments and all other payments due hereunder, the Bank, at the Borrower's expense and request, shall cancel the Deed of Trust. The Bank shall have the right, at any time and whether or not there has been a default, to release any property held as collateral, including any portion of the Real Property.

6.2 Liens. The Borrower 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 Real Property or any interest therein (except the security interest granted to the

Bank). The Borrower shall promptly, at its own expense, take such action as may be necessary to duly discharge any such mortgage, pledge, lien, security interest, charge, encumbrance or claim if the same shall arise at any time. Subject to Section 13 hereof, entitled "Limited Obligation of the Borrower," the Borrower shall reimburse the Bank for any expense incurred by it in order to discharge or remove any such mortgage, pledge, lien, security interest, encumbrance or claim.

SECTION 7. DAMAGE, DESTRUCTION AND CONDEMNATION; USE OF NET PROCEEDS

7.1 Damage, Destruction or Condemnation. Subject to Section 13 hereof entitled "Limited Obligation of the Borrower," if, during the term hereof, (i) the Real Property or any portion thereof is destroyed, or is damaged by fire or other casualty; (ii) title to or the temporary or permanent use of the Real Property or any portion thereof or the estate of the Borrower or the Bank in the Real Property or any portion thereof shall be taken under the power of eminent domain by any governmental authority; or (iii) title to or the use of all or any portion of the Real Property shall be lost by reason of a defect in title thereto, then the Borrower shall continue to be obligated, subject to the provisions of Section 7.2. hereof, to continue to pay the amount specified in Section 3.1. hereof.

7.2 Obligation of the Borrower to Repair and Replace the Real Property. Subject to Section 7.3. hereof and unless the Borrower shall exercise its option to prepay in full the outstanding Installment Payments under Section 3.5. hereof, all Net Proceeds shall be applied to the prompt repair, restoration, modification, improvement or replacement of the Real Property in compliance with such terms, conditions and requirements as the Bank from time to time may establish in its discretion and upon receipt of requisitions acceptable to the Bank and the Borrower 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 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. Any repair, restoration, modification, improvement or replacement paid for in whole or in part out of such Net Proceeds shall be the property of the Borrower, subject to the Deed of Trust.

7.3 Insufficiency of Net Proceeds; Discharge of the Obligation of the Borrower to Repair the Real Property. If the Net Proceeds shall be insufficient to pay in full the cost of any repair, restoration, modification, improvement or replacement of the Real Property as required under Section 7.2. hereof, the Borrower may elect to proceed under either of the following options:

(a) the Borrower may complete the work and pay any cost in excess of the amount of the Net Proceeds, and the Borrower agrees that, if by reason of any such insufficiency of the Net Proceeds, the Borrower shall make any payments pursuant to the provisions of this Section 7.3.(a), the Borrower shall not be entitled to any reimbursement therefor from the Bank nor shall the Borrower be entitled to any diminution of the Installment Payments payable under Section 3.1. hereof; or

(b) the obligation of the Borrower to repair or replace the Real Property under Section 7.2. hereof may, at the option of the Borrower, be discharged by (i) causing the Net Proceeds of such insurance policies, performance bonds or condemnation awards to be applied to the payment in full of the entire principal amount of the aggregate outstanding Installment Payments plus accrued interest in accordance with Section 3.5 hereof, and (ii) prepaying in full the remaining principal amount of the aggregate Installment Payments plus accrued interest and any other unpaid sums due the Bank from the Borrower under the contract in accordance with Section 3.5 hereof all other accrued but unpaid sums due from Borrower under this Contract, the Promissory Note, and the Deed of Trust. In the event of an insufficiency of the Net Proceeds for such purpose, the Borrower shall pay such amounts as may be necessary to equal the aggregate outstanding Installment Payments in accordance with Section 3.5 hereof. If the Net Proceeds exceed the amount necessary to pay in full the entire principal amount of the aggregate outstanding Installment Payments plus accrued interest, such excess shall be paid to the Borrower.

Within sixty (60) days after the occurrence of an event specified in Section 7.1 hereof, the Borrower shall commence the repair, restoration, modification, improvement or replacement of the Real Property, or shall elect, by written notice to the Bank, to proceed under the provisions of Section 7.3.(b). In the event that the Borrower shall, after commencing the repair, restoration, modification, or replacement of the Real Property, determine that the Net Proceeds shall be insufficient for the accomplishment thereof, the Borrower may elect to proceed under Section 7.3.(b). Notwithstanding any provision of this Contract to the contrary, (i) if the repair, restoration or replacement of the Real Property is not completed (or if it appears that the same will not be completed) within a reasonable period of time, as determined in the Bank's sole discretion, the Bank has the right and option to use the Net Proceeds (held in escrow or otherwise) to prepay the principal amount of the aggregate Installment Payments plus accrued interest; and (ii) if the Bank believes, in its sole discretion, that its collateral is or might be impaired by allowing the Borrower to repair, restore or replace the Real Property, then the Bank may require that the Net Proceeds be applied to the prepayment of the aggregate principal amount of the outstanding Installment Payments plus accrued interest in accordance with Section 3.5 hereof.

7.4 Insurance. The Borrower shall obtain and maintain, at its expense, at all times until termination of this Contract a primary policy of insurance covering the Real Property and providing the insurance protection described in this Section 7.4. The Borrower shall maintain at its own expense fire, casualty, public liability, property damage and theft insurance, and such other insurance as required by the Bank. The Borrower shall maintain such insurance in such amounts and with such deductibles, if any, as required by the Bank from time to time. The Real Property shall be insured in an amount equal to its replacement value. All such insurance shall be maintained with such insurance company or companies as shall be satisfactory to the Bank and shall provide that losses shall be payable to the Bank and the Bank shall be named as an additional insured with respect to all such insurance. The Borrower shall deliver to the Bank the policies of insurance or duplicates thereof or other evidence satisfactory to the Bank of such insurance coverage. Each insurer shall agree by endorsement upon the policy or policies issued by it that (i) it will give thirty (30) days' prior written notice to the Bank of the cancellation or material modification of such policy and (ii) the coverage of the Bank shall not be terminated, reduced or affected in any manner regardless of any breach or violation by the Borrower of any warranties, declarations and conditions of such insurance. The Borrower hereby appoints the Bank as the Borrower's attorney-in-fact (i) to make claim for, receive payment of, and execute and endorse all

documents, checks or drafts received in payment under any such insurance policies; and (ii) to make, adjust, settle or release any claims under or relating to such insurance. The Borrower agrees to cooperate fully in all accident insurance investigations, claims and litigation proceedings.

7.5 Cooperation of Borrower. The Borrower shall cooperate fully with the Bank in filing any proof of loss with respect to any insurance policy covering the events in Section 7.1. hereof. In no event shall the Borrower voluntarily settle, or consent to the settlement of, any proceeding arising out of any insurance claim with respect to the Real Property without the written consent of the Bank.

SECTION 8. WARRANTIES AND REPRESENTATIONS OF THE BORROWER

The Borrower warrants and represents to the Bank (all such representations and warranties being continuing) as follows:

(a) The Borrower is a political subdivision duly created and existing under the laws of the State of North Carolina and has all powers necessary to enter into the transactions contemplated by this Contract, the Promissory Note, and the Deed of Trust and to carry out its obligations hereunder;

(b) This Contract, the Promissory Note, the Deed of Trust and all other documents relating hereto and thereto, have been duly and validly authorized, approved, executed and delivered by the Borrower, and the performance by the Borrower of its obligations under such documents has been approved and authorized, under all laws, regulations and procedures applicable to the Borrower, including, but not limited to, compliance with all applicable public meeting and bidding requirements, and the transactions contemplated by this Contract, the Deed of Trust and all other documents relating hereto and thereto constitute a public purpose for which public funds may be expended pursuant to the Constitution and laws of the State of North Carolina, and, assuming due authorization, execution and delivery hereof and thereof by the other parties hereto and thereto, constitute valid, legal and binding obligations of the Borrower, enforceable in accordance with their respective terms, except as enforcement thereof may be limited by general principles of equity or by bankruptcy, insolvency and other laws affecting the enforcement of creditors' rights generally and as those other laws may be further limited by the provisions of Section 160A-20 of the General Statutes of North Carolina;

(c) No approval or consent is required from any governmental authority with respect to the entering into or performance by the Borrower of this Contract, the Deed of Trust and the transactions contemplated hereby and thereby, or, if any such approval is required, it has been duly obtained, including the approval of the North Carolina Local Government Commission as evidenced by the Secretary's Certificate;

(d) 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 Borrower's knowledge, threatened, against or affecting the Borrower challenging the validity or enforceability of this Contract, the Deed of Trust or any other documents relating hereto and thereto, or the performance of the Borrower's obligations hereunder and thereunder, and compliance with the provisions

hereof and thereof, under the circumstances contemplated hereby and thereby, does not and will not in any material respect conflict with, constitute on the part of the Borrower a breach of or default under, or result in the creation of a lien or other encumbrance on any property of the Borrower (except as contemplated herein) pursuant to any agreement or other instrument to which the Borrower is a party, or any existing law, regulation, court order or consent decree to which the Borrower is subject;

(e) There are no liens or encumbrances on the Real Property other than the lien created by the Deed of Trust;

(f) A resolution relating to the performance by the Borrower 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 amended, modified, revoked or rescinded;

(g) The purchase of the Real Property is essential to the proper, efficient and economical operation of the Borrower and the Real Property will provide an essential use and permit the Borrower to carry out public functions that it is authorized by law to perform;

(h) A public hearing approving the transactions contemplated by this Contract was held pursuant to Section 160A-20(g) of the General Statutes of North Carolina and notice of the hearing was published at least 10 days before the date fixed for the hearing in accordance with said Statute;

(i) The Borrower has designated and hereby designates its obligation hereunder as a "qualified tax-exempt obligation" within the meaning of Section 265(b)(3) of the Code. The Borrower (i) has not, does not expect to and shall not issue, directly or indirectly through subordinate units, more than \$10,000,000 of tax-exempt obligations (other than private activity bonds) during this calendar year and (ii) has not and shall not designate during this calendar year more than \$10,000,000 of its obligations (or of its subordinate units) as "qualified tax-exempt obligations"; and

(j) The use of the Real Property shall comply with all applicable zoning and similar ordinances.

SECTION 9. INDEMNIFICATION

To the extent permitted by applicable law, the Borrower hereby agrees to indemnify, protect and save the Bank and the Local Government Commission and its members and employees 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 (i) the Real Property, including without limitation, the possession, condition, construction or use thereof, or (ii) the transactions contemplated by this Contract. The indemnification arising under this Section shall continue in full force and effect notwithstanding the payment in full of all obligations under this Contract.

SECTION 10. DISCLAIMER OF WARRANTIES

10.1 No Representations by the Bank. The Borrower acknowledges that it has found the Real Property to be satisfactory and acknowledges and agrees that it has selected the Real Property based upon its own judgment and disclaims any reliance upon any statements or representations made by the Bank with respect thereto.

10.2 Disclaimer By the Bank. THE BANK MAKES NO WARRANTIES OR REPRESENTATIONS, EXPRESS OR IMPLIED, AS TO THE CONDITION, MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE OF THE REAL PROPERTY OR ANY OTHER REPRESENTATION OR WARRANTY WITH RESPECT TO THE REAL PROPERTY.

SECTION 11. DEFAULT AND REMEDIES

11.1 Definition of Event of Default. The Borrower 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 Borrower shall fail to make any Installment Payment or fail to pay any other sum hereunder when due; or

(b) The Borrower's governing body shall fail to budget and appropriate in its budget for any fiscal year monies sufficient to pay all the Installment Payments and the reasonably estimated additional payments under this Contract coming due in the next ensuing fiscal year or shall delete from its adopted budget any appropriation for such purposes; or

(c) The Borrower shall fail to perform or observe any term, condition or covenant of this Contract or of the Deed of Trust or shall breach any warranty by the Borrower herein or therein contained; or

(d) Proceedings under any bankruptcy, insolvency, reorganization or similar litigation shall be instituted by or against the Borrower, or a receiver, custodian or similar officer shall be appointed for the Borrower or any of its property, and such proceedings or appointments shall not be vacated or fully stayed after the institution or occurrence thereof; or

(e) Any warranty, representation or statement made by the Borrower 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 on the date made; or

(f) An attachment, levy or execution of a security interest or lien is levied upon or against the Real Property.

11.2 Remedies on Default. Subject to Section 13 hereof entitled "Limited Obligation of the Borrower," upon the occurrence of any Event of Default, the Bank may exercise any one or more of the following remedies as the Bank in its sole discretion shall elect:

(a) Declare the entire principal amount of the Installment Payments and all accrued interest and other charges immediately due and payable without notice or demand to the Borrower;

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

(c) Exercise all the rights and remedies of a secured party or creditor under the Uniform Commercial Code of the State of North Carolina and the general laws of the State of North Carolina with respect to the enforcement of the security interest granted or reserved hereunder, including, without limitation, to the extent permitted by law, take possession of Real Property 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 Borrower, 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 costs, toward the balance due under this Contract and, thereafter, shall pay any remaining proceeds to the Borrower;

(d) Terminate this Contract as to all or any part of the Real Property and use, operate, lease, or hold all or any part of the Real Property as the Bank in its sole discretion may decide;

(e) Enforce its security interest or institute foreclosure proceedings under the Deed of Trust on all or any portion of the Real Property.

11.3 Further Remedies. All remedies of the Bank 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. The Borrower agrees to pay to the Bank all court costs and reasonable attorney fees incurred by Bank in enforcing the Bank's rights and remedies under this Contract.

SECTION 12. ASSIGNMENT

12.1 Assignment by the Borrower. The Borrower agrees not to sell, assign, lease, sublease, pledge or otherwise encumber or suffer a lien or encumbrance upon or against any interest in this Contract or the Real Property (except for the lien and security interest of the Bank therein) without the Bank's prior written consent.

12.2 Assignment by the Bank. The Bank may, at any time and from time to time, assign all or any part of its interest in the Real Property, this Contract, the Note and/or the Deed of Trust, including without limitation, the Bank's rights to receive the Installment Payments and any additional payments due and to become due hereunder. Any assignment made by the Bank or any subsequent assignee may be made only to a bank, insurance company, or similar financial institution or any other entity approved by the North Carolina Local Government Commission and shall not purport to convey any greater interest or rights than those held by the Bank pursuant to this Contract and the Deed of Trust. The Bank or its assignees may assign or

reassign either this entire Contract or a partial interest herein. All assignments by the Bank shall be subject to the following rules and conditions:

(a) The Bank shall send written notice of the assignment and its effective date to the Borrower before it makes the assignment. Such notification shall be forwarded to the Borrower at least 30 days before the effective date of the assignment. The notification shall include an executed copy of the assignment documents, shall specify the assignee's name and address, and shall provide the Borrower with instructions for making payments after the effective date of the assignment. The requirement of 30 days' notice may be waived in writing by the Borrower.

(b) The Borrower shall not be obligated to make payments to anyone other than the Bank until the notification specified in subparagraph (a) of this Section is received by the Borrower or until the effective date of the assignment, whichever is later. Should the Borrower incorrectly make payments to the Bank after the conditions specified in the preceding sentence are met, the Bank shall return those payments to the Borrower.

(c) When it receives the notification specified in part (a) of this Section, the Borrower shall send a written acknowledgment of the same to the Bank and shall record the assignment in the Borrower's records.

(d) The Bank shall require each of its assignees (i) to conform to the notification requirements of this Section in the event of further assignments, and (ii) to require such conformity from that assignee's assignees.

(e) The Borrower shall execute, at the Bank's request, notice of assignment and other related documents that are reasonably necessary to protect the security interest in the Real Property or in this Contract and to maintain those security interests in perfected form.

After the giving of notice described above to the Borrower, the Borrower shall thereafter make all payments in accordance with the notice to the assignee named therein and shall, if so requested, acknowledge such assignment in writing, but such acknowledgement shall in no way be deemed necessary to make the assignment effective.

SECTION 13. LIMITED OBLIGATION OF THE BORROWER

No provision of this Contract shall be construed or interpreted as creating a pledge of the faith and credit of the Borrower within the meaning of any Constitutional debt limitation. No provision of this Contract shall be construed or interpreted as creating a delegation of governmental powers nor as a donation by or a lending of the credit of the Borrower within the meaning of the Constitution of the State of North Carolina. This Contract shall not directly or indirectly or contingently obligate the Borrower to make any payments beyond the amount appropriated, if any, in the sole discretion of the Borrower for any fiscal year in which this Contract shall be in effect. The Borrower may, at the end of any fiscal year, terminate its future Installment Payment obligations under this Contract if the Borrower has not appropriated sufficient funds to make the next fiscal year's scheduled Installment Payments; provided, however, any failure or refusal by the Borrower to appropriate funds which results in the failure by the Borrower to make any payment coming due hereunder will in no way obviate the occurrence of

the Event of Default resulting from such nonpayment. No deficiency judgment may be rendered against the Borrower in any action for breach of a contractual obligation under this Contract and the taxing power of the Borrower is not and may not be pledged directly or indirectly to secure any moneys due under this Contract. No provision of this Contract shall be construed to pledge or to create a lien on any class or source of the Borrower's moneys, nor shall any provision of this Contract restrict the future issuance of any of the Borrower's bonds or obligations payable from any class or source of the Borrower's moneys. To the extent of any conflict between this Section and any other provision of this Contract, this Section shall take priority.

SECTION 14. TAX-EXEMPT INTEREST

It is the intention of the parties hereto that the interest portion of the Installment Payments paid by the Borrower to the Bank under this Contract shall be tax-exempt under Section 103, and a "qualified tax-exempt obligation" under Section 256(b)(3), of the Code. The Note contains provisions providing for an increase in the interest rate on the occurrence of an Event of Taxability, a Determination of Taxability or a Change in Deductibility, as defined therein. The Borrower agrees to give prompt written notice to the Bank upon the Borrower's receipt of any oral or written notice or information from any source whatsoever to the effect that an Event of Taxability or a Determination of Taxability, or a Change in Deductibility, as defined in the Note, has occurred.

SECTION 15. MISCELLANEOUS

15.1 Waiver. No covenant or condition of this Contract can be waived except by the written consent of the Bank. Any failure of the Bank to require strict performance by the Borrower or any waiver by the Bank of any terms, covenants or conditions herein shall not be construed as a waiver of any other breach of the same or any other term, covenant or condition herein.

15.2 Severability. In the event any portion of this Contract shall be 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.

15.3 Governing Law. This Contract shall be construed, interpreted and enforced in accordance with the laws of the State of North Carolina.

15.4 Notices. Any and all notices, requests, demands, and other communications given under or in connection with this Contract shall be effective only if in writing and either personally delivered or mailed by registered or certified United States mail, postage prepaid, return receipt requested, addressed as follows and as described below, and shall be deemed to be received on the third day after the day it was deposited in the United States mail or on the day it was actually received, whichever is earlier.

If to the Bank, address to:

Southern Bank and Trust Company
121 East Main Street
Post Office Box 729
Mount Olive, North Carolina 28365

If to the Borrower, address to:

Town of Nags Head
Post Office Box 99
5401 South Croatan Highway
Nags Head, North Carolina 27959
Attention: Finance Director

15.5 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.

15.6 Entire Contract. This Contract, together with the Exhibits and attachments 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.

15.7 Binding Effect. Subject to the specific provisions of this Contract, this Contract shall be binding upon and inure to the benefit of the parties and their respective successors and assigns.

15.8 Time. Time is of the essence of this Contract and each and all of its provisions.

15.9 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.

[Signature Page Follows]

IN WITNESS WHEREOF, the parties hereto have caused this Contract to be executed as of the day and year first above written.

SOUTHERN BANK AND TRUST COMPANY

By: _____
Title: _____

TOWN OF NAGS HEAD, NORTH CAROLINA

By: _____
Title: _____

(AFFIX SEAL)

Attest: _____
Title: _____

This Contract has been approved under the provisions of Article 8, Chapter 159 of the General Statutes of North Carolina.

This instrument has been preaudited in the manner required by the Local Government Budget and Fiscal Control Act.

Finance Officer

Secretary
Local Government Commission

Amount of Loan \$500,000.00
Purpose of the Loan: Purchase of real property

EXHIBIT A

DESCRIPTION OF REAL PROPERTY

The property located at 3005 S. Croatan Highway, Nags Head, North Carolina.

EXHIBIT B

PAYMENT SCHEDULE

[TO BE COMPLETED SHOWING FIRST PAYMENT AT CLOSING]

Date of Installment Financing Contract: March ____, 2014
Borrower: Town of Nags Head, North Carolina
Loan Amount: \$500,000.00
Tax Exempt Rate: 1.18%
Term: 59 Months
Total Payments: 5
First Payment Due: March __, 2014

Payment Number	Payment Date	Payment Amount	Interest	Principal	Remaining Balance
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TOWN OF NAGS HEAD, NORTH CAROLINA

By: _____

Name: _____

Title: _____

Date: _____

EXHIBIT C

INCUMBENCY AND AUTHORIZATION CERTIFICATE

In connection with the execution and delivery by **Town of Nags Head, North Carolina** (the "Borrower") of an Installment Financing Contract dated March _____, 2014, between the Borrower and **Southern Bank and Trust Company I**, _____, do hereby certify that I am the duly appointed _____ of the Borrower, a public body existing under the laws of the State of North Carolina, and that I have custody of the official minutes and other pertinent records of that body.

I further certify that:

(1) As of the date of this Certificate, the persons named below hold the positions listed opposite their names.

(2) The persons named below were authorized by a resolution of the Borrower's governing body, passed in a meeting held on _____, 2014 to execute and deliver on behalf of the Borrower the aforesaid Installment Financing Contract, the Promissory Note, and Deed of Trust to evidence and secure respectively, the obligation of the Borrower in connection with the acquisition and/or development and financing of real property and the creation of a security interest in the purchased and/or developed real property, together with all other documents and instruments required and contemplated by said Installment Financing Contract, and to carry out the terms of all of the foregoing, all under and pursuant to the provisions of Section 160A-20 of the General Statutes of North Carolina, as amended. Attached hereto is a true, complete and accurate copy of such resolution. Such resolution has not been amended, rescinded, terminated or otherwise revoked and is in full force and effect.

(3) The signatures set opposite the names and positions of the persons named below are such persons' true and authentic signatures.

<u>Name</u>	<u>Position</u>	<u>Signature</u>
_____	_____	_____
_____	_____	_____

IN WITNESS WHEREOF, I have duly executed this Certificate and have affixed to it the seal of the Town of Nags Head, North Carolina on this the _____ day of _____, 2014.

Name: _____

Title: _____

[AFFIX SEAL]

EXHIBIT D

[PUT ON LETTERHEAD OF BORROWER'S COUNSEL]

FORM OF OPINION LETTER OF BORROWER'S COUNSEL

[DATE]

(Date the same date as the Note)

Re: \$500,000.00 Installment Financing Contract between
Southern Bank and Trust Company ("Bank") and
Town of Nags Head, North Carolina ("Borrower")

Ladies and Gentlemen:

[I am] [We are] legal counsel for the Town of Nags Head, North Carolina (the "Borrower"), and [am] [are] familiar with the above-referenced Installment Financing Contract, the Promissory Note, the Escrow Agreement, the Deed of Trust, and all other documents to be executed by the Borrower in connection therewith (the "Loan Documents"). [I] [we] have examined the Loan Documents, the record of the proceedings taken by the Borrower to authorize and execute the Loan Documents, and such other documents, records, and provisions of law as [I] [we] deemed relevant and necessary as a basis for rendering the following opinion.

On the basis of the foregoing examination, it is [my] [our] opinion that:

1. The Borrower is a duly organized or created and validly existing political subdivision of the State of North Carolina and is authorized under the Constitution and laws of the State of North Carolina to enter into the Loan Documents and to perform its obligations under the Loan Documents.
2. The Loan Documents have been duly authorized by [a resolution] [an order] of **[name of Borrower's governing body]**, and have been properly executed by the officials authorized to execute them, and delivered. The Borrower complied with the Open Meetings Law of North Carolina in regard to the foregoing authorization.

3. The Borrower has complied with the applicable bidding, budgeting, and other laws that relate to its entering into the Loan Documents and carrying out the terms of the Loan Documents.

4. The Loan Documents are valid and legally binding obligations of the Borrower and are enforceable according to their terms.

5. The Deed of Trust was recorded on this date in the office of the Register of Deeds of Dare County, North Carolina. The lien created by the Deed of Trust constitutes a perfected first lien security interest in favor of the Bank with respect to the Real Property (as defined in the Contract and Deed of Trust), and there are no other liens or encumbrances on the Real Property.

6. A public hearing regarding the loan transaction was held pursuant to Section 160A-20(g) of the General Statutes of North Carolina. Notice of the hearing was published at least ten (10) days before the date fixed for the hearing in accordance with said statute.

7. The representations and warranties contained in Section 8 of the Installment Financing Contract are true and accurate.

8. The undersigned has obtained a title insurance binder for a mortgagee's policy of title insurance which insures the Bank as holder of the Deed of Trust. All of the requirements and conditions to be complied with as set forth in the insurance binder for the issuance of the policy have been satisfied and fully performed and no exceptions shall appear on the final policy other than the exceptions which appear in Schedule B - Section II of the title insurance binder.

Very truly yours,

[Signature of Borrower's counsel]

[Typewritten name of Borrower's counsel]

EXHIBIT E

THIS NOTE IS REGISTERED AND MAY NOT BE NEGOTIATED OR OTHERWISE TRANSFERRED EXCEPT BY SURRENDER TO THE MAKER, WHICH MAKER OBLIGATES ITSELF TO PROMPTLY REISSUE THE NOTE AS REQUESTED BY THE HOLDER THEREOF.

**REGISTERED
PROMISSORY NOTE**

\$500,000.00

Nags Head, North Carolina
March ____, 2014

FOR VALUE RECEIVED, the undersigned promises to pay to the order of Southern Bank and Trust Company (the "Bank") at Mount Olive, North Carolina, or at such place as the Bank from time to time may designate in writing, the sum of Five Hundred Thousand and 00/100 Dollars (**\$500,000.00**), together with interest on the unpaid principal balance at the rate of 1.18% per annum, payable as follows:

Principal shall be payable in Five (5) equal consecutive annual payments, in arrears, of ONE HUNDRED THOUSAND and 00/100 Dollars (\$100,000.00) each, beginning March ____, 2014, and continuing on the same date annually thereafter (as set forth in the Payment Schedule). Interest on the outstanding principal balance shall be due and payable on the same date that each principal payment is due. All payments shall be applied first to late payment charges, if any, then to interest accrued to the date of payment, and then to principal.

All parties to this Note, whether principal, surety, guarantor or endorser, hereby waive presentment for payment, demand, protest, notice of dishonor, and all defenses on the grounds of extension of time for the payment hereof which may be given by the holder of this Note to the maker or anyone who has assumed the payment of this Note; and further agree that in case of nonpayment of any installment of principal or of interest thereon when the same shall be due as above provided, or upon default in the performance of any of the agreements or

conditions of the Deed of Trust hereinafter mentioned, then the whole of said principal sum remaining unpaid, together with accrued interest, shall at the option of the payee or legal holder hereof, become due and payable immediately.

This Note is given pursuant to an Installment Financing Contract of even date herewith between the Bank and the maker of this Note, the terms and conditions of which are incorporated herein by reference.

If maker should fail to make all or any part of any scheduled payment herein for more than fifteen (15) days after the due date of that payment, maker shall pay to holder a four percent (4%) late payment charge based on the amount of the late payment. The holder of this Note shall be entitled to add to the principal amount due hereunder the amount of any court costs and reasonable attorney fees incurred by the holder in the collection of this Note.

This Note has been issued payable only to the Bank, which shall be deemed and regarded as absolute owner for all purposes, and the payment of principal and interest on this Note shall be made only to the Bank, whether or not any transfer, assignment or endorsement thereof shall have been made, until this Note has been returned to the maker hereof, together with a request from the Bank, including the name, address of the transferee and the effective date of transfer and such other information as the maker hereof may reasonably require, that the maker hereof issue such Note to the transferee or issue a new note to such transferee.

If at any time there is an Event of Taxability or a Determination of Taxability, as hereinafter defined, this Note shall, from and after the Date of Taxability, as hereinafter defined, bear interest at the "Prime Rate" of the Bank, as said Prime Rate fluctuates from time to time, plus one percent (1%) per annum (the "Alternative Rate of Interest"), payable for such time as the holder hereof shall have held this Note subsequent to the Date of Taxability. Bank's "Prime Rate" of interest, as that term is used in this instrument, means that rate established by Bank and identified as such in literature published and circulated within Bank's offices, and the use of such term shall be used as a means of identifying a rate of interest index and not as a representation by Bank that such rate is the lowest or most favorable rate of interest offered to borrowers of Bank generally and the undersigned shall not have a claim or right of action based on such premise. In such event, the maker also shall be required to pay to the holder all amounts, if any, which may be necessary to reimburse the holder for any interest, penalties or other charges assessed by the Internal Revenue Service and the Department of Revenue for the State of North Carolina against

the holder by reason of the holder's failure to include interest on this Note in its gross income for income tax purposes. Payment amounts under this Note shall be increased as a result of the increased interest rate and additional interest as a result of said rate increase on all previous payments shall be paid to the holder hereof upon demand. The maker shall pay to the holder the above-mentioned Alternative Rate of Interest notwithstanding any transfer by the holder or payment or prepayment by the maker prior to the date such Determination of Taxability was made. The Alternative Rate of Interest is not subject to any maximum rate described heretofore in this instrument.

An Event of Taxability shall mean any event, occurrence or situation resulting from an action, or a failure to act, by the undersigned maker of this Note, the effect of which is to cause the interest accrued or paid on this Note to be includable in the gross income of the holder for federal income tax purposes. A Determination of Taxability shall mean a determination that interest accrued or paid on this Note is included in gross income of the holder for federal income tax purposes, which determination shall be deemed to have been made upon the occurrence of the first to occur of the following: (a) the date on which the holder is advised in writing by the Commissioner or any District Director of the Internal Revenue Service that, as a consequence of an action, or failure to act, by the maker of this Note, the interest on this Note is included in the gross income of the holder thereof for federal income tax purposes; (b) the date on which the maker receives notice from the holder that the holder has been advised (i) in writing that the Internal Revenue Service has issued a statutory notice of deficiency or similar notice to such holder or former holder which asserts, in effect, that interest on this Note received by such holder or former holder is included in the gross income of such holder or former holder for federal income tax purposes as a result of an action, or failure to act, by the maker of this Note or (ii) by an opinion of independent counsel (approved by the holder and the maker hereof) received by the holder which concludes, in effect, that interest on this Note is included in the gross income of the holder or former holder for federal income tax purposes as a result of an action, or failure to act, by the maker of this Note; (c) the day on which the maker is advised in writing by the Commissioner or any District Director of the Internal Revenue Service that there has been issued a public or private ruling of the Internal Revenue Service that the interest on this Note is included in the gross income of any holder or former holder for federal income tax purposes as a result of an action, or failure to act, by the maker of this Note; or (d) the day on which the maker

is advised in writing by counsel to the holder that a final determination, from which no further right of appeal exists, has been made by a court of competent jurisdiction in the United States of America in a proceeding with respect to which the maker has been given written notice and an opportunity to participate and defend that the interest on this Note is included in the gross income of any holder or former holder for federal income tax purposes as a result of an action, or failure to act, by the maker of this Note.

The Date of Taxability shall mean the first date upon which interest on this Note is included in the gross income of the holder or a former holder for federal income tax purposes as a result of an Event of Taxability or a Determination of Taxability.

If at any time there is a Change in Deductibility (hereinafter defined), the interest rate payable hereunder shall increase to the rate which will provide to the Bank the effective yield which it would have received had there not been a Change in Deductibility. A "Change in Deductibility" means any determination by the Internal Revenue Service or any court of competent jurisdiction that the obligation of the undersigned maker is not a "qualified tax-exempt obligation" within the meaning of Section 265(b)(3) of the Internal Revenue Code as a result or as a consequence of (i) an action, or failure to act, by the maker of this note, or (ii) a breach of any representation or warranty made by the maker of this note to the holder hereof relating to the status of this note as a qualified tax-exempt obligation as defined above (including but not limited to the representations and warranties contained in Section 8(i) of the Installment Financing Contract).

This Note is secured by a Deed of Trust of even date herewith on land and premises lying and being situate in Dare County, North Carolina, the agreements and conditions of which Deed of Trust are by reference made a part of this Note.

This Note is to be governed and construed in accordance with the laws of the State of North Carolina.

The rights and remedies of the holder as provided in this Note and any instrument securing this Note shall be cumulative and may be pursued singly, successively, or together against the property described in the Deed of Trust or any other funds, property or security held by the holder as security, in the sole discretion of the holder. The failure to exercise any such right or remedy shall not be a waiver or release of such rights or remedies or the right to exercise any of them at another time. This Note is intended to constitute a contract under

Section 160A-20 of the General Statutes of North Carolina. Notwithstanding any other provision in this Note to the contrary, no deficiency judgment may be rendered against the maker of this Note and the taxing power and/or faith and credit of the maker is not pledged directly or indirectly to secure the payment of this Note.

IN WITNESS WHEREOF, the Town of Nags Head, North Carolina has caused this Note to be executed and sealed in its name on the day and year first above written by persons duly authorized to execute it and to affix its common seal.

TOWN OF NAGS HEAD, NORTH CAROLINA

By: _____

Name: _____

Title: _____

ATTEST:

Name: _____

Title: _____

[AFFIX SEAL]