



**RESOLUTION OF THE TOWN OF NAGS HEAD, NORTH CAROLINA, APPROVING AMENDMENTS TO AN INSTALLMENT FINANCING CONTRACT AND A SUBSTITUTE DEED OF TRUST**

**WHEREAS**, the Town of Nags Head, North Carolina (the "*Town*") previously entered into an Installment Financing Contract, dated as of May 7, 2020 (the "*Original Contract*") with PNC Bank, National Association (the "*Bank*"), pursuant to which the Bank advanced funds to the Town in the amount of \$1,401,396 for the purpose of financing the construction of a pedestrian multi-use path, fuel and pump tank conversion and replacement, and improvements to Dowdy Park (the "*Project*");

**WHEREAS**, as security for the Town's performance of its obligations under the Original Contract, the Town has executed and delivered a Deed of Trust and Security Agreement and Fixture Filing, dated as of May 7, 2020 (the "*Original Deed of Trust*"), to the trustee named therein for the benefit of the Bank, granting a lien on certain real property in which a portion of the Project on which the fuel and pump tank conversion is located (the "*Public Works Facility Site*");

**WHEREAS**, the Board of Commissioners (the "*Board*") of the Town has determined to construct a new public works facility and the Town will need to use the Public Works Facility Site as collateral for the financing of the new facility on the site;

**WHEREAS**, the Town and the Bank have agreed to amend the terms of the Original Contract pursuant to a First Amendment to Installment Financing Contract (the "*First Amendment*") between the Town and the Bank to substitute the Public Works Facility Site pledged as security to the Bank for the Town's performance of its obligations under the Original Contract and to execute and deliver a Deed of Trust and Security Agreement and Fixture Filing (the "*Replacement Deed of Trust*") to the trustee named therein for the benefit of the Bank, to replace the Original Deed of Trust and to grant a lien on certain real property in which a portion of the Project known as Dowdy Park is located as more particularly described in the Replacement Deed of Trust;

**WHEREAS**, there has been made available to the Board the forms of the First Amendment and the Replacement Deed of Trust (collectively, the "*Instruments*"), which the Town proposes to execute and deliver to effectuate the substitution of collateral as described above; and

**WHEREAS**, it appears that each of the Instruments is in appropriate form and is an appropriate instrument for the purposes intended;

**NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF COMMISSIONERS OF THE TOWN OF NAGS HEAD, NORTH CAROLINA, AS FOLLOWS:**

Section 1. **Ratification of Prior Actions.** All actions of the Town, the Town Manager and the Finance Officer and their respective designees in effectuating the changes described in this Resolution are hereby approved, ratified and authorized.

Section 2. **Approval, Authorization and Execution of the Instruments.** The form, terms and content of the Instruments are in all respects authorized, approved and confirmed, and the Mayor, the Town Manager, the Finance Officer and the Town Clerk or their respective designees (the "*Authorized Officers*") are each authorized, empowered and directed to execute and deliver the First Amendment and the Replacement Deed of Trust for and on behalf of the Town, including necessary counterparts, in substantially the form attached hereto, but with such changes, modifications, additions or deletions therein as they may deem necessary, desirable or appropriate, their execution thereof to constitute conclusive evidence of their approval of any and all such changes, modifications, additions or deletions, and that from and after the execution and delivery of the Instruments, the Authorized Officers are each hereby authorized, empowered and directed to do all such acts and things and to execute all such documents as may be necessary to carry out and comply with the provisions of the Instruments as executed.

Section 3. **Further Actions.** The Authorized Officers are each hereby designated as the Town's representatives to act on behalf of the Town in connection with the transactions contemplated by the Instruments, and are authorized to seek opinions on matters of law from the Town Attorney, which the Town Attorney is authorized to furnish on behalf of the Town, and opinions of law from such other attorneys for all documents contemplated hereby. The Authorized Officers are each hereby authorized to designate one or more employees of the Town to take all actions which the Authorized Officers are authorized to perform under this Resolution, and the Authorized Officers are each in all respects authorized on behalf of the Town to supply all information pertaining to the transactions contemplated by the Instruments. The Authorized Officers are each authorized to execute and deliver

for and on behalf of the Town any and all additional certificates, documents, opinions or other papers and perform all other acts as may be required by the Instruments or as they may deem necessary or appropriate to implement and carry out the intent and purposes of this Resolution. Any provision in this Resolution that authorizes more than one officer to take certain actions shall be read to permit such officers to take the authorized actions either individually or collectively.

Section 4. **Repealer.** All motions, orders, resolutions, ordinances and parts thereof in conflict herewith are hereby repealed.

Section 5. **Severability.** If any section, phrase or provision of this Resolution is for any reason declared to be invalid, such declaration does not affect the validity of the remainder of the sections, phrases or provisions of this Resolution.

Section 6. **Effective Date.** This Resolution is effective on the date of its adoption.

Approved and adopted this the 4th day of January 2023.

  
Benjamin Cahoon, Mayor  
Town of Nags Head

I, *Carolyn F. Morris*, Town Clerk of the Town of Nags Head, North Carolina, **DO HEREBY CERTIFY** that the foregoing is a true and exact copy of a resolution entitled "**RESOLUTION OF THE TOWN OF NAGS HEAD, NORTH CAROLINA, APPROVING AMENDMENTS TO AN INSTALLMENT FINANCING CONTRACT AND A SUBSTITUTE DEED OF TRUST**" duly adopted by the Board of Commissioners of the Town of Nags Head, North Carolina at a meeting held on the 4<sup>th</sup> day of January, 2023.

**WITNESS** my hand and the corporate seal of the Town of Nags Head, North Carolina, this the 4<sup>th</sup> day of January, 2023.

ATTEST:

  
Carolyn F. Morris, Town Clerk

