

**STATE OF NORTH CAROLINA  
DEPARTMENT OF STATE TREASURER**

**STATE AND LOCAL GOVERNMENT FINANCE DIVISION  
AND THE LOCAL GOVERNMENT COMMISSION**

**Mailing Address:** 3200 Atlantic Avenue, Longleaf Bldg.  
Raleigh, North Carolina 27604

**Federal Express & Courier:** 3200 Atlantic Avenue, Longleaf Bldg. 102  
Raleigh, North Carolina 27604

**Telephone:** (919) 814-4300  
**Fax:** (919) 855-5812

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**APPLICATION FOR APPROVAL OF  
GUARANTEED ENERGY SAVINGS CONTRACTS**

## **APPLICATION DUE DATE**

The Local Government Commission (the “LGC”) meets the first Tuesday of each month, unless otherwise announced, to conduct its business, including the approval of applications of units of government to incur debt. Generally, to allow adequate review of applications, the staff of the LGC (the “staff”) requires that applications be received no later than twenty-five days prior to the date of the LGC meeting at which the unit wants its application to be considered. However, in more complex transactions the staff may require earlier submission.

Although this application form is available to interested parties by internet access; the project and the related proposed financing should be discussed with the staff prior to submission of an application. Before the application is accepted for submission to the LGC a preliminary conference may be required (G.S. 159-149).

## **LEGISLATIVE REPORTING REQUIREMENT**

State law G.S. 120 - 157.1 – 157.4 adopted and effective on June 24, 2011 requires that certain capital projects to be financed with debt in an amount exceeding \$1,000,000 be reported to the Joint Legislative Committee on Local Government and to the Fiscal Research Division of the North Carolina General Assembly at least 45 days before the application for debt is to be considered for approval by the Local Government Commission. The law applies to all capital projects to be financed by issuing debt over \$1,000,000 with the exception of schools, jails, courthouses and administrative buildings. Copies of the reporting should also be sent to our office at the time of the filing.

This reporting duty is the responsibility of each local government unit. Each unit should consult its own attorney or the unit’s bond counsel for legal advice on complying with the reporting requirements of this new statute.

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ENERGY SAVINGS CONTRACTS**

1. Unit \_\_\_\_\_ Date \_\_\_\_\_

2. Project Description \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

3. Necessity \_\_\_\_\_  
\_\_\_\_\_

4. Principal Amount to be Financed (Do not include any maintenance costs.).... \$ \_\_\_\_\_

5. Interest to be paid during life of contract ..... \$ \_\_\_\_\_

6. Amount due throughout life of contract..... \$ \_\_\_\_\_  
(i.e., amount of periodic payment times number of payments. Should also be  
the total of 4 + 5 above.)

7. Term of the financing contract including options to renew (if any)..... \_\_\_\_\_

8. Qualified Provider selected \_\_\_\_\_  
\_\_\_\_\_

9. The attached are furnished in support of this application:

- a. Certified copy of resolution of governing body making necessary findings and authorizing the contract.
- b. Resolution from Board of County Commissioners acknowledging this project. **(Schools and Community Colleges Only)**
- c. Publisher's Affidavit of Notice of Request for Proposals (at least 15 days in advance of opening).
- d. Publisher's Affidavit of Notice of Award (at least 15 days before date of meeting).
- e. Certified copy of minutes of hearing.
- f. Evidence that two proposals were received. If not, explain.
- g. Summary of licensed architect/engineer evaluation of final proposal.
- h. Acknowledgement from DEQ Utility Savings Initiative (USI) that RFP and Proposals package, IGA and ESA Agreement terms were reviewed.
- i. LGC 108F Estimates of Project Costs and Energy Savings, certified by qualified provider.

- j. Performance Bond equal to 100% of total cost of guaranteed energy savings contract.
  - k. Proposed financing contract.
  - l. Proposed guaranteed energy savings contract with all schedules and exhibits, with acknowledgement from DEQ USI that documents as submitted to LGC have been reviewed
  - m. Completed IRS form 8038-G (2 copies) (To be provided at loan closing).
  - n. Unit Attorney's Opinion.
  - o. Fee Arrangement Letters:
    - Special Counsel
    - Banker/Underwriter
  - p. Notice from Electric, Gas, and/or Water Company/ies that dual invoices will be mailed — one to unit, one to vendor, or granting vendor authorization for electronic access to billing.
  - q. Other: Specify \_\_\_\_\_ .
  - r. Application fee for installment/lease purchase agreement contract. Attach check for appropriate amount.
    - \$1,250 for private placement.
    - \$12,500 for public offering.
10. Current audited financial statements received by Fiscal Management. Audit Reports are due October 31 each year. For units with a calendar year or fiscal year not ending on June 30, audited financial statements should be received within four months of year-end. Yes  No
11. Unit's Attorney \_\_\_\_\_ Telephone \_\_\_\_\_  
 Address \_\_\_\_\_ Fax \_\_\_\_\_
12. Guaranteed Energy Savings Contract vendor \_\_\_\_\_  
 Contact Person \_\_\_\_\_ Title \_\_\_\_\_  
 Telephone \_\_\_\_\_ Fax \_\_\_\_\_
13. Financing contract/agreement with \_\_\_\_\_  
 Contact Person \_\_\_\_\_ Title \_\_\_\_\_  
 Telephone \_\_\_\_\_ Fax \_\_\_\_\_
14. Consulting Firm \_\_\_\_\_  
 (Architect or Engineer)  
 Contact Person \_\_\_\_\_ Title \_\_\_\_\_  
 Telephone \_\_\_\_\_ Fax \_\_\_\_\_
15. Unit's Authorized Agent \_\_\_\_\_  
 Title \_\_\_\_\_ Telephone \_\_\_\_\_ Fax \_\_\_\_\_

This application and supporting documents are deemed to be true and accurate to the best of my knowledge and belief.

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Signature of Authorized Agent  
(As Designated by Board)
Date

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**GUARANTEED ENERGY SAVINGS CONTRACTS  
ESTIMATES OF PROJECT COSTS AND ENERGY SAVINGS**

Project Costs

Proposal Evaluation Costs	\$ _____
Design and Engineering	_____
Construction	_____
Installation	_____
Modification/Remodeling	_____
Maintenance	_____
Repairs	_____
Training	_____
Legal	_____
Other	_____
Total Estimated Project Costs as of _____ (date)	\$ _____
Total Financing Cost (Interest expense, administrative costs)	\$ _____
<b>Total Estimated Project Costs and Financing Cost</b>	<b>\$ _____</b>
<b>Total Estimated Energy Savings over Contract term</b>	<b>\$ _____</b>

I certify that these are the estimated project costs and energy savings projected by \_\_\_\_\_  
\_\_\_\_\_ qualified provider, selected by the local governmental unit.

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Typed or Printed Name

\_\_\_\_\_  
Title

(SEAL)

[FORM RESOLUTION]  
GUARANTEED ENERGY SAVINGS CONTRACTS

**RESOLUTION AUTHORIZING THE FILING OF AN APPLICATION FOR APPROVAL  
OF A GUARANTEED ENERGY SAVINGS FINANCING CONTRACT AUTHORIZED BY  
NORTH CAROLINA GENERAL STATUTE 143-64.17**

WHEREAS, the [local government unit] of \_\_\_\_\_, North Carolina desires to enter into a Guaranteed Energy Savings Contract (the "Contract") to [install energy conservation measures] (the "Project") so as to reduce energy consumption and/or energy-related operating costs; and

WHEREAS, the [local government unit] desires to finance the Project by the use of an installment financing contract (the "Financing Contract") authorized under North Carolina General Statute 160A, Article 3, Section 20; and

WHEREAS, the term of the Contract does not exceed XX years (up to twenty) from the date of the installation and acceptance by the local government unit of the energy conservation measures provided under the Contract; and

WHEREAS, the energy savings resulting from the performance of the Contract will equal or exceed the total cost of the Contract pursuant to an evaluation performed by [a licensed architect or engineer] on behalf of [the local government unit]; and

WHEREAS, the energy conservation measures to be installed under the Contract are for an existing building; and

WHEREAS, findings of fact by this governing body must be presented to enable the North Carolina Local Government Commission to make its findings of fact set forth in North Carolina General Statute 159, Article 8, Section 151 prior to approval of the proposed Financing Contract;

NOW, THEREFORE BE IT RESOLVED that the [local government unit], meeting in [regular/special] session on the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, make the following findings of fact:

1. The proposed Financing Contract is necessary or expedient because [state facts supporting such conclusion].
2. The proposed Financing Contract is preferable to a bond issue for the same purpose because [state the reasons and justifications for choosing the contract method of financing rather than a nonvoted general obligation bond issue or a voted general obligation bond issue].
3. The sums to fall due under the Financing Contract are adequate and not excessive for the proposed purpose because the energy savings over the period of the Contract are guaranteed to equal or exceed the total costs of the improvements.
4. The [local government unit's] debt management procedures and policies are sound because [state facts supporting a conclusion that the debt management policies of the contracting unit have been carried out in strict compliance with the law, or provide assurances that debt management will hence forth be so carried out.]

5. An increase in taxes is not necessary since the guaranteed energy savings equal or exceed the sums to fall due under the Financing Contract.

OR

The initial increase in taxes necessary to meet the sums to fall due under the proposed Financing Contract will be \_\_\_\_\_ cents per \$100 valuation and is not deemed to be excessive. Given the guarantee of energy savings equaling or exceeding total costs, such an increase in taxes is expected to be recaptured over the term of the Financing Contract.

6. The [local government unit] is not in default in any of its debt service obligations.
7. The attorney for [local government unit] has rendered an opinion that the proposed project is authorized by law and is a purpose for which public funds may be expended pursuant to the Constitution and laws of North Carolina.

NOW, THEREFORE, BE IT FURTHER RESOLVED that the [Authorized representative] is hereby authorized to act on behalf of [the local government unit] in filing an application with the North Carolina Local Government Commission for approval of the Project and the proposed Guaranteed Energy Savings Financing Contract and other actions not inconsistent with this resolution.

This resolution is effective upon its adoption this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_\_.

The motion to adopt this resolution was made by [Commissioner] \_\_\_\_\_, seconded by [Commissioner] \_\_\_\_\_, and passed by a vote of \_\_\_\_\_ to \_\_\_\_\_.

\_\_\_\_\_  
[Chairman of Board of Education]

ATTEST:

\_\_\_\_\_  
[Clerk/Secretary]

This is to certify that this is a true and accurate copy of Resolution \_\_\_\_\_, adopted by the [local government unit] Board of Education on the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_\_.

\_\_\_\_\_  
[Clerk/Secretary]

\_\_\_\_\_  
Date

[FORM RESOLUTION]

**RESOLUTION ACKNOWLEDGING THE EXECUTION AND DELIVERY BY THE  
\_\_\_\_\_ COUNTY BOARD OF EDUCATION OF A  
GUARANTEED ENERGY SAVINGS CONTRACT**

BE IT RESOLVED by the Board of Commissioners (the "Board") of the County of \_\_\_\_\_, North Carolina (the "County") as follows:

1. The Board hereby finds, determines and acknowledges that:

(a) the \_\_\_\_\_ County Board of Education (the "School Board") plans to enter into a \$\_\_\_\_\_ guaranteed energy savings contract pursuant to G.S. 143-64.17 et. seq. for the purpose of providing certain energy conservation measures authorized thereby (the "Project") so as to reduce energy consumption and/or energy-related operating costs;

(b) the School Board intends to finance the Project by entering into an installment contract (the "Contract") pursuant to G.S. 143-64.17 and G.S. 160A-20, as amended;

(c) the energy savings resulting from the Project are expected to equal or exceed the total costs payable under the Contract as shown in an evaluation performed by a [licensed architect or engineer] on behalf of the School Board;

(d) the payments under the Contract are not expected to require any additional appropriations to be made to the School Board nor any increase in taxes; and

(e) the Board does not intend to reduce appropriations to the School Board based upon a reduction of energy costs in a manner that would inhibit the ability of the School Board to make the payments under the Contract, provided that the County is not bound in any manner to appropriate funds to the School Board in amount sufficient for the School Board to make such payments.

2. Whereas, the Board of Commissioners has, pursuant to G.S. 115C-429(b), allocated part or all of its school capital outlay appropriation by purpose, function or project as defined in the uniform budget format, the Board, pursuant to G.S. 115C-433(b), also approves an amendment to the budget that increases expenditures from the capital outlay fund for the Project in the amount of \$\_\_\_\_\_.

(Insert paragraph #2 in the Resolution, only if required by G.S. 115C-433(b).)

3. This resolution shall take effect upon its passage.

[SEAL]

\_\_\_\_\_  
Chairman, Board of Commissioners  
of the County of \_\_\_\_\_

I DO HEREBY CERTIFY that this is a true and correct copy of the resolution duly adopted by the Board of Commissioners of the County of \_\_\_\_\_ at a [regular/special] meeting held on \_\_\_\_\_, 20\_\_\_\_\_.

\_\_\_\_\_  
Date

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