

RESOLUTION NO. 19-254

A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF FORT LAUDERDALE, FLORIDA, AUTHORIZING A LOAN IN THE AGGREGATE PRINCIPAL AMOUNT OF NOT EXCEEDING \$70,500,000, IN THE FORM OF A NON-REVOLVING LINE OF CREDIT, FOR THE PURPOSE OF PROVIDING INTERIM FINANCING TO PAY THE COST OF CERTAIN CAPITAL IMPROVEMENTS TO THE CITY'S STORMWATER SYSTEM; ACCEPTING THE PROPOSAL OF PNC BANK, NATIONAL ASSOCIATION, TO PROVIDE SUCH LOAN TO THE CITY; AUTHORIZING THE ISSUANCE OF A NON-REVOLVING CREDIT NOTE TO EVIDENCE AND SECURE THE LOAN; PLEDGING THE PLEDGED FUNDS, INCLUDING, WITHOUT LIMITATION, THE NET REVENUES OF THE CITY'S STORMWATER SYSTEM, AS THE SOURCE OF PAYMENT AND SECURITY FOR THE LOAN AND THE NON-REVOLVING CREDIT NOTE; MAKING FINDINGS AND DETERMINATIONS AS TO SAID LOAN; AUTHORIZING THE EXECUTION AND DELIVERY OF SUCH NON-REVOLVING CREDIT NOTE; APPROVING THE FORM OF A LINE OF CREDIT AGREEMENT AND AUTHORIZING THE EXECUTION AND DELIVERY OF SUCH LINE OF CREDIT AGREEMENT; AUTHORIZING OTHER REQUIRED ACTIONS IN CONNECTION THEREWITH; PROVIDING FOR SEVERABILITY OF INVALID PROVISIONS; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the City of Fort Lauderdale, Florida (the "City") desires to obtain interim financing for a portion of the cost of the design, development, acquisition, construction, extension, enlargement, improvement, renovation, equipping and furnishing of the City's Stormwater System (the "Project"); and

WHEREAS, the City solicited proposals from various financial institutions through the issuance of a Request for Proposals dated November 1, 2019 (the "RFP") for a loan in the form of a non-revolving line of credit (the "Line of Credit"), in an amount not to exceed \$70,500,000, to provide interim financing for the Project; and

WHEREAS, PNC Bank, National Association, (the "Lender") is one of the financial institutions that responded to the RFP with a proposal dated November 22, 2019 (the "Proposal") attached hereto as Exhibit "A" and for all purposes made a part hereof, and is willing to provide a Line of Credit upon the terms and conditions set forth in the Proposal; and

WHEREAS, it is in the best interests of the City to accept the terms of the Proposal, to enter into a Line of Credit Agreement between the City and the Lender (the "Line of Credit Agreement") substantially in the form attached hereto as Exhibit "B" setting forth the terms and conditions pursuant to which the Lender will provide the Line of Credit to the City, and to issue the

Non-Revolving Credit Note (as defined hereinbelow) to evidence its repayment obligations under the Line of Credit;

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COMMISSION OF THE CITY OF FORT LAUDERDALE, FLORIDA:

**SECTION 1. Authority for this Resolution.** This resolution is adopted pursuant to the provisions of Chapters 166, Part II and 403, Florida Statutes, as amended, Article VIII, Section 2 of the Constitution of the State of Florida, the Charter of the City and other applicable provisions of law.

**SECTION 2. Findings.** The City Commission of the City (the "City Commission") hereby finds and determines that:

A. The recitals to this Resolution are hereby incorporated herein as findings and determinations;

B. It is in the best interests of the City to finance on an interim basis the costs of the Project;

C. It is in the best interests of the City to accept the Proposal and to enter into the Line of Credit Agreement and issue the Non-Revolving Credit Note to the Lender; and

D. It is hereby determined by the City that a negotiated award of the Line of Credit is in its best interests because of (i) the volatile financial market conditions, (ii) the necessity of being able to adjust the terms of the Line of Credit to respond to changes in market conditions and (iii) the need to maintain maximum flexibility while moving as expeditiously as possible to consummate the financing.

**SECTION 3. Definitions.** Capitalized terms used herein without definition shall have the meanings ascribed to such terms in the recitals hereto or in the Line of Credit Agreement, unless otherwise provided or unless the context otherwise clearly requires. Any reference in this resolution to the Mayor shall mean either the Mayor or the Vice Mayor of the City. Any reference in this resolution to the City Manager shall mean either the City Manager or an Assistant City Manager of the City designated by the City Manager. Any reference in this resolution to the City Clerk shall mean either the City Clerk or any Assistant City Clerk of the City. Any reference in this resolution to the Chief Financial Officer shall mean either the Chief Financial Officer of the City or a designee of the Chief Financial Officer. Any reference in this resolution to the City Attorney shall mean either the City Attorney of the City or any Assistant City Attorney designated by the City Attorney.

**SECTION 4. Acceptance of Proposal; Authorization of Line of Credit and Issuance of the Non-Revolving Credit Note.** The City Commission hereby accepts the Proposal of the Lender, attached hereto as Exhibit "A," to provide the Line of Credit in an aggregate principal amount not to exceed \$70,500,000. The proceeds from any draw under the Line of Credit shall be used solely for the 19-254

purpose of providing funds to finance on an interim basis the costs of the Project and to pay costs incurred in connection with the Line of Credit and issuance of the Non-Revolving Credit Note.

The City hereby authorizes the issuance of a promissory note (the "Non-Revolving Credit Note"), under and pursuant to the Line of Credit Agreement, in a maximum aggregate principal amount not exceeding \$70,500,000.

SECTION 5. Terms and Provisions Applicable to the Non-Revolving Credit Note.

A. The Non-Revolving Credit Note is issuable only in registered form and shall be in substantially the form attached as Exhibit "B" to the Line of Credit Agreement, with such appropriate variations, omissions and insertions as may be required therein and approved by the City Manager, upon the advice of the City Attorney and Bond Counsel, with the Mayor's and the City Manager's execution of the Non-Revolving Credit Note being conclusive evidence of the City Manager's and the City Commission's approval of such variations, omissions and insertions. The Mayor and City Manager are hereby authorized to execute and deliver the Non-Revolving Credit Note and the City Clerk is hereby authorized and directed to attest to the execution of the Non-Revolving Credit Note by the Mayor and City Manager and affix or imprint the seal of the City thereon. The Non-Revolving Credit Note shall be issued to the Lender, as registered owner thereof, bear interest at a variable rate from its initial draw date through the end of the draw period, and thereafter continue to bear interest at a revised variable rate as described in the Line of Credit Agreement, mature on July 1, 2035, and be subject to prepayment, all as set forth in the Line of Credit Agreement. The Non-Revolving Credit Note shall be secured by and payable from the Pledged Funds (defined below), in the manner and to the extent provided in the Line of Credit Agreement.

B. The City hereby pledges the Net Revenues of the City's Stormwater System as security for the payment of the principal of and interest on the Non-Revolving Credit Note. Such Net Revenues and any investment earnings in the Revenue Fund and in the Sinking Fund are referred to herein as the "Pledged Funds."

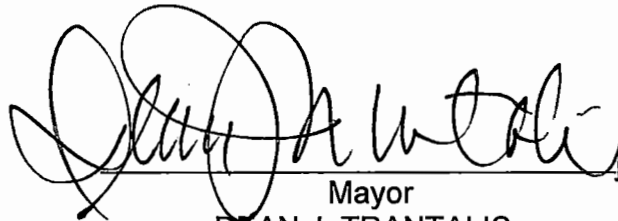
SECTION 6. Approval of the Form and Authorization of Execution and Delivery of the Line of Credit Agreement. The form of the Line of Credit Agreement is hereby approved in substantially the form approved at this meeting and attached hereto as Exhibit "B," with such variations, omissions and insertions as may be approved by the City Manager, upon the advice of the Chief Financial Officer, the City Attorney and Bond Counsel. The City Manager is hereby authorized to execute and deliver the Line of Credit Agreement and the City Clerk is hereby authorized and directed to attest to the execution of the Line of Credit Agreement by the City Manager and affix or imprint the seal of the City thereon. The execution and delivery by the City Manager of the Line of Credit Agreement shall be deemed to be conclusive evidence of the City Manager's and the City Commission's approval of any variations, omissions and insertions in the Line of Credit Agreement from the form thereof attached hereto as Exhibit "B."

SECTION 7. General Authority. The Mayor, the City Manager, the Chief Financial Officer, the City Attorney, the City Clerk and the officers, agents and employees of the City are hereby authorized and directed to do all acts and things required of them by this resolution, the Non-Revolving Credit Note and the Line of Credit Agreement for the full, punctual and complete performance of all the terms, covenants and agreements contained herein or therein, and the Mayor, the City Manager, the Chief Financial Officer, the City Attorney, the City Clerk and the officers, agents and employees of the City are hereby authorized and directed to execute and deliver any and all papers and instruments and to cause to be done all acts and things necessary or proper for the carrying out of the transactions contemplated by this resolution.

SECTION 8. Severability of Invalid Provisions. If any one or more of the covenants, agreements or provisions herein contained shall be held contrary to any express provision of law or contrary to the policy of express law, though not expressly prohibited or against public policy, or shall for any reason whatsoever be held invalid, then such covenants, agreements or provisions shall be null and void and shall be deemed separable from the remaining covenants, agreements or provisions and shall in no way affect the validity of any of the other provisions hereof.

SECTION 9. Effective Date. This resolution shall take effect immediately upon its adoption.

ADOPTED this the 17th day of December, 2019.



Mayor  
DEAN J. TRANTALIS

ATTEST:



City Clerk  
JEFFREY A. MODARELLI



CITY OF FORT LAUDERDALE



November 22, 2019

**City of Ft. Lauderdale**  
**James Hemphill**  
**jhemphill@fortlauderdale.gov**

**PFM**  
**Sergio Masvidal**  
**masvidals@pfm.com**  
**Michael Dennis**  
**dennism@pfm.com**

**Re: City of Ft. Lauderdale, Florida – 2019 Stormwater Line of Credit Financing Request for Proposals for \$70,500,000.**

Good afternoon,

On behalf of The PNC Financial Services Group ("PNC"), attached please find PNC Bank, N.A.'s ("PNC Bank") response to City of Fort Lauderdale, Florida (the "City") Request for Proposals for a Tax-Exempt Floating Rate Bank Line of Credit (the "Line") in an amount not to exceed \$70,500,000. PNC Bank is excited for the opportunity to show support and assist the City in the completion of this transaction.

PNC brings a team-oriented approach to each financing, offering deep industry experience and sound technical expertise. Furthermore, PNC Bank believes in developing full relationships with its clients. We work hard to comprehensively understand our clients' unique financial needs, and leverage the complete capabilities of the bank to respond with thorough, thoughtful solutions.

Once again, PNC is pleased to be able to support the City in this credit financing solution and aims to have the transaction completed in a timely fashion. If you have any questions or need any additional information, please do not hesitate to contact me.

Regards,

Nick Ayotte  
Vice President, Public Finance  
The PNC Financial Services Group  
16740 San Carlos, Blvd  
Ft. Myers, FL 33908  
(T): 239.437.3736  
**nicholas.ayotte@pnc.com**

**Proposal**  
**City of Fort Lauderdale – 2019 Stormwater Line of Credit Financing**

The Lender hereby agrees to extend a Line of Credit (the "Line"), to the City of Fort Lauderdale, Florida (the "City") subject to the terms and conditions set forth in the Request for Proposals (the "RFP") dated November 1, 2019, which is attached hereto and incorporated herein by this reference. By submitting this proposal, the Lender agrees to be legally bound to such terms from the date of this Proposal to the Closing Date of the Line.

**Interest Rate**

The City shall only consider proposals which clearly express the rate of interest and the method of setting such rate of interest and the maximum rate of interest to be charged during the full term of the Line.

**Interest Rate and Index**

A variable, non-bank qualified, tax-exempt rate of interest **during the draw period** equal to \_\_\_\_\_% per annum for the draw period of the Line. Explain the index and formula.

Please refer to the enclosed Summary of Terms and Conditions.

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A fixed, non-bank qualified, tax-exempt rate of interest **during the term period** equal to \_\_\_\_\_% per annum for the term period of the Line. Explain the index and formula.

Please refer to the enclosed Summary of Terms and Conditions.

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**Cost & Expenses**

The Lender shall request the reimbursement of its legal fees in an amount not to exceed \$\_\_\_\_\_.

Please refer to the enclosed Summary of Terms and Conditions.

**Lender Counsel**

The Lender is requested to list the name of at least two firms who may represent it as Lender's counsel.

Please refer to the enclosed Summary of Terms and Conditions.

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The Lender acknowledges that the City reserves the right to reject any and all proposals received in connection with the RFP. The Lender also acknowledges that the City has no responsibility and has no liability whatsoever for any costs incurred by the Lender in preparing or submitting this response.

Respectfully submitted,

PNC Bank, National Association  
[Name of Lender]

By:   
Authorized Officer

Nick Ayotte  
[typed or printed name of officer]

Date: Nov 22, 2019

Address:

PNC Bank  
16740 San Carlos Blvd  
Ft. Myers, FL 33908  
[Address for Correspondence]

Tel.No. 239.437.3736  
[Telephone Number]

Fax No. 239.433.0359  
[Fax Number]

Email [nicholas.ayotte@pnc.com](mailto:nicholas.ayotte@pnc.com)

ACCEPTED this \_\_\_\_ day of \_\_\_\_\_,  
2019

CITY OF FORT LAUDERDALE

By: \_\_\_\_\_  
Authorized Officer

This Summary of Terms and Conditions is not a commitment or an offer to lend and does not create any obligation on the part of the Bank. The Bank will not be deemed to extend any commitment to the Borrower unless and until a formal commitment letter is issued. This outline is only a brief description of the principal terms of the suggested loan and is intended for discussion purposes only.

**CITY OF FT. LAUDERDALE, FLORIDA**  
**SUMMARY OF TERMS AND CONDITIONS**

**November 22, 2019**

<b>Borrower</b>	City of Ft. Lauderdale, Florida (the "City" or the "Borrower")
<b>Bank</b>	PNC Bank, National Association (the "Bank")
<b>Amount</b>	<p>Subject to formal credit approval and documentation, PNC proposes to provide a:</p> <p><b>Non-Bank Qualified Tax Exempt Floating Rate Line of Credit:</b> Tax-Exempt (NBQ) Floating Rate Non-Revolving Line of Credit for up to \$70,500,000 (the "Line" or "Credit Facility")</p>
<b>Purpose</b>	The proceeds of the Credit Facility will be used to fund borrowing needs of certain storm water improvements of the City and to pay the cost of issuance. This offering is for a private placement on the Bank's balance sheet (no CUSIP number).
<b>Collateral</b>	Security will be a senior lien on Net Revenues from the City's Stormwater System and on senior parity with all other Stormwater System bonds, notes and credit facilities.
<b>Amortization, Interest &amp; Maturity</b>	<p><b>Five-Year Floating Rate Line of Credit:</b></p> <p>The Non-Revolving Draw Period will be 60 months from the Closing Date. During the 60-month Non-Revolving Draw Period, the Five-Year Line will have semi-annual interest-only payments every January 1 and July 1, based on the drawn amounts commencing on the next available interest payment date after the Closing Date (Act/360) which is expected to be Jan 1, 2020. If the first interest payment date preference is July 1, 2020, this can be discussed with the Bank.</p>



**City of Ft. Lauderdale, Florida – Up to \$70,500,000 NBQ Tax Exempt Non-Revolving Line of Credit**  
**Summary of Terms and Conditions**

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Minimum draws amounts will be in no less than \$5,000,000 and in denominations of \$1,000,000 thereafter via a Draw Certificate. Draws are also limited to one draw per month.

**Term Out Period:** At the end of the 60-month Non-Revolving Draw Down Period the outstanding balance will amortize over the succeeding ten (10) years with level debt service at Term Out Pricing (see below). Semi-annual interest payments will remain on January 1 and July 1 and annual principal payments will be on either January 1 or July 1 each year, subject to mutual agreement between the City and the Bank.

**Non-Utilized Fee:** During the Non-Revolving Draw Down Period, the Credit Facility will incorporate a Non-Utilized Fee. Unless at least 50% of the Credit Facility is drawn a non-utilized fee of 10 basis points for unutilized amounts (based on average balances outstanding) will be paid quarterly in arrears.

**Variable NBQ Tax-Exempt Interest Rates (Act/360)**

To provide for optionality, the City can elect either a SIFMA or Effective Federal Funds index for the Line which will remain effective during the entire 60-month draw period.

**Five Year NBQ Tax-Exempt Variable Rate:**  
**SIFMA + 111 basis points**

(or)

**Five Year NBQ Tax-Exempt Variable Rate:**  
**(79% x Effective Federal Funds) + 76 basis points**

**Term Out Pricing**

**Bank Prime Rate + 1.00%.** This formula will remain in effect for the full 10-year Term-Out Period.

**Yield Protection**

If an event of taxability occurs due to action (or inaction) caused by the Borrower, the interest rate charged on the outstanding principal balance of the Line shall, effective as of and after the date of the occurrence of such event of taxability, be increased to, calculated and recalculated at the taxable equivalent rate from the date of the determination of taxability, together with any penalties and other costs incurred by the Bank related thereto.

**Index Floor**

Both SIFMA and Effective Federal Funds indices will have a floor rate of 0.00%.

**Default Rate**

Prime + 3.00% or maximum allowable by law, whichever is less.

**City of Ft. Lauderdale, Florida – Up to \$70,500,000 NBQ Tax Exempt Non-Revolving Line of Credit**  
**Summary of Terms and Conditions**

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<b>Prepayment</b>	During the Non-Revolving Draw Period, prepayment can be made without penalty. The City must give the Bank written prepayment notice no less than five (5) business days prior to a repayment.
<b>Covenants</b>	<p>Affirmative and negative covenants will be specified by the Bank for inclusion in the Credit Facility Agreement or Resolution. These include, but are not limited to:</p> <p><b>Rate Covenant:</b> City must maintain rates and charges of the Stormwater System in amounts sufficient to produce Net Revenues adequate to pay 110% of the annual debt service requirement for each fiscal year.</p> <p><b>Mandatory Take Out:</b> The City covenants to fully repay all outstanding principal and accrued interest and close the Line if the City issues additional stormwater debt in any capacity.</p>
<b>Expenses</b>	All expenses incurred by the Bank shall be paid by the Borrower. These include, but are not limited to, fees and expenses of legal counsel (inside and outside) and any other expenses in connection with documenting, closing, monitoring or enforcing the Credit Facility and shall be payable at closing or otherwise on demand. Payment by Borrower of expenses described above shall not be contingent upon the closing of the Credit Facility. Legal fees will be for the account of the Borrower after documentation of the transaction has started. If the City Attorney is comfortable, Mr. Mike Williams of Akerman will serve as bank counsel and review-only fees for the Credit Facility will be no greater than \$12,000. If the City is not comfortable or has conflicts with this request, the Bank will provide an alternative Bank Counsel which may or may not exceed \$12,000.
<b>Representations And Warranties</b>	The Borrower shall make representations and warranties standard for this type of transaction, in form and substance satisfactory to the Bank.
<b>Conditions Precedent</b>	<p>Including, but not limited to, the following all of which shall be in form and substance satisfactory to the Bank:</p> <ol style="list-style-type: none"><li>1) All documentation relating to the Credit Facility in form and substance satisfactory to the Bank.</li><li>2) Satisfactory review of other agreements relating to the Credit Facility.</li><li>3) Evidence that Borrower is authorized to enter into this transaction.</li><li>4) No material adverse change in the condition, financial or otherwise, operations, properties, assets or prospects of the Borrower.</li></ol>

**City of Ft. Lauderdale, Florida – Up to \$70,500,000 NBQ Tax Exempt Non-Revolving Line of Credit**  
**Summary of Terms and Conditions**

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- 5) No material threatened or pending litigation against the Borrower or additional material contingent obligations of the Borrower.
- 6) Delivery of initial opinions of counsel will be required. It is assumed that future draws of the Credit Facility will not be considered new issuances for tax purposes. If this is correct, subsequent opinions will not be required for each draw. If future draws are deemed to be new issuances for tax purposes, opinions will be required and additional fees paid by the Borrower may apply.
- 7) Payment of all legal fees.
- 8) Via certification of the CFO, the City must provide the Bank with mathematical demonstration of the Rate Covenant annually and based on audited FYE numbers.

**Reporting Requirements**

Annual audited financial statements for the borrower within 210 days of the Borrower's fiscal year end.

Budgets, forecasts and other items as may be reasonably requested by the Bank which are prepared by the Borrower and submitted to the Bank no later than the first day of each Fiscal Year.

**Events of Default**

- 1) Payment default.
- 2) Breach of Representations or Warranties.
- 3) Violation of covenant(s).
- 4) Bankruptcy, insolvency.
- 5) Line documents unenforceable.
- 6) Adverse judgments.
- 7) Change of control.
- 8) Cessation of business.
- 9) Default under Master Bond Resolution and other governing bond documents

Other Events of Default as appropriate. The Borrower shall notify the Bank within 10 days of its knowledge of an Event of Default.

**Documentation**

Resolution and other loan documents in form and substance satisfactory to the Bank must be executed and delivered containing representations, warranties, covenants, indemnities, conditions to

**City of Ft. Lauderdale, Florida – Up to \$70,500,000 NBQ Tax Exempt Non-Revolving Line of Credit**  
**Summary of Terms and Conditions**

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lending, events of default and other provisions as are appropriate in the Bank's opinion and specified by the Bank.

**Governing Law**

State of Florida. Consent to Florida Jurisdiction. Waiver of jury trial.

**Indemnification**

Standard indemnification of the Bank by the Borrower will apply.

**Underwriting**

Should PNC be awarded with this Credit Facility, the Bank requires a minimum of 2 weeks for the formal underwriting process from the appointed date.

**Expiration**

This proposal expires December 20, 2019 and the Credit Facility must close no later than this date unless otherwise extended by the Bank in writing.

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**LINE OF CREDIT AGREEMENT**

Dated as of January \_\_, 2020

By and Between

**CITY OF FORT LAUDERDALE, FLORIDA**

and

**PNC BANK, NATIONAL ASSOCIATION**

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## LINE OF CREDIT AGREEMENT

This LINE OF CREDIT AGREEMENT is dated January \_\_, 2020 (the "Agreement") by and between the CITY OF FORT LAUDERDALE, FLORIDA (the "City"), a municipal corporation duly organized and existing under the laws of the State of Florida, and PNC BANK, NATIONAL ASSOCIATION (together with its successors and assigns, the "Lender"), a national banking association organized and existing under the laws of the United States of America.

### WITNESSETH:

WHEREAS, the Lender has agreed to make loans to the City in the form of a non-revolving line of credit pursuant to which one or more draws may be made from time to time (collectively, the "Loan") to provide interim financing of a portion of the costs of the Project (as defined herein); and

WHEREAS, by Resolution No. 19-\_\_ of the City Commission of the City (the "City Commission") duly adopted on December 17, 2020 (the "Resolution"), the City has authorized, among other things, the Loan, in the form of a non-revolving line of credit, in an aggregate principal amount not exceeding \$70,500,000, the execution and delivery of this Agreement, and the issuance of the Non-Revolving Credit Note described herein to the Lender; and

WHEREAS, the Non-Revolving Credit Note shall evidence and secure the City's obligation to repay any and all draws made under the Loan and any other amounts due and owing under this Agreement by the City to the Lender; and

WHEREAS, to provide certain representations, warranties and covenants relating to the Loan, the Non-Revolving Credit Note and the repayment thereof, the City and the Lender desire to enter into this Agreement;

NOW THEREFORE, for good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties to this Agreement hereby agree as follows:

## ARTICLE I

### DEFINITIONS

**Section 1.01 Definitions.** In addition to the words and terms defined in the recitals above or elsewhere in this Agreement, the following words or terms have the meanings set forth below, and any capitalized words or terms used in this Agreement that are not normally capitalized and that are not defined herein shall have the meanings ascribed thereto in the Resolution, unless the context or use indicates a different meaning.

"*Act*" means Article VIII, Section 2 of the Constitution of the State of Florida, Chapters 166, Part II, and 403, Florida Statutes, as amended, the Charter and the Code of Ordinances of Fort Lauderdale, Florida, including, without limitation, Chapter 28, Article IV of the Code of Ordinances, and other applicable provisions of law.



*"Amortization Requirement"* means the principal amounts required to be paid on the Non-Revolving Credit Note on each Principal Payment Date during the Term Period.

*"Annual Budget"* means the budget or budgets, as amended and supplemented from time to time, prepared by the City for each Fiscal Year in accordance with the laws of the State.

*"Arbitrage and Tax Certificate"* means the Arbitrage and Tax Certificate executed and delivered by the City on or before the Closing Date in connection with the Non-Revolving Credit Note.

*"Authorized Depository"* means any bank, trust company, national banking association, savings and loan association, savings bank or other banking association selected by the City as a depository, which is authorized under Florida law to be a depository of municipal funds and which has complied with all applicable state and federal requirements concerning the receipt of City funds.

*"Authorized Officer"* or *"Authorized Officers"* means the Mayor, the City Manager, the Chief Financial Officer or any officer or employee of the City authorized to perform specific acts or duties hereunder by resolution duly adopted by the City Commission.

*"Available Commitment"* means, at any date, the Commitment of the Lender less the aggregate principal amount of all Loans already made hereunder, irrespective of whether such Loans are outstanding on the date of calculation.

*"Availability Fee"* means a fee equal to ten basis points (0.001) multiplied times the amount of the Available Commitment, which fee is payable quarterly in arrears as set forth in Section 2.11.

*"Balloon Debt"* means any Debt twenty-five percent (25%) or more of the principal amount of which is stated to mature or is otherwise payable in a single Fiscal Year.

*"Bond Counsel"* means Greenberg Traurig, P.A., or any other firm of nationally recognized bond counsel designated by the City.

*"Borrowing Date"* means the date on which a Loan is funded by the Lender pursuant to Section 2.02.

*"Business Day"* means any day except (i) a Saturday, (ii) a Sunday or (iii) a day upon which lenders are authorized or required by law or executive order to close in the states in which Notices of Loans may be presented pursuant to this Agreement or in which payments under the Non-Revolving Credit Note are to be made.

*"Chief Financial Officer"* has the meaning set forth in the Resolution.

*"City Attorney"* has the meaning set forth in the Resolution.

*"City Clerk"* has the meaning set forth in the Resolution.

"*City Commission*" means the City Commission of the City or any successor commission, board or body in which the general legislative power of the City shall be vested.

"*City Manager*" has the meaning set forth in the Resolution.

"*Closing Date*" means January \_\_\_, 2020 or such later date on which all of the conditions set forth in Section 3.01 have been satisfied or waived in writing by the Lender.

"*Code*" means the Internal Revenue Code of 1986, as amended, and when reference is made to a particular section thereof, the applicable Treasury Regulations from time to time promulgated or proposed thereunder.

"*Commitment*" means Seventy Million Five Hundred Thousand Dollars (\$70,500,000), as the principal amount of the commitment of the Lender to make Loans evidenced by the Non-Revolving Credit Note and this Agreement.

"*Current Expenses*" means the City's reasonable and necessary current expenses of maintenance, repair and operation of the Stormwater System and shall include, without limiting the generality of the foregoing, all ordinary and usual expenses of maintenance, repair and operation, which may include expenses not annually recurring, administrative expenses payable to the City's General Fund, any reasonable payment to pension or retirement funds properly chargeable to the Stormwater System, insurance premiums, engineering expenses relating to maintenance, repair and operation, management fees paid by the City to any independent operators or managers of any part of the Stormwater System, legal and accounting expenses, any taxes which may be lawfully imposed on the Stormwater System or its income or operations and reserves for such taxes, and any other expenses required to be paid by the City in connection with the Stormwater System, including any amounts required from time to time to pay arbitrage rebate under the Code to the United States of America directly or to fund an arbitrage rebate fund required to be established pursuant to the Arbitrage and Tax Certificate; but "Current Expenses" shall not include any reserves for extraordinary maintenance or repair, or any allowance for depreciation or any deposits or transfers to the credit of the Sinking Fund.

"*Debt*" of any Person means, as of any date, (i) all obligations of such Person for borrowed money, (ii) all obligations of such Person evidenced by bonds, debentures, notes or other similar instruments, (iii) all obligations of such Person to pay the deferred purchase price of property or services, except trade accounts payable arising in the ordinary course of business and (iv) all obligations of such Persons under capital leases.

"*Default Rate*" means a fluctuating interest rate per annum equal to the lesser of (i) the Prime Rate from time to time in effect plus 3.0% per annum and (ii) the maximum interest rate permitted by the laws of the State.

"*Draw*" or "*Drawing*" means a borrowing of money under this Agreement in the form of a Loan to be repaid pursuant to the terms of this Agreement and the Non-Revolving Credit Note.

"*Draw Period*" means the period of time during which a Draw may be made under this Agreement, which shall commence on the Closing Date and continue for sixty (60) months thereafter until the Draw Period Termination Date.

*"Draw Period Termination Date"* means January \_\_, 2025.

*"Draw Period Rate"* means a variable rate per annum equal to seventy-nine percent (79%) of the Effective Federal Funds Rate, plus seventy-six basis points (0.0076); provided that (i) during the time any Loan is outstanding during the Draw Period, the variable rate will adjust daily according to changes in the Effective Federal Funds Rate and (ii) from and after the occurrence of an Event of Default, *"Draw Period Rate"* shall mean the Default Rate.

*"Effective Federal Funds Rate"* shall mean, for any day, the rate comprised of both overnight federal funds and overnight Eurocurrency borrowings by U.S.-managed banking offices of depository institutions, as such composite rate shall be determined by the Federal Reserve Bank of New York ("NYFRB"), as set forth on its public website from time-to-time, and as published on the next succeeding Business Day as the overnight bank funding rate by the NYFRB (or by such other recognized electronic source (such as Bloomberg) selected by the Lender for the purpose of displaying such rate); provided, that if such day is not a Business Day, the Effective Federal Funds Rate for such day shall be such rate on the immediately preceding Business Day. If the Effective Federal Funds Rate determined as above would be less than zero, then such rate shall be deemed to be zero. The rate of interest charged on the Non-Revolving Credit Note shall be adjusted as of each Business Day based on changes in the Effective Federal Funds Rate without notice to the City.

*"Event of Default"* means any of the events of default set forth in Section 7.01.

*"Fiscal Year"* means the twelve (12) month period starting on the first day of October and ending on the last day of September of the following calendar year, as the same may be modified from time to time to conform to the fiscal year of the City established by law.

*"Governmental Authority"* means any national, state or local government, any political subdivision thereof or any other governmental, quasigovernmental, judicial, public or statutory instrumentality or authority, and shall include the City.

*"Government Obligations"* means any of the following, to the extent the same is legal for the investment of public funds under State law: (i) direct obligations of, or obligations the timely payment of the principal of and interest on which are unconditionally guaranteed by, the United States of America; (ii) obligations issued or guaranteed by any instrumentality or agency of the United States of America, whether now existing or hereafter organized; and (iii) municipal obligations, the timely payment of the principal of, interest on and redemption premium, if any, on which are irrevocably secured by obligations described in clause (i) of this definition which will provide sufficient moneys for the payment of the principal of, interest on and redemption premium, if any, of such municipal obligations and which obligations described in clause (i) have been deposited in an escrow account irrevocably pledged to the payment of the principal of, interest on and redemption premium, if any, of such municipal obligations.

*"Improvements"* means any plant, system, facility or property useful or necessary in connection with the collection, treatment, drainage and disposal of stormwater, within and without the corporate limits of the City, including, without limitation, treatment plants, pumping stations, lift stations, valves, force mains, laterals and all requisite appurtenances and equipment,

and shall include all real and personal property and any interest or rights in the foregoing, tangible and intangible, easements and franchises of any nature whatsoever relating to, or convenient for the safe, efficient and economic operation of the Stormwater System, whether now or hereafter existing.

*"Interest Payment Date"* means each January 1 and July 1, commencing July 1, 2020.

*"Lien"* means, with respect to any asset, any mortgage, lien, pledge, charge, security interest or encumbrance of any kind in respect of such asset.

*"Loan"* and *"Loans"* means any loan or loans made by the Lender to the City pursuant to a Notice of Loan issued under this Agreement.

*"Maturity Date"* means [July 1,] 2035.

*"Maximum Principal and Interest Requirements"* means the maximum amount of Principal and Interest Requirements for any Fiscal Year.

*"Mayor"* has the meaning set forth in the Resolution.

*"Net Revenues"* means Revenues less Current Expenses of the Stormwater System.

*"Non-Revolving Credit Note"* means the Non-Revolving Credit Note in the form of Exhibit B referred to in Section 2.03 and issued pursuant to the provisions hereof and of the Resolution.

*"Notice of Loan"* means a notice given by the City pursuant to Section 2.02 in the form of Exhibit A.

*"Person"* means an individual, a corporation, a partnership, an association, a trust or any other entity or organization, including a government or political subdivision or any agency or instrumentality thereof.

*"Pledged Funds"* means (i) Net Revenues, (ii) all amounts in the Sinking Fund, and (iii) any investment earnings on amounts in the Revenue Fund and in the Sinking Fund.

*"Prime Rate"* means, for any day, the rate publicly announced by the Lender from time to time as its prime rate. The Prime Rate is determined from time to time by the Lender as a means of pricing some loans to its borrowers. The Prime Rate is not tied to any external rate of interest or index, and does not necessarily reflect the lowest rate of interest actually charged by the Lender to any particular class or category of customers.

*"Principal and Interest Requirements"* means the respective amounts required in each Fiscal Year to provide for the payment of the principal of and interest on the Non-Revolving Credit Note and any other Debt secured by a parity lien on Net Revenues in such Fiscal Year; provided, however, that the interest rate on the Non-Revolving Credit Note and on any other Debt that bears interest at a variable rate shall be assumed to be the average rate of interest thereon for the prior Fiscal Year or portion thereof while the Non-Revolving Credit Note or such

other Debt bearing interest at a variable rate was outstanding. For purposes of calculating the Principal and Interest Requirements for Balloon Debt, such Balloon Debt shall be assumed to amortize over a period of twenty (20) years on a level debt service basis.

*"Principal Amortization Schedule"* means the principal amortization schedule attached hereto as Exhibit C and by this reference incorporated herein, which shall remain blank during the Draw Period and will be completed within twenty (20) Business Days after the Draw Period Termination Date as provided in Section 2.05(b).

*"Principal Payment Date"* means each July 1 during the Term Period, commencing July 1, 2026.

*"Project"* means the design, development, acquisition, construction, extension, enlargement, improvement, renovation, equipping and furnishing of Improvements for the Stormwater System.

*"Proposal"* means the Lender's proposal dated November 22, 2019, for the making of the Loans pursuant to a non-revolving line of credit.

*"Rate Reset Date"* means (i) while a Draw Period Rate is in effect, each day that is a Business Day; and (ii) while a Term Period Rate is in effect, each Business Day on which the Lender makes a change to its Prime Rate.

*"Related Documents"* means, collectively, this Agreement, the Non-Revolving Credit Note, the Resolution and all certificates or other instruments executed by the City in connection with the execution and delivery of this Agreement and the Non-Revolving Credit Note.

*"Resolution"* has the meaning given to such term in the preambles of this Agreement.

*"Revenue Fund"* means the Revenue Fund established pursuant to Section 6.01 for the deposit of Revenues pursuant to Section 6.02.

*"Revenues"* means all moneys received by the City in connection with or as a result of its ownership or operation of the Stormwater System, including, but not limited to, the income derived by the City from the fees and charges imposed for the Stormwater System pursuant to Ordinance No. C-92-34 enacted by the City Commission on \_\_\_\_\_, 1992, as amended and supplemented from time to time, any proceeds of use and occupancy insurance on the Stormwater System or any part thereof; provided, however, Revenues shall not include grants, contributions or donations, proceeds of insurance (except use and occupancy insurance) and condemnation awards, moneys held in any arbitrage rebate fund and proceeds of sales of property constituting a part of the Stormwater System.

*"Sinking Fund"* means the Sinking Fund established pursuant to Section 6.01.

*"State"* means the State of Florida.

*"Stormwater System"* means and includes any plant, system, facility or property, and additions, extensions and improvements to any of the foregoing, at any future time constructed or

acquired and leased or owned by the City and useful or necessary or having a present capacity for future use in connection with the collection, treatment and disposal of stormwater, and without limiting the generality of the foregoing definition, shall include treatment plants, pumping stations, lift stations, valves, force mains, laterals, mains and all requisite appurtenances and equipment, and shall include all real and personal property and any interest in the foregoing, rights, easements and franchises of any nature whatsoever relating to, or convenient for the operation of, any such system.

*"Stormwater System Revenue Bonds"* means long-term bonds to be issued by the City, which shall be payable from and secured by a senior lien on the Net Revenues of the Stormwater System

*"Subordinated Debt"* means Debt the payment of the principal of and interest on which is secured by a lien on Net Revenues that is expressly stated to be subordinate to the lien on Net Revenues created by this Agreement for the benefit of the Non-Revolving Credit Note and which is designated as "Subordinated Debt" by the City Commission in the resolution authorizing the issuance or incurrence of such Debt.

*"Taxable Rate"* means \_\_\_\_\_.

*"Term Period"* means the period of time during which principal of any and all Loans outstanding under this Agreement shall be repaid. The Term Period shall commence on the day immediately after the Draw Period Termination Date and shall continue for a ten (10) year period ending on the Maturity Date.

*"Term Period Rate"* means a variable rate per annum equal to the Prime Rate plus one percent (1.0%); provided that (i) during the term of any Loan during the Term Period, the variable rate will adjust according to changes in the Prime Rate and (ii) from and after the occurrence of an Event of Default, "Term Period Rate" shall mean the Default Rate.

**Section 1.02 Accounting Terms.** All accounting terms used herein shall be interpreted, all accounting determinations hereunder shall be made, and all financial statements required to be delivered hereunder shall be prepared in accordance with generally accepted accounting principles as in effect from time to time, applied on a basis consistent (except for changes approved by the City's independent public accountants) with the most recent financial statements of the City delivered pursuant to Section 4.08.

**Section 1.03 Time of Day.** All references in this Agreement to times of day shall be references to Florida Eastern Time unless otherwise expressly provided herein.

**Section 1.04 Incorporation of Certain Definitions by Reference.** Each capitalized term used herein and not defined herein shall have the meaning provided therefor in the Resolution, unless the context otherwise clearly requires.

**Section 1.05 Computation of Time Periods.** In this Agreement, in the computation of a period of time from a specified date to a later specified date, the word "from" means "from and including" and the words "to" and "until" each mean "to but excluding."

**Section 1.06 Construction.** Unless the context of this Agreement otherwise clearly requires, references to the plural include the singular, the singular includes the plural and the part includes the whole and "or" has the inclusive meaning represented by the phrase "and/or." The words "hereof," "herein," "hereunder" and similar terms in this Agreement refer to this Agreement as a whole and not to any particular provision of this Agreement. The word "including" has the meaning "including, but not limited to." The section headings contained in this Agreement and the table of contents preceding this Agreement are for reference purposes only and shall not control or affect the construction of this Agreement or the interpretation thereof in any respect. All words used herein shall be construed to be of such gender or number as the circumstances require. Reference to any document means such document as amended or supplemented from time to time as permitted under their respective terms and the terms hereof. Reference herein to an Article, Section or Exhibit shall constitute a reference to such Article, Section or Exhibit of or to this Agreement unless otherwise specified.

[End of Article I]

## ARTICLE II

### NON-REVOLVING CREDIT

**Section 2.01 Commitment to Lend; Use of Loan Proceeds.** The Lender agrees, on the terms and conditions set forth in this Agreement, to lend to the City from time to time amounts not to exceed the Available Commitment on the date such Loan is to be made and not to exceed in the aggregate at any one time outstanding the amount of the Commitment, to be used by the City to pay costs of the Project and to pay costs of issuance of the Non-Revolving Credit Note, and for no other purpose. The City shall be entitled to request, and the Lender shall be required to make, only one Loan in each calendar month; provided that at the time that each Loan is made, such Loan shall be in an aggregate amount that is not less than the lesser of \$5,000,000 or the entire unused balance of the Available Commitment. The foregoing notwithstanding, the initial Loan made on the Closing Date may be in an amount less than \$5,000,000). The City agrees to repay the Lender the full amount of any Loans, plus interest thereon, in accordance with this Agreement. Once an amount has been borrowed and repaid under this Agreement, such amount cannot be re-borrowed.

**Section 2.02 Method of Loans.** If, on any Business Day, the Lender receives at the location specified for the delivery of a Notice of Loan specified pursuant to Section 8.01, a Notice of Loan from an Authorized Officer of the City, and the City telephonically confirms the Lender's receipt of such Notice of Loan, not later than 12:00 noon on such Business Day, the Lender shall, subject to satisfaction of the requirements of Article III, transfer to the City not later than 2:00 p.m. on the next Business Day (or such later date as specified by the City in the Notice of Loan) following the Lender's receipt of the Notice of Loan, in immediately available funds, an amount equal to the Loan thereby requested. If a Notice of Loan is given by facsimile or electronic transmission, the City shall promptly deliver an original of such Notice of Loan by postage prepaid, U.S. Mail; provided that the receipt of such original is not a condition to the Lender's obligation to advance funds hereunder. A Notice of Loan shall be irrevocable after receipt thereof by the Lender. Each Notice of Loan shall specify the following information:

- (i) the aggregate amount of the requested Loan, subject to the limitations set forth in Section 2.01;
- (ii) the requested Borrowing Date and time of funding, which shall be not earlier than 2:00 p.m. of the next Business Day following the Lender's receipt of such Notice of Loan; and
- (iii) the wire instruction for where the proceeds of the proposed Loan should be transferred.

**Section 2.03 Non-Revolving Credit Note.** The Loans made by the Lender shall be evidenced by the Non-Revolving Credit Note, payable to the order of the Lender. The Lender is authorized to make a notation on its Non-Revolving Credit Note as to the date and amount of each Loan and as to each payment of principal with respect thereto, but the failure to make such notation shall not relieve the City of its obligations to repay the amount of each Loan, with interest, as provided herein.



#### **Section 2.04 Interest.**

(a) During the Draw Period, each Loan shall bear interest on the outstanding principal amount thereof, for each day from and including the date such Loan is made until it is paid in full, at a rate per annum equal to the applicable Draw Period Rate in effect as of each Rate Reset Date.

(b) During the Term Period, each Loan shall bear interest on the outstanding principal amount thereof, until it is paid in full, at a rate per annum equal to the applicable Term Period Rate in effect as of each applicable Rate Reset Date.

(c) The Lender shall determine the applicable Draw Period Rate or Term Period Rate as of each Rate Reset Date, and such rate shall become effective on the Rate Reset Date until the next succeeding Rate Reset Date and interest at such rate shall accrue each day until the new Draw Period Rate or Term Period Rate, as applicable, is established; provided that for each non-Business Day during the Draw Period, the applicable Draw Period Rate shall be the rate in effect on the immediately preceding Business Day. Interest on each Loan and amounts otherwise payable hereunder shall be calculated as provided in Section 2.07. **[Revise as needed to reflect PNC rate reset provisions]**

(d) The City agrees to pay to the Lender interest on each Loan on each Interest Payment Date in arrears, such interest to be payable on each Interest Payment Date when a Loan is outstanding, on the date each Loan is paid in full and, solely with respect to the portion of the Loan being repaid, on the date any Loan is paid in part. Any overdue principal and, to the extent permitted by law, overdue interest on any Loan and all other amounts payable hereunder which are not paid when due shall bear interest, payable on demand, for each day until paid, at a rate per annum equal to the Default Rate.

#### **Section 2.05 Principal.**

(a) No principal shall be due and payable on any Loan during the Draw Period.

(b) During the Term Period, principal shall be due and payable on each Loan on each Principal Payment Date in accordance with the Principal Amortization Schedule. Within twenty (20) Business Days after the Draw Period Termination Date, the Lender and the City shall mutually agree on and attach hereto as a new Exhibit C in substitution for the blank Principal Amortization Schedule initially attached hereto, a principal amortization schedule providing for the repayment of the principal amount of all outstanding Loans on each Principal Payment Date, so that the principal of all Loans outstanding as of the Draw Period Termination Date shall be amortized over a ten (10) year period, together with the interest accruing on such outstanding principal amounts, on a level debt service basis during the Term Period. For purposes of preparing the Principal Amortization Schedule described herein, the interest rate on all Loans during the entire Term Period shall be assumed to be the same as the Term Period Rate first established under the Agreement.

(c) The City may prepay the Loans during the Draw Period or the Term Period, without penalty or premium, in whole or in part at any time, or from time to time, by

giving notice to the Lender by 11:00 a.m. on the fifth (5<sup>th</sup>) Business Day before such prepayment is to be made and by paying to the Lender the principal amount thereof to be prepaid together with accrued interest to the date of prepayment. Any such notice of prepayment may be given by facsimile transmission and shall be irrevocable once received by the Lender.

(d) The Loans shall mature in full on the Maturity Date and the City shall repay the outstanding principal amount of all Loans and accrued interest thereon, on the Maturity Date. If at any time prior to the Maturity Date the City issues Stormwater System Revenue Bonds or incurs any other type of Debt (other than Subordinated Debt) payable from and secured by a lien on Net Revenues, all or a portion of the proceeds of such Stormwater System Revenue Bonds or such other Debt, shall be applied in the amount necessary to prepay in full the entire principal amount of Loans then outstanding, plus accrued interest thereon.

**Section 2.06 General Provisions as to Payments.** The City shall make each payment of principal of and interest on the Loans to the Lender, not later than 3:00 p.m. on the day when due, in federal or other immediately available funds. All payments by the City to the Lender hereunder shall be nonrefundable and made in lawful currency of the United States. Amounts payable to the Lender hereunder shall be transferred to the Lender's account at \_\_\_\_\_, ABA # \_\_\_\_\_, Credit to Account No.: \_\_\_\_\_, Reference City of Fort Lauderdale Stormwater System Line of Credit (or to such other account of the Lender as the Lender may specify by written notice to the City not later than the second Business Day prior to the payment date) not later than 3:00 p.m., on the date payment is due. Any payment received by the Lender after 3:00 p.m. shall be deemed to have been received by the Lender on the next Business Day. If any payment hereunder is due on a day that is not a Business Day, then such payment shall be due on the immediately succeeding Business Day, and, in the case of the computation of the interest hereunder, such extension of time shall not be included in the computation of the payment due hereunder.

**Section 2.07 Computation of Interest.** Interest on the Loans shall be computed on the basis of the actual days elapsed and a 360-day year.

**Section 2.08 Maximum Interest Rate.** If the rate of interest due hereunder shall exceed the maximum interest rate permitted by State law for any period for which interest is payable, then (i) interest at such maximum interest rate shall be due and payable with respect to such interest period and (ii) if and to the extent permitted by applicable law, interest at the rate equal to the difference between (A) the rate of interest calculated in accordance with the terms hereof and (B) the maximum interest rate (the "Excess Interest"), shall be deferred until such date as the rate of interest calculated in accordance with the terms hereof ceases to exceed the maximum interest rate, at which time the City shall pay to the Lender, with respect to amounts then payable to the Lender that are required to accrue interest hereunder if and to the extent permitted by applicable law, such portion of the deferred Excess Interest as will cause the rate of interest then paid to the Lender to equal the maximum interest rate, which payments of deferred Excess Interest shall continue to apply to such unpaid amounts hereunder until all deferred Excess Interest is fully paid to the Lender.

**Section 2.09 Maintenance of Accounts.** The Lender shall maintain in accordance with its usual practice an account or accounts evidencing the indebtedness of the City and the amounts

payable and paid from time to time hereunder. In any legal action or proceeding in respect of this Agreement, the entries made in such account or accounts shall be presumptive evidence of the existence and amounts of the obligations of the City therein recorded. The failure to record any such amount shall not, however, limit or otherwise affect the obligations of the City hereunder to repay all amounts owed hereunder, together with all interest accrued thereon as provided in this Article II.

**Section 2.10 Unavailability of Index.** The interest rate on the Non-Revolving Credit Note, as determined by this Agreement, is subject to change from time to time based on changes in an independent index, which is the Effective Federal Funds Rate during the Draw Period and the Prime Rate during the Term Period collectively (the "Index"). The Index is not necessarily the lowest rate charged by the Lender on its loans. In the event that Lender shall have reasonably determined (which determination shall be conclusive absent manifest error) that, by reason of circumstances beyond Lender's reasonable control affecting the Index, the Index is unavailable or cannot be determined then Lender, in its sole discretion, will designate a substitute index that most closely approximates and resembles the Effective Federal Funds Rate (during the Draw Period) or the Prime Rate (during the Term Period), as applicable, and provide written notice to the City of such substitute index. Thereafter, such substitute index shall be deemed to be and shall become the Index as that term is used in this Agreement until the original Index is once again available. If and when the original Index is once again available, it will be used as the basis for determining the interest rate hereunder.

**Section 2.11 Availability Fee; Payment of Expenses.**

(a) Unless at least fifty percent (50.0%) of the Commitment is drawn by the City by no later than July \_\_, 2020, the City shall pay the Availability Fee to the Lender for the remainder of the Draw Period until such time as at least fifty percent (50.0%) of the Commitment has been drawn by the City. If it is payable pursuant to this Section 2.11(a), the Availability Fee shall be paid in arrears on the last Business Day of each calendar quarter during the Draw Period.

(b) All expenses incurred by the Lender, including, without limitations, fees and expenses of legal counsel to the Lender, and any other expenses in connection with documenting, closing, [monitoring] or enforcing the Line of Credit Facility, shall be paid by the City. **[Discuss]**

[End of Article II]

## ARTICLE III

### CONDITIONS

**Section 3.01 Conditions to Effectiveness.** This Agreement shall become effective on the Closing Date provided that the Lender receives each of the following, each in form and substance satisfactory to the Lender, on or prior to such date:

(a) counterparts of this Agreement duly executed by the Lender and an Authorized Officer of the City;

(b) a duly executed Non-Revolving Credit Note, dated the Closing Date, complying with the provisions of Section 2.03;

(c) a copy of the Resolution, certified by the City Clerk of the City as being in full force and effect as of the Closing Date;

(d) an opinion of the City Attorney addressed to the Lender to the effect that, (i) the Resolution has been duly adopted by the City Commission, and this Agreement, and the Non-Revolving Credit Note have been duly authorized, executed and delivered by the City and each constitutes (assuming with respect to the Agreement, the due authorization, execution and delivery thereof by the Lender) a valid, binding and enforceable agreement of the City in accordance with its terms, except to the extent that the enforceability of the rights and remedies set forth herein and therein may be limited by bankruptcy, insolvency or other laws affecting creditors' rights generally or by usual equity principles; (ii) the City's execution, delivery and performance of this Agreement and the issuance of the Non-Revolving Credit Note are not subject to any authorization, consent, waiver, approval or review of any governmental body, public officer or regulatory authority not heretofore obtained or effected; (iii) the City (A) is a municipal corporation duly organized and validly existing under the laws of the State of Florida, (B) has power and authority to execute and deliver this Agreement and to issue the Non-Revolving Credit Note and to consummate the transactions contemplated hereby and thereby and (C) has the legal power to pledge the Pledged Funds as provided in this Agreement; (iv) the adoption of the Resolution and the execution and delivery of this Agreement and the issuance of the Non-Revolving Credit Note, and compliance with the terms hereof and thereof, under the circumstances contemplated hereby and thereby, do not and will not (A) conflict with the Act or (B) in any material respect conflict with, or constitute on the part of the City, a breach of or default under, any indenture, mortgage, deed of trust, agreement or other instrument to which the City is a party or to which any of its property is subject, or conflict with, violate or result in a material breach of any existing law or regulation, judgment, court order or consent decree to which the City, or any of its property is subject; (v) other than as provided in this Agreement, no pledge of or lien on the Pledged Funds currently exists on a basis that is superior to the lien on such revenues in favor of the Non-Revolving Credit Note; and (vi) there is no action, suit, proceeding or investigation at law or in equity before or by any court, public board or body pending that the City has received notice of or, to the best knowledge of the City Attorney, threatened, against or affecting the City Commission or the City challenging the validity of the Non-Revolving Credit Note, the Resolution or this Agreement or any of the transactions contemplated thereby, or challenging the powers of the City to impose, levy or collect, as

applicable, the Revenues, as contemplated herein, or the pledge of the Pledged Funds, or challenging the existence of the City or the respective powers of the several officers or the officials of the City or the titles of the officials holding their respective offices, or seeking to restrain or enjoin the issuance or delivery of the Non-Revolver Credit Note, or the proceedings or authority under which they are being issued, nor is there any basis therefor.

(e) an opinion of Bond Counsel, addressed to the Lender stating that such counsel is of the opinion that: (i) the Resolution has been duly adopted by the City Commission and the Resolution duly authorizes the execution and delivery of this Agreement and the Non-Revolver Credit Note, and the issuance of the Non-Revolver Credit Note by the City; (ii) this Agreement and the Non-Revolver Credit Note have been duly and legally authorized, executed and delivered by the City and (assuming with respect to the Agreement, the due authorization, execution and delivery thereof by the Lender) each is a valid, binding and enforceable obligation of the City in accordance with its terms, subject to appropriate qualifications for bankruptcy, insolvency or other laws affecting creditors' rights generally and equitable principles; (iii) assuming continuing compliance by the City with certain covenants relating to requirements contained in the Code, under existing statutes, regulations, rulings and court decisions, interest on the Non-Revolver Credit Note is excludable from the gross income of the owner thereof for federal income tax purposes; provided, however, that the opinion will state that the federal tax treatment of interest on each separate Draw is governed by the federal tax law in effect on the date the Draw is honored and interest starts to accrue thereon;

(f) a certificate of the City Clerk certifying the names and specimen signatures of each Authorized Officer;

(g) a certificate, dated the Closing Date, of an Authorized Officer to the effect that, on and as of the Closing Date (i) after giving effect to the execution and delivery of this Agreement and the Non-Revolver Credit Note, each of the representations and warranties of the City contained in this Agreement is true and correct on and as of the Closing Date as though made on and as of such date, (ii) no Event of Default has occurred and is continuing or would result from the execution and delivery of this Agreement and the Non-Revolver Credit Note, (iii) there is no existing litigation in which a final and non-appealable adverse determination would result in any material adverse change in the business, financial position or results of operations of the City, and (iv) the certificate delivered under this Section 3.01(g) shall be deemed a representation and warranty by the City that the conditions precedent to the execution and delivery of this Agreement and the Non-Revolver Credit Note, unless otherwise waived in accordance herewith, shall have been satisfied;

(h) a fully executed Arbitrage and Tax Certificate relating to the Non-Revolver Credit Note;

(i) a copy of a completed and executed Form 8038-G to be filed with the Internal Revenue Service;

(j) a letter executed by the Lender representing and covenanting to the City that (i) it is acquiring the Non-Revolver Credit Note for its own account, as evidence of a privately placed negotiated loan and not with a current view to distribution or resale thereof;

provided, however, that after the Draw Period Termination Date, the Lender may dispose of, transfer or assign the Non-Revolving Credit Note to an accredited investor or a qualified institutional buyer, as provided in Section 8.04(b) of this Agreement, if such disposition or assignment can be made without violating any federal or state securities laws and the identity of any purchaser, transferee or assignee as an accredited investor or a qualified institutional buyer shall be provided in writing to the City; (ii) it is making the Loan(s) for its own account, does not currently intend to syndicate the Loan(s), will take no action to cause the Loan(s) to be characterized as a security, and will not treat the Loan(s) as a municipal security for purposes of the securities laws; (iii) it is not acting as a broker or other intermediary, and is funding the Loan(s) from its own capital for its own account and not with a present view to a resale or other distribution to the public; (iv) the Loan(s) will not be used in the future on a securitized transaction or treated as a municipal security; (v) it understands that the Loan(s) is evidenced by the Non-Revolving Credit Note, the Non-Revolving Credit Note is issued in a single denomination equal to the aggregate principal amount of the Loan(s), may not be transferred except in whole, and will not be transferred to any kind of trust under any circumstances; (vi) the Lender is a bank, trust company, savings institution, insurance company, dealer, investment company, pension or profit-sharing trust, or qualified institutional buyer as contemplated by Section 517.061(7), Florida Statutes; (vii) it is not funding the Loan(s) for the direct or indirect promotion of any scheme or enterprise with the intent of violating or evading any provision of Chapter 517, Florida Statutes; (viii) it understands that the Loan(s) is not a municipal security and that no filing will be made with respect to the Loan(s) or the Non-Revolving Credit Note evidencing the Loan(s) with EMMA (the Municipal Securities Rulemaking Board's continuing disclosure site); (ix) it has in its possession or has had access to all material information concerning the security and sources of payment of the Loan(s) and, as a result thereof, is thoroughly familiar with the nature and risks of such Loan(s); it has been afforded access to all material information and has had sufficient opportunity to discuss the business of the City and the project to be financed with the proceeds of the Loan(s) with its officers, employees and others, has been permitted to make an investigation of the City and its operations, and it does not require any further information or data concerning the City; (x) in purchasing the Loan(s), it has relied solely upon its own investigation, examination, and evaluation of the City and other relevant matters, and has not relied upon any statement or materials which have not been supported by its own investigation and examination; (xi) it has knowledge and experience in financial and business matters, particularly in tax-exempt obligations, and is capable of evaluating the merits and risks of its purchase of the Non-Revolving Credit Note and has determined that it can bear the economic risk of such purchase; (xii) it acknowledges that the City, the City's Bond Counsel and the City's financial advisor bear no responsibility for the accuracy or completeness of any information with respect to the City and the project to be financed with the proceeds of the Loan(s) contained in any document related to the purchase of the Loan(s); (xiii) it acknowledges and understands that the Loan(s) is not being registered under the Securities Act of 1933, as amended (the "1933 Act") or Chapter 517, Florida Statutes, and that the City shall have no obligations to effect any such registration or qualification; it also acknowledges and confirms that it is an "accredited investor" within the meaning of Chapter 517, Florida Statutes, and Regulation D of the 1933 Act; (xiv) it acknowledges and agrees that there will be no CUSIPs obtained with respect to the Loan(s) or evidencing the Loan(s); and (xv) it acknowledges and agrees that there will be no credit rating obtained on the Loan(s); and

(k) such other documents as the Lender, its legal counsel, the City Attorney or Bond Counsel may reasonably request.

**Section 3.02 Conditions to Loans.** The obligation of the Lender to make a Loan hereunder is subject to the satisfaction of the following conditions, unless waived in writing by the Lender:

- (a) The Lender shall have received a properly completed Notice of Loan;
- (b) No Event of Default shall have occurred and be continuing;
- (c) The principal amount of such Loan shall not exceed the Available Commitment on the date such Loan is to be advanced and the principal amount of such Loan, together with the principal amount of all other Loans made or to be made on the date of such Loan, does not exceed the Commitment on the date of such Loan;
- (d) The Draw Period Termination Date shall not have occurred.

Each Notice of Loan hereunder shall be deemed to be a representation and warranty by the City on the date of such request as to the facts specified in this Section 3.02.

[End of Article III]

## ARTICLE IV

### REPRESENTATIONS, WARRANTIES AND COVENANTS

**Section 4.01 Representations, Warranties and Covenants of the City.** The City represents and warrants that:

(a) The City is a municipal corporation of the State. Pursuant to the Resolution, the City has duly authorized the execution and delivery of this Agreement and the Non-Revolving Credit Note, the performance by the City of all its obligations hereunder and under the Non-Revolving Credit Note, and the issuance of the Non-Revolving Credit Note in the aggregate principal amount not to exceed \$70,500,000.

(b) The City has complied with all of the provisions of the Act, and has full power and authority to enter into and consummate all transactions contemplated by the Resolution, this Agreement or under the Non-Revolving Credit Note, and to perform all of its obligations hereunder and under the Non-Revolving Credit Note. To the best knowledge of the City, the transactions contemplated hereby do not conflict with the terms of any statute, order, rule, regulation, judgment, decree, agreement, instrument or commitment to which the City is a party or by which the City is bound.

(c) The City is duly authorized and entitled to adopt the Resolution, issue the Non-Revolving Credit Note and execute and deliver this Agreement and, when this Agreement and the Non-Revolving Credit Note are executed and delivered, and assuming the due authorization, execution and delivery of the Agreement by the Lender, the Agreement and the Non-Revolving Credit Note will each constitute a legal, valid and binding obligation of the City enforceable in accordance with their respective terms, subject as to enforceability to bankruptcy, insolvency, moratorium, reorganization or other similar laws affecting creditors' rights generally and except to the extent that the availability of certain remedies may be precluded by general principles of equity.

(d) There are no actions, suits or proceedings pending or, to the best knowledge of the City, threatened against or affecting the City, at law or in equity, or before or by any governmental authority, that, if adversely determined, would materially impair the ability of the City to perform the City's obligations under the Resolution, this Agreement or the Non-Revolving Credit Note.

(e) The financial information concerning the City heretofore delivered to the Lender is complete and correct and fairly presents the financial condition of the City for the period(s) referred to in such information. There are no liabilities (of the type required to be reflected on balance sheets prepared in accordance with generally accepted accounting principles), direct or indirect, fixed or contingent, of the City as of the date of such financial information which are not reflected therein. There has been no material adverse change in the financial condition or operations of the City since the date of such information (and no such material adverse change is pending or, to the City's knowledge, threatened).



(f) Prior to the execution and delivery of this Agreement and the issuance of the Non-Revolving Credit Note, the City does not have any Debt outstanding secured by a lien on the Pledged Funds (including, without limitation, the Net Revenues) that is on a parity with or senior to the lien of the Non-Revolving Credit Note on the Pledged Funds (including, without limitation, the Net Revenues). As of the date of this Agreement, the Non-Revolving Credit Note shall constitute the only Debt of the City secured by a senior lien on the Pledged Funds (including, without limitation, the Net Revenues).

(g) The City shall not take any action or omit to take action the effect of which is expected in the aggregate to have a material adverse impact upon the collection of Revenues.

**Section 4.02 Representations, Warranties and Covenants of the Lender.** The Lender represents, warrants and covenants that:

(a) The Lender is a banking association duly organized and validly existing under the laws of the United States of America and is duly authorized to conduct business in the State of Florida, with full power and authority to enter into this Agreement, to perform its obligations hereunder and to make the Loan(s). The execution and delivery of this Agreement by the Lender and the making of the Loan(s) has been duly authorized by all necessary action on the part of the Lender and will not violate or conflict with applicable laws or any material agreement, indenture or other instrument to which the Lender is a party or by which the Lender or any of its properties are bound.

(b) Assuming the due authorization, execution and delivery thereof by the City, this Agreement is a valid and binding obligation of the Lender enforceable in accordance with its terms, except to the extent that enforceability may be subject to valid bankruptcy, insolvency, reorganization, moratorium or similar laws relating to or from time to time affecting the enforcement of creditors' rights and except to the extent that the availability of certain remedies may be precluded by general principles of equity.

(c) Pursuant to the terms and provisions of this Agreement, the Lender agrees to establish a non-revolving line of credit on behalf of the City pursuant to which it will make the Loans to the City for the purpose of financing the costs of the Project and paying costs of issuance of the Non-Revolving Credit Note.

**Section 4.03 No Advisory or Fiduciary Relationship.** Neither the Lender nor any of its affiliates shall act as a fiduciary for the City or in the capacity of broker, dealer, municipal securities underwriter or municipal advisor with respect to the Loan(s) or the issuance of the Non-Revolving Credit Note. Neither the Lender nor any of its affiliates has provided, and will not provide, financial, legal, tax, accounting or other advice to or on behalf of the City with respect to the Loan(s) or the proposed issuance of the Non-Revolving Credit Note. The City has sought and obtained financial, legal, tax, accounting and other advice (including as it relates to structure, timing, terms and similar matters) with respect to the Loan(s) and the proposed issuance of the Non-Revolving Credit Note from its financial, legal and other advisors (and not the Lender or any of its affiliates) to the extent that the City desired to obtain such advice. Each

of the City and the Lender is capable of evaluating, and understands and accepts, the terms, risks and conditions of the transactions contemplated by this Agreement.

**Section 4.04 Security for Non-Revolving Credit Note.** The repayment of the Loan(s) hereunder and payment of the principal of and interest on the Non-Revolving Credit Note shall be secured forthwith equally and ratably by a pledge of and lien upon the Pledged Funds to the extent and in the manner provided in Articles V and VI hereof.

**Section 4.05 Payment Covenant.** The City covenants that it shall duly and punctually pay from the Pledged Funds the principal of and interest on the Loan(s) at the dates and place and in the manner provided herein and in the Non-Revolving Credit Note according to the true intent and meaning thereof and all other amounts due under this Agreement. Failure to comply with this Section 4.05 shall result in an Event of Default under Section 7.01(a) hereof.

**Section 4.06 Compliance with the Code.**

(a) *General.* The City covenants that it will not take or omit to take any action that, if taken or omitted, or make or direct the making of any investment or other use of the proceeds of the Loan(s) that would cause the Non-Revolving Credit Note to be a "private activity bond" as that term is defined in Section 141 (or any successor provision thereto) of the Code, or that would cause the Non-Revolving Credit Note to be an "arbitrage bond" as that term is defined in Section 148 (or any successor provision thereto) of the Code, or a "hedge bond" as that term is defined in Section 149(g) (or any successor provision thereto) of the Code or otherwise result in the loss of the exclusion of interest on the Non-Revolving Credit Note from the gross income of the owner thereof for federal income tax purposes under the Code and all applicable regulations promulgated under the Code or under the statutory predecessor of the Code, and that it will comply with the requirements of Section 148 of the Code and the aforementioned regulations throughout the term of the Non-Revolving Credit Note. Notwithstanding any other provision of the Resolution or this Agreement to the contrary, so long as necessary in order to maintain the exclusion from gross income of interest on the Non-Revolving Credit Note for federal income tax purposes, the covenants contained in this Section 4.06 shall survive the payment of the Non-Revolving Credit Note and the interest thereon, including any payment thereof.

(b) *No Private Activity.* The City shall not permit any use or receive or constructively receive any payment that would cause the Non-Revolving Credit Note to be treated as a "private activity bond" as that term is defined in Section 141 (or any successor provision thereto) of the Code, and the City shall comply with the requirements of the Code. Particularly, but without limitation, the City or other governmental entity shall be the owner of the Project for federal income tax purposes.

(c) *No Federal Guaranty.* The payment of principal of and interest on the Non-Revolving Credit Note shall not be guaranteed (in whole or in part) by the United States or any agency or instrumentality of the United States. The proceeds of the Loan(s) or amounts treated as proceeds of the Loan(s) shall not be invested (directly or indirectly) in federally insured deposits or accounts, except to the extent such proceeds (i) may be so invested for an initial temporary period until needed for the purpose for which the Loan(s) is being procured, (ii)

may be so used in making investments of a bona fide debt service fund, or (iii) may be invested in obligations issued by the United States Treasury.

(d) *Assuring Ongoing Compliance.* All necessary and desirable steps by the City shall be taken to comply with the requirements hereunder in order to ensure that the interest on the Non-Revolving Credit Note is excluded from gross income for federal income tax purposes under the Code including, without limitation, adhering to the Arbitrage and Tax Certificate of the City; provided, however, compliance with any particular requirement shall not be required in the event (x) the City receives a Bond Counsel Opinion that provides either (i) compliance with such requirement is not required to maintain the exclusion from gross income of interest on the Non-Revolving Credit Note for federal income tax purposes, or (ii) the City's compliance with some other requirement will meet the requirements of the Code in order to maintain the exclusion from gross income of the interest on the Non-Revolving Credit Note for federal income tax purposes under the Code and (y) in the case of (x)(ii) the City complies with all such other requirements in order to maintain the exclusion from gross income of the interest on the Non-Revolving Credit Note for federal income tax purposes under the Code.

**Section 4.07 Adjustment to Interest Rate if Determined Not to be Tax-Exempt.** Upon a Determination of Taxability (as defined below) the interest rate on the Non-Revolving Credit Note shall be immediately and automatically adjusted to the Taxable Rate. In addition to the payments of principal and interest on the Non-Revolving Credit Note required to be paid pursuant to the terms of this Agreement and the Non-Revolving Credit Note, the City agrees to pay to the Lender an amount equal to the difference between the interest rate prior to the Determination of Taxability and the Taxable Rate, from the date such interest is declared to be taxable to the date of the Determination of Taxability, together with any interest, penalties on overdue interest and additions to tax (as referred to in Subchapter A of Chapter 68 of the Code or any similar or successor provisions) owed by the Lender as a result of the occurrence of such Determination of Taxability. This adjustment shall survive the payment of the Non-Revolving Credit Note until such time as the federal statute of limitations under which the Non-Revolving Credit Note could be declared taxable expires. A "Determination of Taxability" for purposes of this Agreement shall mean a non-appealable final decree or judgment of any federal court or a final action (which is not appealable) of the Internal Revenue Service determining that the interest paid or payable on the Non-Revolving Credit Note is or was includable in the gross income of the Lender for federal income tax purposes as a result solely from the action or inaction of the City. All such additional interest, additions to tax, penalties and interest shall be paid within ninety (90) days following the Determination of Taxability and the written demand of the Lender.

**Section 4.08 Information Requirements.** The City agrees to deliver to the Lender, when available, or within 210 days after the end of its Fiscal Year, whichever is earlier, the audited financial statements relating to the City for each Fiscal Year while the Non-Revolving Credit Note is outstanding. In addition, the City agrees to deliver to the Lender, (i) the Annual Budget no later than the first Business Day of the Fiscal Year to which the Annual Budget relates and (ii) upon written request, when available, such other financial information as the Lender may reasonably request.

**Section 4.09 Additional Debt.**

(a) The City may issue or incur additional Debt (other than Subordinated Debt) secured by a lien on Net Revenues without limit as to principal amount, but only if the proceeds of such additional Debt are applied on the date of issuance or incurrence of such Debt to prepay in full the outstanding principal of and interest on the Non-Revolving Credit Note, so that upon issuance of such additional Debt and the application of the proceeds thereof as required by this Section 4.09(a), the Non-Revolving Credit Note shall be paid in full.

(b) The City may incur Subordinated Debt without condition or limit as to amount.

**Section 4.10 Rate Covenant.** The City covenants that it will fix, charge and collect reasonable rates and charges for the use of the services and facilities furnished by the Stormwater System and that from time to time, and as often as it shall appear necessary, it will adjust such rates and charges by increasing the same or any selected categories of rates and charges so that the Net Revenues received in each Fiscal Year (excluding from the computation of Current Expenses for any Fiscal Year any amount received from any source other than Revenues and applied to the payment of Current Expenses in such Fiscal Year) will be sufficient to provide an amount in such Fiscal Year at least equal to one hundred ten per centum (110%) of the Principal and Interest Requirements for such Fiscal Year on account of the Non-Revolving Credit Note. The City's compliance with the requirements of this Section 4.10 shall be evidenced annually to the Lender by a certificate of the Chief Financial Officer which certificate shall be based on the City's audited financial statements for the applicable Fiscal Year.

[End of Article IV]

## **ARTICLE V**

### **SOURCE OF PAYMENT OF NON-REVOLVING CREDIT NOTE; SPECIAL OBLIGATIONS OF THE CITY**

**Section 5.01 Non-Revolving Credit Note Not to be General Obligation or Indebtedness of the City.** The Non-Revolving Credit Note shall not be deemed to constitute a general obligation or a pledge of the faith and credit of the City, the State of Florida or any political subdivision thereof within the meaning of any constitutional, legislative or charter provision or limitation, but shall be payable solely from and secured by a lien upon and a pledge of the Pledged Funds, in the manner and to the extent herein provided. No holder of the Non-Revolving Credit Note shall ever have the right, directly or indirectly, to require or compel the exercise of the ad valorem taxing power of the City or any other political subdivision of the State of Florida or taxation in any form on any real or personal property to pay the Non-Revolving Credit Note or the interest thereon, nor shall any holder be entitled to payment of such principal and interest from any other funds of the City other than the Pledged Funds, all in the manner and to the extent herein provided. The Loan(s) evidenced by the Non-Revolving Credit Note shall not constitute a lien upon any real or personal property of the City, or any part thereof, or any other tangible personal property of or in the City, but shall constitute a lien only on the Pledged Funds, all in the manner and to the extent provided herein.

**Section 5.02 Pledge to Secure the Non-Revolving Credit Note.** The City does hereby irrevocably pledge the Pledged Funds (including, without limitation, the Net Revenues), to the payment of the principal of and interest on the Non-Revolving Credit Note and any other amounts owed by the City to the Lender under this Agreement. The City hereby pledges and assigns to the Lender and grants a lien in favor of the Lender on the Pledged Funds (including, without limitation, the Net Revenues), for so long as the Non-Revolving Credit Note remains outstanding or any other amounts due to the Lender under this Agreement remain unpaid. The foregoing notwithstanding, nothing contained in this Agreement or in the Non-Revolving Credit Note shall limit or restrict the City's right and ability to apply (i) Revenues to pay Current Expenses at any time during the Fiscal Year or (ii) after all Principal and Interest Requirements on the Non-Revolving Credit Note coming due in the Fiscal Year have been paid or provided for, to any other lawful purpose of the City.

[End of Article V]

## ARTICLE VI

### CREATION AND USE OF FUNDS; DISPOSITION OF NET REVENUES AND PLEDGED FUNDS

**Section 6.01 Creation of Funds.** There are hereby created and established the following special Funds: the "City of Fort Lauderdale, Florida Stormwater System Line of Credit Revenue Fund" (the "Revenue Fund") and the "City of Fort Lauderdale, Florida Stormwater System Line of Credit Sinking Fund" (the "Sinking Fund").

The Revenue Fund and the Sinking Fund established hereunder shall constitute trust funds for the purposes herein provided, shall be held by the City (which may be in an Authorized Depository designated by the Chief Financial Officer), in each case who shall act as trustee of such Funds for the purposes hereof, and shall at all times be kept separate and distinct from all other moneys of the City and used only as herein provided. Money held in the Revenue Fund and the Sinking Fund shall be subject to a lien and charge in favor of the Lender as the holder of the Non-Revolving Credit Note as herein provided.

#### **Section 6.02 Revenue Fund and Use of Moneys Therein.**

(a) For as long as any of the principal of and interest on the Non-Revolving Credit Note shall be outstanding and unpaid, or until there shall have been set apart in the Sinking Fund a sum sufficient to pay when due the entire principal amount of the Non-Revolving Credit Note remaining unpaid, together with interest accrued or to accrue thereon, in each Fiscal Year the City covenants with the Lender to deposit Net Revenues into the Revenue Fund in amounts sufficient to pay the principal of and interest on the Non-Revolving Credit Note coming due in such Fiscal Year, at the times and in the amounts provided in this Section 6.02.

(b) In each Fiscal Year as the City receives Net Revenues, the City shall deposit such Net Revenues into the Revenue Fund in an amount sufficient to pay the interest coming due on the Non-Revolving Credit Note in such Fiscal Year. At least two (2) Business Days prior to any prepayment of principal of the Non-Revolving Credit Note, the City shall deposit into the Revenue Fund an amount of Net Revenues sufficient to pay the interest due and payable on the principal portion of the Non-Revolving Credit Note on the prepayment date.

(c) In each Fiscal Year, as the City receives Net Revenues, the City shall deposit such Net Revenues into the Revenue Fund in an amount sufficient to pay the full principal amount of the Non-Revolving Credit Note due and payable in such Fiscal Year; provided, however, that if an Authorized Officer has provided written notice to the Lender that the City intends to issue Stormwater System Revenue Bonds the proceeds of which are to be used to pay the principal amount of the Non-Revolving Credit Note in full, then the City shall not be required to deposit Net Revenues in the Revenue Fund in respect of the principal of the Non-Revolving Credit Note unless such long-term bonds are not issued by, and the proceeds thereof are not available to pay the principal of the Non-Revolving Credit Note, at least five (5) Business Days prior to the Principal Payment Date occurring in such Fiscal Year, in which case an amount of Net Revenues sufficient to pay the principal of the Non-Revolving Credit Note on

such Principal Payment Date shall be deposited in the Revenue Fund not later than the second Business Day prior to the Principal Payment Date.

(d) Moneys on deposit in the Revenue Fund shall be withdrawn and deposited into the Sinking Fund on each Interest Payment Date, each Principal Payment Date, on a prepayment date and on the Maturity Date, in an amount sufficient to pay the interest on or principal of the Non-Revolving Credit Note then coming due, as applicable.

**Section 6.03 Sinking Fund and Use of Moneys Therein.**

(a) Moneys on deposit in the Sinking Fund shall be used solely for the payment of the principal of and interest on the Non-Revolving Credit Note.

(b) The City shall pay to the Lender on or prior to each Interest Payment Date, each Principal Payment Date, on any prepayment date and on the Maturity Date, by wire transfer or delivery in other immediately available funds, an amount sufficient to pay the interest on and principal of the Non-Revolving Credit Note due and payable on such Interest Payment Date, Principal Payment Date, prepayment date or the Maturity Date, as applicable.

**Section 6.04 Investments.** Moneys on deposit to the credit of the Revenue Fund may be invested in accordance with the City's written investment policy. Moneys on deposit to the credit of the Sinking Fund may be invested only in Government Obligations.

[End of Article VI]

## ARTICLE VII

### EVENTS OF DEFAULT AND REMEDIES

**Section 7.01 Events of Default.** If any of the following events shall occur, each such event shall be an "Event of Default":

(a) payment of the principal of, Amortization Requirement or interest on the Non-Revolving Credit Note shall not be made within five (5) Business Days after the same shall become due and payable on an Interest Payment Date, on a Principal Payment Date, on the Maturity Date, on a prepayment date or otherwise; or

(b) the City shall default in the due and punctual performance of any other covenants, conditions, agreements and provisions contained in the Non-Revolving Credit Note or in this Agreement or the Resolution on the part of the City to be performed, and such default shall continue for thirty (30) days after written notice specifying such default and requiring same to be remedied shall have been given to the City by the Lender; provided, however, that if the City shall proceed to take such curative action which, if begun and prosecuted with due diligence, cannot be completed within a period of thirty (30) days, then such period shall be increased to such extent as shall be necessary to enable the City to diligently complete such curative action not to exceed an additional ninety (90) days; or

(c) any representation or warranty of the City contained in this Agreement or in any certificate or other closing document executed and delivered by the City in connection with the issuance of the Non-Revolving Credit Note or the making of any Loan shall prove to have been untrue in any material respect when executed and delivered and such untrue representation or warranty shall materially adversely affect the Net Revenues or the City's ability to perform its obligations under this Agreement; or

(d) a final judgment for the payment of money in excess of \$ \_\_\_\_\_ shall be rendered against the City as a result of the ownership, control or operation of the Stormwater System and any such judgment shall not be discharged within sixty (60) days from the entry thereof or an appeal shall not be taken therefrom or from the order, decree or process upon which or pursuant to which such judgment shall have been granted or entered, in such manner as to stay the execution of or levy under such judgment, order, decree or process or the enforcement thereof; or

(e) the City admits in writing its inability to pay its debts generally as they become due, or files a petition in bankruptcy or makes an assignment for the benefit of its creditors or consents to the appointment of a receiver or trustee for itself or for the whole or any part of its property or a receiver or trustee for such purpose is appointed without the consent of the City; or

(f) the City is adjudged insolvent by a court of competent jurisdiction, or is adjudged a bankrupt on a petition in bankruptcy filed against the City, or an order, judgment or decree is entered by a court of competent jurisdiction appointing, without the consent of the City, a receiver or trustee of the City or of the whole or any part of its property and any of the



aforesaid adjudications, orders, judgments or decrees shall not be vacated or set aside or stayed within ninety (90) days from the date of entry thereof; or

(g) the City shall file a petition or answer seeking reorganization or any arrangement under the Federal bankruptcy laws or any other applicable law or statute of the United States of America or any state thereof.

#### **Section 7.02 Exercise of Remedies.**

(a) Upon an Event of Default described in Section 7.01(a) of this Agreement, the Non-Revolving Credit Note will bear interest at the Default Rate. The Default Rate shall be applied per diem and continue until such time as the defaulted payment has been paid in full, at which time if the interest rate on the Non-Revolving Credit Note had been increased to the Default Rate as a result of the application of this provision, the interest rate shall once again be determined in accordance with the provisions of Section 2.04.

(b) Upon the occurrence and during the continuance of any Event of Default under Section 7.01 hereof, the Lender may proceed to protect and enforce its rights under the laws of the State of Florida or under this Agreement by such suits, actions or special proceedings (including mandamus) in equity or at law, or by proceedings in the office of any board or officer having jurisdiction, either for the specific performance of any covenant or agreement contained herein or in aid or execution of any power herein granted or for the enforcement of any proper legal or equitable remedy, as the Lender shall deem most effective to protect and enforce such rights.

(c) In the enforcement of any remedy under this Agreement, to the extent permitted by law, the Lender shall be entitled to sue for, enforce payment of and receive any and all amounts then due from the City for principal, interest or otherwise under any of the provisions of this Agreement or of the Non-Revolving Credit Note then unpaid, with interest on overdue payments of principal at the rate or rates of interest specified in the Non-Revolving Credit Note and herein, together with any and all costs and expenses of collection and of all proceedings hereunder and under the Non-Revolving Credit Note, without prejudice, to any other right or remedy of the Lender, and to recover and enforce any judgment or decree against the City, but solely as provided herein and in the Non-Revolving Credit Note, for any portion of such amounts remaining unpaid and interest, costs, and expenses as above provided, and to collect (but solely from the Net Revenues) in any manner provided by law, the moneys adjudged or decreed to be payable.

(d) Upon the occurrence of any Event of Default the Lender may, by written notice to the City, immediately terminate (i) the Commitment and (ii) the obligation of the Lender to advance funds for any Loan hereunder, and, thereafter, the Lender shall be under no obligation to advance funds for any Loan hereunder; provided that upon the occurrence of an Event of Default under Section 7.01(d), (e), (f) or (g), such termination shall automatically occur (unless such automatic termination is waived by the Lender in writing).

**Section 7.03 Remedies not Exclusive.** No remedy herein conferred upon or reserved to the Lender is intended to be exclusive of any other remedy or remedies herein provided, and

each and every such remedy shall be cumulative and shall be in addition to every other remedy given hereunder.

**Section 7.04 Waivers, Etc.** No delay or omission of the Lender to exercise any right or power accruing upon any default shall impair any such right or power or shall be construed to be a waiver of any such default or any acquiescence therein; and every power and remedy given by this Agreement to the Lender may be exercised from time to time and as often as may be deemed expedient.

The Lender may waive any default which in its opinion shall have been remedied before the entry of final judgment or decree in any suit, action or proceeding instituted by it under the provisions of this Agreement or before the completion of the enforcement of any other remedy under this Agreement, but no such waiver shall be effective unless in writing from a duly authorized officer of the Lender and no such waiver shall extend to or affect any other existing or any subsequent default or defaults or impair any rights or remedies consequent thereon.

**Section 7.05 Notice of Defaults.** The City shall within ten (10) Business Days after it acquires knowledge of the existence of any event or condition which with the passage of time or the giving of notice, or both, would constitute an Event of Default, described in Section 7.01(b), (c), (d), (e), (f) or (g), notify the Lender of the existence of such Event of Default; provided, however, that notwithstanding the giving of notice as required by this Section 7.05 by the City to the Lender, the actual Event of Default shall not exist, happen or occur until the required passage of time or the giving of notice by the Lender to the City, or both, as may be required by the applicable subsection of Section 7.01.

[End of Article VII]

## ARTICLE VIII

### MISCELLANEOUS

**Section 8.01 Notices.** Except as otherwise provided herein, all notices, requests and other communications to any party hereunder shall be in writing (including bank wire, facsimile, or similar writing) and shall be given to such party at its address or facsimile number set forth below in this Section. Each such notice, request or other communication shall be effective (i) if given by facsimile, when such facsimile is transmitted to the number specified in this Section and a confirmation of receipt is received by the sender, (ii) if given by mail, three (3) days after such communication is deposited in the mails, with first class postage prepaid, addressed as aforesaid, or (iii) if given by any other means, when delivered at the address specified in this Section; provided that notices to the Lender under Article II hereof shall be given as described in Article II and shall not be effective until received.

City: City of Fort Lauderdale, Florida  
100 North Andrews Avenue  
Fort Lauderdale, Florida 33302  
Attention: Chief Financial Officer  
Telephone: (954) 828-5167  
Facsimile: (954) 828-5168

with copies to:

City of Fort Lauderdale, Florida  
100 North Andrews Avenue  
Fort Lauderdale, Florida 33302  
Attention: City Manager  
Telephone: (954) 828-5959  
Facsimile: (954) 828-5599

and

City of Fort Lauderdale, Florida  
100 North Andrews Avenue  
Fort Lauderdale, Florida 33302  
Attention: City Attorney  
Telephone: (954) 828-5037  
Facsimile: (954) 828-5915

Lender: For a Notice of Loan and for billing and payment purposes:  
PNC Bank, National Association

\_\_\_\_\_  
\_\_\_\_\_  
Attention: \_\_\_\_\_  
Telephone: \_\_\_\_\_  
Facsimile: \_\_\_\_\_

For all other purposes:

PNC Bank, National Association  
16740 San Carlos Blvd.  
Fort Myers, Florida 33908  
Attention: Nicholas Ayotte  
Telephone: (239) 437-3736  
Facsimile: (239) 433-0359

**Section 8.02 No Waivers.** No failure or delay by either party in exercising any right, power or privilege hereunder shall operate as a waiver thereof nor shall any single or partial exercise thereof preclude any other or further exercise thereof or the exercise of any right, power or privilege. The rights and remedies herein provided shall be cumulative and not exclusive of any rights or remedies provided by law or equity. Any waiver of any provision of this Agreement, and any consent to any departure by either party from the terms of any provision of this Agreement, shall be effective only in the specific instance and for the specific purpose for which given. No notice to or demand on either party in any case shall entitle the party receiving such notice to any other or further notice or demand in similar or other circumstances.

**Section 8.03 Amendments or Modifications.** Any provision of this Agreement or the Non-Revolving Credit Note may be amended or modified if, but only if, such amendment or modification is in writing and is signed by the City and the Lender.

**Section 8.04 Benefit of Agreement; Limitations on Transfer, Sale or Assignment.**

(a) This Agreement shall be binding upon and inure to the benefit of and be enforceable by the respective successors and assigns of the parties hereto; provided that the City may not assign or transfer any of its interests without prior written consent of the Lender.

(b) Prior to the Draw Period Expiration Date, the rights and obligations of the Lender hereunder and under the Non-Revolving Credit Note may not be transferred, sold or assigned by the Lender. After the Draw Period Expiration Date, the rights and obligations of the Lender hereunder and under the Non-Revolving Credit Note may be transferred, sold or assigned in whole (but not in part) to another Person that is an "accredited investor" or "qualified institutional buyer" (as that term is defined in the regulations promulgated under the Securities Act of 1933, as amended), without the prior written consent of the City; provided that the Lender shall give at least ten (10) business days notice to the City prior to any such transfer, sale or assignment. The City shall maintain a register of assigns of this Agreement and the Non-Revolving Credit Note.

(c) NOTWITHSTANDING ANYTHING IN THIS AGREEMENT OR THE NON-REVOLVING CREDIT NOTE TO THE CONTRARY, NO TRANSFER, SALE OR ASSIGNMENT OF THE NON-REVOLVING CREDIT NOTE AND THE LOAN SHALL BE EFFECTIVE UNLESS (i) SUCH TRANSFER, SALE OR ASSIGNMENT IS TO AN ACCREDITED INVESTOR OR A QUALIFIED INSTITUTIONAL BUYER AND CAN BE MADE WITHOUT VIOLATING ANY FEDERAL OR STATE SECURITIES LAWS AND (ii)

THE IDENTITY OF ANY TRANSFEREE, PURCHASER, OR ASSIGNEE, AS AN ACCREDITED INVESTOR OR A QUALIFIED INSTITUTIONAL BUYER SHALL BE PROVIDED IN WRITING TO THE CITY. THE LOAN, AS EVIDENCED BY THE NON-REVOLVING CREDIT NOTE, HAS NOT BEEN REGISTERED UNDER THE SECURITIES ACT OF 1933, AS AMENDED, OR ANY STATE SECURITIES LAWS. ANY TRANSFER, SALE OR ASSIGNMENT OF THE LOAN, AS EVIDENCED BY THE NON-REVOLVING CREDIT NOTE, SHALL BE IN EACH CASE ONLY IN A MANNER THAT DOES NOT VIOLATE THE SECURITIES ACT OF 1933, AS AMENDED, AND THE RULES AND REGULATIONS PROMULGATED THEREUNDER, OR ANY APPLICABLE STATE SECURITIES LAWS.

**Section 8.05 Severability.** Any provision of this Agreement that is prohibited, unenforceable or not authorized in any jurisdiction shall, as to such jurisdiction, be ineffective to the extent of such prohibition, unenforceability or nonauthorization without invalidating the remaining provisions hereof or affecting the validity, enforceability or legality of such provision in any other jurisdiction. The parties shall endeavor, in good faith negotiations, to replace the invalid, illegal or unenforceable provisions with valid provisions, the economic effect of which comes as close as possible to that of the invalid, illegal or unenforceable provisions.

**Section 8.06 Headings.** Section headings in this Agreement are included herein for convenience of reference only and shall not constitute a part of this Agreement for any other purpose.

**Section 8.07 Counterparts.** This Agreement may be signed in any number of counterparts, each of which shall be an original, with the same effect as if the signatures thereto and hereto were upon the same instrument. This Agreement shall become effective when the Lender shall have received counterparts hereof signed by all of the parties hereto. Complete sets of counterparts shall be lodged with the City and the Lender.

**Section 8.08 Governing Law and Venue.** This Agreement shall be governed by and construed in accordance with the internal laws of the State of Florida, without giving effect to conflict of law principles. In the case of any proceeding arising out of or related to the Non-Revolving Credit Note or this Agreement, the parties hereto consent to the jurisdiction of and venue in any state or federal court located in Broward County, Florida.

**Section 8.09 Survival of Agreement.** All covenants, agreements, representations and warranties made herein and in the certificates delivered pursuant hereto shall survive the issuance of the Non-Revolving Credit Note and shall continue in full force and effect so long as any obligations of the City hereunder are outstanding and unpaid and so long as the Lender has any liability hereunder.

**Section 8.10 No Third Party Beneficiary Rights or Benefits.** This Agreement shall not be construed so as to confer any right or benefit upon any Person other than the parties to the Agreement and their respective successors and assigns.

**Section 8.11 Waiver of Jury Trial.** To the extent permitted by applicable law, each of the City by execution hereof and the Lender by acceptance hereof, knowingly, voluntarily and

intentionally waives any right each may have to a trial by jury in respect of any litigation based on, or arising out of, under or in connection with this Agreement or any course of conduct, course of dealing, statements (whether verbal or written) or actions of any party with respect hereto. This provision is a material inducement to Lender to enter into and accept this Agreement.

**Section 8.12 USA Patriot Act.** The Lender hereby notifies the City that pursuant to the requirements of the USA Patriot Act (Title III of Pub. L. 107 56 (signed into law October 26, 2001)) (the "Patriot Act"), it is required to obtain, verify and record information that identifies the City, which information includes the name and address of the City and other information that will allow the Lender to identify the City in accordance with the Patriot Act, and the City hereby agrees to take any action necessary to enable the Lender to comply with the requirements of the Patriot Act.

**Section 8.13 Incorporation by Reference.** By virtue of its submission of the proposal dated November 22, 2019 in response to the City's Request for Proposals dated November 1, 2019 (the "RFP"), and by its execution of this Agreement, the Lender is deemed to have made the representations and certifications required by paragraphs 9, 10, 11, 12, 13 and 14 under the heading "Instructions to Proposer" of the RFP, and such representations and certifications are hereby incorporated into this Agreement as if fully set forth herein.

**Section 8.14 No Personal Liability.** Notwithstanding anything to the contrary contained herein or in the Non-Revolving Credit Note, or in any other instrument or document executed by or on behalf of the City in connection herewith, no stipulation, covenant, agreement or obligation contained herein or therein shall be deemed or construed to be a stipulation, covenant, agreement or obligation of any present or future, member, commissioner, officer, employee or agent of the City, or of any incorporator, member, commissioner, director, trustee, officer, employee or agent of any successor to the City, in any such person's individual capacity. No such person, in his or her individual capacity shall be liable personally for any breach or non-observance of or for any failure to perform, fulfill or comply with any such stipulations, covenants, agreements or obligations, nor shall any recourse be had for the payment of the principal of or interest on the Non-Revolving Credit Note or for any claim based thereon or on any such stipulation, covenant, agreement or obligation, against any such person, in his or her individual capacity, either directly or through the City or any successor to the City, under the rule of law or equity, statute or constitution or by the enforcement of any assessment or penalty or otherwise. All such liability of any such person, in his individual capacity is hereby expressly waived and released.

[End of Article VIII]

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be duly executed by their respective authorized officers as of the day and year first above written.

(SEAL)

**CITY OF FORT LAUDERDALE,  
FLORIDA**

Attested to:

By: \_\_\_\_\_  
Jeffrey A. Modarelli  
City Clerk

By: \_\_\_\_\_  
Chris Lagerbloom  
City Manager

[Lender's signatures appear on following page]

[Lender's Signature page to Line of Credit Agreement]

**PNC BANK, NATIONAL ASSOCIATION**

By: \_\_\_\_\_  
Vice President

Attested to:

By: \_\_\_\_\_  
Authorized Officer



**EXHIBIT A**

**FORM OF NOTICE OF LOAN**

**NOTICE OF LOAN**

[DATE]

PNC Bank, National Association

[ADDRESS]

Attention: [PLEASE PROVIDE]

Telephone: [PLEASE PROVIDE]

Facsimile: [PLEASE PROVIDE]

Gentlemen:

The undersigned, the City of Fort Lauderdale, Florida, refers to the Line of Credit Agreement dated as of January \_\_, 2020 (the "Agreement") by and between the undersigned and PNC Bank, National Association (the "Lender"), and hereby requests pursuant to Section 2.01 of the Agreement that the Lender make a Loan to the undersigned under the Agreement, and in that connection sets forth below the information relating to such Loan (the "Proposed Loan") as required by Section 2.02 of the Agreement:

(i) The requested date and time of the Proposed Loan is \_\_\_\_\_,  
\_\_\_\_\_ at \_\_\_\_\_; and

(ii) The amount of the Proposed Loan is \_\_\_\_\_.

(iii) The proceeds of the Proposed Loan should be transferred to the City's  
account at:

*[Include wire instructions]*

The City hereby represents that all conditions in Sections 2.01 and 3.02 of the Agreement have been satisfied.

Very truly yours,

CITY OF FORT LAUDERDALE, FLORIDA

By: \_\_\_\_\_

Name: \_\_\_\_\_

Authorized Officer

## EXHIBIT B

### FORM OF NON-REVOLVING CREDIT NOTE

#### NON-REVOLVING CREDIT NOTE

January \_\_, 2020

Not to Exceed \$70,500,000  
in Aggregate Principal Amount  
Outstanding at Any One Time

For value received, THE CITY OF FORT LAUDERDALE, FLORIDA (the "City"), a municipal corporation duly, organized and existing under the laws of the State of Florida, promises to pay, solely from the Pledged Funds hereafter mentioned, to the order of PNC Bank, National Association (the "Lender") at the office of the Lender specified in the Credit Agreement (as hereinafter defined), the aggregate unpaid principal amount of all Loans made by the Lender to the City pursuant to the Credit Agreement not to exceed \$70,500,000 aggregate principal amount at any one time outstanding, and all other amounts payable to the Lender pursuant to the Credit Agreement on such dates as are specified in the Credit Agreement, in lawful money of the United States of America in federal or other immediately available funds, and to pay, solely from the Pledged Funds, interest on the unpaid principal amount hereof for each day from the date of the first Draw until this Non-Revolver Credit Note is paid in full in like money and funds at such office and on such dates as are specified in such Credit Agreement and at the interest rate specified therein. Such Loans, all other amounts payable to the Lender pursuant to the Credit Agreement and the interest thereon shall be payable in the amounts, at the Draw Period Rate during the Draw Period and at the Term Period Rate, during the Term Period, and on the dates specified in the Credit Agreement.

Presentation, demand, protest and notice of dishonor are hereby waived by the undersigned.

This Non-Revolver Credit Note is subject to the terms of the Line of Credit Agreement dated as of January \_\_, 2020, as amended from time to time, by and between the City and the Lender (the "Credit Agreement"). All terms used herein and not defined shall have the same meaning as in the Credit Agreement. Reference is made to the Credit Agreement for provisions for the prepayment hereof, which prepayment can be made without premium or penalty as provided in the Credit Agreement. Upon the occurrence and during the continuation of an Event of Default, this Non-Revolver Credit Note shall bear interest at the Default Rate as provided in the Loan Agreement. If the holder enforces this Non-Revolver Credit Note upon default, the maker shall reimburse the holder for all reasonable costs and expenses incurred by the holder in collection, including reasonable attorneys' fees and expenses. This Non-Revolver Credit Note shall be construed under and governed by the laws of the State of Florida.

This Non-Revolver Credit Note, including the interest hereon, is payable solely from and secured by a lien upon the Pledged Funds as described and set forth in the Credit Agreement and the Resolution; and this Non-Revolver Credit Note shall not be deemed to constitute an

obligation of the State of Florida, or any political subdivision thereof, and neither the State nor any of its political subdivisions, other than the City, shall be liable hereon. Reference is made to the Credit Agreement and such Resolution for the provisions relating to the source of security for this Non-Revolving Credit Note and the duties and obligations of the City.

It is hereby certified and recited that any and all acts, conditions and things required to exist, to happen and to be performed precedent to and in the incurring of the indebtedness evidenced by this Non-Revolving Credit Note and issuance of this Non-Revolving Credit Note exist, have happened, and have been performed in due time, form and manner as required by the Constitution and laws of the State of Florida, including the Act.

Made and executed on the day and year first above written.

CITY OF FORT LAUDERDALE, FLORIDA

[SEAL]

Attest:

By: \_\_\_\_\_  
Jeffrey A. Modarelli  
City Clerk

By: \_\_\_\_\_  
Dean J. Trantalis  
Mayor

By: \_\_\_\_\_  
Chris Lagerbloom  
City Manager

**LOANS AND PAYMENTS OF PRINCIPAL**

<b>Date</b>	<b>Amount of Loan</b>	<b>Amount of Principal Repaid</b>	<b>Unpaid Principal Balance</b>	<b>Notation Made By</b>
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**EXHIBIT C**  
**PRINCIPAL AMORTIZATION SCHEDULE\***

<b>July 1</b>	<b><u>Amortization Requirements</u></b>
2026	\$
2027	
2028	
2029	
2030	
2031	
2032	
2033	
2034	
2035	

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\*To be completed within twenty (20) Business Days after the Draw  
Period Termination Date.

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