



Agenda Report

2725 Judge Fran Jamieson
Way
Viera, FL 32940

New Business - County Manager

J.3.

3/24/2020

Subject:

Refinance the Non-Ad Valorem Revenue Note, Series 2014 and Local Option Fuel Tax Refunding Revenue Bond, Series 2014

Fiscal Impact:

The County will realize approximately \$1.3 million of net present value debt service savings from the refinancing the Non-Ad Valorem Revenue Note, Series 2014 and \$1 million of net present value debt service savings with respect to the refinancing of the Local Fuel Tax Refunding Revenue Bond, Series 2014. This equates to an annual savings of approximately \$100,000 through 2033 on the Non-Ad Valorem Revenue Note, Series 2014 and an annual savings of approximately \$165,000 through 2026 on the Local Option Fuel Tax Refunding Revenue Bond, Series 2014,

Dept/Office:

County Manager's Office

Requested Action:

Request the Board of County Commission adopt a Resolution, not to exceed \$33.5 million, accepting the proposal of TD Bank, N.A. to refund the County's outstanding Non-Ad Valorem Revenue Note, Series 2014 and Local Option Fuel Tax Refunding Revenue Bond, Series 2014; lowering the interest rate to 1.5² percent and 1.26 percent respectively. Delegate the authority to the Chair to execute the Resolution along with other documents required to close the transaction, and to authorize the County Manager to approve all necessary budget change requests to implement this request.

1.52%

Summary Explanation and Background:

The County directed our Financial Advisor, PFM Financial Advisors LLC (PFM) to distribute a request for proposals (RFP) to identify financial institutions that could provide the County with a fixed rate, tax-exempt term loan at the lowest overall borrowing cost to refund the non-Ad Valorem Revenue Note, Series 2014. The County received 12 proposals. Based on the County's Financial Team, which consist of the County Manager's Office, the Budget Office, County Finance, PFM, and Nabors, Giblin & Nickerson, P.A. (County's Bond Counsel), determined that TD Bank, N.A., provided the best combination of interest rate and terms most favorable to the County. TD Bank, N.A., initially offered a fixed interest rate of 1.67 percent which would be held through a closing date of on or before March 30, 2020.

Given the significant decline in interest rate following the receipt of the proposal, the County approached TD Bank, N.A., about their ability to lower their proposed interest rate on the refunding of the Non-Ad Valorem Revenue Note, Series 2014 as well as gauge their interest in providing a proposal to refund the Local Option 514

Fuel Tax Refunding Revenue Bond, Series 2014. TD Bank, N.A., submitted a proposal lowering the interest rate on the refunding of the Non-Ad Valorem Revenue Note, Series 2014 to 1.52 percent from 1.67 percent as well as proposal for the refunding of the Local Option Fuel Tax Refunding Revenue Bond, Series 2014 with an interest rate of 1.26 percent.

The County was provided an option for early prepayment at par, however the County's Financial Team is recommending this refinancing be non-callable; due to the cost to include a par call option, the historically low interest rates, as well as the short maturities of the debt being refunded.

The Non-Ad Valorem Revenue Note, Series 2014 was issued to finance the cost of various energy, water and wastewater performance savings capital improvements. Those County Departments/Offices that pay the debt will realize an annual savings of approximately \$100,000 through 2033.

The Local Option Fuel Tax Refunding Revenue Bond, Series 2014 was issued to refinance debt issued to fund road construction projects. The annual savings of approximately \$165,000 through 2026 will be realized by the County's road program.

Clerk to the Board Instructions:



Tammy Rowe, Clerk to the Board, 400 South Street • P.O. Box 999, Titusville, Florida 32781-0999

Telephone: (321) 637-2001

Fax: (321) 264-6972

Tammy.Rowe@brevardclerk.us

March 25, 2020

MEMORANDUM

TO: Frank Abbate, County Manager

RE: Item J.3., Refinance the Non-Ad Valorem Revenue Note, Series 2014 and Local Option Fuel Tax Refunding Revenue Bond, Series 2014

The Board of County Commissioners, in regular session on March 24, 2020, adopted Resolution No. 20-027, accepting the proposal of TD Bank, N.A., not to exceed \$33.5 million, to refund the County's outstanding Non-Ad Valorem Revenue Note, Series 2014 and Local Option Fuel Tax Refunding Revenue Bond, Series 2014; approved lowering the interest rate to 1.52 percent and 1.26 percent respectively; granted authority to the Chair to execute the Resolution along with other documents required to close the transaction; and authorized the County Manager to approve all necessary budget change requests to implement this request. Enclosed are two fully-executed Resolution.

Your continued cooperation is always appreciated.

Sincerely,

BOARD OF COUNTY COMMISSIONERS
SCOTT ELLIS, CLERK

Donna Scott
Tammy Rowe, Deputy Clerk

/kp

Encls. (2)

cc. County Attorney
Finance
Budget

RESOLUTION NO. 2020-027

A RESOLUTION OF THE BOARD OF COUNTY COMMISSIONERS OF BREVARD COUNTY, FLORIDA AUTHORIZING THE ISSUANCE OF ITS NON-AD VALOREM REFUNDING REVENUE NOTE, SERIES 2020A IN THE PRINCIPAL AMOUNT OF NOT TO EXCEED \$13,500,000 AND ITS NON-AD VALOREM REFUNDING REVENUE NOTE, SERIES 2020B IN THE PRINCIPAL AMOUNT OF NOT TO EXCEED \$20,000,000, IN ORDER TO REFUND, RESPECTIVELY, THE COUNTY'S OUTSTANDING NON-AD VALOREM REVENUE NOTE, SERIES 2014 AND LOCAL OPTION FUEL TAX REFUNDING REVENUE BOND, SERIES 2014; COVENANTING TO BUDGET AND APPROPRIATE CERTAIN LEGALLY AVAILABLE NON-AD VALOREM REVENUES TO PAY DEBT SERVICE ON THE NOTES; MAKING CERTAIN OTHER COVENANTS AND AGREEMENTS IN CONNECTION WITH THE ISSUANCE OF SUCH NOTES; PROVIDING CERTAIN TERMS AND DETAILS OF SUCH NOTES, INCLUDING THE NEGOTIATED SALE OF SAID NOTES PURSUANT TO THE PROPOSALS OF TD BANK, N.A.; PROVIDING FOR THE RIGHTS, SECURITIES AND REMEDIES FOR THE OWNER OF THE NOTES; DELEGATING CERTAIN AUTHORITY TO CERTAIN OFFICERS OF THE COUNTY; AND PROVIDING FOR AN EFFECTIVE DATE.

NOW THEREFORE, BE IT RESOLVED BY THE BOARD OF COUNTY COMMISSIONERS OF BREVARD COUNTY, FLORIDA that:

SECTION 1. FINDINGS. It is found and determined that:

A. Brevard County, Florida (the "Issuer" or the "County"), previously issued its Non-Ad Valorem Revenue Note, Series 2014 (the "Series 2014 Non-Ad Valorem Note") in order to finance the costs of various energy, water and wastewater performance savings capital improvement projects within the County.

B. The Issuer previously issued its Local Option Fuel Tax Refunding Revenue Bond, Series 2014 (the "Series 2014 Fuel Tax Bond") in order to refinance the costs of various transportation-related capital improvement projects within the County.

C. In order to achieve debt service savings, the Issuer deems it to be in its best interest to refund all of the outstanding Series 2014 Non-Ad Valorem Note and Series 2014 Fuel Tax Bond (collectively, the "Refunded Debt").

D. On behalf of the Issuer, the Issuer's financial advisor, PFM Financial Advisors LLC (the "Financial Advisor"), solicited proposals from various financial institutions pursuant to a request for proposals to provide the Issuer with a fixed rate, term loan in order to refund the Series 2014 Non-Ad Valorem Note.

E. TD Bank, N.A. (the "Noteholder") submitted the most beneficial proposal to provide such a term loan to the Issuer and, pursuant to subsequent negotiations and discussions, the Noteholder also submitted a proposal to the Issuer to provide a fixed rate, term loan to refund the Series 2014 Fuel Tax Bond which the Noteholder currently holds.

F. It is in the best interest of the Issuer to accept the proposals of the Noteholder (the "Proposals"), copies of which are attached as Exhibit B, to refund the Refunded Debt in order to achieve debt service savings for the Issuer.

G. The most efficient and cost-effective method of refunding the Refunded Debt is through the issuance of the Brevard County, Florida Non-Ad Valorem Refunding Revenue Note, Series 2020A (the "Series 2020A Note") and the Brevard County, Florida Non-Ad Valorem Refunding Revenue Note, Series 2020B (the "Series 2020B Note" and, collectively with the Series 2020A Note, the "Notes") to the Noteholder in accordance with the provisions hereof and the terms of the Proposals.

H. Due to the potential volatility of the market for tax-exempt obligations such as the Notes and the complexity of the transactions relating to such Notes, it is in the best interest of the Issuer to sell the Notes by a negotiated sale to the Noteholder pursuant to the terms of the Proposals and the provisions hereof, rather than at a specified advertised date, thereby permitting the Issuer to obtain the best possible price and interest rate for the Notes.

I. The Issuer now desires to approve the issuance of the Notes and the award of the sale thereof to the Noteholder.

J. In consideration of the purchase and acceptance of the Notes authorized to be issued hereunder to the Noteholder, this Resolution shall constitute a contract between the Issuer and the Noteholder.

K. The Notes shall be secured solely by a covenant of the Issuer, subject to certain conditions set forth herein, to budget and appropriate from Available Non-Ad Valorem Revenues (as defined herein) amounts sufficient to pay the principal of and interest on the Notes, when due, and the ad valorem taxing power of the Issuer will never be necessary or authorized to pay the principal of and interest on the Notes or to make any other payments provided for in this Resolution, and the Notes shall not constitute a lien

upon any property whatsoever of or in the Issuer, except as otherwise provided in Section 9 hereof.

SECTION 2. AUTHORITY FOR THIS RESOLUTION. This Resolution is enacted pursuant to the provisions of the Constitution of the State of Florida, Chapter 125, Florida Statutes, the Charter of the Issuer, and other applicable provisions of law (collectively, the "Act").

SECTION 3. DEFINITIONS. Capitalized terms not otherwise defined herein shall have the following meanings except as the context may clearly indicate otherwise:

"Adjusted Ad Valorem Tax Revenues" shall mean all ad valorem tax revenues of the Issuer after deducting therefrom the required debt service payments on any limited or unlimited general obligation debt of the Issuer.

"Adjusted Non-Ad Valorem Revenues" shall mean all Non-Ad Valorem Revenues (except revenues of any enterprise fund of the County, unless and until such revenues are transferred from such enterprise fund to the County's general fund) less that portion, if any, of the Adjusted Costs of Essential Services which exceeds Adjusted Ad Valorem Tax Revenues.

"Adjusted Costs of Essential Services" shall mean that portion of the Costs of Essential Services which are identified as "general government" or "public safety" in the Issuer's Annual Audit.

"Annual Audit" shall mean the annual audited financial statements of the Issuer prepared in accordance with generally accepted accounting principles applicable to governmental entities such as the Issuer.

"Applicable Interest Period" means the period from the date of issuance of the Notes to the respective final maturity dates of the Notes.

"Available Non-Ad Valorem Revenues" shall mean all Non-Ad Valorem Revenues of the Issuer that are legally available to pay principal of and interest on the Notes, except for (i) revenues of any enterprise fund of the County, unless and until such revenues are transferred from such enterprise fund to the County's general fund, (ii) Non-Ad Valorem Revenues from any specific source or sources that have been pledged to secure other indebtedness of the County, until such funds become available for deposit into the County's general fund under the documentation creating such pledge, and (iii) Non-Ad Valorem Revenues required to pay or make provision for the payment of the Costs of Essential Services.

"Balloon Indebtedness" means any indebtedness, 25% or more of the original principal of which matures during any one Fiscal Year.

"Board" shall mean the Board of County Commissioners of the Issuer.

"Bond Counsel" shall mean Nabors, Giblin & Nickerson, P.A. or any other attorney at law or firm of attorneys, of nationally recognized standing in matters pertaining to the federal tax exemption of interest on obligations issued by states and political subdivisions, and duly admitted to practice law before the highest court of any state of the United States of America.

"Business Day" shall mean any day other than a Saturday, Sunday or a day on which the Noteholder is authorized or required to be closed.

"Chair" shall mean the Chair of the Board or the Vice Chair of the Board.

"Clerk" shall mean the Clerk of the Circuit Court of the County and Ex-Officio Clerk to the Board or any Deputy Clerk of the County.

"Code" shall mean the Internal Revenue Code of 1986, as amended, and the regulations promulgated thereunder.

"Costs of Essential Services" shall mean the cost of services and programs which are for essential public purposes affecting the health, welfare and safety of the inhabitants of the County or which are legally mandated by applicable law.

"County" or "Issuer" shall mean Brevard County, Florida, a political subdivision of the State.

"County Manager" shall mean the County Manager of the Issuer or any Assistant County Manager.

"Default Rate" shall mean the lesser of (i) the Prime Rate, plus 600 basis points (6.00%) per annum, or (ii) the maximum rate allowable under applicable law.

"Determination of Taxability" shall mean a final decree or judgment of any Federal court or a final action of the Internal Revenue Service determining that interest paid or payable on the Notes is or was includable in the gross income of the Noteholder for Federal income tax purposes as a result of action or inaction of the Issuer; provided, no Determination of Taxability shall be deemed to occur unless the Issuer has been given written notice of such occurrence and, to the extent permitted by law, an opportunity to participate in and seek, at the Issuer's own expense, a final administrative determination by the Internal Revenue Service or determination by a court of competent jurisdiction (from which no further right of appeal exists) as to the occurrence of such Determination of Taxability.

"Financial Advisor" shall mean PFM Financial Advisors LLC, financial advisor to the Issuer.

"Fiscal Year" shall mean the period commencing on October 1 of each year and ending on the immediately succeeding September 30.

"Interest Rate" shall mean, with respect to the Series 2020A Note, the 2020A Interest Rate as defined in Section 6B hereof and with respect to the Series 2020B Note, the 2020B Interest Rate as defined in Section 6B hereof. The Interest Rate is subject to adjustment pursuant to Sections 12(b), 13 and 17 of this Resolution.

"Maturity Date" shall mean, with respect to the Series 2020A Note, November 1, 2032, and with respect to the Series 2020B Note, August 1, 2026.

"Maximum Annual Debt Service" shall mean with respect to indebtedness that bears interest at a fixed interest rate, the largest aggregate amount of annual debt service coming due in any Fiscal Year in which such indebtedness is scheduled to be outstanding, and, with respect to indebtedness which bears interest at a variable interest rate, Maximum Annual Debt Service shall be determined assuming that interest accrues on such indebtedness at the current "Bond Buyer Revenue Bond Index" as published in *The Bond Buyer* no more than three business days prior to any such calculation; provided, however, if any indebtedness, whether bearing interest at a fixed or variable interest rate, constitutes Balloon Indebtedness, Maximum Annual Debt Service on such indebtedness shall be determined assuming such indebtedness is amortized over 20 years (from the date of issuance of such indebtedness) on an approximately level annual debt service basis.

"Non-Ad Valorem Revenues" shall mean all revenues of the Issuer not derived from ad valorem taxation.

"Noteholder" shall mean initially TD Bank, N.A. and, subsequently, any successive owner of the Notes which such successive owner is required to be an entity described in Section 7 hereof.

"Other Debt" shall mean all of the following to the extent that they are secured by or payable in whole or in part from any Non-Ad Valorem Revenues (i) all obligations of the Issuer for borrowed money evidenced by bonds, debentures, notes or other similar instruments or otherwise documented by a written agreement or instrument; (ii) all obligations of the Issuer to pay the deferred purchase price of property or services, except trade accounts payable under normal trade terms and which arise in the ordinary course of business; and (iii) all obligations of the Issuer as lessee under capitalized leases.

"Paying Agent" and or "Registrar" as it relates to the Notes shall mean the Clerk or his designee.

"Person" shall mean natural persons, firms, trusts, estates, associations, corporations, partnerships and public bodies.

"Pledged Funds" shall mean (i) the proceeds of the Notes pending the application thereof and (ii) Available Non-Ad Valorem Revenues actually budgeted and appropriated pursuant to Section 9 hereof.

"Prime Rate" shall mean the rate quoted in the *Wall Street Journal* from time to time as the "prime rate," or, if the *Wall Street Journal* ceases publication or ceases to quote a "prime rate," such alternate interest rate as shall, in the reasonable opinion of the Noteholder, approximate such rate.

"Proposals" shall mean the proposals of the Noteholder to purchase the Notes, copies of which Proposals are attached as Exhibit B.

"Resolution" shall mean this Resolution, pursuant to which the Notes are authorized to be issued, including any supplemental resolutions.

"Notes" shall mean the Series 2020A Note and the Series 2020B Note.

"Series 2020A Note" shall mean Brevard County, Florida Non-Ad Valorem Refunding Revenue Note, Series 2020A, the form of which is attached as Exhibit A.

"Series 2020B Note" shall mean Brevard County, Florida Non-Ad Valorem Refunding Revenue Note, Series 2020B, the form of which is attached as Exhibit A.

"State" shall mean the State of Florida.

SECTION 4. PROPOSALS. To the extent of any conflict between the provisions of this Resolution and the Proposals, this Resolution shall prevail.

SECTION 5. AUTHORIZATION OF NOTES. Subject and pursuant to the provisions of this Resolution, an obligation of the Issuer to be known as the "Brevard County, Florida Non-Ad Valorem Refunding Revenue Note, Series 2020A" is authorized to be issued under and secured by this Resolution in the principal amount of not to exceed \$13,500,000 for the purposes of refunding the Series 2014 Non-Ad Valorem Note and paying costs of issuing the Series 2020A Note.

Subject and pursuant to the provisions of this Resolution, an obligation of the Issuer to be known as the "Brevard County, Florida Non-Ad Valorem Refunding Revenue Note, Series 2020B" is authorized to be issued under and secured by this Resolution in the principal amount of not to exceed \$20,000,000 for the purposes of refunding the Series 2014 Fuel Tax Bond and paying costs of issuing the Series 2020B Note.

The Board authorizes the refunding of the Refunded Debt.

**SECTION 6. DESCRIPTION AND TERMS OF NOTES;
PREPAYMENT.**

A. Each Note shall be dated the date of its delivery and shall mature on its Maturity Date. The principal amount of each Note and the principal payments due on each Note shall be determined by the County Manager upon the advice of the Financial Advisor and shall be approved by the Noteholder and set forth in the applicable Note. Principal payments for the Series 2020A Note shall be payable semi-annually on November 1 and May 1 of each year commencing November 1, 2020 and ending on its Maturity Date. Principal payments for the Series 2020B Note shall be payable annually on August 1 of each year commencing August 1, 2020 and ending on its Maturity Date. The Notes shall be executed on behalf of the Issuer with the manual signature of the Chair, the official seal of the Issuer, and be attested with the manual signature of the Clerk. In case any one or more of the officers who shall have signed or sealed the Notes shall appear thereon shall cease to be such officer of the Issuer before the Notes so signed and sealed have been actually sold and delivered, such Notes may nevertheless be sold and delivered as herein provided and may be issued as if the person who signed or sealed such Notes had not ceased to hold such office. Each Note shall be sold by the Issuer and purchased by the initial Noteholder at a purchase price equal to 100% of the principal amount thereof.

B. The Series 2020A Note shall bear interest from its date of issuance, payable semi-annually on November 1 and May 1 of each year, commencing on November 1, 2020, at a fixed interest rate of 1.52% per annum (the "2020A Interest Rate"). The Series 2020B Note shall bear interest from its date of issuance, payable semi-annually on August 1 and February 1 of each year, commencing on August 1, 2020, at a fixed interest rate of 1.26% per annum (the "2020B Interest Rate").

Interest shall be calculated on the basis of twelve 30-day months and a 360-day year. Each Interest Rate is subject to adjustment as provided in Section 12(b), Section 13 and Section 17 hereof. Each Note shall be issued as one note and the authorized denomination of each Note shall be its outstanding principal amount, as such principal amount changes from time to time.

C. Each Note shall be subject to prepayment, in whole or in part, on any Business Day at the option of the Issuer, at a price equal to the principal amount thereof, plus interest accrued on the principal amount being prepaid to the date of prepayment, plus payment of the Fixed Rate Prepayment Charge as determined by the Noteholder. The Fixed Rate Prepayment Charge shall equal the greater of (i) 1.00% of the principal amount being prepaid multiplied by the Remaining Term (as defined below) or (ii) a "Yield Maintenance Fee" in an amount computed as follows:

The Yield Maintenance Fee shall be based on the current cost of funds, specifically the bond equivalent yield for United States Treasury securities (bills on a discounted basis shall be converted to a bond equivalent yield) with a maturity date closest to the Remaining

Term ("Cost of Funds") subtracted from the stated Interest Rate on the Note being prepaid ("Stated Interest Rate"). If the result is zero or a negative number, there shall be no Yield Maintenance Fee due and payable. If the result is a positive number, then the resulting percentage shall be multiplied by the amount being prepaid times the number of days in the Remaining Term (as defined below) and divided by 360. The resulting amount is the "Yield Maintenance Fee" due to the Noteholder upon prepayment of all or a portion of the principal of the Note, plus any accrued interest due as of the prepayment date and is expressed in the following calculation:

"Yield Maintenance Fee" = Principal Amount Being Prepaid times (Stated Interest Rate - Cost of Funds) times days in the Remaining Term/360 days.

"Remaining Term" as used herein shall mean the remaining term of the Note to be prepaid.

Any prepayment of a Note shall be made on such Business Day as shall be specified by the Issuer in a notice delivered to the Noteholder not less than thirty (30) days prior thereto specifying the principal amount of the Note to be prepaid and the date that shall be the date of such prepayment. Notice having been given as aforesaid, the amount of the outstanding principal of the Note to be prepaid shall become due and payable on the date of prepayment stated in such notice, together with interest accrued and unpaid to the date of prepayment on the principal amount then being paid plus the Fixed Rate Prepayment Charge. If on the date of prepayment moneys for the payment of the principal amount to be prepaid on such Note, together with interest to the date of prepayment on such principal amount, plus the Fixed Rate Prepayment Charge shall have been paid to the Noteholder as above provided, then from and after the date of prepayment, interest on such prepaid principal amount of the Note being prepaid shall cease to accrue. If said money shall not have been so paid on the date of prepayment, such principal amount of the Note to be prepaid shall continue to bear interest until payment thereof at the then applicable Interest Rate. Any prepayment in part shall be applied to the remaining principal payments in inverse order of scheduled payments unless otherwise agreed to between the Issuer and the Noteholder.

D. Each Note shall be in substantially the form set forth in Exhibit A attached hereto with such changes as shall be approved by the County Manager and the Chair, such approval to be conclusively evidenced by the execution thereof by the Chair.

E. No presentment or delivery shall be required for prepayment or principal installment payments on the Notes.

SECTION 7. REGISTRATION AND EXCHANGE OF NOTES; PERSONS TREATED AS NOTEHOLDER. So long as either Note shall remain unpaid,

the Issuer will keep books for the registration and transfer of the Notes. The Issuer, through the Clerk, shall serve as the Paying Agent and Registrar for the Notes.

The Noteholder's right, title and interest in and to the Notes and any amounts payable by the Issuer thereunder may be assigned and reassigned in whole only by the Noteholder, without the necessity of obtaining the consent of the Issuer; provided, that any such assignment, transfer or conveyance shall be made only to (a) an affiliate of the Noteholder or (b) a bank, insurance company or their affiliate, provided that any such entity is purchasing the Notes for its own account with no present intention to resell or distribute the Notes, subject to each investor's right at any time to dispose of the Notes as it determines to be in its best interests or (c) a "qualified institutional buyer," as defined in Rule 144A of the Securities Act of 1933, or an "accredited investor," as defined in Rule 501 of Regulation D. Upon notification by the Noteholder to the Issuer of the Noteholder's intent to assign and sell its right, title and interest in and to the Notes as herein provided, the Issuer agrees that it shall execute and deliver to the assignee Noteholder, Notes in the respective principal amount so assigned, registered in the name of the assignee Noteholder, executed and delivered by the Issuer in the same manner as provided herein and with an appendix attached thereto setting forth the principal amounts to be paid on each payment date with respect to each Note. In all cases of an assignment of the Notes, the Issuer shall at the earliest practical time enter the change of ownership in the registration books; provided, however, the written notice of assignment must be received by the Clerk no later than the close of business on the fifteenth (15th) day (whether or not a Business Day) of the calendar month next preceding an interest payment date in order to have such transfer recorded on the books and records of the Issuer on such next succeeding interest payment date.

The Person in whose name the Notes shall be registered shall be deemed and regarded as the absolute owner thereof for all purposes, and payment of principal and interest on such Notes shall be made only to or upon the written order of the Noteholder. All such payments shall be valid and effectual to satisfy and discharge the liability upon such Notes to the extent of the sum or sums so paid.

SECTION 8. OTHER COVENANTS OF ISSUER; REPRESENTATIONS OF THE ISSUER. For so long as any of the principal of and interest on the Notes shall be outstanding and unpaid, the Issuer covenants with the Noteholder as follows:

A. Payment of Notes. The Notes shall be secured by and payable from the Pledged Funds on a parity basis. The Issuer does irrevocably pledge the Pledged Funds to the payment of the Notes in accordance with the provisions hereof. The pledge of and lien on the Pledged Funds shall attach at the time of delivery of the Notes.

The Issuer covenants and agrees to transfer to the Noteholder, solely from the Pledged Funds on or prior to the date designated for payment of any principal of or interest on the Notes, sufficient moneys to pay such principal or interest.

B. Books and Records; Other Information. Books and records of the Issuer shall be kept in which complete and correct entries shall be made, in accordance with generally accepted accounting principles. No later than 210 days following the end of each Fiscal Year, the Issuer shall make its Annual Audit available to the Noteholder, either by posting such Annual Audit on the Issuer's public website or by providing it directly to the Noteholder. Such financial statements will be in sufficient detail to determine compliance with all applicable financial covenants contained in this Resolution.

No later than 60 days after its adoption, the Issuer shall make its annual budget available to the Noteholder, either by posting such adopted budget on the Issuer's public website or by providing it directly to the Noteholder.

The Issuer shall provide the Noteholder with other information relating to the Notes or the security with respect thereto upon reasonable request.

D. Notice of Defaults. The Issuer shall within ten (10) days after it acquires actual knowledge thereof, notify the Noteholder in writing upon the happening, occurrence, or existence of any Event of Default (as defined in Section 17 hereof), and any event or condition which with the passage of time or giving of notice, or both, would constitute an Event of Default, and shall provide the Noteholder with such written notice, a detailed statement by a responsible officer of the Issuer of all relevant facts and the action being taken or proposed to be taken by the Issuer with respect thereto.

E. Records. The Issuer agrees that any and all records of the Issuer with respect to the Notes shall be open to inspection by the Noteholder or its representatives at all reasonable times at the offices the Issuer upon reasonable advance written notice.

F. Representations. The Issuer represents and warrants that:

(i) The Issuer is a political subdivision of the State and by the adoption of this Resolution, the Issuer has duly authorized the performance by the Issuer of all of its obligations hereunder and the issuance of the Notes in the aggregate principal amount of not exceeding \$33,500,000.

(ii) The Issuer has complied with all of the provisions of the Constitution and laws of the State, including the Act, and has full power and authority to adopt this Resolution and enter into and consummate all transactions contemplated by this Resolution or under the Notes, and to perform all of its obligations hereunder and under the Notes and, to the best knowledge of the Issuer, 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 Issuer is a party or by which the Issuer is bound.

(iii) The Issuer is duly authorized and entitled to issue the Notes and, when executed and delivered, the Notes will each constitute a legal, valid and binding obligation

of the Issuer enforceable in accordance with its respective terms, subject as to enforceability to bankruptcy, insolvency, moratorium, reorganization or other similar laws affecting creditors' rights generally, or by the exercise of judicial discretion in accordance with general principles of equity.

(iv) There are no actions, suits or proceedings pending or, to the best knowledge of the Issuer, threatened against or affecting the Issuer, at law or in equity, or before or by any governmental authority, that, if adversely determined, would materially impair the ability of the Issuer to perform the Issuer's obligations hereunder or under the Notes, or which would have a materially adverse effect on the Issuer (financial or otherwise).

SECTION 9. COVENANT TO BUDGET AND APPROPRIATE.

Subject to the other provisions of this Section 9, the Issuer covenants and agrees to appropriate in its annual budget, by amendment, if necessary, from Available Non-Ad Valorem Revenues, amounts sufficient to make the payments of principal and interest on the Notes. Such covenant and agreement on the part of the Issuer to budget and appropriate such amounts of Available Non-Ad Valorem Revenues shall be cumulative to the extent not paid and shall continue until such Available Non-Ad Valorem Revenues in amounts sufficient to make all such required payments shall have been budgeted, appropriated and actually paid. No lien upon or pledge of such budgeted Non-Ad Valorem Revenues shall be in effect until such monies are budgeted and appropriated.

Such covenant to budget and appropriate does not create any lien upon or pledge of such Non-Ad Valorem Revenues, nor does it preclude the Issuer from pledging in the future its Non-Ad Valorem Revenues or any component thereof, nor does it require the Issuer to levy and collect any particular Non-Ad Valorem Revenues, nor does it give the Noteholder of the Notes a prior claim on any Non-Ad Valorem Revenues except as provided in the immediately preceding paragraph. Such covenant to budget and appropriate Available Non-Ad Valorem Revenues is subject in all respects to the prior payment of obligations secured by a pledge of Non-Ad Valorem Revenues heretofore or hereafter entered into (including the payment of debt service on other debt instruments). Anything in this Resolution to the contrary notwithstanding, it is understood and agreed that the obligations of the Issuer, if any, to pay amounts due hereunder shall be payable from the portion of Available Non-Ad Valorem Revenues budgeted and appropriated as provided for hereunder and nothing herein shall be deemed to pledge ad valorem tax revenues for such interest or to permit or constitute a mortgage or lien upon any assets owned by the Issuer and no Noteholder nor any other person, may compel the levy of ad valorem taxes on real or personal property within the boundaries of the Issuer to pay such interest.

Notwithstanding any provisions of this Resolution or the Notes to the contrary, the Issuer shall never be obligated to maintain or continue any of the activities of the Issuer which generate user service charges, regulatory fees or any Non-Ad Valorem Revenues. Neither this Resolution nor the obligations of the Issuer hereunder shall be construed as a pledge of or a lien on all or any legally available Non-Ad Valorem Revenues of the Issuer

but shall be payable solely as provided herein and is subject in all respects to the provisions of Section 129.01, Florida Statutes.

The covenant to budget and appropriate for the purposes and in the manner stated herein shall have the effect of making available for the payment of the Notes, in the manner described herein, Available Non-Ad Valorem Revenues, and placing on the Issuer a positive duty to appropriate and budget, by amendment, if necessary, amounts sufficient to meet its obligations hereunder; subject, however, in all respects to the restrictions of Sections 129.03 and 129.07, Florida Statutes. The Issuer agrees that its covenant and agreement to budget and appropriate Available Non-Ad Valorem Revenues shall be deemed entered into for the benefit of the Noteholder and this obligation may be enforced by a court of competent jurisdiction.

SECTION 10. ANTI-DILUTION. (a) During each Fiscal Year that either of the Notes is outstanding hereunder, prior to the incurrence of any additional Other Debt, the Issuer agrees and covenants with the Noteholder that Adjusted Non-Ad Valorem Revenues shall be no less than 1.5x the aggregate Maximum Annual Debt Service on the Notes and Other Debt, including the proposed Other Debt. Such calculation shall be determined using the average of actual Adjusted Non-Ad Valorem Revenues for the prior two Fiscal Years based on the Issuer's Annual Audits. The Issuer agrees to provide the Noteholder with a certification that such test has been satisfied and accompanying calculation prior to the incurrence of such additional Other Debt.

(b) In the event the Issuer pays in full or refunds all of its rated debt, for reasons not related to downgrade, suspension or material adverse event, the Issuer shall provide the Noteholder within 30 days of the end of each Fiscal Year a certification that Adjusted Non-Ad Valorem Revenues as of the end of such Fiscal Year were no less than 1.5x the aggregate Maximum Annual Debt Service on the Notes and Other Debt that was outstanding as of the end of such Fiscal Year. Such calculation shall be determined using the average of actual Adjusted Non-Ad Valorem Revenues for the prior two Fiscal Years based on the Issuer's Annual Audits. In the event the Issuer fails to provide such certification, the Interest Rate shall be increased to the Default Rate until the certification is provided.

SECTION 11. APPLICATION OF PROCEEDS OF NOTES.

A. A sufficient amount of the Series 2020A Note proceeds shall be applied to the payment of costs and expenses relating to the issuance of the Series 2020A Note. A sufficient amount of the Series 2020B Note proceeds shall be applied to the payment of costs and expenses relating to the issuance of the Series 2020B Note.

B. A sufficient amount of the proceeds of the Series 2020A Note proceeds shall be held by the Issuer and applied by the Issuer to prepay the Series 2014 Non-Ad Valorem Note in full on May 1, 2020.

C. A sufficient amount of the proceeds of the Series 2020B Note proceeds shall be held by the Issuer and applied by the Issuer to prepay the Series 2014 Fuel Tax Bond in full on the date of issuance of the Series 2020B Note.

D. Any remaining proceeds of the Notes shall be applied to pay scheduled debt service on the respective Note.

SECTION 12. TAX COVENANT. The Issuer covenants to the Noteholder of the Notes that the Issuer will not make any use of any portion of the proceeds of the Notes at any time during the term of the Notes which, if such use had been reasonably expected on the date the Notes was issued, would have caused either of the Notes to be an "arbitrage bond" within the meaning of the Code. The Issuer will comply with the requirements of the Code and any valid and applicable rules and regulations promulgated thereunder necessary to ensure the exclusion of interest on the Notes from the gross income of the holder thereof for purposes of federal income taxation.

SECTION 13. ADJUSTMENT TO INTEREST RATES. While either Note remains outstanding, upon the occurrence of a Determination of Taxability, the respective Interest Rate shall be adjusted in such manner as shall be determined by the Noteholder, absent manifest error, as shall be necessary to provide to the Noteholder an after-tax yield on the then outstanding principal amount of the Notes equal to the after-tax yield to the Noteholder, if such Determination of Taxability had not occurred, from the date such interest must be included in such gross income, whereupon the Issuer shall reimburse the Noteholder for the difference between (a) the interest then due computed at the adjusted rate, and (b) the interest previously paid on the Notes at the unadjusted rate, along with all costs, expenses, penalties, attorneys fees and all other losses incurred by the Noteholder as a result of such Determination of Taxability (but not due to any negligent delay of the Noteholder), within 30 days after the date a written notice (including a copy of the Determination of Taxability) is delivered by the Noteholder to the Issuer stating that such a determination has been made and stating the amount that is then due. The obligation to pay such additional interest and such other costs, expenses, penalties, attorney's fees and other losses shall survive the payment of the principal of the Notes but shall be payable solely from Pledged Funds in the manner and to the extent described in this Resolution.

SECTION 14. AMENDMENT, CHANGES OR MODIFICATIONS TO THE RESOLUTION. The Issuer will not modify or amend this Resolution without the written consent of the Noteholder. Notwithstanding the foregoing, if, in connection with the issuance of any additional Other Debt of the Issuer that is secured by a covenant to budget and appropriate Available Non-Ad Valorem Revenues similar to the covenant of the Issuer set forth in Section 9 hereof, the Issuer provides the lender of such additional Other Debt (a) acceleration rights as a remedy to any event of default or (b) an anti-dilution test or additional debt test that is more restrictive as to the Issuer than the test set forth in Section 10 hereof, then such provision shall be deemed to be incorporated by reference herein and upon the request of the Noteholder the Issuer shall promptly amend this

Resolution so as to provide the Noteholder with the same provisions. If any Other Debt of the Issuer that is secured by a covenant to budget and appropriate Available Non-Ad Valorem Revenues is accelerated upon an event of default, the Noteholder shall have the same right to accelerate the payments hereunder and under the Notes.

SECTION 15. LIMITATION OF RIGHTS. With the exception of any rights herein expressly conferred, nothing expressed or mentioned in or to be implied from this Resolution or the Notes is intended or shall be construed to give to any Person other than the Issuer and the Noteholder any legal or equitable right, remedy or claim under or with respect to this Resolution or any covenants, conditions and provisions herein contained; this Resolution and all of the covenants, conditions and provisions hereof being intended to be and being for the sole and exclusive benefit of the Issuer and the Noteholder.

SECTION 16. NOTE MUTILATED, DESTROYED, STOLEN OR LOST. In case a Note shall become mutilated, or be destroyed, stolen or lost, the Issuer shall issue and deliver a new Note of like tenor as the Note so mutilated, destroyed, stolen or lost, in exchange and in substitution for such mutilated Note, or in lieu of and in substitution for the Note destroyed, stolen or lost and upon the Noteholder furnishing the Issuer proof of ownership thereof and indemnity reasonably satisfactory to the Issuer and complying with such other reasonable regulations and conditions as the Issuer may prescribe and paying such expenses as the Issuer may incur. The Note so surrendered shall be canceled.

SECTION 17. EVENTS OF DEFAULT; REMEDIES OF NOTEHOLDER. An "Event of Default" shall be deemed to have occurred under this Resolution if:

(a) The Issuer shall fail to make timely payment of principal or interest or any other amounts due the Noteholder when due with respect to a Note or with respect to any other indebtedness of the Issuer which is held by the Noteholder;

(b) Any representation or warranty of the Issuer contained herein shall prove to be untrue in any material respect when made;

(c) Any covenant of the Issuer contained in this Resolution shall be breached or violated for a period of thirty (30) days from the earlier of (a) when the Issuer receives notice from the Noteholder of such breach or violation or (b) when the Issuer was aware of such event and was required herein to notify the Noteholder pursuant to Section 8D hereof, unless the Noteholder shall agree in writing, in its sole discretion, to an extension of such time prior to its expiration;

(d) There shall have been rendered against the Issuer a final, non-appealable judgment whereby the Issuer is obligated to pay or satisfy an amount of \$10,000,000 or more out of its own funds;

(e) A majority of the credit ratings on any of the Issuer's Other Debt that are secured by a covenant to budget and appropriate Available Non-Ad Valorem Revenues fall below "BBB+" or "Baa1" (as the case may be). Notwithstanding the foregoing, the Issuer shall not be required to maintain any credit ratings on such bonds, nor shall it be required to maintain a credit rating by each or any number of the Rating Agencies if a series of bonds is then rated by any Rating Agency and it shall not be considered an Event of Default if the Issuer does not maintain any such credit ratings so long as such rating was not withdrawn or suspended, in either case, for credit reasons. For purposes of this Section 17(e), "majority" means one credit rating if there are either one or two credit ratings then maintained for a series of bonds and two credit ratings if there are three credit ratings then maintained for a series of bonds; and

(f) There shall occur the dissolution or liquidation of the Issuer, or the filing by the Issuer of a voluntary petition in bankruptcy, or the commission by the Issuer of any act of bankruptcy, or adjudication of the Issuer as a bankrupt, or assignment by the Issuer for the benefit of its creditors, or appointment of a receiver for the Issuer, or the entry by the Issuer into an agreement of composition with its creditors, or the approval by a court of competent jurisdiction of a petition applicable to the Issuer in any proceeding for its reorganization instituted under the provisions of the Federal Bankruptcy Act, as amended, or under any similar act in any jurisdiction which may now be in effect or hereafter amended.

Upon the occurrence and during the continuation of any Event of Default, the Noteholder may either at law or in equity, by suit, action, mandamus or other proceeding (including specific performance) in any court of competent jurisdiction, protect and enforce any and all rights under the laws of the State, or granted or contained in this Resolution, and may enforce and compel the performance of all duties required by this Resolution, or by any applicable statutes to be performed by the Issuer or by any officer thereof. Additionally, upon the occurrence and continuation of an Event of Default specified in section (a) above, the Noteholder may declare the entire outstanding principal amount of the Note with respect to which such Event of Default relates to be immediately due and payable together with the applicable Fixed Rate Prepayment Charge, if any. Upon the occurrence and continuance of an Event of Default pursuant to this Section 17, the Noteholder may adjust the Interest Rate to the Default Rate which shall be effective until such Event of Default has been cured.

If any payment required to be made by the Issuer hereunder or under either of the Notes is more than fifteen (15) days past due, the Issuer will pay to the Noteholder a late charge equal to six percent (6%) of the payment amount which is past due.

SECTION 18. SEVERABILITY. If any provision of this Resolution shall be held or deemed to be or shall, in fact, be illegal, inoperative or unenforceable in any context, the same shall not affect any other provision herein or render any other provision

(or such provision in any other context) invalid, inoperative or unenforceable to any extent whatever.

SECTION 19. RULES OF INTERPRETATION. Unless expressly indicated otherwise, references to sections or articles are to be construed as references to sections or articles of this instrument as originally executed. Use of the words "herein," "hereby," "hereunder," "hereof," "hereinbefore," "hereinafter" and other equivalent words refer to this Resolution and not solely to the particular portion in which any such word is used.

SECTION 20. CAPTIONS. The captions and headings in this Resolution are for convenience only and in no way define, limit or describe the scope or intent of any provisions or sections of this Resolution.

SECTION 21. PERSONAL LIABILITY EXEMPTION. No recourse under or upon any obligation, covenant or agreement of this Resolution or the Notes or for any claim based thereon or otherwise in respect thereof, shall be had against any member of the Board, the Chair, the Clerk, the County Attorney, the County Manager or any staff, employees or agents of the Issuer, past, present or future, either directly or through the Issuer (collectively, "Issuer Participants") it being expressly understood (i) that no personal liability whatsoever shall attach to, or is or shall be incurred by, the Issuer Participants under or by reason of the obligations, covenants or agreements contained in this Resolution or implied therefrom, and (ii) that any and all such personal liability, either at common law or in equity or by constitution or statute, of, and any and all such rights and claims against, every Issuer Participant are waived and released as a condition of, and as a consideration for, the execution of this Resolution and the issuance of the Notes, on the part of the Issuer.

SECTION 22. AUTHORIZATIONS. The Chair and any member of the Board, the County Attorney, the Clerk, the County Manager and such other officials and employees of the Issuer as may be designated by the Issuer are each designated as agents of the Issuer in connection with the issuance and delivery of the Notes and the refunding of the Refunded Debt and are authorized and empowered, collectively or individually, to take all action and steps and to execute all instruments, documents, and contracts on behalf of the Issuer that are necessary or desirable in connection with the execution and delivery of the Notes and the refunding of the Refunded Debt, and which are specifically authorized or are not inconsistent with the terms and provisions of this Resolution.

SECTION 23. WAIVER OF JURY TRIAL; APPLICABLE LAW AND JURISDICTION. (a) To the extent permitted by applicable law, the Issuer and the Noteholder, knowingly, voluntarily and intentionally waive 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 Resolution, the Notes or any agreement contemplated to be executed in connection with this Resolution, or any course of conduct, course of dealing, statements (whether verbal or written) or actions of any party with respect hereto.

(b) The substantive laws of the State of Florida shall govern this Resolution, the Notes or any agreement contemplated to be executed in connection with this Resolution. The Issuer submits to the jurisdiction of Florida courts and federal courts and agrees that venue for any suit concerning this Resolution or the Notes shall be in Brevard County, Florida and the Middle District of Florida.

SECTION 24. REPEALER. All resolutions or parts thereof in conflict herewith are repealed.

SECTION 25. EFFECTIVE DATE. This Resolution shall be effective immediately upon its adoption.

This Resolution passed and adopted this 24th day of March, 2020.

BOARD OF COUNTY COMMISSIONERS
BREVARD COUNTY, FLORIDA,

(SEAL)

By: Bryan Andrew Lober
Bryan Lober, Chair

ATTEST:

Scott Ellis
Scott Ellis, Clerk of the Circuit Court and
Ex-Officio Clerk to the Board of County
Commissioners of Brevard County,
Florida

As approved by the Board March 24, 2020.

EXHIBIT A
FORM OF NOTES

This Note is subject to transfer restrictions as set forth in the hereinafter described Resolution.

March __, 2020 \$ _____

BREVARD COUNTY, FLORIDA
NON-AD VALOREM REFUNDING REVENUE NOTE, SERIES 2020__

Maturity Date: _____ 1, 20__

Brevard County, Florida (the "Issuer"), for value received, promises to pay from the sources hereinafter provided, to the order of **TD Bank, N.A.**, or registered assigns (hereinafter, the "Owner"), the principal sum of _____ AND 00/100 DOLLARS, in the amounts and on the dates described below, together with interest on the principal balance at a rate of _____% per annum (subject to adjustment as described in the hereinafter described Resolution) semi-annually on each _____ 1 and _____ 1 commencing _____, 2020. Interest shall be calculated on the basis of twelve 30-day months and a 360-day year.

Principal on this Note is payable annually in lawful money of the United States of America at such place as the Owner may designate to the Issuer in writing pursuant to the following schedule:

<u>Payment Date</u>	<u>Principal Amount</u>
---------------------	-------------------------

This Note is issued pursuant to the provisions of the Constitution of the State of Florida, Chapter 125, Florida Statutes, the Charter of the Issuer, and other applicable provisions of law (the "Act"), and a resolution adopted by the Board of County Commissioners of the Issuer on March 24, 2020, relating to this Note (the "Resolution"), and is subject to all the terms and conditions of the Act and the Resolution. All terms, conditions and provisions of the Resolution are by this reference thereto incorporated

herein as a part of this Note. Terms used herein in capitalized form and not otherwise defined herein shall have the meanings ascribed thereto in the Resolution.

Payments of the principal of and interest on this Note shall be limited obligations of the Issuer, payable solely from the Pledged Funds to the extent provided in the Resolution. The Issuer has agreed in the Resolution, subject to the limitations described therein, to appropriate in its annual budget, by amendment, if necessary, from Available Non-Ad Valorem Revenues, amounts sufficient to make the payments of principal of and interest on this Note. Such covenant and agreement on the part of the Issuer to budget and appropriate such amounts of Available Non-Ad Valorem Revenues shall be cumulative to the extent not paid, and shall continue until such Available Non-Ad Valorem Revenues in amounts sufficient to make all such required payments shall have been budgeted, appropriated and actually paid. No lien upon or pledge of such budgeted Non-Ad Valorem Revenues shall be in effect until such monies are budgeted and appropriated.

Such covenant to budget and appropriate does not create any lien upon or pledge of such Non-Ad Valorem Revenues, nor does it preclude the Issuer from pledging in the future its Non-Ad Valorem Revenues or any component thereof, nor does it require the Issuer to levy and collect any particular Non-Ad Valorem Revenues, nor does it give the Owner a prior claim on the Non-Ad Valorem Revenues except as provided in the immediately preceding paragraph. Such covenant to budget and appropriate Available Non-Ad Valorem Revenues is subject in all respects to the prior payment of obligations secured by a pledge of such Non-Ad Valorem Revenues heretofore or hereafter entered into (including the payment of debt service on other debt instruments). Anything in the Resolution to the contrary notwithstanding, it is understood and agreed that the obligations of the Issuer, if any, to pay amounts due on this Note shall be payable from the portion of Available Non-Ad Valorem Revenues budgeted and appropriated as provided for under the Resolution and nothing in the Resolution or this Note shall be deemed to pledge ad valorem tax revenues for such interest or to permit or constitute a mortgage or lien upon any assets owned by the Issuer and the Owner of this Note nor any other person, may compel the levy of ad valorem taxes on real or personal property within the boundaries of the Issuer to pay such interest.

Notwithstanding any provisions of the Resolution or this Note to the contrary, the Issuer shall never be obligated to maintain or continue any of the activities of the Issuer which generate user service charges, regulatory fees or any Non-Ad Valorem Revenues. Neither the Resolution nor the obligations of the Issuer under the Resolution or this Note shall be construed as a pledge of or a lien on all or any legally available Non-Ad Valorem Revenues of the Issuer, but shall be payable solely as provided herein and is subject in all respects to the provisions of Section 129.01, Florida Statutes.

The covenant to budget and appropriate for the purposes and in the manner stated in the Resolution shall have the effect of making available for the payment of this Note, in the manner described in the Resolution, Available Non-Ad Valorem Revenues, and placing

on the Issuer a positive duty to appropriate and budget, by amendment, if necessary, amounts sufficient to meet its obligations under the Resolution; subject, however, in all respects to the restrictions of Sections 129.03 and 129.07, Florida Statutes. The Issuer agrees that its covenant and agreement to budget and appropriate Available Non-Ad Valorem Revenues shall be deemed entered into for the benefit of Owner of this Note and this obligation may be enforced by a court of competent jurisdiction.

The Note shall not constitute a general obligation or a pledge of the faith, credit or taxing power of the Issuer, the State, or any political subdivision or agency thereof, within the meaning of any constitutional or statutory provisions. Neither the State, nor any political subdivision or agency thereof, nor the Issuer shall be obligated (i) to exercise its ad valorem taxing power in any form on any real or personal property of or in the Issuer to pay the principal of the Note, the interest thereon, or other costs incidental thereto or (ii) to pay the same from any other funds of the Issuer except from the Pledged Funds, in the manner provided in the Resolution.

This Note shall be subject to prepayment, in whole or in part, on any Business Day at the option of the Issuer, at a price equal to the principal amount thereof, plus interest accrued on the principal amount being prepaid to the date of prepayment, plus payment of the Fixed Rate Prepayment Charge as determined by the Noteholder and described below. The Fixed Rate Prepayment Charge shall equal the greater of (i) 1.00% of the principal amount being prepaid multiplied by the Remaining Term (as defined below) or (ii) a "Yield Maintenance Fee" in an amount computed as follows:

The Yield Maintenance Fee shall be based on the current cost of funds, specifically the bond equivalent yield for United States Treasury securities (bills on a discounted basis shall be converted to a bond equivalent yield) with a maturity date closest to the Remaining Term ("Cost of Funds") subtracted from the stated Interest Rate on the Note being prepaid ("Stated Interest Rate"). If the result is zero or a negative number, there shall be no Yield Maintenance Fee due and payable. If the result is a positive number, then the resulting percentage shall be multiplied by the amount being prepaid times the number of days in the Remaining Term (as defined below) and divided by 360. The resulting amount is the "Yield Maintenance Fee" due to the Noteholder upon prepayment of all or a portion of the principal of this Note, plus any accrued interest due as of the prepayment date and is expressed in the following calculation:

"Yield Maintenance Fee" = Principal Amount Being Prepaid times (Stated Interest Rate - Cost of Funds) times days in the Remaining Term/360 days.

"Remaining Term" as used herein shall mean the remaining term of this Note.

Any prepayment of this Note shall be made on such Business Day as shall be specified by the Issuer in a notice delivered to the Noteholder not less than thirty (30) days prior thereto specifying the principal amount of this Note and the date that shall be the date

of such prepayment. Notice having been given as aforesaid, the amount of the outstanding principal of this Note shall become due and payable on the date of prepayment stated in such notice, together with interest accrued and unpaid to the date of prepayment on the principal amount then being paid plus the Fixed Rate Prepayment Charge. If on the date of prepayment moneys for the payment of the principal amount to be prepaid on this Note, together with interest to the date of prepayment on such principal amount plus the Fixed Rate Prepayment Charge shall have been paid to the Noteholder as above provided, then from and after the date of prepayment, interest on such prepaid principal amount of the Note being prepaid shall cease to accrue. If said money shall not have been so paid on the date of prepayment, such principal amount of this Note shall continue to bear interest until payment thereof at the then applicable Interest Rate. Any such failure to pay the prepayment price shall not constitute an Event of Default hereunder. Any prepayment in part shall be applied to the remaining principal payments in inverse order of scheduled payments unless otherwise agreed to between the Issuer and the Noteholder.

All payments by the Issuer pursuant to this Note shall apply first to accrued interest, then to other charges due the Owner, and the balance thereof shall apply to principal.

This Note may be exchanged or transferred by the Owner hereof, in whole but not in part, but only upon the registration books maintained by the Issuer and in the manner and subject to the conditions provided in the Resolution.

No presentment or delivery shall be required for any payment on this Note except upon final maturity.

The interest rate on this Note is subject to adjustment as provided in Section 12(b), Section 13 and Section 17 of the Resolution.

It is certified, recited and declared that all acts, conditions and prerequisites required to exist, happen and be performed precedent to and in the execution, delivery and the issuance of this Note do exist, have happened and have been performed in due time, form and manner as required by law, and that the issuance of this Note is in full compliance with and does not exceed or violate any constitutional or statutory limitation.

[Remainder of page intentionally left blank]

IN WITNESS WHEREOF, Brevard County, Florida, has issued this Note and has caused the same to be signed by the Chair of the Board of County Commissioners and attested to and countersigned by the Clerk of said Board, either manually or with their facsimile signatures, and its corporate seal or a facsimile thereof to be reproduced hereon, all as of the 24 day of March, 2020.

BREVARD COUNTY, FLORIDA

(SEAL)

By: Bryan Andrew Lober
Bryan Lober, Chair
Approved by the Board on March 24, 2020

ATTEST:

By: Scott A. Ellis
Scott Ellis, Clerk of the Circuit Court
and Ex-Officio Clerk to the Board
of County Commissioners of
Brevard County, Florida

EXHIBIT B
PROPOSALS OF TD BANK, N.A.



TD Bank, N.A.
301 East Pine Street, Suite 1000
Orlando, FL 32801
Tel: 407-622-3563
Fax: 407-423-0070
Sterling.Harrell@td.com

March 3, 2020

Mr. Steve Burdett
Finance Director
Brevard County
2725 Judge Fran Jamieson Way
Melbourne, FL 32930

Mr. Jay Glover
Managing Director
PFM Financial Advisors, LLC
300 South Orange Avenue, Suite 1170
Orlando, FL 32801

Ms. Jill Hayes
Budget Director
Brevard County
2725 Judge Fran Jamieson Way
Melbourne, FL 32930

Mr. Michael Dennis
Analyst
PFM Financial Advisors, LLC
300 South Orange Avenue, Suite 1170
Orlando, FL 32801

RE: Request for Proposals for Non-Bank Qualified Tax-Exempt Bank Loan

Dear Ms. Hayes and Messrs. Burdett, Glover, Dennis,

In response to the Request for Proposal for Brevard County, Florida – Request for Proposal for the Non Ad Valorem Revenue Note, Series 2020A, TD Bank, N.A. (the "Bank") is pleased to submit the following proposal to Brevard County, Florida (the "County").

The structure of the proposed Credit Accommodation is outlined in the attached term sheet (Exhibit A) which provides a statement of suggested terms, but under no circumstance shall such statement be construed as a complete summarization of terms necessary for consummation of the proposed Credit Accommodation. PLEASE NOTE THIS PROPOSAL IS SUBJECT TO FORMAL CREDIT REVIEW AND UNDERWRITING IN ACCORDANCE WITH THE BANK'S INTERNAL POLICY AND NOTHING HEREIN SHALL CONSTITUTE A BINDING COMMITMENT TO LEND. Further, we expressly advise you that TD Bank, N.A. has not approved the Credit Accommodation. The Bank shall not be liable to the County or any other person for any losses, damages or consequential damages which may result from the County's reliance upon this proposal letter, the proposed Credit Accommodation, the proposed term sheet or any transaction contemplated hereby.


The Bank's Loan Proposal is subject to receipt by the County prior to 4:00 pm eastern standard time on March 3, 2020 and is contingent upon a Loan Closing with mutually acceptable documents between the County and Bank prior to 2:00 pm eastern standard time on March 30, 2020.

This letter, including the terms contained within the proposed Credit Accommodation, is delivered to you on the condition that its existence and its contents will not be disclosed without our prior written approval, except (i) as may be required to be disclosed in any legal proceeding or as may otherwise be required by law and on a confidential and "need to know" basis, to your directors, officers, employees, advisors and agents.

We appreciate this opportunity and are delighted to provide this Proposal. We look forward to working with you to successfully complete this transaction. My contact information is noted above.

Very truly yours,

TD BANK, N.A.

By: 
Sterling Harrell
Director

TD Bank, N.A.

**TERMS AND CONDITIONS OF CREDIT ACCOMMODATION DATED
March 3, 2020 ("Loan")**

THIS IS A STATEMENT OF TERMS AND CONDITIONS AND NOT A COMMITMENT TO LEND. ALL CREDIT ACCOMMODATIONS ARE SUBJECT TO FORMAL CREDIT UNDERWRITING AND APPROVAL.

1. Loan

- a) Borrower: Brevard County (the "Borrower")
 - b) Facility: Series 2020A: Non-Bank Qualified Tax-Exempt Bank Loan (the "2020A Note")
 - c) Purpose: The Note is being issued by the County for the purpose of (i) refunding the County's outstanding Non-Ad Valorem Revenue Note, Series 2014 and (ii) paying the related costs of issuance.
 - d) Amount: Not to exceed \$13,500,000.00 USD
 - e) Security: The payment of the principal of and interest on the Note shall be secured by a covenant to budget and appropriate from all non-ad valorem revenues of the County (other than those on deposit in enterprise funds, those specifically pledged to secure other debt, and those required to pay essential government services), and which are lawfully available to be used to pay debt service on amounts due under the Note.
 - f) Settlement Date: On or before March 30, 2020
 - g) Maturity: November 1, 2032
 - (h) Repayment Terms:

Interest on the 2020A Note will be paid semi-annually (May 1 and November 1), commencing on November 1, 2020, based upon a 30/360 day basis.

Principal on the 2020A Note will be paid semi-annually (May 1 and November 1), commencing on November 1, 2020, with final maturity of November 1, 2032 in accordance with the Amortization Schedule attached in Appendix A.
 - i) Interest Rate: Tax Exempt Non-Bank Qualified (NBQ) Fixed Rate: 1.52%
- This rate will be held until a settlement date no later than March 30, 2020 so long as the Bank receives notification that it will be recommended Lender on or before March 3, 2020.

In the event the selection or closing goes beyond the dates noted above, the fixed interest rate will be determined by adding 70 basis points to 79% of the 10-year USD Swap Rate.

j) **Prepayment Provision:**

Option A: At the time of any full or partial prepayment, (i) A "Yield Maintenance Fee" in an amount computed as follows shall apply:

This Note may be prepaid on any Business Day in whole or in part upon thirty (30) days prior written notice to the Bank. In the event of any prepayment of this Note, whether by voluntary prepayment, acceleration or otherwise, the Borrower shall, at the option of the Bank, pay a "fixed rate prepayment charge" equal to the greater of (i) 1.00% of the principal balance being prepaid multiplied by the "Remaining Term," as hereinafter defined, in years or (ii) a "Yield Maintenance Fee" in an amount computed as follows:

The current cost of funds, specifically the bond equivalent yield for United States Treasury securities (bills on a discounted basis shall be converted to a bond equivalent yield) with a maturity date closest to the "Remaining Term", shall be subtracted from the "Stated Interest Rate". If the result is zero or a negative number, there shall be no Yield Maintenance Fee due and payable. If the result is a positive number, then the resulting percentage shall be multiplied by the amount being prepaid times the number of days in the "Remaining Term" and divided by 360. The resulting amount is the "fixed prepayment charge" due to the Bank upon prepayment of the principal of this Loan plus any accrued interest due as of the prepayment date and is expressed in the following calculation:

Yield Maintenance Fee = [Amount Being Prepaid x (Stated Interest Rate - Current Cost of Funds) x Days in the Remaining Term/360 days] + any accrued interest due "Remaining Term."

"Remaining Term" as used herein shall mean the remaining term of the 2020A Note.

Option B: Borrower can elect to have a "No Prepayment" penalty associated with 2020A Note by adding a premium of 14 basis points to the quoted proposed Loan Rate.

Partial prepayments shall be applied in inverse order of maturity, treating scheduled amortization installments as maturities.

k) **Default Rate of Interest:**

The "default rate of interest" shall be six (6) percentage points in excess of the Prime Rate as quoted in the Wall Street Journal.

Events of Default: Will include, but not be limited to:

- (1) Breach of representation or warranties.
- (2) Violation of covenants.
- (3) Bankruptcy or insolvency.
- (4) Final, non-appealable judgments against the County in excess of \$10,000,000
- (5) Payment default.
- (6) County's 2020A Note shall be cross defaulted to all other County debt

with the Bank.

l) **Late Charges:**

If any payment due the Bank is more than fifteen (15) days overdue, a late charge of six percent (6%) of the overdue payment shall be assessed.

2. **Fees and Expenses:** The Borrower shall pay to the Bank on demand any and all costs and expenses (including, without limitation, reasonable attorneys' fees and disbursements, court costs, litigation and other expenses) incurred or paid by the Bank in connection with the loan. The County's bond counsel will provide documentation associated with this transaction. Documentation will be subject to the review and approval of the Bank and the Bank's counsel. The County agrees to pay all legal fees and expenses of the Bank associated with the review and closing of this transaction, which costs may be paid with proceeds of the Loan with a maximum time basis not to exceed \$8,500.00. Bank's counsel shall be the following:

Michael Wiener
Holland & Knight LLP
2115 Harden Blvd.
Lakeland, FL 33803
(863) 499-5362

3. **Financial Reporting:**

a) ***Borrower(s) shall furnish the following financial reports:***

<u>Type of Report(s)</u>	<u>Frequency</u>	<u>Due Date</u>
<i>Audited Financial Statements</i>	Annually	Within 210 days after the end of the fiscal year
<i>Annual Budget</i>	Annually	Within 60 days after its adoption

The Bank reserves the right to request reasonable additional financial information to supplement or verify certain financial assumptions or verify the creditworthiness of the Borrower.

4. **Legal Opinion:**

Prior to closing, there shall be delivered to the Bank: (A) an opinion of Bond Counsel acceptable to the Bank covering matters customary for a transaction of this type and nature and which shall, without limitation, opine that: (1) the Borrower is duly formed; (2) all loan documents have been validly authorized and executed by and on behalf of the Borrower, if any; (3) all loan documents are valid, binding, enforceable in accordance with their terms and do not violate any legal requirements, including without limitation, organizational documents, laws and material agreements; (4) the loan and loan documents are exempt from registration and qualification under the Securities Act of 1933 and Trust Indenture Act of 1939, and (5) the interest on the 2020A Bond is excludable from the gross income of the Bank. An opinion of counsel to the Borrower in form and substance satisfactory to the Bank.

5. **Financial Covenants:**

All standard covenants and provisions shall be applicable to the Loans, including but not limited to:

Additional Bonds Test: During each Fiscal Year that the 2020A Note is outstanding hereunder, prior to the incurrence of any additional Other Debt the County will agree and covenant with the Bank that Adjusted Non-Ad Valorem Revenues shall cover the aggregate Maximum Annual Debt Service on the 2020A Note and Other Debt, including the proposed Other Debt, by at least 1.50x. Such calculation shall be determined using the average of actual Adjusted Non-Ad Valorem Revenues for the prior two Fiscal Years based on the County's Annual Audits.

"Other Debt" shall mean all of the following to the extent that they are secured by or payable in whole or in part from any Non-Ad Valorem Revenues (A) all obligations of the Issuer for borrowed money or evidenced by bonds, debentures, notes or other similar instruments; (B) all obligations of the Issuer to pay the deferred purchase price of property or services, except trade accounts payable under normal trade terms and which arise in the ordinary course of business; and (C) all obligations of the Issuer as lessee under capitalized leases.

6. Other Conditions:

- a. Loan documents shall include language stipulating that the Loan Facility and all existing and future obligations backed by the same security as the Bank Loan shall be on parity with no preference to be given to any particular issuance.
- b. No Material Adverse Change to the Borrower.
- c. Borrower shall maintain a minimum Public Debt Rating (PDR) of BBB+ or better on debt secured by the same pledge of revenues, and the County will maintain the PDR for the term of the debt. Falling below the PDR rating will constitute an event of default. Notwithstanding the forgoing, beginning November 1, 2024, in the event the Borrower pays in full or refunds all of its rated debt, for reasons not related to downgrade, suspension, or material adverse event, the Borrower shall provide annual certification that adjusted non ad valorem revenues are at least 150% of maximum annual debt service. If adjusted non ad valorem revenues fall below 150% of maximum annual debt service, the default rate of interest shall apply.
- d. The implementation of certain terms, conditions, covenants or other non-material changes to the proposed Credit Accommodation required as part of the Bank's formal credit approval shall be deemed an approval in substantially the form outlined in this proposed Credit Accommodation.
- e. All standard representations, warranties, rights and remedies in the event of default that are acceptable to the bank, including Acceleration Rights for payment default.
- f. Documents for the 2020A Note will include determination of taxability language (including retroactive interest, penalties and other fees and costs associated therewith) allowing for a higher taxable loan rate should the IRS deem the Loan to be a taxable facility due to events associated with action or inaction of Borrower.
- g. All legal matters and documentation to be executed in connection with the contemplated proposed Credit Accommodation shall be satisfactory in form and substance to the Bank and counsel to the Bank.
- h. The Bank shall not be required to enter into the proposed Credit Accommodation until the completion of all due diligence inquiries, receipt of approvals from all requisite parties and the execution and receipt of all necessary documentation reasonably acceptable to the Bank and its counsel. Furthermore, certain assumptions are made for this proposal which, if altered, could affect the overall credit approval and or terms of the proposed Credit Accommodation.

Patriot Act Notice. Lender is subject to the requirements of the USA Patriot Act (Title III of Pub. L. 107-56) (signed into law October 26, 2001)) (the "Act") and hereby notifies the Borrower and Guarantor that pursuant to the requirements of the Act, it is required to obtain, verify and record information that identifies the Borrower and Guarantor, which information includes the name and address of the Borrower and Guarantor and other information that will allow Lender to identify the Borrower and Guarantor in accordance with the Act.

THIS PROPOSAL IS NOT AND SHOULD NOT BE CONSTRUED AS A COMMITMENT BY THE BANK OR ANY AFFILIATE TO ENTER INTO ANY CREDIT ACCOMMODATION.

Appendix A: Amortization Schedule

11/1/2020	465,000
5/1/2021	420,000
11/1/2021	415,000
5/1/2022	435,000
11/1/2022	435,000
5/1/2023	455,000
11/1/2023	455,000
5/1/2024	480,000
11/1/2024	475,000
5/1/2025	495,000
11/1/2025	500,000
5/1/2026	520,000
11/1/2026	520,000
5/1/2027	545,000
11/1/2027	540,000
5/1/2028	565,000
11/1/2028	565,000
5/1/2029	590,000
11/1/2029	590,000
5/1/2030	610,000
11/1/2030	615,000
5/1/2031	635,000
11/1/2031	640,000
5/1/2032	665,000
11/1/2032	665,000



TD Bank, N.A.
301 East Pine Street, Suite 1000
Orlando, FL 32801
Tel: 407-622-3563
Fax: 407-423-0070
Sterling.Harrell@td.com

March 3, 2020

Mr. Steve Burdett
Finance Director
Brevard County
2725 Judge Fran Jamieson Way
Melbourne, FL 32930

Mr. Jay Glover
Managing Director
PFM Financial Advisors, LLC
300 South Orange Avenue, Suite 1170
Orlando, FL 32801

Ms. Jill Hayes
Budget Director
Brevard County
2725 Judge Fran Jamieson Way
Melbourne, FL 32930

Mr. Michael Dennis
Analyst
PFM Financial Advisors, LLC
300 South Orange Avenue, Suite 1170
Orlando, FL 32801

RE: Request for Proposals for Non-Bank Qualified Tax-Exempt Bank Loan

Dear Ms. Hayes and Messrs. Burdett, Glover, Dennis,

In response to the Request for Proposal for Brevard County, Florida – Request for Proposal for the Non Ad Valorem Revenue Note, Series 2020B, TD Bank, N.A. (the "Bank") is pleased to submit the following proposal to Brevard County, Florida (the "County").

The structure of the proposed Credit Accommodation is outlined in the attached term sheet (Exhibit A) which provides a statement of suggested terms, but under no circumstance shall such statement be construed as a complete summarization of terms necessary for consummation of the proposed Credit Accommodation. PLEASE NOTE THIS PROPOSAL IS SUBJECT TO FORMAL CREDIT REVIEW AND UNDERWRITING IN ACCORDANCE WITH THE BANK'S INTERNAL POLICY AND NOTHING HEREIN SHALL CONSTITUTE A BINDING COMMITMENT TO LEND. Further, we expressly advise you that TD Bank, N.A. has not approved the Credit Accommodation. The Bank shall not be liable to the County or any other person for any losses, damages or consequential damages which may result from the County's reliance upon this proposal letter, the proposed Credit Accommodation, the proposed term sheet or any transaction contemplated hereby.

The Bank's Loan Proposal is subject to receipt by the County prior to 4:00 pm eastern standard time on March 3, 2020 and is contingent upon a Loan Closing with mutually acceptable documents between the County and Bank prior to 4:00 pm eastern standard time on March 30, 2020.

This letter, including the terms contained within the proposed Credit Accommodation, is delivered to you on the condition that its existence and its contents will not be disclosed without our prior written approval, except (i) as may be required to be disclosed in any legal proceeding or as may otherwise be required by law and on a confidential and "need to know" basis, to your directors, officers, employees, advisors and agents.

We appreciate this opportunity and are delighted to provide this Proposal. We look forward to working with you to successfully complete this transaction. My contact information is noted above:

Very truly yours,

TD BANK, N.A.

By: 
Sterling Harrell
Director

TD Bank, N.A.

TERMS AND CONDITIONS OF CREDIT ACCOMMODATION DATED March 3, 2020 ("Loan")

THIS IS A STATEMENT OF TERMS AND CONDITIONS AND NOT A COMMITMENT TO LEND. ALL CREDIT ACCOMMODATIONS ARE SUBJECT TO FORMAL CREDIT UNDERWRITING AND APPROVAL.

1. Loan

- a) **Borrower:** Brevard County (the "Borrower")
 - b) **Facility:** Series 2020B: Non-Bank Qualified Tax-Exempt Bank Loan (the "2020B Note")
 - c) **Purpose:** The Note is being issued by the County for the purpose of (i) refunding the County's outstanding Local Option Fuel Tax Note, Series 2014 and (ii) paying the related costs of issuance.
 - d) **Amount:** Not to exceed \$20,000,000.00 USD
 - e) **Security:** The payment of the principal of and interest on the Note shall be secured by a covenant to budget and appropriate from all non-ad valorem revenues of the County (other than those on deposit in enterprise funds, those specifically pledged to secure other debt, and those required to pay essential government services), and which are lawfully available to be used to pay debt service on amounts due under the Note.
 - f) **Settlement Date:** On or before March 30, 2020
 - g) **Maturity:** August 1, 2026
 - (h) **Repayment Terms:**

Interest on the 2020B Note will be paid semi-annually (February 1 and August 1), commencing on August 1, 2020, based upon a 30/360 day basis.

Principal on the 2020B Note will be paid annually (August 1), commencing on August 1, 2020, with final maturity of August 1, 2026 in accordance with the Amortization Schedule attached in Appendix A.
 - i) **Interest Rate:** Tax Exempt Non-Bank Qualified (NBQ) Fixed Rate: 1.26%
- This rate will be held until a settlement date no later than March 30, 2020 so long as the Bank receives notification that it will be recommended Lender on or before March 3, 2020.

In the event the selection or closing goes beyond the dates noted above, the fixed interest rate will be determined by adding 57 basis points to 79% of the 5-year USD Swap Rate.

j) **Prepayment Provision:**

Option A: At the time of any full or partial prepayment, (i) A "Yield Maintenance Fee" in an amount computed as follows shall apply:

This Note may be prepaid on any Business Day in whole or in part upon thirty (30) days prior written notice to the Bank. In the event of any prepayment of this Note, whether by voluntary prepayment, acceleration or otherwise, the Borrower shall, at the option of the Bank, pay a "fixed rate prepayment charge" equal to the greater of (i) 1.00% of the principal balance being prepaid multiplied by the "Remaining Term," as hereinafter defined, in years or (ii) a "Yield Maintenance Fee" in an amount computed as follows:

The current cost of funds, specifically the bond equivalent yield for United States Treasury securities (bills on a discounted basis shall be converted to a bond equivalent yield) with a maturity date closest to the "Remaining Term", shall be subtracted from the "Stated Interest Rate". If the result is zero or a negative number, there shall be no Yield Maintenance Fee due and payable. If the result is a positive number, then the resulting percentage shall be multiplied by the amount being prepaid times the number of days in the "Remaining Term" and divided by 360. The resulting amount is the "fixed prepayment charge" due to the Bank upon prepayment of the principal of this Loan plus any accrued interest due as of the prepayment date and is expressed in the following calculation:

Yield Maintenance Fee = [Amount Being Prepaid x (Stated Interest Rate - Current Cost of Funds) x Days in the Remaining Term/360 days] + any accrued interest due "Remaining Term."

"Remaining Term" as used herein shall mean the remaining term of the 2020B Note.

Option B: Borrower can elect to have a "No Prepayment" penalty associated with 2020B Note by adding a premium of 12 basis points to the quoted proposed Loan Rate.

Partial prepayments shall be applied in inverse order of maturity, treating scheduled amortization installments as maturities.

k) **Default Rate of Interest:**

The "default rate of interest" shall be six (6) percentage points in excess of the Prime Rate as quoted in the Wall Street Journal.

Events of Default: Will include, but not be limited to:

- (1) Breach of representation or warranties.
- (2) Violation of covenants.
- (3) Bankruptcy or insolvency.
- (4) Final, non-appealable judgments against the County in excess of \$10,000,000
- (5) Payment default.
- (6) County's 2020B Note shall be cross defaulted to all other County debt with the Bank.

l) **Late Charges:**

If any payment due the Bank is more than fifteen (15) days overdue, a late charge of six percent (6%) of the overdue payment shall be assessed.

2. **Fees and Expenses:** The Borrower shall pay to the Bank on demand any and all costs and expenses (including, without limitation, reasonable attorneys' fees and disbursements, court costs, litigation and other expenses) incurred or paid by the Bank in connection with the loan. The County's bond counsel will provide documentation associated with this transaction. Documentation will be subject to the review and approval of the Bank and the Bank's counsel. The County agrees to pay all legal fees and expenses of the Bank associated with the review and closing of this transaction, which costs may be paid with proceeds of the Loan with a maximum time basis not to exceed \$8,500.00. Bank's counsel shall be the following:

Michael Wiener
Holland & Knight LLP
2115 Harden Blvd.
Lakeland, FL 33803
(863) 499-5362

3. **Financial Reporting:**

a) ***Borrower(s) shall furnish the following financial reports:***

<u>Type of Report(s)</u>	<u>Frequency</u>	<u>Due Date</u>
<i>Audited Financial Statements</i>	Annually	Within 210 days after the end of the fiscal year
<i>Annual Budget</i>	Annually	Within 60 days after its adoption

The Bank reserves the right to request reasonable additional financial information to supplement or verify certain financial assumptions or verify the creditworthiness of the Borrower.

4. **Legal Opinion:**

Prior to closing, there shall be delivered to the Bank: (A) an opinion of Bond Counsel acceptable to the Bank covering matters customary for a transaction of this type and nature and which shall, without limitation, opine that: (1) the Borrower is duly formed; (2) all loan documents have been validly authorized and executed by and on behalf of the Borrower, if any; (3) all loan documents are valid, binding, enforceable in accordance with their terms and do not violate any legal requirements, including without limitation, organizational documents, laws and material agreements; (4) the loan and loan documents are exempt from registration and qualification under the Securities Act of 1933 and Trust Indenture Act of 1939, and (5) the interest on the 2020B Bond is excludable from the gross income of the Bank. An opinion of counsel to the Borrower in form and substance satisfactory to the Bank.

5. **Financial Covenants:**

All standard covenants and provisions shall be applicable to the Loans, including but not limited to:

Additional Bonds Test: During each Fiscal Year that the 2020B Note is outstanding hereunder, prior to the incurrence of any additional Other Debt the County will agree and covenant with the Bank that Adjusted Non-Ad Valorem Revenues shall cover the aggregate Maximum Annual Debt Service on the 2020B Note and Other Debt, including the proposed Other Debt, by at least 1.50x. Such calculation shall be determined using the average of actual Adjusted Non-Ad Valorem Revenues for the prior two Fiscal Years based on the County's Annual Audits.

"Other Debt" shall mean all of the following to the extent that they are secured by or payable in whole or in part from any Non-Ad Valorem Revenues (A) all obligations of the Issuer for borrowed money or evidenced by bonds, debentures, notes or other similar instruments; (B) all obligations of the Issuer to pay the deferred purchase price of property or services, except trade accounts payable under normal trade terms and which arise in the ordinary course of business; and (C) all obligations of the Issuer as lessee under capitalized leases.

6. Other Conditions:

- a. Loan documents shall include language stipulating that the Loan Facility and all existing and future obligations backed by the same security as the Bank Loan shall be on parity with no preference to be given to any particular issuance.
- b. No Material Adverse Change to the Borrower.
- c. Borrower shall maintain a minimum Public Debt Rating (PDR) of BBB+ or better on debt secured by the same pledge of revenues, and the County will maintain the PDR for the term of the debt. Falling below the PDR rating will constitute an event of default. Notwithstanding the forgoing, beginning November 1, 2024, in the event the Borrower pays in full or refunds all of its rated debt, for reasons not related to downgrade, suspension, or material adverse event, the Borrower shall provide annual certification that adjusted non ad valorem revenues are at least 150% of maximum annual debt service. If adjusted non ad valorem revenues fall below 150% of maximum annual debt service, the default rate of interest shall apply.
- d. The implementation of certain terms, conditions, covenants or other non-material changes to the proposed Credit Accommodation required as part of the Bank's formal credit approval shall be deemed an approval in substantially the form outlined in this proposed Credit Accommodation.
- e. All standard representations, warranties, rights and remedies in the event of default that are acceptable to the bank, including Acceleration Rights for payment default.
- f. Documents for the 2020B Note will include determination of taxability language (including retroactive interest, penalties and other fees and costs associated therewith) allowing for a higher taxable loan rate should the IRS deem the Loan to be a taxable facility due to events associated with action or inaction of Borrower.
- g. All legal matters and documentation to be executed in connection with the contemplated proposed Credit Accommodation shall be satisfactory in form and substance to the Bank and counsel to the Bank.
- h. The Bank shall not be required to enter into the proposed Credit Accommodation until the completion of all due diligence inquiries, receipt of approvals from all requisite parties and the execution and receipt of all necessary documentation reasonably acceptable to the Bank and its counsel. Furthermore, certain assumptions are made for this proposal which, if altered, could affect the overall credit approval and or terms of the proposed Credit Accommodation.

Patriot Act Notice. Lender is subject to the requirements of the USA Patriot Act (Title III of Pub. L. 107-56) (signed into law October 26, 2001)) (the "Act") and hereby notifies the Borrower and Guarantor that pursuant to the requirements of the Act, it is required to obtain, verify and record information that identifies the Borrower and Guarantor, which information includes the name and address of the Borrower and Guarantor and other information that will allow Lender to identify the Borrower and Guarantor in accordance with the Act.

THIS PROPOSAL IS NOT AND SHOULD NOT BE CONSTRUED AS A COMMITMENT BY THE BANK OR ANY AFFILIATE TO ENTER INTO ANY CREDIT ACCOMMODATION.

Appendix A: Amortization Schedule

8/1/2020	980,000
8/1/2021	2,955,000
8/1/2022	3,000,000
8/1/2023	3,045,000
8/1/2024	3,095,000
8/1/2025	3,145,000
8/1/2026	3,180,000