

RESOLUTION 2019-12

A RESOLUTION OF THE CITY OF ST. PETE BEACH, FLORIDA ACCEPTING THE PROPOSAL OF TD BANK, N.A. TO PROVIDE THE CITY WITH A TERM LOAN IN ORDER TO ELIMINATE THE UNFUNDED LIABILITY OF THE CITY'S POLICE OFFICERS' RETIREMENT SYSTEM AND TO PAY COSTS OF ISSUANCE; APPROVING THE FORM OF A LOAN AGREEMENT; AUTHORIZING THE ISSUANCE OF THE CITY OF ST. PETE BEACH, FLORIDA TAXABLE PENSION OBLIGATION REVENUE NOTE (POLICE OFFICERS' PLAN), SERIES 2019, PURSUANT TO SUCH LOAN AGREEMENT IN THE AGGREGATE PRINCIPAL AMOUNT OF NOT TO EXCEED \$6,700,000 IN ORDER TO EVIDENCE SUCH LOAN; AUTHORIZING THE REPAYMENT OF SUCH NOTE FROM A COVENANT TO BUDGET AND APPROPRIATE LEGALLY AVAILABLE NON-AD VALOREM REVENUES; DELEGATING CERTAIN AUTHORITY TO THE MAYOR, THE CITY MANAGER, AND OTHER OFFICERS OF THE CITY FOR THE AUTHORIZATION, EXECUTION AND DELIVERY OF THE LOAN AGREEMENT, THE SERIES 2019 NOTE AND VARIOUS OTHER DOCUMENTS WITH RESPECT THERETO; AND PROVIDING FOR AN EFFECTIVE DATE FOR THIS RESOLUTION.

WHEREAS, the City of St. Pete Beach, Florida (the "City") has an unfunded actuarial accrued liability (the "Pension Obligation") with respect to its City of St. Pete Beach Police Officers' Retirement System; and

WHEREAS, the City can achieve financial savings and establish more funding certainty by issuing a taxable debt obligation to fund such Pension Obligation and, accordingly, the issuance of such a debt obligation is in the best interest of the City and will serve a public purpose and will improve and maintain the health, safety and welfare of the City's residents and property owners; and

WHEREAS, the City's financial advisor, Estrada Hinojosa & Company, Inc., solicited proposals from various financial institutions to provide a term loan to finance the funding of the Pension Obligation; and

WHEREAS, TD Bank, N.A. (including any successors or assigns, the "Noteholder") submitted its proposal to provide the City with a term loan (the "Loan") to fund the Pension Obligation, which proposal was the most favorable proposal received by the City and is attached hereto as Exhibit A (the "Proposal"); and

WHEREAS, the Loan will be evidenced by the City of St. Pete Beach, Florida Pension Obligation Revenue Note (Police Officers' Plan), Series 2019 (the "Series 2019 Note") which shall be repaid solely from the Non-Ad Valorem Revenues (as defined herein) in the manner and to the extent set forth herein and in the Loan Agreement (as defined herein) and the ad valorem taxing power of the City will never be necessary or authorized to pay said amounts; and

WHEREAS, due to the potential volatility of the market for taxable obligations such as the Series 2019 Note and the complexity of the transactions relating to such Series 2019 Note, it is in the best interest of the City to issue the Series 2019 Note by a negotiated sale to the Noteholder, allowing the City to sell and issue the Series 2019 Note at the most advantageous time, rather than at a specified advertised date, thereby permitting the City to obtain the best possible price, terms and interest rate for the Series 2019 Note.

NOW, THEREFORE, THE CITY COMMISSION OF THE CITY OF ST. PETE BEACH, FLORIDA, HEREBY RESOLVES:

SECTION 1. Recitals. The above recitals ("WHEREAS" clauses) are hereby adopted as legislative findings, purpose and intent of the Commission.

SECTION 2. Definitions. When used in this Resolution, capitalized terms not otherwise defined herein shall have the meanings set forth in the Loan Agreement, unless the context clearly indicates a different meaning.

"Act" shall mean the Florida Constitution, Chapter 166, Florida Statutes, the Charter of the City, the Ordinance and other applicable provisions of law.

"Bond Counsel" shall mean, Nabors, Giblin & Nickerson, P.A., Tampa, Florida.

"Clerk" shall mean the City Clerk of the City and such other person as may be duly authorized to act on her or his behalf, including any authorized designee.

"City" shall mean the City of St. Pete Beach, Florida.

"City Manager" shall mean the City Manager of the City or, in his or her absence or unavailability, any Assistant City Manager or any authorized designee of the City Manager.

"Commission" shall mean the City Commission of the City of St. Pete Beach, Florida.

"Financial Advisor" means Estrada Hinojosa & Company, Inc., and its successors and assigns.

"Loan" shall have the meaning ascribed thereto in the recitals.

"Loan Agreement" shall mean the Loan Agreement to be executed between the Noteholder and the City, which shall be substantially in the form attached hereto as Exhibit B.

"Non-Ad Valorem Revenues" shall have the meaning assigned such term in the Loan Agreement.

"Noteholder" or "Holder" or "holder" or any similar term, when used with reference to a Note, shall mean TD Bank, N.A., and its successors and assigns.

"Ordinance" shall mean Ordinance 2019-17, enacted by the City on December 10, 2019, as the same may be amended or supplemented from time to time.

"Pension Obligation" shall have the meaning ascribed thereto in the recitals.

"Proposal" shall have the meaning ascribed thereto in the recitals.

"Resolution" shall mean this Resolution, as the same may be amended or supplemented from time to time.

"Series 2019 Note" shall mean the City of St. Pete Beach, Florida Taxable Pension Obligation Revenue Note (Police Officers' Plan), Series 2019, as such Series 2019 Note is more particularly described in the Loan Agreement.

The terms "herein," "hereunder," "hereby," "hereto," "hereof," and any similar terms, shall refer to this Resolution; the term "heretofore" shall mean before the date of adoption of this Resolution; and the term "hereafter" shall mean after the date of adoption of this Resolution. Words importing the masculine gender include every other gender. Words importing the singular number include the plural number, and vice versa.

SECTION 3. Authority for this Resolution. This Resolution is adopted pursuant to the provisions of the Act.

SECTION 4. Resolution to Constitute Contract. In consideration of the purchase and acceptance of the Series 2019 Note by the Noteholder, the provisions of this Resolution shall be a part of the contract of the City with the Noteholder, and shall be deemed to be and shall constitute a contract between the City and the Noteholder. The provisions, covenants and agreements in this Resolution set forth to be performed by or on behalf of the City shall be for the benefit, protection and security of the Noteholder.

SECTION 5. Authorization of the Funding of the Pension Obligation. The funding and elimination of the Pension Obligation with proceeds of the Series 2019 Note is hereby authorized and approved.

SECTION 6. Acceptance of Proposal. The City hereby accepts the Proposal of the Noteholder to provide the City with the Loan to finance the funding of the Pension Obligation, a copy of which Proposal is attached hereto as Exhibit A. The City Manager is hereby authorized to execute and deliver any documents required to formally accept such Proposal and the terms thereof. All actions taken by such officers or their designees and the Financial Advisor and Bond Counsel with respect to such Proposal prior to the date hereof are hereby authorized and ratified. To the extent of any conflict between the provisions of this Resolution or the Loan Agreement and the Proposal, the provisions of this Resolution and the Loan Agreement shall prevail.

SECTION 7. Approval of Form of Loan Agreement and Series 2019 Note. The City hereby approves the Loan from the Noteholder in the principal amount of not to exceed \$6,700,000. The City Manager shall determine the specific principal amount of the Loan upon the advice of the Financial Advisor. The terms and provisions of the Loan Agreement in substantially the form attached hereto as Exhibit B are hereby approved, with such changes, insertions and additions as the Mayor may approve. The City hereby authorizes the Mayor to execute and deliver, and the Clerk to attest and affix the City seal to, the Loan Agreement substantially in the form attached hereto as Exhibit B, with such changes, insertions and additions as the Mayor may approve, his execution thereof being conclusive evidence of such approval. In order to evidence the Loan under the Loan Agreement, it is necessary to provide for the execution of the Series 2019 Note. The Mayor and the Clerk are authorized to execute and deliver the Series 2019 Note substantially in the form attached to the Loan Agreement as Exhibit A with such changes, insertion and additions as the Mayor may approve, his execution thereof being evidence of such approval.

SECTION 8. Limited Obligation. The obligation of the City to repay the Series 2019 Note is a limited and special obligation payable from Non-Ad Valorem Revenues solely in the manner and to the extent set forth in the Loan Agreement and shall not be deemed a pledge of the faith and credit or taxing power of the City and such obligation shall not create a lien on any property whatsoever of or in the City. The Non-Ad Valorem Revenues shall consist of legally available Non-Ad Valorem Revenues budgeted and appropriated by the Commission to pay debt service on the Series 2019 Note, all in the manner and to the extent described in the Loan Agreement.

SECTION 9. General Authorization. The Mayor, the City Manager and the Clerk are authorized to execute and deliver such documents, instruments

and contracts, whether or not expressly contemplated hereby; and the City Attorney and other employees or agents of the City are hereby authorized and directed to do all acts and things required hereby or thereby as may be necessary for the full, punctual and complete performance of all the terms, covenants, provisions and agreements herein and therein contained, or as otherwise may be necessary or desirable to effectuate the purpose and intent of this Resolution.

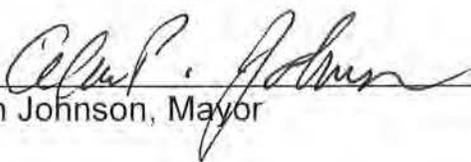
SECTION 10. Conflicts. All ordinances, resolutions or parts thereof in conflict herewith are hereby superseded and repealed to the extent of such conflict.

SECTION 11. Severability. The provisions of this Resolution are declared to be severable, and if any section, sentence, clause or phrase of this Resolution shall for any reason be held to be invalid or unconstitutional, such decision shall not affect the validity of the remaining sections, sentences, clauses, and phrases of this Resolution but they shall remain in effect, it being the legislative intent that this Resolution shall stand notwithstanding the invalidity of any part.

SECTION 12. Effective Date. This Resolution shall take effect immediately upon adoption.

PASSED AND APPROVED BY THE CITY COMMISSION OF THE CITY OF ST. PETE BEACH, FLORIDA, THIS 10TH DAY OF DECEMBER 2019.

CITY COMMISSION, CITY OF ST. PETE BEACH, FLORIDA



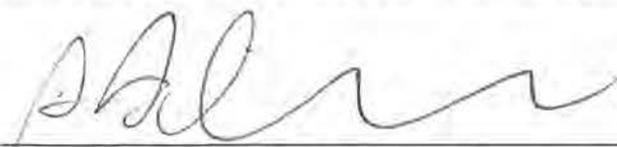
Alan Johnson, Mayor

ATTEST:



Rebecca C. Haynes, City Clerk

APPROVED AS TO LEGAL FORM AND CORRECTNESS:



Andrew Dickman, City Attorney

EXHIBIT A

TD Bank, N.A. Proposal



TD Bank, N.A,
2307 West Kennedy Boulevard
Tampa, FL 33609
Tel: 813-250-3069
Fax: 813-258-5622
Robert.Catoe@td.com

November 12, 2019

Mr. Vincent Tenaglia
Administrative Services Director
City of St. Pete Beach
155 Corey Avenue
St. Pete Beach, FL 33706

Ms. Lourdes R. Abadin
Managing Director
Estrada Hinojosa & Company, Inc.

RE: City of St. Pete Beach, Florida – Request for Proposal for \$6,700,000 Taxable Bank Revenue Note

Dear Mr. Tenaglia and Ms. Lourdes:

In response to the Request for Proposal for the City of St. Pete Beach, Florida – Request for Proposal Taxable Pension Obligation Revenue Note, Series 2019, TD Bank, N.A. (the "Bank") is pleased to submit the following proposal to the City of St. Pete Beach, Florida (the "City").

The structure of the proposed Credit Accommodation is outlined in the attached term sheet 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 the Bank has not approved the Credit Accommodation. The Bank shall not be liable to the City or any other person for any losses, damages or consequential damages which may result from the City's reliance upon this proposal letter or the proposed Credit Accommodation, the proposed term sheet or any transaction contemplated hereby.

The Bank's Loan Proposal is subject to acceptance by the City prior to 3:00 pm eastern standard time on December 11, 2019 and is contingent upon a Loan Closing with mutually acceptable documents between the City and Bank prior to 3:00 pm eastern standard time on December 20, 2019.

This letter 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 (ii) 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 Loan 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: 

Robert W. Catoe
Vice President

TD Bank, N.A.

**TERMS AND CONDITIONS OF CREDIT ACCOMMODATION DATED
November 12, 2019 ("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(s):** City of St. Pete Beach, Florida (the "City")
- b) **Facility:** Taxable Pension Obligation Revenue Note (the "Note")
- c) **Purpose:** To fund the elimination of the City of St. Pete Beach Police Officers' Retirement System (the "Pension Fund") unfunded liability and pay the cost of issuance.
- d) **Amount:** Not to exceed \$6,700,000.00 USD
- e) **Collateral:** The Loan will be secured by a covenant to budget and appropriate in its annual budget, by amendment, if necessary, an amount of lawfully available non-Ad Valorem revenues in each fiscal year, sufficient to pay the principal and interest due on the Note.
- f) **Settlement Date:** On or Before December 20, 2019
- g) **Maturity:** November 30, 2034
- h) **Repayment Terms:** Interest on the Note will be paid semi-annually (May and November), commencing on May 30, 2020 based upon a 30/360 day basis.

Principal on the Note will be paid annually (November), commencing on November 30, 2020, with final maturity of November 30, 2034, in accordance with the Amortization Schedule attached in Appendix A.

j) **Interest Rate:** Indicative Taxable Fixed Rate as of November 7, 2019: **2.74%**

TD Bank will hold the rate of interest through the Preliminary Closing Date, if Borrower confirms for the Bank, within 3 business days of proposal submission date that the Bank will be recommended as the financial provider for the requested facility. Otherwise the final Loan Rate will be based using the below formula of which was used to quote the Indicative Taxable Rate for this Proposal.

The final interest rate shall be based upon the following formula (the prevailing fifteen (5) year USD 1100 ICE Swap Rate) plus a spread of 112 basis points.

ICE: <https://www.theice.com/iba/historical-data>

k) **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:

The 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 the 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 shorter of (i) the remaining term of the Note, or (ii) the remaining term of the then current fixed interest rate period.

Option B: Borrower can elect to have a "No Prepayment" penalty associated with this Loan by adding a premium of **18 basis points** to the quoted proposed Loan Rate.

Prepayments shall be applied in inverse order of maturity (treating mandatory amortization payments as maturities).

l) **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.

m) **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 City'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 City 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 \$7,500.00. 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 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; and (4) the loan and loan documents are exempt from registration and qualification under the Securities Act of 1933 and Trust Indenture Act of 1939. An opinion of counsel to the City in form and substance satisfactory to the Bank.

5. **Financial Covenants:**

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

Anti – Dilution Test: Net Non-Ad Valorem Revenues as defined below shall at all time cover Maximum Annual Debt service for debt secured by such revenues 1.30X, to be tested annually.

Ad Bonds Test: Additional Bonds test of 1.30x; the City shall not issue additional debt secured by Net Non Ad-Valorem revenues or payable from its non-ad valorem revenues unless the net non-ad valorem revenues from the prior fiscal year are at least 1.30x the projected maximum annual debt service on all debt, including the additional bonds secured from or payable from such non-ad valorem revenues.

Net Non-Ad Valorem Revenues shall be defined as Non-Ad Valorem revenues less the portion of essential governmental services that is covered by Non-Ad Valorem Revenues as a percentage of overall general fund revenues; divided by maximum annual debt service on debt secured by or payable from Non-Ad Valorem revenues. Essential governmental services shall be defined as general government and public safety expenses.

6. **Events of Default:** Will include but not be limited to:

- a. Breach of representation or warranties.
- b. Violation of covenants
- c. Bankruptcy or insolvency
- d. Payment Default

7. **Other Conditions:**

- a) All standard representations, warranties, rights and remedies in the event of default, including acceleration for payment default.
- b) No Material Adverse Change to the Borrower.
- c) In the event that future CBA indebtedness is issued under a Resolution or Supplemental Resolution with more restrictive covenants, conditions or remedies than this Facility, such terms shall be incorporated into this Facility.
- 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 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.
- f) Loan payments should be settled through auto debit.
- g) 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

<u>15 Year</u>		
<u>Series 2019</u>		<u>Principal</u>
11/30/2020	\$	380,483
11/30/2021	\$	389,043
11/30/2022	\$	397,797
11/30/2023	\$	406,747
11/30/2024	\$	415,899
11/30/2025	\$	425,257
11/30/2026	\$	434,826
11/30/2027	\$	444,609
11/30/2028	\$	454,614
11/30/2029	\$	464,842
11/30/2030	\$	475,300
11/30/2031	\$	485,995
11/30/2032	\$	496,930
11/30/2033	\$	508,115
11/30/2034	\$	519,543
	\$	<u>6,700,000</u>

EXHIBIT B

Form of Loan Agreement

LOAN AGREEMENT

BETWEEN

CITY OF ST. PETE BEACH, FLORIDA

AND

TD BANK, N.A.

DATED DECEMBER 12, 2019

TABLE OF CONTENTS

	<u>Page</u>
ARTICLE I DEFINITION OF TERMS	
SECTION 1.01.	DEFINITIONS 2
SECTION 1.02.	INTERPRETATION..... 4
SECTION 1.03.	TITLES AND HEADINGS 4
ARTICLE II REPRESENTATIONS, WARRANTIES AND COVENANTS: SECURITY FOR SERIES 2019 NOTE	
SECTION 2.01.	REPRESENTATIONS AND COVENANTS BY THE CITY 5
SECTION 2.02.	GENERAL REPRESENTATIONS, WARRANTIES AND COVENANTS OF THE NOTEHOLDER 6
SECTION 2.03.	SERIES 2019 NOTE SHALL NOT BE INDEBTEDNESS OF THE CITY OR STATE 6
SECTION 2.04.	COVENANT TO BUDGET AND APPROPRIATE NON-AD VALOREM REVENUES..... 6
SECTION 2.05.	PAYMENT COVENANT..... 7
SECTION 2.06.	ANTI-DILUTION..... 7
ARTICLE III DESCRIPTION OF SERIES 2019 NOTE; PAYMENT TERMS; OPTIONAL PREPAYMENT	
SECTION 3.01.	DESCRIPTION OF THE SERIES 2019 NOTE..... 9
SECTION 3.02.	OPTIONAL PREPAYMENT. 10
SECTION 3.03.	ADJUSTMENT TO INTEREST RATE 10
SECTION 3.04.	TRANSFER AND ASSIGNMENT..... 10
ARTICLE IV CONDITIONS FOR ISSUANCE OF THE SERIES 2019 NOTE	
SECTION 4.01.	CONDITIONS FOR ISSUANCE 12
ARTICLE V EVENTS OF DEFAULT; REMEDIES	
SECTION 5.01.	EVENTS OF DEFAULT 13
SECTION 5.02.	REMEDIES 13

ARTICLE VI
MISCELLANEOUS

SECTION 6.01.	AMENDMENTS, CHANGES OR MODIFICATIONS TO THIS AGREEMENT.....	15
SECTION 6.02.	COUNTERPARTS.....	15
SECTION 6.03.	SEVERABILITY	15
SECTION 6.04.	TERM OF AGREEMENT	15
SECTION 6.05.	NOTICE OF CHANGES IN FACT.....	15
SECTION 6.06.	NOTICES	16
SECTION 6.07.	NO THIRD-PARTY BENEFICIARIES.....	16
SECTION 6.08.	PATRIOT ACT NOTICE	16
SECTION 6.09.	APPLICABLE LAW.....	16
SECTION 6.10.	WAIVER OF JURY TRIAL.....	16
SECTION 6.11.	INCORPORATION BY REFERENCE.....	16
EXHIBIT A -	FORM OF SERIES 2019 NOTE	

This **LOAN AGREEMENT** (this "Agreement") is made and entered into as of December 12, 2019, by and between the **CITY OF ST. PETE BEACH, FLORIDA**, a municipal corporation organized under the laws of the State of Florida (the "City"), and **TD BANK, N.A.**, a banking corporation duly organized and existing under the laws of the United States of America and authorized to do business in the State of Florida, and its successors and assigns (the "Noteholder");

WITNESSETH:

WHEREAS, the City (the "City") has an unfunded actuarial accrued liability with respect to its City of St. Pete Beach Police Officers' Retirement System (the "Pension Obligation"); and

WHEREAS, the City can achieve financial savings and establish more funding certainty by issuing a taxable debt obligation to fund such Pension Obligation and, accordingly, the issuance of such a debt obligation is in the best interest of the City, will serve a public purpose and will improve and maintain the health, safety and welfare of the City's residents and property owners; and

WHEREAS, the City solicited proposals from various financial institutions to provide a term loan to finance the funding of the Pension Obligation and received 11 proposals from six qualified financial institutions; and

WHEREAS, the Noteholder submitted its proposal to provide the City with a term loan to fund the Pension Obligation, which proposal was the most favorable proposal received by the City; and

NOW, THEREFORE, THIS AGREEMENT WITNESSETH:

That the parties hereto, intending to be legally bound hereby and in consideration of the mutual covenants hereinafter contained, **DO HEREBY AGREE** as follows:

[Remainder of page intentionally left blank]

ARTICLE I

DEFINITION OF TERMS

SECTION 1.01. DEFINITIONS. The terms defined in this Article I shall, for all purposes of this Agreement, have the meanings in this Article I specified, unless the context clearly otherwise requires.

"**Act**" shall mean the Florida Constitution, Chapter 166, Florida Statutes, the Charter of the City, Ordinance 2019-17 enacted by the Commission on December 10, 2019, and other applicable provisions of law.

"**Adjusted Essential Expenditures**" shall mean the product obtained by multiplying Essential Expenditures by a fraction, the numerator of which equals Non-Ad Valorem Revenues and the denominator of which is the sum of Ad Valorem Revenues and Non-Ad Valorem Revenues.

"**Ad Valorem Revenues**" shall mean all revenues of the City derived from the levy and collection of ad valorem taxes.

"**Agreement**" shall mean this Loan Agreement, dated December 12, 2019, between the City and the Noteholder and any and all modifications, alterations, amendments and supplements hereto made in accordance with the provisions hereof.

"**Bond Counsel**" shall mean Nabors, Giblin & Nickerson, P.A., Tampa, Florida 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.

"**City**" shall mean the City of St. Pete Beach, Florida.

"**City Manager**" shall mean the City Manager of the City or, in his or her absence or unavailability, any Assistant City Manager or a designee of the City Manager.

"**Clerk**" shall mean the City Clerk of the City or, in her or his absence or unavailability, any Deputy City Clerk or Assistant City Clerk or such other person as may be duly authorized to act on her or his behalf.

"**Commission**" shall mean the City Commissioners of the City of St. Pete Beach, Florida.

"Debt" means at any date (without duplication) 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 City for borrowed money or evidenced by bonds, debentures, notes or other similar instruments; (B) all obligations of the City 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; (C) all obligations of the City as lessee under capitalized leases; and (D) all indebtedness of other Persons to the extent guaranteed by, or secured by, Non-Ad Valorem Revenues of the City; provided, however, if with respect to any obligation contemplated in (A), (B), or (C) above, the City has covenanted to budget and appropriate sufficient Non-Ad Valorem Revenues as a secondary source of funds to satisfy such obligation but has not secured such obligation with a lien on or pledge of any Non-Ad Valorem Revenues then, and with respect to any obligation contemplated in (D) above, such obligation shall not be considered "Debt" for purposes of this Agreement unless the City has actually used Non-Ad Valorem Revenues to satisfy such obligation during the immediately preceding Fiscal Year or reasonably expects to use Non-Ad Valorem Revenues to satisfy such obligation in the current or immediately succeeding Fiscal Year. After an obligation is considered "Debt" as a result of the proviso set forth in the immediately preceding sentence, it shall continue to be considered "Debt" until the City has not used any Non-Ad Valorem Revenues to satisfy such obligation for one full Fiscal Year.

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

"Essential Expenditures" shall mean expenditures for "general government" and "public safety" accounted for in the General Fund as shown in the City's audited financial statements.

"Fiscal Year" shall mean the 12-month period commencing on October 1 of any year and ending on September 30 of the immediately succeeding year.

"General Fund" shall mean the "General Fund" of the City as described and identified in the City's annual audit.

"Interest Rate" shall mean a fixed interest rate equal to 2.92% per annum. The Interest Rate is subject to adjustment pursuant to Section 3.03 hereof.

"Maturity Date" shall mean November 30, 2034.

"Maximum Annual Debt Service" shall mean the largest aggregate amount of the annual debt service coming due on the Series 2019 Note in any Fiscal Year.

"Mayor" shall mean the Mayor of the City, or, in his or her absence or unavailability, the Vice Mayor of the City.

"Non-Ad Valorem Revenues" shall mean all revenues of the City derived from any source whatsoever, other than ad valorem taxation on real or personal property, that are deposited to and accounted for in the governmental funds of the City and which are legally available to make the payments required herein and on the Series 2019 Note.

"Noteholder" or **"Holder"** or **"holder"** or any similar term, when used with reference to a Note, shall mean TD Bank, N.A., and any successors or assigns thereto.

"Pension Obligation" shall have the meaning ascribed thereto in the recitals.

"Person" shall mean an individual, a corporation, a partnership, an association, a joint stock company, a trust, any unincorporated organization, governmental entity or other legal entity.

"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.

"Resolution" shall mean Resolution 2019-12 adopted by the City on December 10, 2019, which, among other things, authorized the execution and delivery of this Loan Agreement and the issuance of the Series 2019 Note.

"Series 2019 Note" shall mean the City of St. Pete Beach, Florida Taxable Pension Obligation Revenue Note (Police Officers' Plan), Series 2019, authorized to be issued by the Resolution and more particularly described in Article III hereof.

"State" shall mean the State of Florida.

SECTION 1.02. INTERPRETATION. Unless the context clearly requires otherwise, words of masculine gender shall be construed to include correlative words of the feminine and neuter genders and vice versa, and words of the singular number shall be construed to include correlative words of the plural number and vice versa. Any capitalized term used in this Agreement not herein defined shall have the meaning ascribed to such term in the Resolution. This Agreement and all the terms and provisions hereof shall be construed to effectuate the purpose set forth herein and to sustain the validity hereof.

SECTION 1.03. TITLES AND HEADINGS. The titles and headings of the articles and sections of this Agreement, which have been inserted for convenience of reference only and are not to be considered a part hereof, shall not in any way modify or restrict any of the terms and provisions hereof, and shall not be considered or given any effect in construing this Agreement or any provision hereof or in ascertaining intent, if any question of intent should arise.

ARTICLE II

REPRESENTATIONS, WARRANTIES AND COVENANTS; SECURITY FOR SERIES 2019 NOTE

SECTION 2.01. REPRESENTATIONS AND COVENANTS BY THE CITY. The City represents, warrants and covenants that:

(a) The City is a duly organized and validly existing municipal corporation under the laws of the State. Pursuant to the Resolution, the City has duly authorized the execution and delivery of this Agreement, the performance by the City of all of its obligations hereunder, and the issuance of the Series 2019 Note in the principal amount of \$6,700,000.

(b) The City 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 enter into and consummate all transactions contemplated by this Agreement or under the Series 2019 Note, and to perform all of its obligations hereunder and under the Series 2019 Note, and 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 issue the Series 2019 Note and enter this Agreement and, when executed and delivered, the Series 2019 Note and this Agreement will each constitute a legal, valid and binding obligation of the City 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.

(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 this Agreement or under the Series 2019 Note, or which would have a material adverse effect on the City (financial or otherwise).

(e) The City will furnish to the Noteholder within 210 days after the close of each Fiscal Year a copy of the annual audited financial statements of the City, prepared by a certified public accountant. The City shall also provide the Noteholder with a copy of the annual budget of the City each year and any material amendments thereto within 60 days of the final adoption of such budget or amendment. With reasonable promptness the City shall provide such other data and information as may be reasonably requested by the Noteholder from time to time.

SECTION 2.02. GENERAL REPRESENTATIONS, WARRANTIES AND COVENANTS OF THE NOTEHOLDER. Pursuant to the terms and provisions of this Agreement, the Noteholder agrees to provide a term loan to the City as evidenced hereby and by the Series 2019 Note for the purpose of funding the Pension Obligation and paying costs relating to the issuance of the Series 2019 Note.

SECTION 2.03. SERIES 2019 NOTE SHALL NOT BE INDEBTEDNESS OF THE CITY OR STATE. The Series 2019 Note, when delivered by the City pursuant to the terms of this Agreement, shall not be or constitute an indebtedness of the City, the State of Florida or any political subdivision or agency thereof, within the meaning of any constitutional, statutory or charter limitations of indebtedness, but shall be payable solely as herein provided. The Noteholder shall never have the right to compel the exercise of the ad valorem taxing power of the City, or taxation in any form on any property therein to pay the Series 2019 Note or the interest thereon. The Series 2019 Note is a special and limited obligation secured by and payable as to principal and interest from the Non-Ad Valorem Revenues, to the extent and in the manner provided herein.

SECTION 2.04. COVENANT TO BUDGET AND APPROPRIATE NON-AD VALOREM REVENUES. The City covenants and agrees to budget and appropriate in its annual budget for each Fiscal Year in which any amounts due hereunder or with respect to the Series 2019 Note remain unpaid or outstanding, by amendment, if necessary, from Non-Ad Valorem Revenues amounts sufficient to pay principal of and interest on the Series 2019 Note when due. Such covenant and agreement on the part of the City to budget and appropriate such amounts of Non-Ad Valorem Revenues shall be cumulative to the extent not paid, and shall continue until such Non-Ad Valorem Revenues or other legally available funds in amounts sufficient to make all such required payments shall have been budgeted, appropriated and actually paid. Notwithstanding the foregoing covenant of the City, the City does not covenant to maintain any services or programs, now provided or maintained by the City, which generate Non-Ad Valorem Revenues.

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 City from pledging in the future its Non-Ad Valorem Revenues, nor does it require the City to levy and collect any particular Non-Ad Valorem Revenues, nor does it give the Noteholder a prior claim on the Non-Ad Valorem Revenues as opposed to claims of general creditors of the City. Such covenant to appropriate Non-Ad Valorem Revenues is subject in all respects to the 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 bonds and other debt instruments). However, 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 Series 2019 Note, in the manner described herein, Non-Ad Valorem Revenues and placing on the City 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 Section 166.241(2), Florida Statutes, which generally provide that the governing body of each City may only make appropriations for each fiscal year which, in any one year, shall not exceed the amount to be received from taxation or other revenue sources; and subject, further, to the payment of services and programs which are for essential public purposes affecting the health, safety and welfare of the inhabitants of the City or which are legally mandated by applicable law.

SECTION 2.05. PAYMENT COVENANT. The City covenants that it shall duly and punctually pay from the Non-Ad Valorem Revenues in accordance with Section 2.04 hereof, the principal of and interest on the Series 2019 Note at the dates and place and in the manner provided herein and in the Series 2019 Note according to the true intent and meaning thereof and all other amounts due under this Agreement.

SECTION 2.06. ANTI-DILUTION. During such time as the Series 2019 Note is outstanding hereunder or any amounts due hereunder or with respect to the Series 2019 Note remain unpaid or outstanding, the Non-Ad Valorem Revenues less the Adjusted Essential Expenditures shall cover projected Maximum Annual Debt Service on the Series 2019 Note and maximum annual debt service on Debt by at least 1.3x. The calculation required by the immediately preceding sentence shall be determined using the actual Non-Ad Valorem Revenues, Essential Expenditures and Ad Valorem Revenues for the prior Fiscal Year based on the City's annual audited financial statements. For purposes of the foregoing calculation, Maximum Annual Debt Service on the Series 2019 Note and maximum annual debt service on Debt shall be done on an aggregate basis whereby the annual debt service for each is combined and the overall maximum is determined.

For the purposes of the covenants contained in this Section 2.06, maximum annual debt service on Debt means, with respect to Debt that bears interest at a fixed interest rate, the actual maximum annual debt service, and, with respect to Debt which bears interest at a variable interest rate, maximum annual debt service on such Debt shall be determined assuming that interest accrues on such Debt as follows: (a) any outstanding variable rate debt will be assumed to bear interest at 1.0% per annum over the actual interest rate borne by such debt for the month preceding the date of calculation and (b) any additional variable rate debt proposed to be issued will be assumed to bear interest at 1.0% per annum over the actual interest rate borne by such debt on the date of issuance of such debt. Notwithstanding the foregoing, if any Debt, whether bearing interest at a fixed or variable interest rate, constitutes Balloon Indebtedness, as defined in the immediately following sentence, maximum annual debt service on such Debt shall be determined assuming such Debt is amortized over 20 years from its original date of issuance on an approximately level debt service basis. For purposes of the foregoing sentence, "Balloon Indebtedness" means Debt, 25% or more of the original principal of which matures during any one Fiscal Year.

Prior to the issuance of any Debt subsequent to the date of this Agreement, the City shall provide a certification to the Noteholder that evidences compliance with this

provision upon the issuance of such proposed Debt taking into account such additional debt.

[Remainder of page intentionally left blank]

ARTICLE III

DESCRIPTION OF SERIES 2019 NOTE; PAYMENT TERMS; OPTIONAL PREPAYMENT

SECTION 3.01. DESCRIPTION OF THE SERIES 2019 NOTE. (a) The City hereby authorizes the issuance and delivery of the Series 2019 Note to the Noteholder which Series 2019 Note shall be in an amount equal to SIX MILLION SEVEN HUNDRED THOUSAND AND 00/100 DOLLARS (\$6,700,000) and shall be designated as the "City of St. Pete Beach, Florida Taxable Pension Obligation Revenue Note (Police Officers' Plan), Series 2019." The text of the Series 2019 Note shall be substantially in the form attached hereto as Exhibit A, with such omissions, insertions and variations as may be necessary and desirable to reflect the particular terms of the Series 2019 Note. The provisions of the form of the Series 2019 Note are hereby incorporated in this Agreement.

(b) The Series 2019 Note shall be issued as one note in the denomination of its outstanding principal amount and shall be dated the date of its delivery. The Series 2019 Note shall be executed in the name of the City by the manual signature of the Mayor and the official seal of the City shall be affixed thereto and attested by the manual signature of the Clerk. In case any one or more of the officers, who shall have signed or sealed the Series 2019 Note, shall cease to be such officer of the City before the Series 2019 Note so signed and sealed shall have been actually delivered, such Series 2019 Note may nevertheless be delivered as herein provided and may be issued as if the person who signed or sealed such Series 2019 Note had not ceased to hold such office.

(c) The Series 2019 Note shall bear interest from its date of issuance at the Interest Rate (calculated on a 30/360 day count basis) as the same may be adjusted pursuant to Section 3.03 hereof. Interest on the Series 2019 Note shall be payable semi-annually on May 30 and November 30 of each year, commencing May 30, 2020 (each an "Interest Payment Date") so long as any amount under the Series 2019 Note remains outstanding. Principal of the Series 2019 Note shall be payable annually on November 30 of each year, commencing November 30, 2020 (each a "Principal Payment Date"), through and including the Maturity Date. The aggregate annual principal and interest payments shall be set forth in the Series 2019 Note.

(d) The Series 2019 Note shall be payable as to principal and interest by automatic debit, or in such other manner as is agreed to between the City and the Noteholder, to the Noteholder in whose name the Series 2019 Note shall be registered on the registration books maintained by the City as of the close of business on the fifteenth day (whether or not a Business Day) of the calendar month next preceding an Interest Payment Date or Principal Payment Date; provided, that the Noteholder shall be required to present and surrender the Series 2019 Note to the City only for the final payment of the principal of the Series 2019 Note or shall otherwise provide evidence that such Series 2019 Note has been fully paid and cancelled. Principal of and interest on the Series 2019 Note

shall be payable in any coin or currency of the United States of America, which at the time of payment, is legal tender for the payment of public and private debts. The City shall maintain books and records with respect to the identity of the Noteholder, including a complete and accurate record of all assignments of this Agreement and the Series 2019 Note as provided in Section 3.04.

(e) Except as otherwise provided herein, the Noteholder shall pay for all of its costs relating to regular servicing the Series 2019 Note. The City shall pay the fees of the Noteholder's legal counsel in the amount of \$7,500.00.

SECTION 3.02. OPTIONAL PREPAYMENT. (a) The Series 2019 Note may be prepaid in whole or in part on any Business Day at a price equal to 100% of the principal amount of the Series 2019 Note to be prepaid plus accrued interest thereon to the date of prepayment, without any penalty or premium.

(b) Any prepayment of the Series 2019 Note shall be made on such Business Day as shall be specified by the City in a notice delivered to the Noteholder not less than two (2) Business Days prior thereto specifying the principal amount of the Series 2019 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 Series 2019 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, without any penalty or premium. If on the date of prepayment moneys for the payment of the principal amount to be prepaid on the Series 2019 Note, together with interest to the date of prepayment on such principal amount 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 Series 2019 Note shall cease to accrue. If said money shall not have been so paid on the date of prepayment, such principal amount of the Series 2019 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 (treating mandatory amortization payments as maturities) unless otherwise agreed to between the City and the Noteholder.

SECTION 3.03. ADJUSTMENT TO INTEREST RATE. Upon the occurrence and continuance of an Event of Default pursuant to Section 5.01 hereof, the Noteholder may adjust the Interest Rate to the Default Rate which shall be effective until such Event of Default has been cured.

SECTION 3.04. TRANSFER AND ASSIGNMENT. The Noteholder's right, title and interest in and to the Series 2019 Note and any amounts payable by the City thereunder may be assigned and reassigned in whole only by the Noteholder, without the necessity of obtaining the consent of the City; 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 Series 2019 Note for its own account with no present intention to resell or distribute the Series 2019 Note, subject to each investor's right at any time to dispose of the Series 2019 Note 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. The Noteholder shall notify the City of any such assignment on or prior to the effective date of such assignment. If the Noteholder notifies the City of its intent to assign and sell its right, title and interest in and to the Series 2019 Note as herein provided, the City agrees that, if so requested, it shall execute and deliver to the assignee Noteholder, a Series 2019 Note in the principal amount so assigned, registered in the name of the assignee Noteholder, executed and delivered by the City in the same manner as provided herein and with an appendix attached thereto setting forth the amounts to be paid on each Principal Payment Date with respect to such Series 2019 Note. In all cases of an assignment of the Series 2019 Note, the City 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 or Principal Payment Date prior to an Interest or Principal Payment Date in order to have the right to receive the interest and principal payment due on such Interest or Principal Payment Date.

Nothing contained in this Section 3.04 shall be interpreted to prohibit the Noteholder from selling participations in the Series 2019 Note to any investors meeting the conditions set forth in the immediately preceding paragraph.

[Remainder of page intentionally left blank]

ARTICLE IV

CONDITIONS FOR ISSUANCE OF THE SERIES 2019 NOTE

SECTION 4.01. CONDITIONS FOR ISSUANCE. In connection with the issuance of the Series 2019 Note, the Noteholder shall not be obligated to purchase the Series 2019 Note pursuant to this Agreement unless at or prior to the issuance thereof the City delivers to the Noteholder the following items in form and substance acceptable to the Noteholder:

(a) An opinion of Bond Counsel addressed to the Noteholder (or addressed to the City with a reliance letter addressed to the Noteholder including an opinion that the Series 2019 Note is not subject to registration under the Securities Act of 1933 and this Agreement is exempt from qualification under the Trust Indenture Act of 1939) in form and substance to the effect that this Agreement and the Series 2019 Note have been duly authorized, executed and delivered by the City and each is a valid, binding and enforceable obligation against the City in accordance with its terms (enforceability of it may be subject to standard bankruptcy exceptions and the like);

(b) an opinion of Counsel to the City in form and substance satisfactory to the Noteholder; and

(c) Such additional certificates, instruments and other documents as the Noteholder, Bond Counsel, or the City Attorney may deem necessary or appropriate.

[Remainder of page intentionally left blank]

ARTICLE V

EVENTS OF DEFAULT; REMEDIES

SECTION 5.01. EVENTS OF DEFAULT. An "Event of Default" shall be deemed to have occurred under this Agreement if:

(a) The City shall fail to make timely payment of principal or interest within five days of the applicable due date with respect to the Series 2019 Note;

(b) Any representation or warranty of the City contained in Article II of this Agreement shall prove to be untrue in any material respect when made;

(c) Any term or covenant, condition or agreement contained in this Agreement (other than covered in clauses (a), (b) or (d)) shall be breached, and such default shall continue and not be cured for a period of 30 days from the earlier of written notice of such default from the Noteholder, or when the City was required to provide notice of such default to the Noteholder; provided, however, it shall not be an event of default if such event of default is able to be remedied and the City diligently pursues curing such event of default for a period of not to exceed an additional 60 days (for a total of 90 days);

(d) There shall occur the dissolution or liquidation of the City, or the filing by the City of a voluntary petition in bankruptcy, or the commission by the City of any act of bankruptcy, or adjudication of the City as a bankrupt, or assignment by the City for the benefit of its creditors, or appointment of a receiver for the City, or the entry by the City into an agreement of composition with its creditors, or the approval by a court of competent jurisdiction of a petition applicable to the City 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;

SECTION 5.02. REMEDIES. If any event of default shall have occurred and be continuing, the Noteholder or any trustee or receiver acting for the Noteholder may either at law or in equity, by suit, action, mandamus or other proceedings in any court of competent jurisdiction, protect and enforce any and all rights under the laws of the State of Florida, or granted and contained in this Agreement, and may enforce and compel the performance of all duties required by this Agreement or by any applicable statutes to be performed by the City or by any officer thereof, including, but not limited to, specific performance. No remedy herein conferred upon or reserved to the Noteholder is intended to be exclusive of any other remedy or remedies, and each and every such remedy shall be cumulative, and shall be in addition to every other remedy given hereunder or now or hereafter existing at law or in equity or by statute. Notwithstanding any other provision hereof, no Noteholder, trustee or receiver shall have the right to declare the Series 2019 Note immediately due and payable, except as any such right may be provided pursuant to Section 6.01 hereof. Upon the occurrence and continuance of an Event of Default pursuant

to Section 5.01 hereof, 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 City hereunder is more than fifteen (15) days past due, the City will pay to the Noteholder a late charge equal to six percent (6%) of the payment amount which is past due.

[Remainder of page intentionally left blank]

ARTICLE VI

MISCELLANEOUS

SECTION 6.01. AMENDMENTS, CHANGES OR MODIFICATIONS TO THIS AGREEMENT. This Agreement shall not be amended, changed or modified without the prior written consent of the Noteholder and the City. Notwithstanding the foregoing, if, in connection with the issuance of any additional indebtedness of the City that is secured by a covenant to budget and appropriate Non-Ad Valorem Revenues similar to the covenant of the City set forth in Section 2.04 hereof, the City provides the lender of such additional indebtedness (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 City than the test set forth in Section 2.06 hereof, or (c) an additional Event of Default, then such provision shall be deemed to be incorporated by reference herein and upon the request of the Noteholder the City and the Noteholder shall promptly amend this Agreement so as to provide the Noteholder with the same provisions. If any additional indebtedness of the City that is secured by a covenant to budget and appropriate 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 Series 2019 Note.

SECTION 6.02. COUNTERPARTS. This Agreement may be executed in any number of counterparts, each of which, when so executed and delivered, shall be an original; but such counterparts shall together constitute but one and the same Agreement, and, in making proof of this Agreement, it shall not be necessary to produce or account for more than one such counterpart.

SECTION 6.03. SEVERABILITY. If any clause, provision or section of this Agreement shall be held illegal or invalid by any court, the invalidity of such provisions or sections shall not affect any other provisions or sections hereof, and this Agreement shall be construed and enforced to the end that the transactions contemplated hereby be effected and the obligations contemplated hereby be enforced, as if such illegal or invalid clause, provision or section had not been contained herein.

SECTION 6.04. TERM OF AGREEMENT. This Agreement shall be in full force and effect from the date hereof and shall continue in effect as long as the Series 2019 Note is outstanding.

SECTION 6.05. NOTICE OF CHANGES IN FACT. Within five Business Days after the City becomes aware of the same, the City will notify the Noteholder in writing of (a) any change in any material fact or circumstance represented or warranted by the City in this Agreement or in connection with the issuance of the Series 2019 Note, and (b) any default or event which, with notice or lapse of time or both, could become a default under this Agreement, specifying in each case the nature thereof and what action the City has taken, is taking and/or proposed to take with respect thereto.

SECTION 6.06. NOTICES. Any notices or other communications required or permitted hereunder shall be sufficiently given if delivered personally or sent registered or certified mail, postage prepaid, to the City of St. Pete Beach, Florida, 155 Corey Avenue, St. Pete Beach, Florida 33706, Attention: Assistant City Manager, and to the Noteholder, TD Bank, N.A., 2307 West Kennedy Boulevard, Tampa, Florida 33609, Attention: Robert W. Catoe, Vice President, or at such other address as shall be furnished in writing by any such party to the other, and shall be deemed to have been given as of the date so delivered or deposited in the United States mail.

SECTION 6.07. NO THIRD-PARTY BENEFICIARIES. This Agreement is for the benefit of the City and the Noteholder and their respective successors and assigns, and there shall be no third-party beneficiary with respect thereto.

SECTION 6.08. PATRIOT ACT NOTICE. The Noteholder hereby notifies the City that pursuant to the requirements of the USA PATRIOT Act (Title III of Pub. L. 107-56 signed into law on October 26, 2001) (the "USA PATRIOT Act"), the Noteholder may be 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 Noteholder to identify the City in accordance with the USA PATRIOT Act.

SECTION 6.09. APPLICABLE LAW. The substantive laws of the State of Florida shall govern this Agreement.

SECTION 6.10. WAIVER OF JURY TRIAL. Each party waives, to the fullest extent permitted by applicable law, any right it may have to a trial by jury in respect of any proceedings relating to this Agreement.

SECTION 6.11. INCORPORATION BY REFERENCE. All of the terms and obligations of the Resolution are hereby incorporated herein by reference as if said Resolution was fully set forth in this Agreement and the Series 2019 Note.

[Remainder of page intentionally left blank]

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be duly executed as of the date first set forth herein.

(SEAL)

CITY OF ST. PETE BEACH, FLORIDA

ATTEST:

Alan Johnson, Mayor

By: _____
Rebecca C. Haynes, City Clerk

TD BANK, N.A.

By: Robert W. Catoe
Title: Vice President

EXHIBIT A

\$6,700,000.00

**UNITED STATES OF AMERICA
STATE OF FLORIDA
CITY OF ST. PETE BEACH, FLORIDA
TAXABLE PENSION OBLIGATION REVENUE NOTE
(POLICE OFFICERS' PLAN), SERIES 2019**

Interest Rate	Date of Issuance	Final Maturity Date
2.92%	December 12, 2019	November 30, 2034

KNOW ALL MEN BY THESE PRESENTS, that the **City of St. Pete Beach, Florida** (the "City"), for value received, hereby promises to pay, solely from the Non-Ad Valorem Revenues described in the within mentioned Agreement, to the order of **TD Bank, N.A.**, or its successors or assigns (the "Noteholder"), the principal sum of SIX MILLION SEVEN HUNDRED THOUSAND AND 00/100 DOLLARS (\$6,700,000) pursuant to that certain Loan Agreement by and between the Noteholder and the City, dated as of December 12, 2019 (the "Agreement"), and to pay interest on the outstanding principal amount hereof from the Date of Issuance set forth above, or from the most recent date to which interest has been paid, at the Interest Rate per annum (calculated on a 30/360 day count basis) identified above (subject to adjustment as provided in the Agreement) on May 30 and November 30 of each year, commencing on May 30, 2020, so long as any amount under this Note remains outstanding. Principal of this Note shall be payable on November 30 of each year, commencing on November 30, 2020, through and including the Final Maturity Date identified above. The principal repayment schedule for this Note is set forth in definitive form on Appendix I attached hereto. The principal and interest on this Note is payable in any coin or currency of the United States of America which, at the time of payment, is legal tender for the payment of public and private debts.

This Note is issued under the authority of and in full compliance with the Constitution and laws of the State of Florida, including, particularly, Chapter 166, Florida Statutes, the Charter of the City, Ordinance 2019-17 enacted by the City Commission of the City (the "Commission") on December 10, 2019, and other applicable provisions of law, and pursuant to Resolution 2019-12 duly adopted by the Commission on December 10, 2019 (the "Resolution"), as such Resolution may be amended and supplemented from time to time, and is subject to all terms and conditions of the Resolution and the Agreement. Any capitalized terms used in this Note and not otherwise defined shall have the meanings ascribed to such terms in the Agreement.

This Note is being issued to finance the unfunded actuarial accrued liability with respect to its City of St. Pete Beach Police Officers' Retirement System, as generally described in the Resolution. This Note is payable from the City's covenant to budget and appropriate legally available Non-Ad Valorem Revenues in the manner and to the extent provided and described in the Agreement.

This Note shall bear interest at the Interest Rate identified above on a 30/360 day count basis. Such Interest Rate is subject to adjustment as provided in Section 3.03 of the Agreement. The Noteholder shall provide to the City upon request such documentation to evidence the amount of interest due with respect to the Series 2019 Note upon any such adjustment. No presentment shall be required for any payment with respect to this Note except as set forth in Section 3.01(d) of the Agreement.

Notwithstanding any provision in this Note to the contrary, in no event shall the interest contracted for, charged or received in connection with this Note (including any other costs or considerations that constitute interest under the laws of the State of Florida which are contracted for, charged or received) exceed the maximum rate of interest allowed under the State of Florida as presently in effect.

All payments made by the City hereon shall apply first to fees, costs, late charges and accrued interest, and then to the principal amount then due on this Note.

This Note may be prepaid in whole or in part on any Business Day (as defined in the Resolution) at a price equal to 100% of the principal amount of this Note to be prepaid plus accrued interest thereon to the date of prepayment, without premium or penalty.

Any prepayment of this Note shall be made on such Business Day as shall be specified by the City in a notice delivered to the Noteholder not less than two (2) Business Days prior thereto specifying the principal amount of this 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 this 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, without premium or penalty. 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 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 this Note 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 or under the Resolution. Any prepayment in part shall be applied to the remaining principal payments in inverse order unless otherwise agreed to between the City and the Noteholder.

This Note, when delivered by the City pursuant to the terms of the Agreement and the Resolution, shall not be or constitute an indebtedness of the City or of the State of Florida, within the meaning of any constitutional, statutory or charter limitations of indebtedness, but shall be payable from the Non-Ad Valorem Revenues, in the manner and to the extent provided in the Agreement and the Resolution. The Noteholder shall never have the right to compel the exercise of the ad valorem taxing power of the City or the State, or taxation in any form of any property therein to pay the Note or the interest thereon.

So long as any of this Note shall remain outstanding, the City shall maintain and keep books for the registration and transfer of this Note.

The Noteholder's right, title and interest in and to this Note and any amounts payable by the City hereunder may be assigned and reassigned in accordance with and subject to the restrictions in the Agreement.

IN WITNESS WHEREOF, the City caused this Note to be signed by the manual signature of the Mayor and the seal of the City to be affixed hereto or imprinted or reproduced hereon, and attested by the manual signature of the Clerk, and this Note to be dated the Date of Issuance set forth above.

CITY OF ST. PETE BEACH, FLORIDA

(SEAL)

By: _____
Alan Johnson, Mayor

ATTEST:

Rebecca C. Haynes, City Clerk

Principal Repayment Schedule for the**CITY OF ST. PETE BEACH, FLORIDA
TAXABLE PENSION OBLIGATION REVENUE NOTE
(POLICE OFFICERS' PLAN), SERIES 2019**

<u>Payment Date</u>	<u>Principal</u>
11/30/20	\$362,354
11/30/21	372,934
11/30/22	383,824
11/30/23	395,032
11/30/24	406,567
11/30/25	418,438
11/30/26	430,657
11/30/27	443,232
11/30/28	456,174
11/30/29	469,494
11/30/30	483,204
11/30/31	497,313
11/30/32	511,835
11/30/33	526,780
11/30/34	542,162