

**FLAGLER COUNTY BOARD OF COUNTY COMMISSIONERS
GENERAL BUSINESS / AGENDA ITEM # 8a**

SUBJECT: Consideration Authorizing the Issuance of Debt Via a Loan from CenterState Bank, N.A. Not to Exceed \$20,000,000 for Public Safety Capital Projects, Namely to Design and Construct the Flagler County Sheriffs Operation Center.

DATE OF MEETING: December 14, 2020

OVERVIEW/SUMMARY: Staff is seeking approval to execute a debt service loan principally to design and construct the Flagler County Sheriffs Operation Center.

The Twenty Million Dollars (20,000,000) for this project will provide essential funding required for the construction of the Flagler County Sheriffs Operation Center Facility which will serve as the primary location for Law Enforcement in Flagler County. The approximately 50,000 square foot facility will house all administrative employees and provide essential space for ongoing deputy training and day-to-day operations. This facility will be located ¼ of a mile from the Government Services Building. This new facility will provide adequate space for storing evidence, armory, technological support, and rolling stock. Flagler County has chosen an expert architect firm to design the facility to fully encompass all aspects of a fully functional Public Safety Facility. The loan from CenterState Bank, N.A will cover the design, construction and other various costs associated with a successful turnkey project. This funding will ensure the Sherriff's Department has essential space to support continuous law enforcement for Flagler County.

The loan details include the following information. Not to exceed \$20,000,000.00 (Twenty Million Dollars). The loan is anticipated to close on or about December 18, 2020, and is considered a Non-Bank Qualified Tax Exempt term loan.

The County shall also retain the option to structure this loan as a non-revolving draw note until June 30, 2022, with a minimum draw at closing of \$250,000.00 (Two Hundred Fifty Thousand Dollars). Subsequent draw requirements shall be as follows:

- Funding an additional (minimum) of \$2,000,000 on or before March 31, 2021.
- Funding an additional (minimum) of \$5,000,000 on or before June 30, 2021.
- Funding an additional (minimum) of \$5,000,000 on or before September 30, 2021.
- Funding an additional (minimum) of \$4,000,000 on or before December 31, 2021.
- Funding an additional (minimum) of \$2,750,000 on or before March 31, 2022.
- Remaining funds required for the project up to \$1,000,000 shall be funded on or before June 30, 2022. If the County does not fully fund to the level of \$20,000,000 due to cost savings related to the project the Bank will allow for modifications to the amortization schedule, subject to the Bank's satisfactory review of a revised amortization schedule provided by the County's Financial Advisor.

FUNDING INFORMATION: A capital project fund (Fund 315) and debt service fund (Fund 215) will be created with approval of the budget resolution appropriating \$20,000,000 for design and construction as well as for loan issuance costs, staff time and landfill tipping fees associated with clearing the lot.

DEPARTMENT CONTACT: E. John Brower, Financial Services Director (386) 313-4036

RECOMMENDATION: Request the Board approve and authorize the issuance of debt not to exceed \$20,000,000 and authorize the Chair to execute the Agreement as approved as to form by the County Attorney, and adopt the Unanticipated Revenue Resolution to establish and appropriate funding in the capital and debt service funds and approve the attached Budget Transfer 21-115.

ATTACHMENTS:

1. CenterState Bank Non-binding Proposal
2. Resolution Authorizing a Loan
3. Loan Agreement
4. Preliminary Numbers
5. Unanticipated Revenue Resolution (URR)
6. Budget Transfer 21-115
7. PFM Recommendation Letter

NON-BINDING PROPOSAL

November 20, 2020

Flagler County, Florida

Attention: Mr. John Brower, Flagler County Financial Services Director and
Mr. Jay Glover and Ms. Aurora Pavlish-Carpenter – PFM Financial Advisors LLC
1769 East Moody Blvd., Building #1
Bunnell, Florida 32110

Dear Mr. Brower, Mr. Glover, and Ms. Pavlish-Carpenter:

CenterState Bank, N.A. (“the Bank”) is pleased to have the opportunity to consider your loan request on behalf of Flagler County, Florida. This letter is a Non-Binding Proposal.

- Borrower:** Flagler County, Florida (“the County” or “Borrower”)
- Purpose:** The purpose of the loan is to finance the cost of capital projects which will provide the essential funding required for Law Enforcement within Flagler County. Also see attached “Exhibit A”.
- Loan Amount and Type:** Not to exceed \$20,000,000.00 (Twenty Million Dollars). The loan is anticipated to close on or about December 18, 2020, and is considered a Non-Bank Qualified Tax Exempt term loan.
- The Borrower shall also retain the option to structure this loan as a non-revolving draw note until June 30, 2022, with a minimum draw at closing of \$250,000.00 (Two Hundred Fifty Thousand Dollars). Subsequent draw requirements shall be as follows:
- Funding an additional (minimum) of \$2,000,000 on or before March 31, 2021.
 - Funding an additional (minimum) of \$5,000,000 on or before June 30, 2021.
 - Funding an additional (minimum) of \$5,000,000 on or before September 30, 2021.
 - Funding an additional (minimum) of \$4,000,000 on or before December 31, 2021.
 - Funding an additional (minimum) of \$2,750,000 on or before March 31, 2022.
 - Remaining funds required for the project up to \$1,000,000 shall be funded on or before June 30, 2022. If the Borrower does not fully fund to the level of \$20,000,000 due to cost savings related to the project, the Bank will allow for modifications to the amortization schedule, subject to the Bank’s satisfactory review of a revised amortization schedule provided by the County’s Financial Advisor.
- Collateral:** The 2020 loan shall be secured by a covenant to budget and appropriate from all non ad-valorem revenues of the County not derived from ad valorem taxation and which are lawfully available to be used to pay debt service on the amounts due under the Bond.
- Maturity Date:** October 1, 2035
- Interest Rate:** The interest rate shall be a non-bank qualified tax-exempt fixed rate of 1.83% for the term of the loan, provided the loan is closed by no later than

Internal

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NON-BINDING PROPOSAL

December 21, 2020. Interest will be calculated on a 30/360 day count basis.

Repayment Terms:

Interest payments on the outstanding principal balance will be paid semi-annually on April 1 and October 1 of each year for the term of the loan commencing April 1, 2021. Principal shall be payable as stated within "Addendum 1/Exhibit B" (see attached) with any changes subject to the Bank's approval.

Prepayment Penalty:

The County will incur a 1.00% prepayment penalty of the outstanding principal balance if the Series 2020 loan is paid in full during the first 5 years of the loan. Principal reductions in excess of the determined amortization schedule will also be subject to the 1.00% prepayment penalty for the first 5 years of the loan.

Late Fees:

Bank may, at its option collect from the Borrower a late charge of five percent (5.00%) of any payment not received by Bank within ten (10) days after the payment is due.

Event of Default:

Upon an event of default as described in the Bond Resolution, the holder may recover from the Borrower all expenses incurred including without limitation reasonable attorney's fees, at all levels of the proceedings, whether incurred in connection with collection, bankruptcy, proceedings, trial, appeal or otherwise. Remedies shall include acceleration in the event of payment default.

Default Rate:

The greater of 3% above the Note rate or the WSJ Prime Rate plus 2%, not to exceed the maximum rate permitted by law.

Bank Fees:

Bank fees including its bond counsel review shall not exceed \$5,000. It is understood that Bryant Miller Olive P.A. will prepare the documents on behalf of the Borrower with the Borrower bearing all closing costs. This shall include delivering to the Bank an opinion by Bond Counsel to ensure compliance by the County with the Internal Revenue Code of 1986, as amended ("Code"), and to qualify interest on the 2020 loan for exclusion from gross income for federal income tax purposes as set forth in the opinion of Bond Counsel on the Series 2020 loan, which shall be satisfactorily reviewed by Bank's Bond Counsel.

Warranties:

The Bank warrants to the County that it will comply with all applicable federal, state and local laws, regulations and orders in providing the services under the proposed documents.

Covenants:

- 1) Comprehensive annual financial report (CAFR) within 270 days of fiscal year end and the County's Budget within 60 days of adoption shall be provided to the bank by the borrower.
- 2) Borrower shall provide such other financial information from time to time as is reasonably requested by the Bank.
- 3) Anti-Dilution Test: During such time as any Bonds are Outstanding hereunder, the Issuer agrees and covenants with the Bondholders that (1) Non-Ad Valorem Revenues shall cover projected Maximum Annual Debt Service on the Bonds and maximum annual debt service on Debt by at least 1.5x; and (2) projected Maximum Annual Debt Service on the Bonds and maximum annual debt service for all Debt will not exceed 20% of the aggregate of General Fund Revenues exclusive of (a) ad valorem tax revenues restricted to payment of debt service on any Debt and (b) any

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proceeds of the Bonds or Debt. The calculations required by clauses (1) and (2) above shall be determined using the average of actual Non-Ad Valorem Revenues and General Fund Revenues for the prior two Fiscal Years based on the Issuer's Annual Audits. For purposes of the calculations required by clauses (1) and (2) above, Maximum Annual Debt Service on the Bonds 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 this covenant, 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 at the current "Bond Buyer Revenue Bond Index" as published in The Bond Buyer no more than two weeks prior to any such calculation; provided, however, 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 25 years 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 which the Issuer expects to refinance at or before maturity or to pay from grant or sale proceeds. In addition, with respect to debt service on any Debt which is subject to a Qualified Hedge Agreement, interest on such Debt during the term of such Qualified Hedge Agreement shall be deemed to be the Hedge Payments coming due during such period of time. With respect to debt service on any Debt with respect to which the Issuer elects to receive or is otherwise entitled to receive direct subsidy payments from the United States Department of Treasury, when determining the interest on such Debt for any particular interest payment date the amount of the corresponding subsidy payment shall be deducted from the amount of interest which is due and payable with respect to such Debt on the interest payment date, but only to the extent that the Issuer reasonably believes that it will be in receipt of such subsidy payment on or prior to such interest payment date. "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 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; (C) all obligations of the Issuer 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 Issuer; provided, however, if with respect to any obligation contemplated in (A), (B), or (C) above, the Issuer has covenanted to budget and appropriate sufficient Non-Ad Valorem Revenues 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 Resolution unless the Issuer 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

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of the proviso set forth in the immediately preceding sentence, it shall continue to be considered "Debt" until the Issuer has not used any Non-Ad Valorem Revenues to satisfy such obligation for two consecutive Fiscal Years. "General Fund Revenues" shall mean total revenues of the Issuer derived from any source whatsoever and that are allocated to and accounted for in the General Fund as shown in the Annual Audit. "Maximum Annual Debt Service" shall mean the largest aggregate amount of the Annual Debt Service coming due in any Fiscal Year in which Bonds are Outstanding. "Non-Ad Valorem Revenues" shall mean all General Fund Revenues, other than revenues generated from ad valorem taxation on real or personal property, but only to the extent they are legally available to make the payments required herein.

4) In conjunction with this closing, the County shall certify it is in compliance with this Anti-Dilution Test.

5) The County agrees to take such actions as may be required by Treasury regulations in order to maintain the status of the loan as a tax-exempt obligation. In the event the loan is not considered tax exempt as a result of final determination by the IRS which results from the County's actions or inactions, the Bank reserves the right to increase the interest rate (see "Interest Rate" above) to the taxable rate equivalent (Note Rate divided by 0.79).

Conditions:

- 1) Loan documents to be satisfactorily reviewed and approved by Bank's Bond Counsel.
- 2) Formal approval and authorization from Flagler County, Florida County Commission for the Series 2020 loan.

This Non-Binding Proposal is solely and exclusively intended to serve as a summary of potential credit facility terms and conditions as a basis for preliminary discussion purposes only and to demonstrate CenterState Bank's interest in reviewing your loan request and, subject to CenterState Bank's underwriting requirements, and submission of your request for approval. This proposal may not include all of the terms and provisions that may be contained in any binding commitment letter which may later be offered to you. No oral communications between the parties shall be deemed to supersede this Non-Binding Proposal or indicate any commitment to extend credit in any form.

Please also note that effective June 8, 2020 South State Bank and CenterState Bank, N.A. have merged to become South State Bank, N.A.

We appreciate this opportunity to submit our proposal to Flagler County, Florida for consideration, and if you have any questions, please do not hesitate to contact us via phone or email (see below).

Sincerely,



Garry Lubi
Senior Vice President & Commercial Lender
386.569.0643 / glubi@centerstatebank.com

11-20-20

Date



NON-BINDING PROPOSAL

Acceptance:

By accepting this Non-Binding Proposal you acknowledge and agree to the terms hereof, including without limitation the non-binding nature of this Proposal.

Authorized Signor

Date

Print Name: _____

RESOLUTION NO. 2020-[]

A RESOLUTION OF THE BOARD OF COUNTY COMMISSIONERS OF FLAGLER COUNTY, FLORIDA AUTHORIZING THE ISSUANCE OF NOT TO EXCEED \$20,000,000 CAPITAL IMPROVEMENT REVENUE NOTE, SERIES 2020 FOR THE PURPOSE OF FINANCING THE DESIGN, CONSTRUCTION AND OTHER COSTS OF CERTAIN PUBLIC SAFETY CAPITAL PROJECTS AS DESCRIBED HEREIN AND PAYING THE COSTS RELATED THERETO SUBJECT TO THE SATISFACTION OF CERTAIN CONDITIONS CONTAINED HEREIN; AWARDING THE NOTE TO CENTERSTATE BANK, N.A. AT A NEGOTIATED SALE; PROVIDING FOR THE PAYMENT OF SAID NOTE FROM ALL LEGALLY AVAILABLE NON-AD VALOREM REVENUES BUDGETED, APPROPRIATED AND DEPOSITED AS PROVIDED HEREIN; APPROVING THE FORM OF AND AUTHORIZING THE EXECUTION AND DELIVERY OF A LOAN AGREEMENT; PROVIDING FOR THE RIGHTS AND SECURITIES OF THE OWNER OF THE NOTE; AUTHORIZING THE COUNTY TO ENTER INTO AN ENGAGEMENT LETTER WITH PFM FINANCIAL ADVISORS LLC TO PROVIDE FINANCIAL ADVISORY SERVICES RELATING TO THE NOTE; MAKING CERTAIN OTHER COVENANTS AND AGREEMENTS IN CONNECTION THEREWITH; PROVIDING FOR SEVERABILITY; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the Board of County Commissioners (the "Board") of Flagler County, Florida (the "County") has previously determined that it is necessary for the health, safety and welfare of the County and in the best interest of its inhabitants to finance certain public safety capital projects, including, but not limited to, the design and construction of a new approximately 50,000 square foot Sheriff Operations District 3 Facility in the County (the "Project"); and

WHEREAS, the County has determined that it is in the best interest of the health, safety and welfare of the County and the inhabitants thereof to obtain a loan to finance the costs of the Project; and

WHEREAS, the County received a proposal from the CenterState Bank, N.A. (the "Lender") and the Lender has agreed to make a Not to Exceed \$20,000,000 loan (the "Loan") available to the County to be secured by the County's Not to Exceed \$20,000,000 Capital Improvement Revenue Note, Series 2020 (the "Note"); and

WHEREAS, in accordance with the terms of the Loan Agreement, the Lender will make advances to the County as requested by the County, and as provided in the Loan Agreement; and

WHEREAS, debt service on the Note shall be payable from and secured solely by a covenant to budget and appropriate all legally available non-ad valorem revenues of the County (the "Non-Ad Valorem Revenues") deposited to the credit of the Debt Service Fund established hereunder, all in the manner and to the extent provided herein and in the Loan Agreement; and

WHEREAS, the obligation of the County to repay principal of and interest on the Note will not constitute a general obligation or indebtedness of the County as a "bond" within the meaning of any provision of the Constitution or laws of the State, but shall be and is hereby declared to be a special, limited obligation of the County, secured solely by the Non-Ad Valorem Revenues budgeted, appropriated and deposited by the County; and

WHEREAS, the County is not authorized to levy ad valorem taxes on any property of or in the County to pay the principal of or interest on the Note or to make any other payments provided for herein; and

WHEREAS, the Board hereby determines, based on recommendations from PFM Financial Advisors LLC, the County's financial advisor, and County staff, that the proposal from the Lender dated November 20, 2020 (the "Proposal") contains the terms and provisions that are most favorable for the County; and

WHEREAS, amounts due under the Loan will be evidenced by the Loan Agreement and the Note authorized herein; and

WHEREAS, because of the characteristics of the security pledged to repay the Loan and prevailing conditions in the financial markets, it is in the best interest of the County to accept the offer of the Lender to enter into the Loan Agreement and sell the Note at a negotiated sale. Prior to the issuance of the Note, the County shall receive from the Lender a Lender's Certificate, the form of which is attached hereto as Exhibit "A" and a Disclosure Letter containing the information required by Section 218.385, Florida Statutes, the form of which is attached hereto as Exhibit "B"; and

WHEREAS, in consideration of the purchase and acceptance by the Lender of the Note authorized to be issued hereunder, this Resolution, together with the terms and provisions of the Loan Agreement shall constitute a contract between the County and the Lender; and

WHEREAS, the County has determined it to be in its best interests and to serve a paramount public purpose to provide in this Resolution for the issuance of the Note to finance costs of the Project and to pay the costs of issuance related thereto; and

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF COUNTY COMMISSIONERS OF FLAGLER COUNTY, FLORIDA, as follows:

SECTION 1. AUTHORITY FOR THIS RESOLUTION. This Resolution is adopted pursuant to the provisions of Chapter 125, Florida Statutes, Section 12, Article VII of the Florida Constitution and other applicable provisions of the law (the "Act").

SECTION 2. DEFINITIONS. Unless the context otherwise requires, the terms used in this Resolution shall have the meanings specified in this Section 2. Words importing singular number shall include plural number in each case and vice versa, and words importing persons shall include firms and corporations.

"Board" means the Board of County Commissioners of Flagler County, Florida.

"Business Day" means a day other than a Saturday or Sunday or a day on which the Payment Office of the Lender is lawfully closed.

"Chair" means the Chair of the Board or in the Chair's absence or inability to act, the Vice Chair of the Board or such other person as may be duly authorized by the Board to act on the Chair's behalf.

"Chief Financial Officer" means the Chief Financial Officer of the County, or such other person as may be duly authorized by the County to act on the Chief Financial Officer's behalf.

"Clerk" means the Flagler County Clerk of the Circuit Court and Comptroller or assistant or deputy County Clerk as may be duly authorized by the Clerk to act on the Clerk's behalf.

"County Attorney" means the County Attorney of the County.

"Fiscal Year" means the fiscal year of the County ending on each September 30.

"Loan Agreement" means the Loan Agreement by and between the County and the Lender setting forth the terms and conditions for drawing on the Loan, as the same may be supplemented and amended, dated December 18, 2020, or some other date as may be agreed to by the Lender and the County.

"Lender" means CenterState Bank, N.A., and its permitted successors and assigns.

"Maturity Date" means October 1, 2035.

"Payment Office" has the definition given to it in the Note.

"Owner" or "Registered Owner" means the Person in whose name the Note shall be registered on the books of the County kept for that purpose in accordance with the terms of this Resolution.

“State” means the State of Florida.

SECTION 3. FINDINGS. It is hereby ascertained, determined and declared that:

(A) The Recitals are incorporated herein by reference.

(B) The County is authorized under the Act and this Resolution to issue the Note to finance the Project and to pay the costs associated therewith.

(C) The County finds, determines and declares that it is necessary for the continued preservation of the health, welfare, convenience and safety of the County and its citizens to provide for the issuance of the Note in an aggregate principal amount Not to Exceed \$20,000,000, the proceeds of which will be used to finance the Project and to pay the costs associated with the issuance of the Note.

(D) The principal of and interest on the Note shall be payable solely from the Non-Ad Valorem Revenues. The County shall never be required to levy ad valorem taxes on any real or personal property therein to pay the principal of and interest on the Note herein authorized or to make any other payments provided for herein. The Note shall not constitute a lien upon any properties owned by or located within the boundaries of the County or upon any property.

(I) The Non-Ad Valorem Revenues should be sufficient to pay all principal of and interest on the Note to be issued hereunder, as the same become due, and to make all required deposits or payments required by this Resolution.

SECTION 4. APPROVAL OF LOAN AGREEMENT. To provide for the security of the Note and to express the contract between the County and the holder thereof, the County does hereby authorize the execution and delivery, on behalf of the County, by the Chair, under the seal of the County, attested by the Clerk, of the Loan Agreement by and between the County and the Lender. The Loan Agreement shall be in substantially the form attached hereto and marked Exhibit “C” and is hereby approved, with such changes therein as shall be approved by any of the authorized officers executing the same, with such execution constituting conclusive evidence of such officer's approval and the County's approval of any changes therein to the form of the Loan Agreement attached hereto. Subject and pursuant to the provisions of this Resolution and the terms and provisions of the Loan Agreement, there is hereby authorized to be issued a promissory note to evidence the County's obligations under the Loan Agreement. The Note is authorized to be issued in the aggregate principal amount of Not to Exceed \$20,000,000, subject to the provisions of Section 5 hereof.

SECTION 5. APPROVAL OF ISSUANCE OF NOTE; TERMS OF NOTE. The issuance of the Note is hereby authorized. There is hereby authorized to be issued the “Flagler County, Capital Improvement Revenue Note, Series 2020,” in an aggregate principal amount of Not to Exceed TWENTY MILLION DOLLARS (\$20,000,000), which shall secure amounts outstanding hereunder, and will be repaid on October 1, 2035 unless earlier prepaid as

provided herein and in the Note. The Note shall bear interest at a rate equal to 1.83% per annum, calculated on the basis of a 360 day year consisting of twelve thirty day months. Interest shall be payable semi-annually commencing April 1, 2021 and on each April 1 and October 1 thereafter until the Note is paid in full. Principal on the Note will be payable as provided on Schedule I attached to the Note, unless earlier prepaid. Upon five Business Days' written notice to the Lender, the Note may be prepaid subject to a prepayment penalty equal to 1.00% of the outstanding principal amount of the Note if prepaid on or before December 18, 2025. Thereafter, the Note may be prepaid in whole or in part without a prepayment penalty. Principal prepayments made on or before December 18, 2025 in excess of the amounts on Schedule I attached to the Note shall also be subject to a 1.00% prepayment penalty. Advances drawn on the Note shall be in accordance with the provisions of the Loan Agreement. Interest on the Note is subject to adjustment as provided in the Loan Agreement and the Note.

The Note shall be substantially in the form attached as Exhibit A to the Loan Agreement, with such non-material changes as shall be approved by the Chair, such approval to be conclusively evidenced by the execution thereof by the Chair. The Note shall be executed on behalf of the County with the manual or facsimile signature of the Chair and attested to by the manual or facsimile signature of the Clerk and the official seal of the County, and be approved as to form and correctness with the manual or facsimile signature of the County Attorney. In case any one or more of the officers who shall have signed or sealed the Note shall cease to be such officer of the County before the Note so signed and sealed has been actually sold and delivered, such Note may nevertheless be sold and delivered as herein provided and may be issued as if the person who signed or sealed such Note had not ceased to hold such office. The Note may be signed and sealed on behalf of the County by such person who at the actual time of the execution of such Note shall hold the proper office of the County, although, at the date of such Note, such person may not have held such office or may not have been so authorized.

SECTION 6. PAYMENT OF PRINCIPAL AND INTEREST; LIMITED OBLIGATION. The County promises that it will promptly pay the principal of and interest on the Note and all other amounts due under the Loan Agreement at the place, on the dates and in the manner provided in the Loan Agreement according to the true intent and meaning hereof and thereof. Amounts due under the Loan Agreement shall not be or constitute a general obligation or indebtedness of the County as a "bond" within the meaning of the Constitution and the laws of the State of Florida, but shall be payable solely from the Non-Ad Valorem Revenues in accordance with the terms hereof and of the Loan Agreement. The holder of the Note issued hereunder shall never have the right to compel the exercise of any ad valorem taxing power to pay the Note, or be entitled to payment of such Note from any funds of the County except from the Non-Ad Valorem Revenues as described herein and in the Loan Agreement.

SECTION 7. COVENANT TO BUDGET AND APPROPRIATE. The County covenants to budget and appropriate in each such fiscal year such amount of Non-Ad Valorem Revenues sufficient to provide for the timely payment of the principal of and interest on the Note and any other amounts required to be paid under the Loan Agreement. Subject to the next paragraph, the County covenants and agrees and has a positive and affirmative duty to appropriate in its annual budget, by amendment, if necessary, from Non-Ad Valorem Revenues, and to deposit into the Debt Service Fund, amounts sufficient to pay the principal of, and interest on the Note not being paid from other amounts as the same shall become due. Such covenant and agreement on the part of the County to budget, appropriate and deposit 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, deposited and actually paid. No lien upon or pledge of such budgeted Non-Ad Valorem Revenues shall be in effect until such monies are budgeted, appropriated and deposited as provided in the Loan Agreement. The County further acknowledges and agrees that the obligations of the County to include the amount of such amendments in each of its annual budgets and to budget and pay such amounts from Non-Ad Valorem Revenues may be enforced in a court of competent jurisdiction in accordance with the remedies set forth in the Loan Agreement.

Until such monies are budgeted, appropriated and deposited as provided in the Loan Agreement, 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 County from pledging in the future its Non-Ad Valorem Revenues, nor does it require the County to levy and collect any particular Non-Ad Valorem Revenues, nor does it give the Noteholders a prior claim on the Non-Ad Valorem Revenues as opposed to claims of general creditors of the County. Such covenant to budget and appropriate 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 bonds and other debt instruments). Anything in this Resolution, the Note or the Loan Agreement to the contrary notwithstanding, it is understood and agreed that nothing herein shall compel the County to maintain or continue any of the activities of the County which generate user service charges, regulatory fees, or any other Non-Ad Valorem Revenues. Until such monies are budgeted, appropriated and deposited as provided in the Loan Agreement, neither the Loan Agreement, this Resolution, nor the obligations of the County hereunder shall be construed as a pledge of or a lien on all or any Non-Ad Valorem Revenues of the County, but shall be payable solely as provided in the Loan Agreement subject to the availability of Non-Ad Valorem Revenues after satisfaction of funding requirements for obligations having an express lien on or pledge of such revenues, payment of services and programs which are for essential public purposes affecting the health, welfare and safety of the inhabitants of the County, and the provisions of Section 129.03 and 129.07, Florida Statutes, insofar as there are not sufficient Non-Ad Valorem Revenues to comply with such covenant after the satisfaction of the funding requirements for obligations having an express lien on or pledge of any Non-Ad Valorem Revenues and the

funding requirements for essential governmental services of the County. The County agrees that its covenant and agreement to budget, appropriate and deposit Non-Ad Valorem Revenues shall be deemed entered into for the benefit of the registered owner of the Note and this obligation may be enforced by a court of competent jurisdiction in accordance with the remedies set forth in the Loan Agreement or in this Resolution.

The County does hereby create and establish the Flagler County, Capital Improvement Revenue Note, Series 2020 Debt Service Fund (the "Debt Service Fund"). The County shall deposit all Non-Ad Valorem Revenues budgeted and appropriated for payment of debt service on the Note or any other obligations of the County arising under the Loan Agreement into the Debt Service Fund on or before the date such amounts are needed to pay the principal, interest, or other obligations coming due on the Note. The holder of the Note shall not have a lien on the Non-Ad Valorem Revenues until such Non-Ad Valorem Revenues are deposited in the Debt Service Fund.

SECTION 8. USE OF PROCEEDS. The proceeds of the Note shall be used by the County to finance the Project and to pay the costs of issuance related thereto.

SECTION 9. REGISTRATION OF TRANSFER; ASSIGNMENT OF RIGHTS OF OWNER. The Clerk is hereby designated as the Registrar and Paying Agent for the Note. The County shall keep at the office of the Clerk, in the County's records the registration of the Note and the registration of transfers of the Note as provided in this Resolution. The transfer of the Note may be registered only upon the books kept for the registration of the Note and registration of transfer thereof upon surrender thereof to the County together with an assignment duly executed by the Owner or its attorney or legal representative in the form of the assignment set forth on the form of the Note; provided, however, that the Note may be transferred only in whole and not in part and only to (i) an affiliate of the Owner or (ii) banks, insurance companies or other financial institutions and their affiliates, that execute and deliver to the County a Lender's Certificate substantially in the form attached hereto as Exhibit A. Nothing herein shall limit the right of the Owner or its assignees to sell or assign participation interests in the Note to one or more entities listed in (i) or (ii) of this paragraph. In the case of any such registration of transfer, the County shall execute and deliver in exchange for the applicable Note a new Note registered in the name of the transferee. In all cases in which the Note shall be transferred hereunder, the County shall execute and deliver at the earliest practicable time a new Note in accordance with the provisions of this Resolution. The County may make a charge for every such registration of transfer of the Note sufficient to reimburse it for any tax or other governmental charges required to be paid (other than a tax or other governmental charge imposed by the County) with respect to such registration of transfer, but no other charge shall be made for registering the transfer. The Note shall be issued in fully registered form and shall be payable in any coin or currency of the United States.

The registration of transfer of the Note on the registration books of the County shall be deemed to affect a transfer of the rights and obligations of the Owner under this Resolution to the transferee. Thereafter, such transferee shall be deemed to be the Owner under this Resolution and shall be bound by all provisions of this Resolution that are binding upon the

Owner. The County and the transferor shall execute and record such instruments and take such other actions as the County and such transferee may reasonably request in order to confirm that such transferee has succeeded to the capacity of Owner under this Resolution and the Note.

In the event the Note is mutilated, lost, stolen, or destroyed, the County shall execute a new Note of like date and denomination as that mutilated, lost, stolen or destroyed, provided that, in the case of such a mutilated Note, such mutilated Note shall first be surrendered to the County, and in the case of a lost, stolen, or destroyed Note, there first shall be furnished to the County evidence of such loss, theft or destruction together with an indemnity satisfactory to it.

SECTION 10. AMENDMENT. This Resolution shall not be modified or amended in any respect subsequent to the issuance of the Note except with the written consent of the Owner of the Note.

SECTION 11. FINANCIAL ADVISORY SERVICES. The County is hereby authorized to execute an engagement letter with PFM Financial Advisors LLC ("PFM") to provide financial advisory services to the County in connection with the Note. The County is hereby authorized to pay the fees of PFM in connection with such services.

SECTION 12. 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 whatsoever.

SECTION 13. BUSINESS DAY. In any case where the due date of interest on or principal of the Note is not a Business Day, then payment of such principal or interest need not be made on such date but may be made on the next succeeding Business Day and interest on such principal amount shall continue to accrue to the date on which such payment is made.

SECTION 14. APPLICABLE PROVISIONS OF LAW. This Resolution shall be governed by and construed in accordance with the laws of the State (without regard to any State conflict of law provisions).

SECTION 15. 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 16. IMPAIRMENT OF CONTRACT. The County covenants with the Owner of the Note that it will not, without the written consent of the Owner, enact any ordinance or adopt any resolution which repeals, impairs or amends, in any manner materially adverse to the Owner, the rights granted to the Owner of the Note issued hereunder.

SECTION 17. 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 18. BOARD OF COUNTY COMMISSIONERS, COUNTY ADMINISTRATOR AND CHIEF FINANCIAL OFFICER OF THE COUNTY EXEMPT FROM LIABILITY. No recourse under or upon any obligation, covenant or agreement of this Resolution or the Note or for any claim based thereon or otherwise in respect thereof, shall be had against any member of the Board, the County Administrator, the County Attorney or the Chief Financial Officer of the County, as such, of the County, past, present or future, either directly or through the County, it being expressly understood (a) that no personal liability whatsoever shall attach to, or is or shall be incurred by, the members of the Board, the County Administrator, the County Attorney or the Chief Financial Officer of the County, as such, under or by reason of the obligations, covenants or agreements contained in this Resolution or implied therefrom, and (b) 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 such member of the Board, the County Administrator, the County Attorney or Chief Financial Officer of the County, as such, are waived and released as a condition of, and as a consideration for, the execution of this Resolution and the issuance of the Note, on the part of the County.

SECTION 19. AUTHORIZATIONS. The Chair and any member of the Board, the County Administrator, the County Attorney, the Clerk and the Chief Financial Officer and such persons' designees are each designated as agents of the County in connection with the issuance and delivery of the Note and are authorized and empowered, collectively or individually, to take all actions and steps and to execute all instruments, documents, and contracts on behalf of the County that are necessary or desirable in connection with the execution and delivery of the Note and are not inconsistent with the terms and provisions of this Resolution.

SECTION 20. REPEALER. All ordinances, resolutions or parts thereof in conflict herewith are hereby repealed.

SECTION 21. NO THIRD PARTY BENEFICIARIES. Except such other persons as may be expressly described in this Resolution or in the Note, nothing in this Resolution or in the Note, expressed or implied, is intended or shall be construed to confer upon any person, other than the County and the Owner, any right, remedy or claim, legal or equitable, under and by reason of this Resolution, or any provision thereof, or of the Note, all provisions thereof being intended to be and being for the sole and exclusive benefit of the County and the persons who shall from time to time be the Owner.

SECTION 22. EFFECTIVE DATE. This Resolution shall be in full force and take effect immediately upon its adoption.

DULY, ADOPTED this 14th day of December, 2020.

**BOARD OF COUNTY COMMISSIONERS
FLAGLER COUNTY, FLORIDA**

(SEAL)

Donald O'Brien, Jr., Chair

ATTEST:

Tom Bexley,
Clerk of the Circuit Court and Comptroller

Approved as to form:

By: _____
Albert Hadeed, Esquire
County Attorney

EXHIBIT A

FORM OF LENDER'S CERTIFICATE

This is to certify that CenterState Bank, N.A. (the "Lender") has not required Flagler County, Florida (the "County") to deliver any offering document and has conducted its own investigation, to the extent it deems satisfactory or sufficient, into matters relating to business affairs or conditions (either financial or otherwise) of the County in connection with the issuance by the County of its Capital Improvement Revenue Note, Series 2020 (the "Note") securing amounts due to the Lender in the amount of Not to Exceed \$20,000,000 (the "Loan") pursuant to a Loan Agreement dated as of December 18, 2020 by and between the County and the Lender (the "Loan Agreement"), and no inference should be drawn that the Lender, in the acceptance of said Note, is relying on Bryant Miller Olive P.A. ("Note Counsel"), the County Attorney ("County Attorney") or PFM Financial Advisors LLC (the "Financial Advisor") as to any such matters other than the legal opinions rendered by Note Counsel and by the County Attorney. Any capitalized undefined terms used herein not otherwise defined shall have the meaning set forth in the Loan Agreement.

The Lender acknowledges and understands that Resolution 2020-[___] adopted by the Flagler County Board of County Commissioners on December 14, 2020 (the "Resolution") is not being qualified under the Trust Indenture Act of 1939, as amended, and is not being registered in reliance upon the exemption from registration under Section 3(a)(2) of the Securities Act of 1933 (the "1933 Act"), Section 517.051(1), Florida Statutes, and/or Section 517.061(7), Florida Statutes, and that neither the County, Note Counsel, the County Attorney nor the Financial Advisor shall have any obligation to effect any such registration or qualification.

The Lender has conducted its own investigation, to the extent it deems satisfactory or sufficient, into matters relating to business affairs or conditions (either financial or otherwise) of the County in connection with the Loan and no inference should be drawn that the Lender, in the acceptance of the Note, is relying on Note Counsel or the County Attorney as to any such matters other than the legal opinions rendered by Note Counsel and by the County Attorney.

The Lender acknowledges that no CUSIP numbers or credit ratings have been obtained with respect to the Note.

The Lender is not acting as a broker or other intermediary, and is purchasing the Note as an investment for its own account and not with a present view to a resale or other distribution to the public. The Lender understands that the Note may only be transferred in whole and not in part, and may not be transferred except in accordance with the restrictions set forth in the Resolution.

The Lender is a bank as contemplated by Section 517.061(7), Florida Statutes. The Lender is not purchasing the Note for the direct or indirect promotion of any scheme or enterprise with the intent of violating or evading any provision of Chapter 517, Florida Statutes.

The Lender is an "accredited investor".

Neither the Lender nor any of its affiliates is acting as a fiduciary for the County or in the capacity of broker, dealer, municipal securities underwriter or municipal advisor with respect to the proposed issuance of the Note. Neither the Lender nor any of its affiliates has provided financial, legal, tax, accounting or other advice to or on behalf of the County with respect to the proposed issuance of the Note. The County has represented to the Lender that it has sought and obtained financial, legal, tax, accounting and other advice (including as it relates to structure, timing, terms and similar matters) with respect to the proposed issuance of the Note from its financial, legal and other advisors (and not the Lender or any of its affiliates) to the extent that the County desired to obtain such advice.

Dated December 18, 2020.

CENTERSTATE BANK, N.A.

By: _____

Name: Garry Lubi

Title: Senior Vice President & Commercial Lender

EXHIBIT B

FORM OF DISCLOSURE LETTER

The undersigned, as purchaser and lender, proposes to negotiate with Flagler County, Florida (the "County") for the purchase of the County's Capital Improvement Revenue Note, Series 2020 (the "Note") securing amounts due under a Loan Agreement by and between CenterState Bank, N.A. (the "Lender") and the County in a principal amount of Not to Exceed \$20,000,000 (the "Loan Agreement"). Prior to the award of the Note, the following information is hereby furnished to the County:

1. Set forth is an itemized list of the nature and estimated amounts of expenses to be incurred for services rendered to us (the "Lender") in connection with the issuance of the Note (such fees and expenses to be paid by the County):

Akerman LLP

Lender Counsel Fees – \$5,000.00

2. (a) No other fee, bonus or other compensation is estimated to be paid by the Lender in connection with the issuance of the Note to any person not regularly employed or retained by the Lender (including any "finder" as defined in Section 218.386(1)(a), Florida Statutes), except as specifically enumerated as expenses to be incurred by the Lender, as set forth in paragraph (1) above.

(b) No person has entered into an understanding with the Lender, or to the knowledge of the Lender, with the County, for any paid or promised compensation or valuable consideration, directly or indirectly, expressly or implied, to act solely as an intermediary between the County and the Lender or to exercise or attempt to exercise any influence to effect any transaction in the purchase of the Note.

3. The amount of the underwriting spread expected to be realized by the Lender is \$0.

4. The management fee to be charged by the Lender is \$0.

5. Truth-in-Bonding Statement:

The Note is being issued primarily to finance certain public safety improvements as described in the Resolution (as hereinafter defined) and the Loan Agreement.

Unless earlier redeemed, the Note is expected to be repaid on October 1, 2035. Assuming that the interest rate on the Note is 1.83%, and assuming the full amount available to be drawn is advanced, total interest paid over the life of the Note is estimated to be \$[_____].

The principal of and interest on the Note will be payable solely from the Non-Ad Valorem Revenues as described in Resolution No. 2020-[_____] of the County duly adopted on December 14, 2020 (the "Resolution"). Based on the above assumptions, issuance of the Note is estimated to result in approximately \$[_____] of Non-Ad Valorem Revenues of the County not being available to finance the services of the County annually during the life of the Note.

(d) The name and address of the Lender is as follows:

Garry Lubi
Senior Vice President & Commercial Lender
CenterState Bank, N.A.
175 Cypress Point Parkway
Palm Coast, Florida 32164

This letter is provided for the sole purpose of complying with Section 218.385, Florida Statutes, as amended, and does not change the terms of and is not evidence of the terms of the Note. It is the understanding of the Lender that the County has not requested any further disclosure from the Lender.

Dated this 18th day of December, 2020.

CENTERSTATE BANK, N.A.

By: _____
Name: Garry Lubi
Title: Senior Vice President & Commercial Lender

EXHIBIT C
FORM LOAN AGREEMENT

LOAN AGREEMENT

dated December 18, 2020

by and between

**FLAGLER COUNTY, FLORIDA
(the "County")**

and

**CENTERSTATE BANK, N.A.
(the "Lender")**

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EXHIBIT B - FORM OF REQUISITION

LOAN AGREEMENT

THIS LOAN AGREEMENT (the "**Agreement**"), made and entered as of the 18th day of December, 2020, by and between the **FLAGLER COUNTY, FLORIDA** (the "**County**"), a political subdivision of the State of Florida duly organized under the laws of the State of Florida and its successors and assigns, and **CENTERSTATE BANK, N.A.**, a national banking association and its successors (the "**Lender**").

WITNESSETH:

WHEREAS, capitalized terms used in these recitals and not otherwise defined shall have the meanings specified in **Article I** of this Agreement; and

WHEREAS, the County, pursuant to the provisions of the Constitution and the laws of the State of Florida, Chapter 125, Florida Statutes, as amended, and other applicable provisions of law (the "**Act**") and Resolution 2020-[__] adopted by the Board of County Commissioners of Flagler County, Florida (the "**Board**") (the "**Note Resolution**") on December 14, 2020, is authorized to borrow money to finance certain public safety capital projects (the "**Project**" as hereinafter defined); and

WHEREAS, the County issued a request for proposals and received proposals from various financial institutions to loan funds to the County for the purpose of financing the Project (the "**Loan**"); and

WHEREAS, following review and recommendation from the County's Financial Advisor and the County staff, the Board has determined that the Lender submitted the proposal with terms and provisions most favorable to the County; and

WHEREAS, the Lender is willing to provide the Loan to the County as provided herein, but only upon the terms and conditions of this Agreement;

NOW, THEREFORE, the parties hereto agree as follows:

ARTICLE I DEFINITION OF TERMS

Section 1.01. **Definitions.** Capitalized terms used in this Agreement and not otherwise defined shall have the respective meanings as follows:

"Act" shall have the meaning assigned to that term in the recitals hereof.

"Agreement" shall mean this Loan Agreement and all modifications, alterations, amendments and supplements hereto made in accordance with the provisions hereof.

"Authorized Officer of the County" shall mean the Chief Financial Officer of the County or such officer's designee.

"Business Day" shall mean any day other than a Saturday, a Sunday, or a day on which banks in the Flagler County, Florida are authorized or required to be closed.

"Clerk" shall mean the Flagler County Clerk of the Circuit Court and Comptroller or assistant or deputy County Clerk as may be duly authorized by the Clerk to act on the Clerk's behalf.

"Code" shall mean the Internal Revenue Code of 1986, as amended from time to time, and the applicable rules and regulations promulgated thereunder.

"County" shall mean the Flagler County, Florida, a political subdivision of the State of Florida.

"Date of Delivery" shall mean December 18, 2020.

"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 County for borrowed money or evidenced by bonds, debentures, notes or other similar instruments; (B) all obligations of the County 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 County 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 County; provided, however, if with respect to any obligation contemplated in (A), (B), or (C) above, the County has covenanted to budget and appropriate sufficient Non-Ad Valorem Revenues 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 the Resolution or this Agreement unless the County 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 County has not used any Non-Ad Valorem Revenues to satisfy such obligation for two consecutive Fiscal Years.

"Debt Service" means principal of and interest on the Note, and other debt related costs, due in connection with the Note and this Agreement.

"Debt Service Fund" means the Flagler County, Florida Capital Improvement Revenue Note, Series 2020 Debt Service Fund created under the Note Resolution.

"Default Rate" shall mean the greater of three percent (3%) above the Note Rate or the Wall Street Journal Prime Rate, but in no event shall the Default Rate exceed the Maximum Rate.

"Event of Default" shall mean an Event of Default as defined in Section 5.01 of this Agreement.

"Fiscal Year" shall mean the twelve month period commencing October 1 of each year and ending on the succeeding September 30, or such other twelve month period as the County may designate as its "fiscal year" as permitted by law.

"Financial Advisor" shall mean the County's financial advisor, PFM Financial Advisors LLC, Orlando, Florida.

"General Fund" shall mean the "General Fund" of the County as described and identified in its annual audit.

"General Fund Revenues" shall mean total revenues of the County derived from any source whatsoever and that are allocated to and accounted for in the General Fund as shown in its annual audit.

"Hedge Agreement" shall mean an agreement in writing between the County and the Counterparty pursuant to which (1) the County agrees to pay to the Counterparty an amount, either at one time or periodically, which may, but is not required to, be determined by reference to the amount of interest (which may be at a fixed or variable rate) payable on debt (or a notional amount) specified in such agreement during the period specified in such agreement and (2) the Counterparty agrees to pay to the County an amount, either at one time or periodically, which may, but is not required to, be determined by reference to the amount of interest (which may be at a fixed or variable rate) payable on debt (or a notional amount) specified in such agreement during the period specified in such agreement.

"Hedge Payments" shall mean any amounts payable by the County on the debt or the related notional amount under a Qualified Hedge Agreement; excluding, however, any payments due as a penalty or by virtue of termination of a Qualified Hedge Agreement or any obligation of the County to provide collateral.

"Lender" shall mean CenterState Bank, N.A., and its successors or affiliates.

"Loan" shall collectively refer to the loan in a principal amount of Not To Exceed Twenty Million Dollars \$20,000,000, together with the interest accrued thereon pursuant to and in accordance with this Agreement and the Note.

"Maturity Date" shall mean October 1, 2035.

"Maximum Annual Debt Service" means the largest amount of annual debt service for any Fiscal Year in which the Note shall be outstanding.

"Maximum Rate" means the maximum rate of interest permitted for non-rated governmental bonds as set forth in Section 215.84(3), Florida Statutes, as may be amended from time to time.

"Non-Ad Valorem Revenues" shall mean legally available revenues of the County derived from any source whatsoever, other than ad valorem taxation on real and personal property, which are legally available for payment by the County of debt service on the Note, after the payment from the sources of Non-Ad Valorem Revenues pledged thereto of the principal of and interest on any other obligations of the County hereafter issued which have a prior pledge on a source of the Non-Ad Valorem Revenues.

"Note" shall mean the Flagler County, Florida Capital Improvement Revenue Note, Series 2020 issued by the County under the Note Resolution and this Agreement to evidence amounts due under this Agreement, the form of which is attached hereto as Exhibit A.

"Note Counsel" shall mean, initially, Bryant Miller Olive 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.

"Noteholder," "Owner" or "Holder" shall mean the Lender as the purchaser and initial holder of the Note and any subsequent registered holder of the Note.

"Note Rate" shall mean the rate of interest to be borne by the Note, which shall be a fixed rate equal to 1.83% subject to adjustment as provided in Section 3.03 or Section 5.01 hereof.

"Note Resolution" shall mean the Resolution 2020-[__] adopted by the Board on December 14, 2020, which, among other things, authorized and confirmed the borrowing of the Loan and execution and delivery of this Agreement and the issuance of the Note.

"Project" means certain public safety capital projects, including, but not limited to, the design and construction of an approximately 50,000 square foot Sheriff Operations District 3 Facility in the County

"Qualified Hedge Agreement" shall mean a Hedge Agreement with respect to which the County has received written notice from at least two of the Rating Agencies that the rating of the Counterparty is not less than "A."

"Rating Agencies" means Fitch, Moody's and Standard & Poor's.

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 terms used in this Agreement not herein defined shall have the meaning ascribed to such terms in the Note 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 AND WARRANTIES OF THE PARTIES

Section 2.01. **Representations and Warranties of County.** The County represents and warrants to the Lender as follows:

(a) **Existence.** The County is a political subdivision of the State of Florida, duly created and validly existing under the laws of the State of Florida, with full legal right, power and authority to adopt the Note Resolution, to enter into this Agreement, to perform its obligations hereunder and to issue and deliver the Note to the Lender. The making, execution and performance of this Agreement on the part of the County and the issuance and delivery of the Note have been duly authorized by all necessary action on the part of the County and will not violate or conflict with the Act, or any agreement, indenture or other instrument by which the County or any of its material properties is bound.

(b) **Validity, Etc.** This Agreement, the Note and the Note Resolution are valid and binding obligations of the County enforceable against the County in accordance with their respective terms, except to the extent that enforceability may be subject to valid bankruptcy, insolvency, financial emergency, reorganization, moratorium or similar laws relating to or from time to time affecting the enforcement of creditors' rights and except to the extent that the availability of certain remedies may be precluded by general principles of equity.

(c) **No Financial Material Adverse Change.** There are no actions, proceedings or investigations pending against the County or affecting the County (or any basis therefor known to the County) which, either in any case or in the aggregate, might result in any material adverse change in the financial condition, business, prospects, affairs or operations of the County or in any of its properties or assets, or in any material impairment of the right or ability of the County to carry on its operations as now conducted or proposed to be conducted, or in any material liability on the part of the County and none which questions the validity of this Agreement, the Note or the Note Resolution or of any action taken or to be taken in connection with the transactions contemplated hereby or thereby.

(d) **Non-Ad Valorem Revenues.** The County currently receives the Non-Ad Valorem Revenues and is legally entitled to covenant to budget, appropriate and deposit into the Debt Service Fund from such Non-Ad Valorem Revenues amounts necessary to pay the Debt Service on the Note and to make the other payments, if any, required under the Note and this Agreement when due. The Non-Ad Valorem Revenues are estimated to be sufficient to pay the Debt Service on the Note and to make the other payments, if any, required under the Note or this Agreement and to make all other payments required to be made from Non-Ad Valorem Revenues as the same become due.

(e) No Litigation. There are no suits or proceedings pending or threatened, of which the County Attorney has notice, in any court or before any regulatory commission, board or other administrative governmental agency against or affecting the County, which would have a material adverse effect on the ability of County to fulfill its obligations under this Agreement.

Section 2.02. **Representations and Warranties of Lender.** The Lender represents and warrants to the County as follows:

(a) Existence. The Lender is a national banking association, with full power to enter into this Agreement, to perform its obligations hereunder and to make the Loan. The performance of this Agreement on the part of the Lender and the making of the Loan have been duly authorized by all necessary action on the part of the Lender and will not violate or conflict with applicable law or any material agreement, indenture or other instrument by which the Lender or any of its material properties is bound.

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

(c) Knowledge and Experience. The Lender (i) has such knowledge and experience in financial and business matters that it is capable of evaluating the merits and risks of making the Loan to the County which is evidenced by the Note, (ii) has received and reviewed such financial information concerning the County as it has requested in order to fairly evaluate the merits and risks of making the Loan to the County which is evidenced by the Note, and (iii) is purchasing the Note for its own account and not with a present view toward resale to the public.

ARTICLE III THE NOTE

Section 3.01. **The Loan; Purpose and Use.** On the date of this Agreement, the Lender shall provide the Loan to the County in the aggregate principal amount of Not To Exceed Twenty Million Dollars (\$20,000,000).

(a) The proceeds of the Loan shall be used to finance the Project.

(b) Proceeds of the Loan may be drawn down by the County as needed through June 30, 2022 with a minimum initial draw of \$250,000 on the Date of Delivery and minimum draw amounts as provided below:

(i) \$2,000,000 on or before March 31, 2021

(ii) \$5,000,000 on or before June 30, 2021

- (iii) \$5,000,000 on or before September 30, 2021
- (iv) \$4,000,000 on or before December 31, 2021
- (v) \$2,750,000 on or before March 31, 2022
- (vi) Remaining funds required for the Project up to \$1,000,000 on or before June 30, 2022.

If by June 30, 2022, the County has not fully drawn \$20,000,000 due to cost savings related to the Project, [the Lender shall provide to the County a revised Schedule I to the Note reflecting substantially level semi-annual principal and interest payments through the Maturity Date].

The County shall make draw requests in writing to the Lender stating the amount and use of the funds requested by submitting a requisition in the form attached hereto as Exhibit B. (the "Requisition"). So long as the requirements of the Requisition are met, including, but not limited to, a certification by the County of no Event of Defaults occurring and continuing under this Agreement or the Note, each Requisition shall be funded by the Lender within two Business days of the written request into a checking account of the County for which account information has been provided by the County.

Section 3.02. **The Note.** The Note shall be substantially in the form set forth as Exhibit "A" to this Agreement. The general terms of the Note shall be as follows:

(a) **Amount of Note.** The Note shall have a principal amount of Not To Exceed Twenty Million Dollars (\$20,000,000).

(b) **Interest.** The Note shall bear interest at the Note Rate from the Date of Delivery until paid. Interest on the Note shall be computed on the basis of twelve (12) thirty (30) day months and a 360-day year. Anything provided herein or in the Note to the contrary notwithstanding, in no event shall the Note bear interest in excess of the Maximum Rate.

(c) **Payments.** Interest on the Note shall be paid semi-annually on every April 1 and October 1, commencing April 1, 2021 until the Note is paid in full. Principal on the Note shall be paid as set forth on Schedule I attached to the Note without presentation of the Note, except with respect to the final payment of principal. Debt Service on the Note shall be paid as set forth on Schedule I attached to the Note, subject to prepayment by the County prior to the Note's maturity as provided in subsection 3.02(d) below.

(d) **Prepayment.** Upon five Business Days' written notice to the Lender, the Note may be prepaid subject to a prepayment penalty equal to 1.00% of the outstanding principal amount of the Note if prepaid on or before December 18, 2025. Thereafter, the Note may be prepaid in whole or in part without a prepayment penalty. Principal prepayments made on or before December 18, 2025 in excess of the amounts on Schedule I attached to the Note shall also be subject to a 1.00% prepayment penalty.

Section 3.03. **Adjustments to Note Rate.** In the event of a Determination of Taxability due to any actions or inactions of the County, the Note Rate payable on the Note shall be subject

to a full gross-up modification, at the rate of 2.32% (the "Taxable Rate"), effective retroactively to the date on which such Determination of Taxability was made. In addition, upon a Determination of Taxability, the County agrees to pay to the Owner subject to such Determination of Taxability the Additional Amount upon demand. "Additional Amount" means (i) the difference between (a) interest on the Note for the period commencing on the date on which the interest on the Note ceased to be excludable from gross income for federal income tax purposes and ending on the earlier of the date the Note ceased to be outstanding or such adjustment is no longer applicable to the Note (the "Taxable Period") at a rate per annum equal to the Taxable Rate, and (b) the aggregate amount of interest paid on the Note for the Taxable Period under the provisions of the Note without considering the Determination of Taxability, plus (ii) any penalties and interest paid or payable by such Owner to the Internal Revenue Service by reason of such Determination of Taxability. As used herein, "Determination of Taxability" shall mean: (a) the receipt by the County or Owner of an original or a copy of an Internal Revenue Service Technical Advice Memorandum or Statutory Notice of Deficiency or other written correspondence from the Internal Revenue Service which legally holds that the interest on the Note is includable in the gross income of the Owner thereof; (b) the issuance of any public or private ruling of the Internal Revenue Service that the interest on the Note is includable in the gross income of the Owner thereof; or (c) receipt by the County or Owner of a written opinion of Note Counsel to the effect that the interest on the Note has become includable in the gross income of the Owner thereof for federal income tax purposes. For all purposes of this definition, a Determination of Taxability shall be deemed to occur on the date as of which the interest on the Note is deemed includable in the gross income of the Owner thereof for federal income tax purposes.

The Holder shall provide to the County such documentation to evidence any adjustment to the Note Rate and the calculations made in connection therewith. All calculations and determinations by the Holder of the amounts payable pursuant to the Note Rate adjustment provisions or of any element thereof, if made in accordance with its then standard procedures for so calculating or determining such amounts, shall be conclusive, absent manifest arithmetic error.

Section 3.04. **Compliance with Section 215.84.** The County represents, warrants, and covenants that the Note Rate, as currently calculated in accordance with Section 215.84, Florida Statutes, is in compliance with Section 215.84, Florida Statutes.

Section 3.05. **Conditions Precedent to Funding.** Prior to or simultaneously with the delivery of the Note by the County there shall be filed with the Lender the following, each in form and substance reasonably acceptable to the Lender:

(a) an opinion of counsel to the County to the effect that (i) the County is a political subdivision within the State of Florida, duly created and validly existing and has full legal right, power and authority to adopt and perform its obligations under the Note Resolution, and to authorize, execute and deliver and to perform its obligations under this Agreement and the Note; (ii) the County has duly adopted the Note Resolution, entered into this Agreement and issued the Note, and such instruments constitute legal, binding and valid obligations of the County, enforceable in accordance with their respective terms; provided, however, the enforceability thereof may be subject to bankruptcy, insolvency, reorganization, moratorium and

other similar laws affecting creditors' rights generally and subject, as to enforceability, to general principles of equity and the exercise of judicial discretion; (iii) except for post-closing disclosures to be filed with the State Division of Bond Finance and Form 8038-G to be filed with the Internal Revenue Service, all authorizations, consents, approvals and reviews of governmental bodies or regulatory authorities required for the County's adoption, execution, approval and performance of this Agreement, the Note and the Note Resolution have been obtained, provided that no opinion shall be required with respect to any authorizations, consents, approvals or reviews required by the securities laws of the United States of America or of any state, or of any other jurisdiction; (iv) the meetings of the County during which matters relating to the Note, the Note Resolution and this Agreement were considered and were held in accordance with all applicable rules and all of the laws of the State that govern the meetings of the County; (v) the adoption of the Note Resolution and the authorization, execution and delivery of this Agreement and the Note, and compliance with the provisions hereof and thereof, will not conflict with, or constitute a breach of or default under, any law, administrative regulation, consent decree, resolution or any agreement or other instrument to which the County is subject nor will such adoption, execution, delivery, authorization or compliance result in the creation or imposition of any lien, charge or other security interest or encumbrance of any nature whatsoever upon any of the property or assets of the County, or under the terms of any law, administrative regulation, resolution or instrument, except as expressly provided by the Note Resolution; (vi) this Agreement and the Note have been duly executed and delivered and the County is in compliance with all conditions contained in the Note Resolution and this Agreement precedent to the issuance of the Note; and (vii) as of the Date of Delivery that there is no action, suit, proceeding, inquiry or investigation, at law or in equity, before or by any court, government agency, public board or body, pending or, to the best of his knowledge, threatened against the County, affecting or seeking to prohibit, restrain or enjoin the County from adopting the Note Resolution, entering into this Agreement or the issuance or delivery of the Note or contesting or affecting as to the County the validity or enforceability of the Act in any respect relating to the authorization of this Agreement or authorization for the issuance of the Note and the Note Resolution, or contesting the tax-exempt status of interest on the Note, or contesting the powers of the County to impose, levy or collect the Non-Ad Valorem Revenues or to covenant to budget and appropriate Non-Ad Valorem Revenues as provided herein or any authority for the issuance of the Note or the adoption of the Note Resolution. Notwithstanding the foregoing, no opinion shall be required as to the applicability of any approvals, consents or orders as may be required under the blue sky or securities laws or legal investment laws of any state in connection with the offering and sale of the Note or in connection with the registration of the Note under the Federal securities laws.

(b) an opinion of Note Counsel (who may rely on the opinion of Counsel to the County), stating that such counsel is of the opinion that: (i) the Note Resolution and this Agreement constitute valid and binding obligations of the County enforceable upon the County in accordance with their respective terms; (ii) the Note is a valid and binding special obligation of the County enforceable in accordance with its terms, payable solely from the sources provided therefor in the Note Resolution and this Agreement, and (iii) assuming compliance by the County with certain covenants in this Agreement relating to requirements contained in the Code, interest

on the Note is excluded from gross income for purposes of federal income taxation, and is not an item of tax preference for purposes of the federal alternative minimum tax.

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

(d) a certificate of the County indicating that since September 30, 2019, there has been no material adverse change in the financial condition, operations or prospects of the County or laws, rules or regulations (or their interpretation or administration) that, in any case, may adversely affect the County's ability to comply with its obligations hereunder and under the Note.

(e) such other documents as the Lender reasonably may request (including, without limitation, appropriate executed Florida Division of Bond Finance forms).

When the documents and items mentioned in clauses (a) through (e), inclusive, of this Section shall have been filed with the Lender, and when the Note shall have been executed as required by this Agreement, and all conditions of the Note Resolution have been met, the County shall deliver the Note to or upon the order of the Lender, but only against the County's receipt of the proceeds of the Loan.

Section 3.06. **Registration of Transfer; Assignment of Rights of Lender.** The Note may be transferred as provided in Section 9 of the Note Resolution.

Nothing in this Agreement or in the Note shall be construed to prohibit the Lender from transferring the Note, but only in whole and only upon receipt by the County of a Lender's Certificate substantially in the form provided in the Note Resolution.

Section 3.07. **Ownership of the Note.** The person in whose name the Note is registered shall be deemed and regarded as the absolute owner thereof for all purposes, and payment of or on account of the Note shall be made only to the registered owner thereof or such owner's legal representative. All such payments shall be valid and effectual to satisfy and discharge the liability upon the Note, and interest thereon, to the extent of the sum or sums so paid.

The registered owner of the Note is hereby granted power to transfer absolute title thereof by assignment thereof to a bona fide purchaser for value (present or antecedent) without notice of prior defenses or equities or claims of ownership enforceable against such owner's assignor or any person in the chain of title and before the maturity of the Note. Every prior registered owner of the Note shall be deemed to have waived and renounced all of such owner's equities or rights therein in favor of every such bona fide purchaser, and every such bona fide purchaser shall acquire absolute title thereto and to all rights represented thereby.

Section 3.08. **Use of Proceeds of Loan Permitted Under Applicable Law.** The County represents, warrants and covenants that the proceeds of the Loan will be used solely to finance the Project.

**ARTICLE IV
COVENANTS OF THE COUNTY**

Section 4.01. **Performance of Covenants.** The County covenants that it will perform faithfully at all times its covenants, undertakings and agreements contained in this Agreement and the Note or in any proceedings of the County relating to the Loan.

Section 4.02. **Payment of the Note.** The County promises that it will promptly pay the Debt Service on the Note and all other amounts due under this Agreement at the place, on the dates and in the manner provided in Section 3.02 hereof and in the Note according to the true intent and meaning hereof and thereof. Debt Service on the Note and all other amounts due under this Agreement shall not be or constitute a general obligation or indebtedness of the County as a "bond" within the meaning of Article VII, Section 12 of the Constitution of Florida, but shall be payable solely from the Non-Ad Valorem Revenues in accordance with the terms hereof and of the Note. The holder of the Note shall never have the right to compel the exercise of any ad valorem taxing power to pay Debt Service on the Note, or be entitled to payment of such from any funds of the County except from the Non-Ad Valorem Revenues deposited in the Debt Service Fund, as described herein and in the Note.

Section 4.03. **Covenant to Budget and Appropriate.**

The County covenants to budget and appropriate in each such fiscal year such amount of Non-Ad Valorem Revenues sufficient to provide for the timely payment of the principal of and interest on the Note and any other amounts required to be paid hereunder. Subject to the next paragraph, the County covenants and agrees and has a positive and affirmative duty to appropriate in its annual budget, by amendment, if necessary, from Non-Ad Valorem Revenues, and to deposit into the Debt Service Fund amounts sufficient to pay the principal of, premium, if any, and interest on the Note not being paid from other amounts as the same shall become due. Such covenant and agreement on the part of the County to budget, appropriate and deposit 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, deposited and actually paid. No lien upon or pledge of such budgeted Non-Ad Valorem Revenues shall be in effect until such monies are budgeted, appropriated and deposited as provided herein. The County further acknowledges and agrees that the obligations of the County to include the amount of such amendments in each of its annual budgets and to budget and pay such amounts from Non-Ad Valorem Revenues may be enforced in a court of competent jurisdiction in accordance with the remedies set forth herein.

Until such monies are budgeted, appropriated and deposited as provided herein, 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 County from pledging in the future its Non-Ad Valorem Revenues, nor does it require the County to levy and collect any particular Non-Ad Valorem Revenues, nor does it give the Noteholders a prior claim on the Non-Ad Valorem Revenues as opposed to claims of general creditors of the County. Such covenant to budget and

appropriate 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 bonds and other debt instruments). Anything in this Agreement, the Note Resolution or the Note to the contrary notwithstanding, it is understood and agreed that nothing herein shall compel the County to maintain or continue any of the activities of the County which generate user service charges, regulatory fees, or any other Non-Ad Valorem Revenues. Until such monies are budgeted, appropriated and deposited as provided herein, neither this Agreement, the Note Resolution, nor the obligations of the County hereunder shall be construed as a pledge of or a lien on all or any Non-Ad Valorem Revenues of the County, but shall be payable solely as provided herein subject to the availability of Non-Ad Valorem Revenues after satisfaction of funding requirements for obligations having an express lien on or pledge of such revenues, payment of services and programs which are for essential public purposes affecting the health, welfare and safety of the inhabitants of the County, and the provisions of Section 129.03 and 129.07, Florida Statutes insofar as there are not sufficient Non-Ad Valorem Revenues to comply with such covenant after the satisfaction of the funding requirements for obligations having an express lien on or pledge of any Non-Ad Valorem Revenues and the funding requirements for essential governmental services of the County. The County agrees that its covenant and agreement to budget, appropriate and deposit Non-Ad Valorem Revenues shall be deemed entered into for the benefit of the registered owner of the Note and this obligation may be enforced by a court of competent jurisdiction in accordance with the remedies set forth herein or in the Note Resolution.

Section 4.04. **Tax Covenant.** The County covenants to the purchaser of the Note provided for in this Agreement that the County will not make any use of the proceeds of the Note at any time during the term of such Note which, if such use had been reasonably expected on the date the Note was issued, would have caused such Note to be an "arbitrage bond" within the meaning of the Code. The County 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 Note from the gross income of the holders thereof for purposes of federal income taxation.

Section 4.05. **Budget and Other Financial Information.** The County shall:

1. Within two hundred seventy (270) days following the end of each Fiscal Year of the County, provide the Noteholder its audited financial statements for the preceding Fiscal Year. So long as the Lender is the Noteholder, such notification shall be mailed to CenterState Bank, N.A., 175 Cypress Point Parkway, Palm Coast, Florida 32164; and

2. The County shall provide the Lender with a copy of its annual budget within 60 days of adoption by the Board; and

3. The County shall provide the Lender with such other financial information as the Lender may reasonably request.

Section 4.06. **Anti-Dilution Test.** During such time as the Note is outstanding, the County agrees and covenants with the Lender that (1) Non-Ad Valorem Revenues shall cover projected Maximum Annual Debt Service on the Note and other Debt by at least 1.5x; and (2) projected Maximum Annual Debt Service on the Note and for all other Debt will not exceed 20% of the aggregate of General Fund Revenues exclusive of (a) ad valorem tax revenues restricted to payment of debt service on any Debt and (b) any proceeds of the Note or Debt. The calculations required by clauses (1) and (2) above shall be determined using the average of actual Non-Ad Valorem Revenues and General Fund Revenues for the prior two Fiscal Years based on the County's annual audits. For purposes of the calculations required by clauses (1) and (2) above, Maximum Annual Debt Service on the Note and 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 4.06, 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 at the current "Bond Buyer Revenue Bond Index" as published in *The Bond Buyer* no more than two weeks prior to any such calculation; provided, however, 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 25 years 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 which the County expects to refinance at or before maturity or to pay from grant or sales proceeds. In addition, with respect to debt service on any Debt which is subject to a Qualified Hedge Agreement, interest on such Debt during the term of such Qualified Hedge Agreement shall be deemed to be the Hedge Payments coming due during such period of time.

Section 4.07. **Audited Financial Statements.** The financial statements of the County for its fiscal year ended September 30, 2019, previously provided to the Lender, were prepared in accordance with generally accepted accounting principles and present fairly the financial conditions of the County as of such date and the results of its operations for the period then ended. Since such date there has been no material adverse charge in the financial condition, revenues (including, without limitation, the Non-Ad Valorem Revenues), properties or operations of the County.

ARTICLE V EVENTS OF DEFAULT AND REMEDIES

Section 5.01. **Events of Default.** Each of the following is hereby declared an "Event of Default:"

1. payment of the principal of or interest on the Note or other fees or amounts due thereunder or hereunder shall not be made within ten (10) days when such amounts are due and payable;

2. the County shall default in the due and punctual performance of any other of the material covenants, conditions, agreements and provisions contained in the Note or in this Agreement and such default shall continue for thirty (30) consecutive days after written notice shall have been given to the County by the Noteholder specifying such default and requiring the same to be remedied; provided, however, that if, in the reasonable judgment of the Noteholder, the County shall proceed to take such curative action which, if begun and prosecuted with due diligence, cannot be completed within a period of thirty (30) days, then such period shall be increased to such extent as shall be necessary to enable the County to diligently complete such curative action;

3. any representation or warranty of the County contained in this Agreement or in any certificate or other closing document executed and delivered by the County in connection with the closing of the Loan shall prove to have been untrue in any material respect when executed and delivered, thereby adversely impairing the security for the Note;

4. any proceedings are instituted with the consent or acquiescence of the County, for the purpose of effecting a compromise between the County and its creditors or for the purpose of adjusting the claims of such creditors, pursuant to any federal or state statute now or hereinafter enacted;

5. the County admits in writing its inability to pay its debts generally as they become due, or files a petition in bankruptcy or makes an assignment for the benefit of its creditors, declares a financial emergency or consents to the appointment of a receiver or trustee for itself or shall file a petition or answer seeking reorganization or any arrangement under the federal bankruptcy laws or any other applicable law or statute of the United States of America or any state thereof;

6. the County is adjudged insolvent by a court of competent jurisdiction or is adjudged bankrupt on a petition of bankruptcy filed against the County, or an order, judgment or decree is entered by any court of competent jurisdiction appointing, without the consent of the County, a receiver or trustee of the County or of the whole or any part of its property and any of the aforesaid adjudications, orders, judgments or decrees shall not be vacated or set aside or stayed within sixty (60) days from the date of entry thereof; or

7. if, under the provisions of any law for the relief or aid of debtors, any court of competent jurisdiction shall assume custody or control of the County or of the whole or any substantial part of its property and such custody or control shall not be terminated within ninety (90) consecutive days from the date of assumption of such custody or control.

During the occurrence and continuation of an Event of Default, the Note Rate shall be increased to the Default Rate until such time as such Event of Default is cured. Any payment due

on the Note and not paid within ten (10) days of the date due may be subject to a late payment fee of five percent (5.00%) of the payment amount not received when due.

Additionally, if an Event of Default shall occur, the County shall also pay all of the Noteholder's expenses incurred, including without limitation the Noteholder's reasonable attorney's fees, at all levels of the proceedings, whether incurred in connection with collection, bankruptcy, trial, appellate proceedings, or otherwise.

Section 5.02. Exercise of Remedies. Upon the occurrence and during the continuance of an Event of Default, the Noteholder may proceed to protect and enforce its rights under the laws of the State of Florida or under this Agreement by such suits, actions or special proceedings in equity or at law, or by proceedings in the office of any board or officer having jurisdiction, either for the specific performance of any covenant or agreement contained herein or in aid or execution of any power herein granted or for the enforcement of any proper legal or equitable remedy, as the Noteholder shall deem most effective to protect and enforce such rights. Without limiting the generality of the foregoing, the Noteholder shall have the right to bring a mandamus action to require the County to perform its obligations under Article IV of this Agreement.

In the enforcement of any remedy under this Agreement, to the extent permitted by law, the Noteholder shall be entitled to sue for, enforce payment of and receive any and all amounts then or during any default becoming, and at any time remaining, due from the County for principal, interest or otherwise under any of the provisions of this Agreement or of the Note then unpaid, together with any and all costs and expenses of collection and of all proceedings hereunder and under the Note (including, without limitation, reasonable legal fees in all proceedings, including administrative, appellate and bankruptcy proceedings), but payable from Non-Ad Valorem Revenues, without prejudice to any other right or remedy of the Noteholder, and to recover and enforce any judgment or decree against the County, but solely as provided herein and in the Note, for any portion of such amounts remaining unpaid and interest, costs, and expenses as above provided, and to collect (but from the Non-Ad Valorem Revenues) in any manner provided by law, the monies adjudged or decreed to be payable. Notwithstanding anything herein, or in the Note to the contrary, acceleration of the payment of principal of and interest on the Note shall not be a remedy hereunder or in the Note in the case of an Event of Default.

Section 5.03. Remedies Not Exclusive. No remedy herein conferred upon or reserved to the Noteholder is intended to be exclusive of any other remedy or remedies herein provided, and each and every such remedy shall be cumulative and shall be in addition to every other remedy given hereunder.

Section 5.04. Waivers, Etc. No delay or omission of the Noteholder to exercise any right or power accruing upon any default shall impair any such right or power or shall be construed to be a waiver of any such default or any acquiescence therein; and every power and remedy given by this Agreement to the Noteholder may be exercised from time to time and as often as may be deemed expedient.

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

ARTICLE VI MISCELLANEOUS PROVISIONS

Section 6.01. **Covenants of County, Etc.; Successors.** All of the covenants, stipulations, obligations and agreements contained in this Agreement shall be deemed to be covenants, stipulations, obligations and agreements of the County to the full extent authorized or permitted by law, and all such covenants, stipulations, obligations and agreements shall be binding upon the successor or successors thereof from time to time, and upon any officer, board, commission, authority, agency or instrumentality to whom or to which any power or duty affecting such covenants, stipulations, obligations and agreements shall be transferred by or in accordance with law.

Section 6.02. **Term of Agreement.** This Agreement shall be in full force and effect from the date hereof until the Note and all other sums payable to the Lender hereunder have been paid in full.

Section 6.03. **Notice of Changes in Fact.** Promptly after the County becomes aware of the same, the County will notify the Lender of (a) any changes in any material fact or circumstance represented or warranted by the County in this Agreement or in connection with the issuance of the Note, and (b) any default under this Agreement, specifying in each case the nature thereof and what action the County has taken, is taking and/or proposes to take with respect thereto.

Section 6.04. **Amendments and Supplements.** This Agreement may be amended or supplemented from time to time only by a writing duly executed by the County and the Noteholder.

Section 6.05. **Notices.** Any notice, demand, direction, request or other instrument authorized or required by this Agreement to be given to or filed with the County or the Lender, shall be deemed to have been sufficiently given or filed for all purposes of this Agreement if and when sent by certified mail, return receipt requested:

As to the County:

Flagler County, Florida
1769 E. Moody Boulevard
Bunnell, Florida 32110
Attention: Jennifer Barker, Chief Financial Officer

As to the Lender:

CenterState Bank, N.A.
175 Cypress Point Parkway
Palm Coast, Florida 32164
Attention: Garry Lubi, Senior Vice President & Commercial Lender

Either party may, by notice sent to the other, designate a different or additional address to which notices under this Agreement are to be sent.

Section 6.06. **Waiver of Jury Trial.** To the extent permitted by applicable law, each of the County and the Lender, knowingly, voluntarily and intentionally waives any right each may have to a trial by jury in respect of any litigation based on, or arising out of, under or in connection with the Note Resolution, this Agreement, the Note or any agreement contemplated to be executed in connection with this Agreement, or any course of conduct, course of dealing, statements (whether verbal or written) or actions of any party with respect hereto. This provision is a material inducement to the Lender to enter into this Agreement.

Section 6.07. **Benefits Exclusive.** Except as herein otherwise provided, nothing in this Agreement, expressed or implied, is intended or shall be construed to confer upon any person, firm or corporation, other than the County and the Noteholder, any right, remedy or claim, legal or equitable, under or by reason of this Agreement or any provision hereof, this Agreement and all its provisions being intended to be and being for the sole and exclusive benefit of the County and the Noteholder.

Section 6.08. **Severability.** In case any one or more of the provisions of this Agreement, any amendment or supplement hereto or of the Note shall for any reason be held to be illegal or invalid, such illegality or invalidity shall not affect any other provision of this Agreement, any amendment or supplement hereto or the Note, but this Agreement, any amendment or supplement hereto and the Note shall be construed and enforced at the time as if such illegal or invalid provisions had not been contained therein, nor shall such illegality or invalidity or any application thereof affect any legal and valid application thereof from time to time. In case any covenant, stipulation, obligation or agreement contained in the Note or in this Agreement shall for any reason be held to be in violation of law, then such covenant, stipulation, obligation, or agreement shall be deemed to be the covenant, stipulation, obligation or agreement of the County to the full extent from time to time permitted by law.

Section 6.09. **Business Days.** In any case where the date of maturity of interest on or principal of the Note or the date fixed for prepayment of the Note shall not be a Business Day, then payment of such interest or principal shall be made on the next succeeding Business Day with the same force and effect as if paid on the date of maturity or the date fixed for prepayment, but interest on any such principal amount shall accrue through the date payment is received.

Section 6.10. **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 6.11. **Applicable Law.** This Agreement shall be governed exclusively by and construed in accordance with the applicable laws of the State of Florida.

Section 6.12. **No Personal Liability.** Notwithstanding anything to the contrary contained herein or in the Note, or in any other instrument or document executed by or on behalf of the County in connection herewith, no stipulation, covenant, agreement or obligation of any present or future member of the Board, officer, employee or agent of the County, officer, employee or agent of a successor to the County, in any such person's individual capacity, and no such person, in his or her individual capacity, shall be liable personally for any breach or non-observance of or for any failure to perform, fulfill or comply with any such stipulations, covenants, agreements or obligations, nor shall any recourse be had for the payment of the principal of or interest on the Note or for any claim based thereon or on any such stipulation, covenant, agreement or obligation, against any such person, in his or her individual capacity, either directly or through the County or any successor to the County, under any rule or law or equity, statute or constitution or by the enforcement of any assessment or penalty or otherwise and all such liability of any such person, in his or her individual capacity, is hereby expressly waived and released.

Section 6.13. **Incorporation by Reference.** All of the terms and obligations of the Note Resolution and the Exhibit A hereto are hereby incorporated herein by reference as if all of the foregoing were fully set forth in this Agreement. All recitals appearing at the beginning of this Agreement are hereby incorporated herein by reference.

[Remainder of page intentionally left blank – Signatures follow]

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

**BOARD OF COUNTY COMMISSIONERS
FLAGLER COUNTY, FLORIDA**

(SEAL)

Donald O'Brien, Jr., Chair

ATTEST:

Tom Bexley,
Clerk of the Circuit Court and Comptroller

APPROVED AS TO FORM:

By: _____
Albert Hadeed, Esquire
County Attorney

EXHIBIT A

FORM OF NOTE

ANY HOLDER SHALL, PRIOR TO BECOMING A HOLDER, EXECUTE A LENDER'S CERTIFICATE IN THE FORM ATTACHED TO THE NOTE RESOLUTION (HEREIN DEFINED).

**FLAGLER COUNTY, FLORIDA
CAPITAL IMPROVEMENT REVENUE NOTE,
SERIES 2020**

Principal Sum	Interest Rate	Maturity Date	Date of Issuance
Not To Exceed \$20,000,000	1.83%	October 1, 2035	December 18, 2020

The Flagler County, Florida (the "County"), for value received, hereby promises to pay to the order of CENTERSTATE BANK, N.A., or its assigns (the "Holder"), at 1754 Cypress Point Parkway, Palm Coast, Florida 32164, or at such other place as the Holder may from time to time designate in writing, solely from the Non-Ad Valorem Revenues as defined in and in the manner and to the extent described in that certain Loan Agreement by and between the Holder and the County, dated December 18, 2020 (the "Agreement"), the Principal Sum stated above loaned to the County by the Holder pursuant to the Agreement, together with interest thereon as hereinafter provided until the Maturity Date or the date the principal amount of this Note is paid in the manner hereinafter set forth 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, which payments shall be made to the Holder hereof by check mailed to the Holder at the address designated in writing by the Holder for purposes of payment or by bank wire or bank transfer as such Holder may specify in writing to the County or otherwise as the County and the Holder may agree.

All capitalized terms not otherwise defined herein shall have the meanings ascribed to such terms in the Agreement.

This Note shall bear interest per annum at the rate indicated above which shall be calculated on the basis of a 360-day year consisting of twelve (12) thirty (30) day months. The Interest Rate on this Note is subject to adjustment as provided herein and in the Agreement.

In the event of a Determination of Taxability due to the actions or inactions of the County, the Interest Rate payable on this Note shall be subject to a full gross-up modification, at the rate

of 2.32% (the "Taxable Rate"), effective retroactively to the date on which such Determination of Taxability was made. In addition, upon a Determination of Taxability, the County agrees to pay to the Owner subject to such Determination of Taxability the Additional Amount upon demand. "Additional Amount" means (i) the difference between (a) interest on this Note for the period commencing on the date on which the interest on this Note ceased to be excludable from gross income for federal income tax purposes and ending on the earlier of the date this Note ceased to be outstanding or such adjustment is no longer applicable to this Note (the "Taxable Period") at a rate per annum equal to the Taxable Rate, and (b) the aggregate amount of interest paid on this Note for the Taxable Period under the provisions of this Note without considering the Determination of Taxability, plus (ii) any penalties and interest paid or payable by such Owner to the Internal Revenue Service by reason of such Determination of Taxability. As used herein, "Determination of Taxability" shall mean: (a) the receipt by the County or Owner of an original or a copy of an Internal Revenue Service Technical Advice Memorandum or Statutory Notice of Deficiency or other written correspondence from the Internal Revenue Service which legally holds that the interest on this Note is includable in the gross income of the Owner thereof; (b) the issuance of any public or private ruling of the Internal Revenue Service that the interest on this Note is includable in the gross income of the Owner thereof; or (c) receipt by the County or Owner of a written opinion of Note Counsel to the effect that the interest on this Note has become includable in the gross income of the Owner thereof for federal income tax purposes. For all purposes of this definition, a Determination of Taxability shall be deemed to occur on the date as of which the interest on this Note is deemed includable in the gross income of the Owner thereof for federal income tax purposes.

The Holder shall provide to the County such documentation to evidence any adjustment to the Interest Rate and the calculations made in connection therewith. All calculations and determinations by the Holder of the amounts payable pursuant to the Interest Rate adjustment provisions or of any element thereof, if made in accordance with its then standard procedures for so calculating or determining such amounts, shall be conclusive absent manifest arithmetic error.

During the occurrence and continuation of an Event of Default, the Interest Rate shall be increased to the Default Rate until such time as such Event of Default is cured. Any payment due on this Note and not paid within ten (10) days of the date due may be subject to a late payment fee of five percent (5.00%) of the payment amount not received when due.

Upon the occurrence of an Event of Default the Holder shall have such remedies as described in the Agreement.

Interest on this Note shall be paid semi-annually on April 1 and October 1, commencing April 1, 2021 until this Note is paid in full. Principal payments on this Note shall be paid as set forth on Schedule I attached hereto and made a part hereof, subject to prepayment by the County prior to the Note's maturity as provided below.

Upon five Business Days' written notice to the Lender, this Note may be prepaid subject to a prepayment penalty equal to 1.00% of the outstanding principal amount of this Note if

prepaid on or before December 18, 2025. Thereafter, this Note may prepaid in whole or in part without a prepayment penalty. Principal prepayments made on or before December 18, 2025 in excess of the amounts on Schedule I attached hereto shall also be subject to a 1.00% prepayment penalty.

Notwithstanding any provision in this Note to the contrary, in no event shall the Note bear interest in excess of the Maximum Rate, as defined in the Agreement.

This Note is authorized to be issued in the outstanding aggregate principal amount equal to the Principal Sum under the authority of and in full compliance with the provisions of the Constitution and laws of the State of Florida, Chapter 125, Florida Statutes, as amended, and other applicable provisions of law, Resolution 2020-[___] duly adopted by the Board (the "Note Resolution") on December 14, 2020, and is subject to all terms and conditions of said Note Resolution, for the purpose of financing the costs of the Project. This Note shall be payable from and secured solely by Non-Ad Valorem Revenues in the manner and to the extent described in the Agreement.

THIS NOTE, WHEN DELIVERED BY THE COUNTY PURSUANT TO THE TERMS OF THE AGREEMENT AND THE NOTE RESOLUTION, SHALL NOT BE OR CONSTITUTE AN INDEBTEDNESS OF THE COUNTY OR THE STATE OF FLORIDA (THE "STATE"), WITHIN THE MEANING OF ANY CONSTITUTIONAL, STATUTORY OR OTHER LIMITATIONS OF INDEBTEDNESS, BUT SHALL BE PAYABLE SOLELY FROM NON-AD VALOREM REVENUES AS PROVIDED IN THE AGREEMENT AND THE NOTE RESOLUTION. THE HOLDER SHALL NEVER HAVE THE RIGHT TO COMPEL THE EXERCISE OF THE AD VALOREM TAXING POWER OF THE COUNTY OR THE STATE, OR TAXATION IN ANY FORM OF ANY PROPERTY THEREIN TO PAY THIS NOTE OR THE INTEREST THEREON.

The County hereby waives presentment, demand, protest and notice of dishonor. This Note is governed and controlled by the Note Resolution and the Agreement and reference is hereby made thereto.

[Remainder of page intentionally left blank]

IN WITNESS WHEREOF, the County has caused this Note to be signed by the County Chair, on behalf of the Board, either manually or with facsimile signature, and the seal of the County to be affixed hereto or imprinted or reproduced hereon, and attested by the Clerk of the Board, either manually or with facsimile signature, and this Note to be dated the Date of Delivery set forth above.

**BOARD OF COUNTY COMMISSIONERS
FLAGLER COUNTY, FLORIDA**

(SEAL)

Donald O'Brien, Jr., Chair

ATTEST:

Tom Bexley,
Clerk of the Circuit Court and Comptroller

APPROVED AS TO FORM:

By: _____
Albert Hadeed, Esquire
County Attorney

ASSIGNMENT

FOR VALUE RECEIVED the undersigned sells, assigns and transfers unto _____ (please print or typewrite name, address and tax identification number of assignee) _____ the within Note and all rights thereunder, and hereby irrevocably constitutes and appoints _____ Attorney to transfer the within Note on the books kept for registration thereof, with full power of substitution in the premises.

Name of Noteholder: _____

By: _____

SCHEDULE I

Principal Payment Schedule

October 1

Principal Amount

EXHIBIT B

FORM OF REQUISITION

SOURCES AND USES OF FUNDS

Flagler County, Florida Capital Improvement Revenue Bond, Series 2020

Preliminary Numbers for Illustration Purposes Only 15 Year Amortization CenterState Bank Draw Down Proposal

Sources:	Capital Improvement Revenue Bond, Series 2020	Capital Improvement Revenue Bond, Series 2020	Capital Improvement Revenue Bond, Series 2020	Capital Improvement Revenue Bond, Series 2020	Capital Improvement Revenue Bond, Series 2020	Capital Improvement Revenue Bond, Series 2020	Capital Improvement Revenue Bond, Series 2020	Capital Improvement Revenue Bond, Series 2020	Total
Bond Proceeds: Par Amount	250,000.00	2,000,000.00	5,000,000.00	5,000,000.00	4,000,000.00	2,750,000.00	1,000,000.00	20,000,000.00	
	250,000.00	2,000,000.00	5,000,000.00	5,000,000.00	4,000,000.00	2,750,000.00	1,000,000.00	20,000,000.00	
Uses:									
Project Fund Deposits: Project Fund	250,000.00	2,000,000.00	5,000,000.00	5,000,000.00	4,000,000.00	2,750,000.00	1,000,000.00	20,000,000.00	
	250,000.00	2,000,000.00	5,000,000.00	5,000,000.00	4,000,000.00	2,750,000.00	1,000,000.00	20,000,000.00	

BOND SUMMARY STATISTICS

Flagler County, Florida Capital Improvement Revenue Bond, Series 2020

Preliminary Numbers for Illustration Purposes Only 15 Year Amortization CenterState Bank Draw Down Proposal

Earliest Dated Date	12/18/2020
Earliest Delivery Date	12/18/2020
Last Maturity	10/01/2035
Arbitrage Yield	1.830385%
True Interest Cost (TIC)	1.830385%
Net Interest Cost (NIC)	1.655933%
All-In TIC	1.830385%
Average Coupon	1.655933%
Average Life (years)	8.592
Par Amount	20,000,000.00
Bond Proceeds	20,000,000.00
Total Interest	2,845,675.42
Net Interest	2,845,675.42
Total Debt Service	22,845,675.42
Maximum Annual Debt Service	1,642,008.00
Average Annual Debt Service	1,545,076.68
Underwriter's Fees (per \$1000)	
Average Takedown	
Other Fee	
Total Underwriter's Discount	
Bid Price	100.000000

Bond Component	Par Value	Price	Average Coupon	Average Life	PV of 1 bp change
Bond Component	20,000,000.00	100.000	1.830%	7.775	14,129.15
	20,000,000.00			7.775	14,129.15

	TIC	All-In TIC	Arbitrage Yield
Par Value	20,000,000.00	20,000,000.00	20,000,000.00
+ Accrued Interest			
+ Premium (Discount)			
- Underwriter's Discount			
- Cost of Issuance Expense			
- Other Amounts			
Target Value	20,000,000.00	20,000,000.00	20,000,000.00
Target Date	Multiple	Multiple	Multiple
Yield	1.830385%	1.830385%	1.830385%

BOND DEBT SERVICE

Flagler County, Florida Capital Improvement Revenue Bond, Series 2020

Preliminary Numbers for Illustration Purposes Only 15 Year Amortization CenterState Bank Draw Down Proposal

Period Ending	Principal	Coupon	Interest	Debt Service	Annual Debt Service
04/01/2021			1,308.96	1,308.96	
10/01/2021	150,000	1.830%	43,818.34	193,818.34	195,127.30
04/01/2022			129,472.50	129,472.50	
10/01/2022	1,065,000	1.830%	177,243.12	1,242,243.12	1,371,715.62
04/01/2023			171,882.75	171,882.75	
10/01/2023	1,295,000	1.830%	171,882.75	1,466,882.75	1,638,765.50
04/01/2024			160,033.50	160,033.50	
10/01/2024	1,320,000	1.830%	160,033.50	1,480,033.50	1,640,067.00
04/01/2025			147,955.50	147,955.50	
10/01/2025	1,340,000	1.830%	147,955.50	1,487,955.50	1,635,911.00
04/01/2026			135,694.50	135,694.50	
10/01/2026	1,360,000	1.830%	135,694.50	1,495,694.50	1,631,389.00
04/01/2027			123,250.50	123,250.50	
10/01/2027	1,385,000	1.830%	123,250.50	1,508,250.50	1,631,501.00
04/01/2028			110,577.75	110,577.75	
10/01/2028	1,415,000	1.830%	110,577.75	1,525,577.75	1,636,155.50
04/01/2029			97,630.50	97,630.50	
10/01/2029	1,440,000	1.830%	97,630.50	1,537,630.50	1,635,261.00
04/01/2030			84,454.50	84,454.50	
10/01/2030	1,470,000	1.830%	84,454.50	1,554,454.50	1,638,909.00
04/01/2031			71,004.00	71,004.00	
10/01/2031	1,500,000	1.830%	71,004.00	1,571,004.00	1,642,008.00
04/01/2032			57,279.00	57,279.00	
10/01/2032	1,525,000	1.830%	57,279.00	1,582,279.00	1,639,558.00
04/01/2033			43,325.25	43,325.25	
10/01/2033	1,550,000	1.830%	43,325.25	1,593,325.25	1,636,650.50
04/01/2034			29,142.75	29,142.75	
10/01/2034	1,580,000	1.830%	29,142.75	1,609,142.75	1,638,285.50
04/01/2035			14,685.75	14,685.75	
10/01/2035	1,605,000	1.830%	14,685.75	1,619,685.75	1,634,371.50
	20,000,000		2,845,675.42	22,845,675.42	22,845,675.42

AGGREGATE DEBT SERVICE

Flagler County, Florida Capital Improvement Revenue Bond, Series 2020

Preliminary Numbers for Illustration Purposes Only 15 Year Amortization CenterState Bank Draw Down Proposal

Period Ending	Capital Improvement Revenue Bond, Series 2020	Capital Improvement Revenue Bond, Series 2020	Capital Improvement Revenue Bond, Series 2020	Capital Improvement Revenue Bond, Series 2020	Capital Improvement Revenue Bond, Series 2020	Capital Improvement Revenue Bond, Series 2020	Capital Improvement Revenue Bond, Series 2020	Aggregate Debt Service
10/01/2021	13,596.46	78,401.67	103,129.17					195,127.30
10/01/2022	19,392.00	160,502.00	400,036.00	406,754.17	250,103.33	115,302.29	19,625.83	1,371,715.62
10/01/2023	19,117.50	158,214.50	399,363.00	405,735.50	334,631.50	233,678.00	88,025.50	1,638,765.50
10/01/2024	18,843.00	160,927.00	403,598.50	409,879.50	329,782.00	230,292.50	86,744.50	1,640,067.00
10/01/2025	18,568.50	158,548.00	402,651.00	408,840.50	329,932.50	231,907.00	85,463.50	1,635,911.00
10/01/2026	18,294.00	156,169.00	401,612.00	407,710.00	329,991.50	233,430.00	84,182.50	1,631,389.00
10/01/2027	18,019.50	158,790.00	400,481.50	406,488.00	329,959.00	229,861.50	87,901.50	1,631,501.00
10/01/2028	17,745.00	156,319.50	404,259.50	410,174.50	329,835.00	231,293.00	86,529.00	1,636,155.50
10/01/2029	17,470.50	158,849.00	402,854.50	408,678.00	329,619.50	232,633.00	85,156.50	1,635,261.00
10/01/2030	22,196.00	156,287.00	401,358.00	407,090.00	334,312.50	233,881.50	83,784.00	1,638,909.00
10/01/2031	21,830.00	158,725.00	399,770.00	410,410.50	333,822.50	230,038.50	87,411.50	1,642,008.00
10/01/2032	21,464.00	156,071.50	403,090.50	408,548.00	333,241.00	231,195.50	85,947.50	1,639,558.00
10/01/2033	21,098.00	158,418.00	401,228.00	406,594.00	332,568.00	232,261.00	84,483.50	1,636,650.50
10/01/2034	20,732.00	160,673.00	399,274.00	409,548.50	331,803.50	233,235.00	83,019.50	1,638,285.50
10/01/2035	20,366.00	157,836.50	402,228.50	407,320.00	330,947.50	229,117.50	86,555.50	1,634,371.50
	288,732.46	2,294,731.67	5,724,934.17	5,713,771.17	4,560,549.33	3,128,126.29	1,134,830.33	22,845,675.42

A RESOLUTION OF THE BOARD OF COUNTY COMMISSIONERS OF FLAGLER COUNTY TO ESTABLISH THE DEBT SERVICE FUND 215 AND THE CAPITAL PROJECT FUND 315 FOR THE FISCAL YEAR 2020-2021 TO RECOGNIZE AND APPROPRIATE UNANTICIPATED REVENUE FROM BOND CAPITAL IMPROVEMENT REVENUE SERIES 2020.

WHEREAS, the Flagler County Board of County Commissioners has received \$20,000,000 from debt proceeds in accordance with loan from Center State Bank, N.A.; and

WHEREAS, Chapter 129, Florida Statutes, authorizes the Board of County Commissioners to amend, by resolution, its budget to provide for the receipt and expenditure of unanticipated funds.

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

1. That the unanticipated revenue increase to the Flagler County Fiscal Year 2020 - 2021 Budget be, and the same is hereby, approved.
2. That the increase to the Flagler County Fiscal Year 2020 - 2021 Budget within the referenced funds be increased as reflected below.
3. By adoption of this Resolution, the Board of County Commissioners of Flagler County, Florida, hereby appropriates and permits the expenditure of the funds described therein.
4. That this resolution shall take effect immediately upon its adoption.

FUND 215 BOND CAP IMP REV S2020

FUNDING SOURCES:

215-0000-381.00-00	Interfund Transfer	\$10,000
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EXPENDITURES:

215-3611-517.72-10	Interest	\$10,000
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FUND 315 CPF- NEW SHERIFF OP CTR

FUNDING SOURCES:

315-0000-361.01-06	Loan Proceeds	\$20,000,000
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EXPENDITURES:

315-6047-521.62-10	Capital Outlay/Building	\$19,920,000
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Project #644630

315-6047-521.73-21	Loan Issuance Cost	\$ 50,000
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Project #644630

315-6047-521.63-78	Public Works Staff Time	\$ 30,000
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Project #644630

BOARD OF COUNTY COMMISSIONERS
FLAGLER COUNTY, FLORIDA.

BY: _____
Donald T. O'Brien Jr., Chair

ATTEST:

Tom Bexley, Clerk of the Circuit
Court and Comptroller

APPROVED AS TO FORM:

Al Hadeed, County Attorney -

**FLAGLER COUNTY BOARD OF COUNTY COMMISSIONERS
BUDGET TRANSFER REQUEST FORM**

BTR 21 - 115

DATE:

12/03/20

PREPARED BY:

LM



PAGE 1 OF 1

FUND: General Fund
DEPARTMENT / DIVISION: Reserves

EXPLANATION: Transfer funds to cover initial interest payment for design and construction of new Sheriff Operations Center.

LINE NO.	FUND NO.	DEPT. NO.	SUB. NO.	ACCT NO.	PROJ NO.	AMOUNT		BUDGET		ACCOUNT/CENTER DESCRIPTION PROJECT # DESCRIPTION
						FROM (DR.)	TO (CR.)	WAS	WILL BE	
1	001	5000	587	9811		10,000		10,777,009	10,767,009	Designated for Future Use
2	001	4600	581	9110			10,000	2,296,605	2,306,605	Interfund Transfer
3									-	
4									-	
5									-	
6									-	
7									-	
8									-	
9									-	
TOTAL						\$10,000.00	\$10,000.00	\$13,073,614.00	\$13,073,614.00	

Financial Service Director's APPROVAL _____ DISAPPROVAL _____ DATE: _____

Administrator's APPROVAL _____ DISAPPROVAL _____ DATE: _____

Board Action at Meeting: APPROVAL _____ DISAPPROVAL _____ DATE: _____

POSTED BY: _____ DATE POSTED: _____ cc: _____



December 1, 2020

Recommendation Memorandum

To: Jerry Cameron, County Administrator
John Brower, Financial Services Director

From: Jay Glover, Managing Director – PFM Financial Advisors LLC

Re: Recommendation Memo – Capital Improvement Revenue Bond, Series 2020

PFM Financial Advisors LLC (“PFM”) was engaged by Flagler County, Florida (the “County”) to serve as financial advisor for the County’s proposed issuance of a Capital Improvement Revenue Bond, Series 2020 (the “2020 Bond”) to finance the cost of the public safety projects in an amount not to exceed \$20,000,000. Based on the desire to move in an expediated manner to take advantage of historically low interest rates, reduced cost of issuance and recent aggressive bids received from banks for comparable transactions, PFM recommended the County pursue a privately placed direct bank loan, which in today’s market was expected to be an efficient and cost effective method of financing.

At the County’s direction, PFM distributed a request for proposals (“RFP”) on November 3, 2020 to a list of local, regional and national financial institutions to identify the qualified financial institution that could provide the County with a fixed rate, non-bank qualified loan at the lowest overall borrowing cost, pursuant to certain conditions as determined by the County. Prior to the submittal deadline (2:00 pm on November 20, 2020) the County received six (6) proposals from the following institutions: Capital One, CenterState, JP Morgan, Key Government Finance, Raymond James, and Truist. A summary of each proposal is included as **Exhibit A**.

Based on PFM’s review and discussions with the County staff and Bond Counsel, it was determined that CenterState provided the best combination of interest rate and terms most favorable to the County. CenterState offered a 15-year, fixed interest rate of 1.83%, which would be locked for the entire term of the 2020 Bond. The interest rate is held through a closing date on or before December 18, 2020, thus eliminating any risk associated with rising interest rates. Their proposal also includes the ability to prepay the 2020 Bond with a 1% premium during years 1 through 5, and at par (no premium) thereafter. While CenterState did not offer the lowest fixed interest, their proposal includes an attractive draw down feature that will allow the County to draw funds down through June 30, 2022. This minimizes the interest cost in early years and gives the County flexibility on final draw if the full \$20,000,000 is not needed to complete the project. When comparing the CenterState proposal to the lowest interest rate proposal (Capital One at 1.68%), there is a small present value benefit in debt service cost with the draw down feature.

Based on the 15-year fixed interest rate, flexible drawdown structure, and acceptable terms and conditions provided in their proposal, PFM recommends selecting CenterState as the loan provider for the 2020 Bond. We anticipate bringing the Resolution to the Board of County Commissioners for consideration at the December 14, 2020 meeting. If you have any questions please feel free to contact me at 407-406-5760 or gloverj@pfm.com.



Exhibit A
Summary of Proposals



Flagler County
Capital Improvement Revenue Bond, Series 2020
RFP Summary

	Capital One	CenterState	JPMorgan
Contact Information	Jacqueline Bretz Vice President 631-457-9582 jaci.bretz@capitalone.com	Garry Lubi 386-569-0643 glubi@centerstatebank.com	Scott Ricker Executive Director 407-701-2434 scott.ricker@jpmorgan.com
Tax-Exempt Non-Bank Qualified Interest Rate	1.680%	1.830%	Option 1) 1.76% Option 2) 2.17% Option 3) 1.96% Option 4) 1.83%
Final Maturity	10/1/2035	10/1/2035	10/1/2035
Rate Set Calculation	Fixed	Fixed	Indicative
Rate Locked to Closing, or Date to be Set	12/18/2020	12/18/2020	To be set upon receipt of written rate lock letter agreement
Draw-down Flexibility	No	Minimum draw of \$250,000 at closing Revolving draws until 6/30/2022, subject to following schedule: Minimum additional draw of \$2,000,000 on or before 3/31/2021 Minimum additional draw of \$5,000,000 on or before 6/30/2021 Minimum additional draw of \$5,000,000 on or before 9/30/2021 Minimum additional draw of \$4,000,000 on or before 12/31/2021 Minimum additional draw of \$2,750,000 on or before 3/31/2022 Draw of remaining principal up to \$1,000,000 on or before 6/30/2022	No
Prepayment Provisions	10/1/2025 at par	Years 1-5: 1% penalty of outstanding principal balance Thereafter: at par of outstanding principal balance	Option 1) Make whole call Option 2) 12/1/2021 at par Option 3) 12/1/2026 at par Option 4) 12/1/2031 at par
Legal/Other Fees	\$0	Not exceeding \$5,000	\$8,500
Other Conditions & Notes	A) Borrower responsible for costs of issuance B) Financial statements due upon request, as soon as possible C) Term sheet expires 11/27/2020	A) Late Fees: 5% of any payment not received within 10 days B) Default Rate: greater of Note Rate + 3% or WSJ Prime Rate +2% C) CAFR due within 270 days of fiscal year end D) Budget due within 60 days of adoption E) Rate covenant & Anti-Dilution Test: 1.5x F) Acceleration in event of payment default G) Gross up for determination of taxability	A) Default Rate: Bank Prime Rate +4% B) Anti-Dilution Test documents required prior to closing C) CAFR due within 240 days of fiscal year end D) Lender has right to transfer all or portion of loan to its affiliates E) Gross up for determination of taxability



Flagler County
Capital Improvement Revenue Bond, Series 2020
RFP Summary

	KGF	Raymond James	Truist
Contact Information	David Zapata Vice President, East Region Manager 914-806-6915 david_zapata@keybank.com	Cord King Senior Vice President 727-215-5226 Cord.King@RaymondJames.com	Christina Tinker 704-417-4004 Christina.Tinker@Truist.com
Tax-Exempt Non-Bank Qualified Interest Rate	1.950%	1.690%	1.990%
Final Maturity	10/1/2035	10/1/2035	10/1/2035
Rate Set Calculation	Fixed	Fixed	Fixed
Rate Locked to Closing, or Date to be Set	12/27/2020	12/18/2020	1/4/2020
Draw-down Flexibility	No	No	No
Prepayment Provisions	Prepayable in whole, but not in part, anytime at par	10/1/2030 at par \$500,000 minimum principal prepayment	Option 1) Prepayable in whole at any time with 1% penalty Option 2) Non-callable for 1st half of term, callable at par thereafter
Legal/Other Fees	\$0	\$7,500 and Loan made at 0.25% discount to par (\$50,000)	\$10,000
Other Conditions & Notes	A) Interest rate lock requires two-party email confirmation between Borrower and Lender - if confirmation not received before 11/27/2020, interest rate subject to KeyCorp Cost of Funds Index B) Borrower responsible for costs of issuance C) Financial statements due within 270 days of fiscal year end D) Rate covenant: 1.5x MADs E) Default Rate: current rate +3% F) Gross-up in event of taxability to 2.468% G) Term sheet expires 11/27/20	A) Gross-up in event of taxability to 2.3% B) Borrower must certify that no other indebtedness secured by the Covenant Revenues is now or will be subject to acceleration C) Budget due within 30 days of loan adoption D) Audit and signed certification of coverage documents due within 240 days of fiscal year end E) Default Rate: greater of 1) Federal Reserve Bank's Prime Rate +3%, 2) Federal Funds Rate +5%, or 3) 8% per year F) Term sheet expires 12/18/2020	A) Maximum of 4 funding disbursements B) Default Rate: current rate +2% C) Financial statements due within 270 days of fiscal year end D) Borrower must provide an unqualified bond counsel opinion, a no litigation certificate, and evidence of IRS Form 8038 filing E) ABT: 1.5x