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**LOAN AGREEMENT**

**Dated as of May 23, 2018**

**By and Between**

**CITY OF FORT PIERCE, FLORIDA**  
**(the “City”)**

**and**

**SUNTRUST BANK**  
**(the “Lender”)**

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## LOAN AGREEMENT

**THIS LOAN AGREEMENT** (this “Agreement”), made and entered into this 23<sup>rd</sup> day of May, 2018, by and between the **CITY OF FORT PIERCE, FLORIDA** (the “City”), a municipal corporation of the State of Florida, and **SUNTRUST BANK**, a Georgia banking corporation authorized to do business in the State of Florida, including making the Loan described herein, together with its successors and assigns (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;

WHEREAS, the City, pursuant to the provisions of the Florida Constitution, Chapter 166, *Florida Statutes*, the municipal charter of the City and other applicable provisions of Florida law (all of the foregoing, collectively, the “Act”), and Resolution No. \_\_\_\_\_ duly adopted by the City on May 21, 2018, is authorized to borrow money, and more particularly issue its Capital Improvement Revenue Refunding Note, Series 2018 (the “2018 Note”) for the City’s public purposes; and

WHEREAS, in response to a request to certain financial institutions by the City regarding an intended borrowing by the City to refund all of the City’s Outstanding Capital Improvement Revenue Refunding Bonds, Series 2010A maturing September 1, 2021 and thereafter (the “Prior Indebtedness”), the Lender submitted its Term Sheet to the City (the “Commitment”); and

WHEREAS, the City has accepted the Commitment and the Lender is willing to purchase the 2018 Note, 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.

“Bond Counsel” shall mean, Akerman LLP, Orlando, Florida, or any other attorney at law or firm of attorneys of nationally recognized standing in matters pertaining to the federal tax exemption of interest on obligations issued by states and political subdivisions hired by the City to render an opinion on such matters with regard to the 2018 Note.

“Bond Service Requirement” shall mean, for any Fiscal Year, the amount of principal of or amortization installments and interest due on Debt for such Fiscal Year, except to the extent that any such Bond Service Requirement shall have been provided for out of Debt proceeds.

“Business Day” shall mean any day other than a Saturday, a Sunday, or a day on which the office of the Lender at which payments on the 2018 Note are due is lawfully closed.

“City” shall mean the City of Fort Pierce, Florida, a municipal corporation.

“City Clerk” shall mean the City Clerk or any deputy or assistant city clerk of the City and such other person as may be duly authorized to act on his or her behalf.

“City Manager” shall mean the City Manager of the City and such other person as may be duly authorized to act on his or her behalf.

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

“Conversion Date” means June 3, 2020 or such other date on which the 2018 Note Rate converts from the Pre-Conversion Rate to the Tax-Exempt Rate; provided however, in the event that the Conversion Opinion is not delivered by Bond Counsel on said date, the 2018 Note Rate will not convert to the Tax-Exempt Rate.

“Conversion Opinion” means an opinion of Bond Counsel that, under the laws, regulations, rulings and judicial decisions existing on the Conversion Date and assuming the accuracy of certain representations and continuing compliance with certain covenants, interest on the 2018 Note is excluded from gross income for federal income tax purposes and is in the form set forth in Exhibit B hereto.

"Debt" has the meanings given such term in Section 4.06 hereof.

“Debt Service” means principal and interest, and other debt-related costs, due in connection with the 2018 Note.

“Default Rate” shall mean the lesser of (i) 18% per annum or (ii) the maximum lawful rate, calculated on the basis of a 360-day year of 12, 30 - day months.

“Determination of Taxability” means a final decree or judgment of any Federal court or a final action of the Internal Revenue Service determining that interest on the 2018 Note is includable in the gross income of the Holder for Federal income tax purposes as a result of the action or inaction of the City; provided, no Determination of Taxability shall be deemed to occur unless the City has been given written notice of such occurrence and, to the extent permitted by law, an opportunity to participate in and seek, at the City's own expense, a final administrative determination by the Internal Revenue Service or determination by a court of competent jurisdiction (from which no further right of appeal exists) as to the occurrence of such Determination of Taxability. For all purposes of this definition, the effective date of any Determination of Taxability will be the first date as of which interest is deemed includable in the gross income of the Holder of the 2018 Note.

“Escrow Deposit Agreement” shall mean that certain agreement by and between the City and The Bank of New York Mellon Trust Company, N.A. as the escrow trustee (as defined therein) for the purpose of providing for the payment of the Prior Indebtedness (as defined in the recitals hereto).

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

“Final Maturity Date” shall mean the date on which all principal and all unpaid interest accrued on the 2018 Note shall be due and payable in full, which date shall be September 1, 2030, if not sooner due to acceleration or prepayment.

“Finance Director” shall mean the City's Director of Finance or such other person as may be duly authorized to act on his or her behalf.

“Fiscal Year” shall mean the 12-month period commencing October 1 of each year and ending on the succeeding September 30, or such other 12-month period as the City may designate as its “fiscal year” as permitted by law.

“Loan” shall refer to an amount equal to the outstanding principal of the 2018 Note, together with unpaid interest which has accrued.

“Maximum Bond Service Requirement” shall mean, as of any particular date of calculation, the greatest amount of aggregate Bond Service Requirement for the then current or any future Fiscal Year, except that with respect to any Debt for which amortization installments have been established, the amount of principal coming due on the final maturity date with respect to such Debt shall be reduced by the aggregate principal amount of such Debt that are to be redeemed from amortization installments which were to be made in, prior Fiscal Years.

“Non-Ad Valorem Revenues” shall mean all legally available funds of the City derived from any source whatsoever other than ad valorem taxation on real or personal property, which are legally available to make the payments due on the 2018 Note, but only after the satisfaction of the funding requirement for obligations having an express lien or a pledge of such revenues and after provision has been made by the City for the payment of services and programs which are for essential public purposes affecting the health, welfare and safety of the inhabitants of the City or which are legally mandated by applicable law.

“2018 Note Rate” shall mean (a) prior to the Conversion Date a per annum rate equal to 3.61% (the "Pre-Conversion Rate"), (b) after the Conversion Date 2.85% (the "Tax-Exempt Rate"), (c) after an Event of Taxability shall mean the Taxable Rate, and (d) upon and Event of Default, the Default Rate.

“Noteholder” or “Holder” or any similar term shall mean the Lender as the holder of the 2018 Note and any subsequent registered holder of the 2018 Note.

“Payment Date” shall mean each March 1 and September 1, commencing September 1, 2018 until the 2018 Note has been paid in full.

“Pledged Revenues” shall mean (i) Non-Ad Valorem Revenues of the City budgeted and appropriated and deposited in accordance with Section 4.03 hereof and (ii) all funds on deposit in the Debt Service Fund (defined below) and all investment earnings on any such funds.

“Resolution” shall mean Resolution No. \_\_\_\_\_, duly adopted at a meeting of the City Commission on May 21, 2018, which, among other things, authorized the borrowing of the Loan and execution and delivery of this Agreement and the issuance of the 2018 Note.

"Taxable Period" shall mean the period of time between (a) the date that interest on the 2018 Note is deemed to be includable in the gross income of the owner thereof for federal income tax purposes as a result of a Determination of Taxability, and (b) the date of the Determination of Taxability and after which the 2018 Note bears interest at the Taxable Rate.

"Taxable Rate" shall mean with respect to the 2018 Note, the interest rate per annum that shall provide a Holder with the same after tax yield that a Holder would have otherwise received had the Determination of Taxability not occurred, taking into account the increased taxable income of the Holder as a result of such Determination of Taxability. The Holder shall provide the City with a written statement explaining the calculation of the Taxable Rate, which statement shall, in the absence of manifest error, be conclusive and binding on the City.

**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. 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 City.** The City represents and warrants to the Lender as follows:

(a) Existence. The City is a municipal corporation of the State of Florida, duly created and validly existing under the laws of the State of Florida, with full power to enter into this Agreement, to perform its obligations hereunder and to issue and deliver the 2018 Note to the Lender. The making, execution and performance of this Agreement on the part of the City and the issuance and delivery of the 2018 Note have been duly authorized by all necessary action on the part of the City and will not violate or conflict with the Act, or any agreement, indenture or other instrument by which the City or any of its properties is bound.

(b) Validity, Etc. This Agreement, the 2018 Note, the Escrow Deposit Agreement and the Resolution are valid and binding obligations of the City enforceable against the City 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. No material adverse change in the financial condition of the City has occurred since the audited financial statements of the City for its Fiscal Year ended September 30, 2017.

(d) Powers of City. The City has the legal power and authority to pledge the Pledged Revenues to the repayment of the Loan as described herein.

(e) Authorizations, etc. No authorization, consent, approval, license, exemption or registration or filing with any court or governmental department, commission, board, bureau, agency or instrumentality, domestic or foreign, has been or will be necessary for the valid execution, delivery and performance by the City of this Agreement, the 2018 Note and the related documents, except such as have been obtained, given or accomplished.

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

The Lender (i) has the power to enter into this Agreement and has duly authorized the execution and delivery hereof (ii) has such knowledge and experience in financial and business matters that it is capable of evaluating the merits and risks of making the Loan and investing in the 2018 Note, (iii) has received and reviewed such financial information concerning the Non-Ad Valorem Revenues as it has needed in order to fairly evaluate the merits and risks of making the Loan and investing in the 2018 Note; and (iv) is purchasing the 2018 Note for its own loan account and not with a current view toward resale to the public.

## ARTICLE III

### THE NOTE

**Section 3.01. Purpose and Use.** On the date of this Agreement, the Lender shall make available to the City the Loan in the principal amount of Six Million Eight Hundred Ninety-Five Thousand Dollars (\$6,895,000) evidenced by the 2018 Note. The proceeds available under the 2018 Note and this Agreement shall be used solely to accomplish the purposes set forth in the recitals hereto and to pay costs of issuing the 2018 Note.

**Section 3.02. The 2018 Note.** The 2018 Note shall be substantially in the form set forth as Exhibit A to this Agreement.

(a) Interest. The 2018 Note shall bear interest at the 2018 Note Rate. Interest on the 2018 Note shall be computed on the basis of a 360 day year of 12, 30 - day months. Interest on the 2018 Note is payable on each Payment Date.

(b) **Prepayments.** The 2018 Note shall be subject to prepayment at the option of the City, in whole but not in part on any Business Day on or after \_\_\_\_\_, 2022, from any legally available monies at a prepayment price of 100% of the principal amount to be prepaid, plus accrued interest to the prepayment date. In addition, the 2018 Note shall be subject to prepayment at the option of the City, in part (in an amount not to exceed 10% of the principal amount of the 2018 Note Outstanding on the immediately preceding January 1) on any Business Day, from any legally available monies at a prepayment price of 100% of the principal amount to be prepaid, plus accrued interest to the prepayment date. Any prepayment shall be made on such date as shall be specified by the City in a written notice delivered to the Noteholder not less than five (5) days prior to the specified prepayment date. Any prepayment shall be applied first to accrued interest, then to other amounts owed the Holder, and finally to principal. [Prepayments of principal shall be applied as determined by the Holder in its sole discretion.]

**Section 3.03. Adjustments to 2018 Note Rate.** In addition to the change of the 2018 Note Rate to the Tax-Exempt Rate on the Conversion Date the 2018 Note Rate shall be subject to adjustment by the Lender as hereinafter described and as provided in the 2018 Note. Except as otherwise provided herein, upon the occurrence of a Determination of Taxability and for as long as the 2018 Note remains outstanding, the interest rate on the 2018 Note shall be converted to the Taxable Rate and this adjustment shall survive payment on the 2018 Note until such time as the federal statute of limitations under which the interest on the 2018 Note could be declared taxable under the Code shall have expired. In addition, upon a Determination of Taxability, the City shall, immediately upon demand, pay to the Holder (or prior holders, if applicable) (i) an additional amount equal to the difference between (A) the amount of interest actually paid on the 2018 Note during the Taxable Period and (B) the amount of interest that would have been paid during the Taxable Period had the 2018 Note borne interest at the Taxable Rate, and (ii) an amount equal to any interest, penalties and additions to tax (as referred to in Subchapter A of Chapter 68 of the Code) owed by the Holder as a result of the Event of Taxability.

The Holder shall promptly notify the City in writing of any adjustments pursuant hereto. Notwithstanding any provision herein to the contrary, in no event shall the interest rate on the 2018 Note exceed the maximum rate permitted by law.

**Section 3.04. Conditions Precedent to Issuance of 2018 Note.** Prior to or simultaneously with the delivery of the 2018 Note, 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 City substantially to the effect that (i) the Resolution has been duly adopted and this Agreement, the Escrow Deposit Agreement and the 2018 Note have been duly authorized, executed and delivered by the City and each constitutes a valid, binding and enforceable agreement of the City in accordance with their respective terms, except to the extent that the enforceability of the rights and remedies set forth herein may be limited by bankruptcy, insolvency, financial emergency or other laws affecting creditors' rights generally or by usual equity principles; (ii) the City's execution, delivery and performance of this Agreement and the Escrow Deposit Agreement and the execution and issuance of the 2018 Note are not subject to any authorization, consent, approval or review of any governmental body, public officer or regulatory authority not heretofore obtained or effected; (iii) the execution and delivery of the 2018

Note has been duly and validly authorized by the City and the 2018 Note has been duly executed; (iv) the City (A) is a municipal corporation duly organized and validly existing under the laws of the State of Florida, and (B) has power and authority to adopt the Resolution, to execute and deliver this Agreement and the Escrow Deposit Agreement and the 2018 Note and to consummate the transactions contemplated by such instruments; (v) the execution, delivery and performance of the 2018 Note, this Agreement and the Escrow Deposit Agreement and compliance with the terms thereof and hereof, under the circumstances contemplated hereby, do not and will not in any material respect conflict with, or constitute on the part of the City a breach or default under, any indenture, mortgage, deed of trust, agreement or other instrument to which the City or to which its properties are subject or conflict with, violate or result in a breach of any existing law, administrative rule or regulation, judgment, court order or consent decree to which the City or its properties are subject; (vi) there is no claim, action, suit, proceeding, inquiry, investigation, litigation or other proceeding, at law or in equity, pending or, to the best of such counsel's knowledge, threatened in any court or other tribunal, state or federal (A) restraining or enjoining, or seeking to restrain or enjoin, the issuance, sale, execution or delivery of the 2018 Note, (B) in any way questioning or affecting the validity or enforceability of any provision of this Agreement, the Escrow Deposit Agreement, the 2018 Note, or the Resolution, (C) in any way questioning or affecting the validity of any of the proceedings or authority for the authorization, sale, execution or delivery of the 2018 Note, or of any provision made or authorized for the payment thereof, or (D) questioning or affecting the organization or existence of the City or the right of any of its officers to their respective offices; (E) which may result in any material adverse change in the properties, assets or in the condition of the City, financial or otherwise; (vii) the City has the legal power to (1) issue the 2018 Note for the purpose set forth in the recitals hereto and in the Resolution and to pay associated costs of issuance, and (2) grant a lien on the Pledged Revenues as described herein; (viii) all conditions contained in the ordinances and resolutions of the City precedent to the issuance of the 2018 Note have been complied with; and (ix) all authorizations, approvals, consents, waivers or other orders of governmental authorities or agencies that are required in connection with the authorization, execution and delivery by the City of the Resolution, the 2018 Note, the Escrow Deposit Agreement and this Agreement and all other agreements or documents provided for or contemplated by this Agreement, and the execution, issuance, sale and delivery of the 2018 Note have been obtained and are in full force and effect and no additional or further approvals, consents, waivers or authorizations of any governmental or public agency or authority not already obtained or currently able to be obtained are required by law or by the City in the performance by the City of its obligations under the 2018 Note, this Agreement, the Escrow Deposit Agreement, the Resolution or the contracts and agreements provided for therein or contemplated thereby;

(b) an opinion of Bond Counsel (who may rely on opinion of counsel to the City), substantially to such effect that such counsel is of the opinion that: (i) this Agreement and the Escrow Deposit Agreement constitutes valid and binding obligations of the City enforceable upon the City in accordance with its terms; (ii) the 2018 Note is a valid and binding special obligation of the City enforceable in accordance with their terms, payable solely from the sources provided for therein and in this Agreement and (iii) a customary defeasance opinion regarding the Prior Indebtedness and (iv) this Agreement and the Resolution are exempt from registration and qualification under the Securities Act of 1933 and Trust Indenture Act of 1939 as applicable;

(c) the original executed Resolution, 2018 Note, the Escrow Deposit Agreement and Agreement; and

(d) such other documents as the Lender reasonably may request.

When the documents and items mentioned in clauses (a) through (d), inclusive, of this Section shall have been filed with the Lender, and when the 2018 Note shall have been executed as required by this Agreement, and all conditions of the Resolution have been met, the City shall deliver the 2018 Note to or upon the order of the Lender upon receipt of the purchase price therefor. Payment of the purchase price of the 2018 Note by the Lender shall be conclusive evidence that all conditions pursuant to the delivery of the 2018 Note have been met.

**Section 3.05. Registration of Transfer; Assignment of Rights of Lender; Mutilated, Lost, Stolen or Destroyed 2018 Note.** The City shall keep at the office of the City Clerk in the City's records the registration of the 2018 Note and the registration of transfers of the 2018 Note as provided in this Agreement. The transfer of the 2018 Note may be registered only upon the books kept for the registration of the 2018 Note and registration of transfer thereof upon surrender thereof to the City together with an assignment duly executed by the Holder or its attorney or legal representative in the form of the assignment set forth on the form of the 2018 Note attached as Exhibit A to this Agreement. The Holder shall have the right at any time to assign, transfer or convey the 2018 Note or any interest therein or portion thereof in minimum principal amounts of at least \$100,000.00, but no such assignment, transfer or conveyance shall be effective as against the City unless and until the Holder has delivered to the City written notice thereof that discloses the name and address of the assignee. In the case of any such registration of transfer, the City shall execute and deliver in exchange such 2018 Note a new 2018 Note registered in the name of the transferee. In all cases in which the 2018 Note shall be transferred hereunder, the City shall execute and deliver at the earliest practicable time a new 2018 Note in accordance with the provisions of this Agreement. Except upon the Conversion Date, the City may make a charge for every such registration of transfer of a 2018 Note sufficient to reimburse it for any tax or other governmental charges required to be paid with respect to such registration of transfer, but no other charge shall be made for registering the transfer hereinabove granted. The 2018 Note shall be issued in fully registered form and shall be payable in any lawful coin or currency of the United States.

The registration of transfer of any 2018 Note on the registration books of the City shall be deemed to effect a transfer of the rights and obligations of the Lender under this Agreement as to such 2018 Note to the transferee. Thereafter, such transferee shall be deemed to be the Lender under this Agreement as to such 2018 Note and shall be bound by all provisions of this Agreement that are binding upon the Lender. The City and the transferor shall execute and record such instruments and take such other actions as the City and such transferee may reasonably request in order to confirm that such transferee is bound by the provisions of this Agreement applicable to the Lender and such 2018 Note.

Every prior Holder of the 2018 Note shall be deemed to have waived and renounced all of such owner's equities or rights therein to the extent of such transfer in favor of every bona fide purchaser, and every such bona fide purchaser shall acquire absolute title thereto and to all rights represented thereby.

The registered owner of the 2018 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 2018 Note; provided, however, that no transfer (except as provided in the immediately following paragraph) shall be permitted to anyone other than a transferee that is an "accredited investor" within the meaning of Regulation D of the Securities Act of 1933 or a "qualified institutional buyer" within the meaning of Rule 501 of Regulation D. Every prior registered owner of the Note shall be deemed to have waived and renounced all of such owner's equities or rights therein to the extent of such transfer 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.

Notwithstanding the limitations on transfer contained in the preceding paragraph, the 2018 Note may be transferred to any affiliate of Lender in whole or in part without restriction.

In the event any 2018 Note is mutilated, lost, stolen, or destroyed, the City shall execute a new 2018 Note(s) of like date, denomination and series as that mutilated, lost, stolen or destroyed, provided that, in the case of any mutilated 2018 Note, such mutilated 2018 Note shall first be surrendered to the City, and in the case of any lost, stolen, or destroyed 2018 Note, there first shall be furnished to the City evidence of such loss, theft or destruction together with an indemnity satisfactory to it.

**Section 3.06. Ownership of the 2018 Note.** The person in whose name the 2018 Note are registered shall be deemed and regarded as the absolute owner thereof for all purposes, and payment of or on account of the 2018 Note shall be made only to the Holder thereof or such Holder's legal representative. All such payments shall be valid and effectual to satisfy and discharge the liability upon the 2018 Note, and interest thereon, to the extent of the sum or sums so paid.

**Section 3.07. Use of Proceeds of 2018 Note Permitted Under Applicable Law.** The City represents, warrants and covenants that the proceeds of the 2018 Note will be used solely for the purposes set forth in the recitals hereto and pay costs of issuance of the 2018 Note, and that such use is permitted by the Act and other applicable law.

**Section 3.08. Authentication.** Until the 2018 Note shall have endorsed thereon a certificate of authentication substantially in the form set forth in Exhibit A, duly executed by the manual signature of the registrar as authenticating agent, it shall not be entitled to any benefit or security under this Agreement. The 2018 Note shall not be valid or obligatory for any purpose unless and until such certificate of authentication shall have been duly adopted by the registrar, and such certificate of the registrar upon the 2018 Note shall be conclusive evidence that such 2018 Note have been duly authenticated and delivered under this Agreement.

**Section 3.09. Conversion to Tax-Exempt Interest.**

(a) **Conversion Date.** The 2018 Note shall be issued bearing interest at the Pre-Conversion Rate, which interest is includible in gross income (i.e. taxable) for federal income tax purposes. On the Conversion Date, if there shall be no Event of Default occurring or a default

such that with the passage of time and the giving of notice or both shall become an Event of Default, and if the Conversion Opinion in substantially the form attached hereto as Appendix B is delivered to the City and the Holder, the 2018 Note Rate shall be converted from the Pre-Conversion Rate to the Tax-Exempt Rate. In the event Bond Counsel is not able to deliver the Conversion Opinion on the Conversion Date, the 2018 Note will continue bearing interest at the Pre-Conversion Rate. If the Conversion Date is other than June 3, 2020, the City shall provide the Holder written notice of the Conversion Date at least 14 days prior to such date.

(b) **City and Holder.** The City agrees to take any and all lawful actions to support the delivery by Bond Counsel of the Conversion Opinion, including without limitation the filing of such reports and information returns as Bond Counsel may deem necessary and advisable and the delivery of a 2018 Note reflecting the conversion to the Tax-Exempt Rate. Copies of such reports and information returns including an executed tax compliance certificate as well as the original of the new 2018 Note will be delivered to the Holder.

## ARTICLE IV

### COVENANTS OF THE CITY

**Section 4.01. Performance of Covenants.** The City covenants that it will perform faithfully at all times its covenants, undertakings and agreements contained in this Agreement and the 2018 Note or in any proceedings of the City relating to the Loan.

**Section 4.02. Payment of 2018 Note.**

(a) The City does hereby irrevocably pledge the Pledged Revenues as security for the repayment of the 2018 Note.

(b) The 2018 Note will be a special obligation of the City secured solely by the Pledged Revenues and payable from the Pledged Revenues as provided in Section 4.03 of this Agreement. The 2018 Note will not constitute a general debt, liability or obligation of the City or the State of Florida or any political subdivision thereof within the meaning of any constitutional or statutory limitation. Neither the faith and credit nor the taxing power of the City or of the State of Florida or any political subdivision thereof is pledged to the payment of the principal of or interest on the 2018 Note and the 2018 Noteholder shall never have the right to compel any exercise of any ad valorem taxing power of the City or of the State of Florida or any political subdivision thereof, or the use of any ad valorem tax revenues directly or indirectly to enforce such payment. The 2018 Note shall not constitute a lien upon any property of the City except upon the Pledged Revenues.

**Section 4.03. Covenant to Budget and Appropriate.** Until the 2018 Note is paid pursuant to the provisions of this Agreement, subject to the next paragraph, the City covenants and agrees to appropriate in its annual budget, by amendment, if necessary, from Non Ad-Valorem Revenues and which are lawfully available to pay Debt Service on the 2018 Note, and to deposit to the Debt Service Fund hereinafter created, from such Non Ad-Valorem Revenues amounts sufficient to pay principal of and interest on the 2018 Note and other costs and expenses due and payable to the Holder under this Agreement as the same shall become due. Such covenant and agreement on the part of the City 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 and actually paid. No lien upon or pledge of such Non-Ad Valorem Revenues shall be in effect until such moneys are budgeted and appropriated and deposited as provided herein. The City further acknowledges and agrees that the obligations of the City to include such amounts in each of its annual budgets and to pay such appropriated 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 City from pledging in the future its Non-Ad Valorem Revenues nor does it give the Holder of the 2018 Note a prior claim on the Non-Ad Valorem Revenues as opposed to claims of general creditors of the City. 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 notes and other debt instruments). Anything in this Agreement to the contrary notwithstanding, it is understood and agreed that all obligations of the City hereunder shall be payable from the portion of Non-Ad Valorem Revenues budgeted appropriated and deposited as provided for hereunder and nothing herein shall be deemed to pledge ad valorem tax revenues or to permit or constitute a mortgage or lien upon any assets owned by the City and no Holder of the 2018 Note nor any other person, may compel the levy of ad valorem taxes on real or personal property within the boundaries of the City or the application of ad valorem revenues in order to satisfy any payment obligations hereunder or to maintain or continue any of the activities of the City which generate user service charges, regulatory fees, or any other Non-Ad Valorem Revenues. Notwithstanding any provisions of this Agreement or the 2018 Note to the contrary, the City shall never be obligated to maintain or continue any of the activities of the City which generate user service charges, regulatory fees or any Non-Ad Valorem Revenues. Neither this Agreement nor the obligations of the City under the Resolution shall be construed as a pledge of or a lien on all or any Non-Ad Valorem Revenues of the City other than the Pledged Revenues, but shall be payable solely as provided herein and is subject in all respects to the provisions of Section 166.241, Florida Statutes. However, the covenant to budget and appropriate for the purposes and in the manner stated herein shall have the effect of making available for the payment of the 2018 Note in the manner described herein Non-Ad Valorem Revenues and placing on the City a positive duty to appropriate and budget, by amendment, if necessary, amounts sufficient to meet its obligations hereunder; subject, however, in all respect to the restrictions of Florida law, which provides that the governing body of each municipality may only make appropriations for each Fiscal Year which, in any one year, shall not exceed the amount to be received from taxation or other sources; and subject, further, to the payment of services and programs which are for essential public purposes affecting the health, welfare and safety of the inhabitants of the City or which are legally mandated by applicable law.

There is hereby created and established the "City of Fort Pierce, Florida Capital Improvement Revenue Note, Series 2018 Debt Service Fund," which fund shall be a trust fund held by the City Finance Director, which shall be held solely for the benefit of the Holder as provided herein. Non-Ad Valorem Revenues shall be deposited in said Debt Service Fund as provided herein and shall be and constitute a trust fund created for the purposes stated herein, and

there is hereby a lien upon accordance with this Agreement. The money in the Debt Service Fund shall be continuously secured until such time as the 2018 Note are paid in full in the same manner as state and municipal deposits are authorized to be secured by the laws of the State of Florida.

**Section 4.04. Tax Covenant.** The City covenants to the Holder of the 2018 Note that on and after the Conversion Date the City will not make any use of the proceeds of such 2018 Note at any time during the term of such 2018 Note which would cause such 2018 Note to be an “arbitrage bond” within the meaning of the Code. The City further covenants on and after the Conversion Date to comply with the requirements of the Code and any valid and applicable rules and regulations promulgated thereunder necessary to insure the exclusion of interest on such 2018 Note from the gross income of the Holder thereof for purposes of federal income taxation.

**Section 4.05. Anti-Dilution.** During such time as the 2018 Note is Outstanding, the City agrees and covenants with the Holder that for each Fiscal Year of the City, “Total Revenues” and “Total Other Financing Sources” as indicated on the “Schedule of General Fund Revenues, Expenditures and Changes in Fund Balance” or any successor thereto as set forth in the City’s general purpose financial statements for the General Fund of the City for such Fiscal Year, less any transfers to the City’s General Fund from the City’s solid waste fund, less any amounts received by the City from federal grants and state grants, less any funds utilized for capital leases to which the City is the lessee and less any other grants and any other Non-Ad Valorem Revenues which may not legally be used to pay debt service on the 2018 Note, plus the Ad Valorem Credit (as hereinafter defined), less the Maximum Bond Service Requirement for such Fiscal Year on Debt secured by and payable from a specific source of Non-Ad Valorem Revenues less the City’s total of general government expenditures and public safety expenditures (the “Adjusted Revenues”), shall be equal to (i) at least 200% of the Maximum Bond Service Requirement on the 2018 Note and any other Debt (as defined in Section 4.06 hereof) of the City payable from the City’s covenant to budget and appropriate Non-Ad Valorem Revenues and (ii) 100% of any amounts owed in regard to amounts drawn under any surety bond or similar instrument deposited to a reserve fund issued in regard to the Debt payable from a City covenant to budget and appropriate Non-Ad Valorem Revenues (collectively, the “Policy Costs”). The City agrees to provide the Holder with a certification that the anti-dilution test above has been satisfied and an accompanying calculation not later than 270 days after each Fiscal Year end.

For purposes of the above, "Ad Valorem Credit" means the amount of ad valorem taxes received by the City multiplied by the ratio of the total of general government and public safety expenditures by total expenditures and other financial uses (as such expenditures are reflected in the City’s general purposes financial statements for such Fiscal Year).

**Section 4.06. Future Debt Payable From Non-Ad Valorem Revenues.** The City covenants that it will not issue any Debt subsequent to the issuance of the 2018 Note payable from amounts budgeted and appropriated from Non-Ad Valorem Revenues unless an independent auditor shall, prior to the issuance of such Debt, certify to the City that the Adjusted Revenues (as defined in Section 4.05) for the immediately preceding Fiscal Year is equal to (i) at least 200% of the Maximum Bond Service Requirement on all Debt to be outstanding following the issuance of such new Debt and (ii) 100% of any amounts owed for Policy Costs (as defined in various resolutions of the City). No such additional Debt may be issued without the prior written consent of all applicable bond insurers if any Policy Costs are past due and owing.

“Debt” for purposes of the immediately preceding paragraph means as to any date (without duplication) all of the following to the extent that the maturity thereof is longer than one year, it is an obligation of the City payable from the City’s covenant to budget and appropriate Non-Ad Valorem Revenues and such Debt is outstanding for purposes of the instruments pursuant to which it was issued: (1) Bonds (as defined in various resolutions of the City); (2) all obligations of the City for borrowed money evidenced by bonds, debentures, notes or other similar instruments, except as otherwise excluded from the definition of Debt; (3) all obligations of the City to pay the deferred purchase price of property or services, except trade accounts payable under normal trade terms and which arise in the ordinary course of business; and (4) all indebtedness of other persons to the extent guaranteed by the City.

Additionally, the City covenants that it will not issue any Debt subsequent to the issuance of the 2018 Note payable from amounts budgeted and appropriated from Non Ad Valorem Revenues unless an independent auditor shall prior to the issuance of such Debt certify to the City that the Adjusted Revenues defined as “Total Revenues, Other Financing Sources and Special Items” as indicated on the “Schedule of General Fund Revenues and Other Financing Sources” or any successor thereto as set forth in the City’s independent audit for such Fiscal Year, less amounts received from ad valorem taxes, less any transfers to the City’s General Fund from the City’s solid waste fund, less any amounts received by the City from federal grants and state grants, less any funds utilized for capital leases to which the City is the lessee, less any other grants, less any other Non Ad Valorem Revenues which may not legally be used to pay debt service on the 2018 Note, less any such amounts of a non-recurring or special nature, less the Maximum Bond Service Requirement for such Fiscal Year on debt secured by and payable from a specific source of Non Ad Valorem Revenues included in “Total Revenues” (the “Adjusted Revenues”), for the immediately preceding Fiscal Year is equal to at least 350% of the Maximum Bond Service Requirement on all Debt to be Outstanding following the issuance of such new Debt and 100% of any amounts owed for Policy Costs. No such additional Debt may be issued without the prior written consent of all applicable bond insurers if any Policy Costs are past due and owing.

"Debt" for purpose of the test in the immediately preceding paragraph means as at any date (without duplication) all of the following to the extent that the maturity thereof is longer than one year, it is an obligation of the City payable from the City's covenant to budget and appropriate Non Ad Valorem Revenues and such Debt is Outstanding for purposes of the instruments pursuant to which it was issued: (1) the 2018 Note; (2) all obligations of the City for borrowed money evidenced by bonds, debentures, notes or other similar instruments, except as otherwise excluded from the definition of Debt; (3) all obligations of the City to pay the deferred purchase price of property or services, except trade accounts payable under normal trade terms and which arise in the ordinary course of business; and (4) all indebtedness of other persons to the extent guaranteed by the City.

**Section 4.07. Financial Disclosures.** At no cost to the Lender, the City will furnish to the Lender (i) within 270 days following the end of each Fiscal Year, a comprehensive annual financial report of the City for such Fiscal Year prepared in accordance with generally accepted accounting standards, and an audit report of an independent certified public accountant or firm thereof, (ii) within 30 days of the adoption thereof for each Fiscal Year, the general budget of the City, and (iii) any other financial information which the Lender may reasonably request.

**Section 4.08. Notice of Default.** The City shall within five days after it acquires knowledge thereof, notify the Holder in writing at its notice address provided in Section 6.04 hereof upon the happening, occurrence, or existence of any Event of Default, and any event or condition which with the passage of time or giving of notice, or both, would constitute an Event of Default, and shall provide the Holder, with such written notice, a detailed statement by a responsible officer of the City of all relevant facts and the action being taken or proposed to be taken by the City with respect thereto. Regardless of the date of receipt of such notice by the Holder, such date shall not in any way modify the date of occurrence of the actual Event of Default.

**Section 4.09. No Advisory or Fiduciary Relationship.** In connection with all aspects of each transaction contemplated hereunder (including in connection with any amendment, waiver or other modification hereof or of any other documents related hereto), the City acknowledges and agrees, that: (a) (i) it has consulted its own legal, accounting, regulatory and tax advisors to the extent it has deemed appropriate, (ii) it is capable of evaluating, and understands and accepts, the terms, risks and conditions of the transactions contemplated hereby and any other loan documents, (iii) the Lender is not acting as a municipal advisor or financial advisor to the City and (v) the Lender has no fiduciary duty pursuant to Section 15B of the Securities Exchange Act to the City with respect to the transactions contemplated hereby and the discussions, undertakings and procedures leading thereto (irrespective of whether the Lender has provided other services or is currently providing other services to the City on other matters); (b) (i) the Lender is and has been acting solely as a principal in an arm's length commercial lending transaction and has not been, is not, and will not be acting as an advisor, agent or fiduciary, for the City, or any other person and (ii) the Lender has no obligation to the City, with respect to the transactions contemplated hereby except those obligations expressly set forth herein and in the other Loan documents; (c) notwithstanding anything herein to the contrary, it is the intention of the City and the Lender that the loan documents represent a commercial loan transaction not involving the issuance and sale of a municipal security, and that any bond, note or other debt instrument that may be delivered to the Lender is delivered solely to evidence the repayment obligations of the City under the loan document; and (d) the Lender may be engaged in a broad range of transactions that involve interests that differ from those of the City, and the Lender has no obligation to disclose any of such interests to the City. To the fullest extent permitted by law, the City hereby waives and releases any claims that it may have against the Lender with respect to any breach or alleged breach of agency or fiduciary duty in connection with any aspect of any transactions contemplated hereby. If the City would like a municipal advisor in this transaction that has legal fiduciary duties to the City, the City is free to engage a municipal advisor to serve in that capacity. The transactions contemplated herein and the 2018 Note are delivered, pursuant to and in reliance upon the bank exemption and/or the institutional buyer exemption provided under the municipal advisor rules of the Securities and Exchange Commission, Rule 15Ba1-1 et seq, to the extent that such rules apply to the transactions contemplated hereunder.

**Section 4.10. Permission to Use Information.** The City agrees and consents that Holder shall be permitted to use information related to the loan transaction in connection with marketing, press releases or other transactional announcements or updates provided to investors or trade publications, including, but not limited to, the placement of the logo or other identifying name on marketing materials or of "tombstone" advertisements in publications of its choice at its own expense.

## ARTICLE V

### EVENTS OF DEFAULT AND REMEDIES

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

(a) payment of the principal of the 2018 Note shall not be made when the same shall become due and payable; or

(b) payment of any installment of interest on the 2018 Note shall not be made when the same shall become due and payable; or

(c) the City shall default in the due and punctual performance of any other of the covenants, conditions, agreements and provisions contained in the 2018 Note or in this Agreement and such default shall continue for thirty (30) days from the earlier of (i) after written notice shall have been given to the City by the Noteholder specifying such default and requiring the same to be remedied; or (ii) the date the City was required to provide written notice of such default to the Holder in accordance with this Agreement.

(d) any proceedings are instituted with the consent or acquiescence of the City, for the purpose of effecting a compromise between the City 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; or

(e) the City admits in writing its inability to pay its debts generally as they become due, or files a petition in bankruptcy or makes an assignment for the benefit of its creditors, 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; or

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

(g) 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 City or of the whole or any substantial part of its property and such custody or control shall not be terminated within 60 days from the date of assumption of such custody or control.

**Section 5.02. Exercise of Remedies.** Upon the occurrence and during the continuance of an Event of Default, the 2018 Note shall bear interest at the Default Rate and all payments made on such 2018 Note during any such period shall be applied first to interest and then to principal. Acceleration of the payments due on the 2018 Note and any other payments due hereunder shall not be a remedy except upon the occurrence and continuation of an Event of Default specified in section (a) or (b) above, and if the Owner of any other Debt that is payable from a covenant to

budget and appropriate Non-Ad Valorem Revenues declares the entire principal amount of such other Debt immediately due and payable (including by a put or tender right).

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 City to perform its obligations under this Agreement, provided, the Holder shall never have the right to compel the exercise of the ad valorem taxing power of the City or the taxation in any form of any property to pay the 2018 Note or the interest thereon.

In the enforcement of any remedy under this Agreement, to the extent permitted by law, a Noteholder shall be entitled to sue for, enforce payment of and receive any and all amounts then or during any default becoming due from the City for principal, interest or otherwise under any of the provisions of this Agreement or of the 2018 Note then unpaid, at the Default Rate, together with any and all costs and expenses of collection and of all proceedings hereunder and under the 2018 Note (including, without limitation, reasonable legal fees in all proceedings, including administrative, appellate and bankruptcy proceedings), but payable from only the Pledged Revenues, without prejudice to any other right or remedy of the Noteholder, and to recover and enforce any judgment or decree against the City, but solely as provided herein and in the 2018 Note, for any portion of such amounts remaining unpaid and interest, costs, and expenses as above provided, and to collect (but only from the Pledged Revenues) in any manner provided by law, the moneys adjudged or decreed to be payable.

**Section 5.03. Remedies Not Exclusive.** No remedy herein conferred upon or reserved to a 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. Remedies Cumulative.** No remedy herein conferred upon or reserved to the Holder is intended to be exclusive of any other remedy or remedies, and each and every such remedy shall be cumulative, and shall be in addition to every other remedy given hereunder or now or hereafter existing at law or in equity or by statute.

**Section 5.05. Waivers, Etc.** No delay or omission of a 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 a Noteholder may be exercised from time to time and as often as may be deemed expedient.

A 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 City, 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 City 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 2018 Note and all other sums payable to the Holder hereunder have been paid in full.

**Section 6.03. Amendments and Supplements.** This Agreement may be amended or supplemented from time to time only by a writing duly executed by each of the City and the Noteholder.

**Section 6.04. Notices.** Any notice, demand, direction, request or other instrument authorized or required by this Agreement to be given to or filed with the City 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:

(a) As to the City:

City of Fort Pierce, Florida  
100 North U.S. 1  
Fort Pierce, FL 34950  
Attention: City Manager

With a copy to:

James Messer, Esquire  
City Attorney  
100 North U.S. 1  
Fort Pierce, FL 32778

(b) As to the Lender:

SunTrust Bank  
501 S. Flagler Drive, 1<sup>st</sup> Floor

West Palm Beach, Florida 33401  
Attention: Dane Sheldon

or at such other address as shall be furnished in writing by any such party to the other, and shall be deemed to have been given as of the date so delivered or deposited in the United States mail.

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 6.05. 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 City 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 City and the Noteholder.

**Section 6.06. Severability.** In case any one or more of the provisions of this Agreement, any amendment or supplement hereto or of the 2018 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 2018 Note, but this Agreement, any amendment or supplement hereto and the 2018 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 2018 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 City to the full extent from time to time permitted by law.

**Section 6.07. Payments Due on Non-Business Days.** In any case where the date of payment of interest on or principal of the 2018 Note including the date fixed for any prepayment of the 2018 Note shall be other than a Business Day, then payment of such interest or principal shall be made on the next succeeding day on which the Holder is open for business with the same force and effect as if paid on the due date of such payment or the date fixed for prepayment, and no interest on any such principal amount shall accrue for the period after such date of maturity or such date fixed for prepayment.

**Section 6.08. 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 6.09. Applicable Law.** This Agreement shall be governed exclusively by and construed in accordance with the applicable laws of the State of Florida.

**Section 6.10. No Personal Liability.** Notwithstanding anything to the contrary contained herein or in the 2018 Note, or in any other instrument or document executed by or on behalf of the City in connection herewith, no stipulation, covenant, agreement or obligation of

any present or future member of the City Commission, officer, employee or agent of the City, officer, employee or agent of a successor to the City, 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 2018 Note or for any claim based thereon or on any such stipulation, covenant, agreement or obligation, against any such person, in his or her individual capacity, either directly or through the City or any successor to the City, under 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 6.11. Incorporation by Reference.** All of the terms and obligations of the Resolution and the Exhibit 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.

**Section 6.12. Waiver of Jury Trial.** THE PARTIES HERETO KNOWINGLY, VOLUNTARILY, AND INTENTIONALLY WAIVE ANY RIGHT EITHER MAY HAVE TO A TRIAL BY JURY, WITH RESPECT TO ANY LITIGATION OR LEGAL PROCEEDINGS BASED ON OR ARISING OF THIS AGREEMENT OR THE 2018 NOTE, INCLUDING ANY COURSE OF CONDUCT, COURSE OF DEALINGS, VERBAL OR WRITTEN STATEMENT OR ACTIONS OR OMISSIONS OF ANY PARTY WHICH IN ANY WAY RELATES TO THE 2014 NOTES OR THIS AGREEMENT.

**Section 6.13. Documentary and Intangible Taxes.** In the event that any intangible tax or documentary stamp is due from the Holder to any state or other governmental agency or authority because of the execution or holding of the 2018 Note, the City shall, upon demand, reimburse the Holder for any such tax paid.

*[SIGNATURES ON FOLLOWING PAGE]*

*[Signature Page for LOAN AGREEMENT  
dated as of May 23, 2018 between  
the City of Fort Pierce, Florida and SunTrust Bank]*

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

**CITY OF FORT PIERCE, FLORIDA**

[SEAL]

ATTEST:

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

\_\_\_\_\_  
City Clerk

Approved As To Form and Correctness:

**SUNTRUST BANK**

\_\_\_\_\_  
City Attorney

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

**EXHIBIT A**

**FORM OF NOTE**

**CITY OF FORT PIERCE, FLORIDA  
CAPITAL IMPROVEMENT REVENUE REFUNDING NOTE,  
SERIES 2018**

| <u>Principal</u> | <u>Maturity Date</u> | <u>Note Rate</u>  | <u>Date of Issuance</u> |
|------------------|----------------------|---|-------------------------|
| \$6,895,000      | September 1, 2030    | 3.61%<br>(subject to<br>adjustment as<br>provided in<br>the<br>Agreement) | May 23, 2018            |

The CITY OF FORT PIERCE, FLORIDA (the “City”), for value received, hereby promises to pay, solely from the sources described in the within mentioned Agreement, to the order of SUNTRUST BANK, a Georgia banking corporation or its assigns (the “Holder”), the Principal stated above on the Maturity Date and to pay (but only out of the sources hereinafter mentioned) principal in the amounts and on the dates set forth on **Schedule I** attached hereto, commencing on September 1, 2018, and to pay interest on the outstanding principal amount until payment of said principal sum has been made or provided for, at the Note Rate shown above calculated on the basis of a 360-day year of 12, 30-day months. Payments due hereunder shall be payable in any coin or currency of the United States of America which, at the time of payment, is legal tender for the payment of public and private debts, which payments shall be made to the Holder hereof by ACH Direct Debit from a City designated account with SunTrust Bank or otherwise as the City and the Holder may agree. The Note shall not require presentment or delivery for prepayment or principal installment payments.

The Note Rate is subject to adjustment on the Conversion Date as provided in the Agreement and shall be adjusted in accordance with Sections 3.03 and 5.02 of that certain Loan Agreement by and between the Holder and the City, dated as of May 23, 2018 (the “Agreement”).

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

Prepayments. This Note shall be subject to prepayment at the option of the City, in whole but not in part on any Business Day on or after \_\_\_\_\_ 1, 2022, from any legally available monies at a prepayment price of 100% of the principal amount to be prepaid, plus accrued interest to the prepayment date. In addition, this Note shall be subject to prepayment at the option of the City, in part (in an amount not to exceed 10% of the principal amount of the 2018 Note Outstanding on the immediately preceding January 1) on any Business Day, from any legally available monies at a prepayment price of 100% of the principal amount to be prepaid, plus accrued interest to the prepayment date. Any prepayment shall be made on such date as shall be specified by the City in a written notice delivered to the Noteholder not less than five (5) days prior to the specified

prepayment date. Any prepayment shall be applied first to accrued interest, then to other amounts owed the Holder, and finally to principal. [Prepayments of principal shall be applied as determined by the Holder in its sole discretion.]

Notice having been given as aforesaid, the principal amount to be prepaid shall become due and payable on the prepayment date stated in such notice, together with interest accrued and unpaid to the prepayment date on such principal amount. If, on the prepayment date, funds for the payment of such principal amount, and any redemption premium together with interest to the prepayment date on such principal amount, shall have been given to the Holder, as above provided, then from and after the prepayment date interest on such principal amount of this Note shall cease to accrue.

This Note is authorized to be issued in the outstanding principal amount equal to the Principal under the authority of and in full compliance with the Constitution and statutes of the State of Florida, including, particularly, Chapter 166, Florida Statutes the municipal charter of the City, and other applicable provisions of law, City Resolution No. \_\_\_\_\_ adopted by the City Commission on May 21, 2018 (the "Resolution"), and the Agreement and is subject to all terms and conditions of the Agreement and the Resolution.

This Note is a limited, special obligation of the City, payable from and secured solely by a lien upon and pledge of the Pledged Revenues, as described and in the manner provided in the Agreement.

Notwithstanding any provision in this Note to the contrary, in no event shall the interest contracted for, charged or received in connection with this Note (including any other costs or considerations that constitute interest under the laws of the State of Florida which are contracted for, charged or received) exceed the maximum rate of nonusurious interest allowed under the State of Florida as presently in effect and to the extent an increase is allowable by such laws, but in no event shall any amount ever be paid or payable by the City greater than the amount contracted for herein.

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

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

The City hereby waives presentment, demand, protest and notice of dishonor. This Note is governed by and construed in accordance with the laws of the State of Florida. In the event of a conflict between the terms of this Note and the Agreement, this Note shall be controlled by the

terms of the Agreement and reference is hereby made thereto regarding interest rate adjustments and other matters.

Notwithstanding any provision in this Note to the contrary, in no event shall the interest contracted for, charged or received in connection with this Note (including any other costs or considerations that constitute interest under the laws of the State of Florida which are contracted for, charged or received) exceed the maximum rate of nonusurious interest allowed under the State of Florida as presently in effect and to the extent an increase is allowable by such laws, but in no event shall any amount ever be paid or payable by the City greater than the amount contracted for herein. This Note may be transferred only as provided in the Agreement.

*[REMAINDER OF PAGE INTENTIONALLY LEFT BLANK]*

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

**CITY OF FORT PIERCE, FLORIDA**

[SEAL]

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

ATTEST:

By: \_\_\_\_\_  
City Clerk

FORM OF CERTIFICATE OF AUTHENTICATION

Date of Authentication:

This Note is being delivered pursuant to the within mentioned Agreement.

**CITY OF FORT PIERCE, FLORIDA,**  
as Registrar

By: \_\_\_\_\_  
City Clerk

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**

| <u>DATE</u>       | <u>PRINCIPAL</u> |
|-------------------|------------------|
| September 1, 2018 | \$80,000         |
| September 1, 2019 | 55,000           |
| September 1, 2020 | 70,000           |
| September 1, 2021 | 590,000          |
| September 1, 2022 | 605,000          |
| September 1, 2023 | 620,000          |
| September 1, 2024 | 640,000          |
| September 1, 2025 | 660,000          |
| September 1, 2026 | 675,000          |
| September 1, 2027 | 695,000          |
| September 1, 2028 | 715,000          |
| September 1, 2029 | 735,000          |
| September 1, 2030 | 755,000          |

## EXHIBIT B

### FORM OF CONVERSION OPINION

**We have been engaged by City of Fort Pierce, Florida (the "City"),** to act as bond counsel for the issuance and delivery (for purposes of the Internal Revenue Code of 1986, as amended, and the regulations, rulings and judicial decisions relevant to the opinion set forth below (the "Code")) of its Capital Improvement Revenue Refunding Note, Series 2018, (the "Note").

The Note was originally issued by the City on May 23, 2018 (the "Dated Date") as a taxable obligation in which interest at the Pre-Conversion Rate was includible in gross income under the Code until June 3, 2020 (the "Conversion Date"), which is the date of delivery of this Conversion Opinion. On this Conversion Date the interest rate on the Note has been converted to the Tax-Exempt Rate, which is a lower rate, and the Note has been deemed to be reissued to effect a current refunding for purposes of the Code. This opinion is intended to supplement our opinion dated as of the Dated Date, rendered in connection with the initial issuance of the Note.

The City has executed a Tax Compliance Certificate dated as of the Conversion Date (the "Tax Compliance Certificate") which sets forth certain requirements that must be satisfied in order that interest on the reissued Note is, and continues to be, excluded from gross income for federal income tax purposes.

In our capacity as Bond Counsel, we have examined originals or copies, certified or otherwise identified to our satisfaction, of a transcript of proceedings of the City, the Tax Compliance Certificate, an executed Internal Revenue Service Form 8038-G, and such other documents and certificates as we have deemed relevant in rendering this opinion. As to questions of fact material to our opinion, we have relied upon the representations of the City contained in that Loan Agreement dated as May 23, 2018 between the City and SunTrust Bank (the "Agreement") and in the certified proceedings and other certifications of public officials furnished to us without undertaking to verify the same by independent investigation.

Based upon the foregoing, we are of the opinion, under existing law and as of the date hereof, that under the statutes, regulations, rulings and judicial decisions existing on the date hereof, interest on the Note is excluded from gross income for federal income tax purposes and is not a specific preference item for purposes of the federal alternative minimum tax. The opinions set forth in the preceding sentence assume compliance by the City with certain requirements of the Code that must be met subsequent to the reissuance of the Note. Failure to comply with such requirements could cause such interest to be includible in gross income for federal income tax purposes retroactive to the date of reissuance of the Note. The City has covenanted in the Agreement to comply with such requirements. We express no opinion regarding other federal tax consequences arising with respect to the reissued Note.

This opinion is limited to the matters specifically set forth above and we offer no other opinion or advice as to any other aspect of the financing generally described herein. This opinion is given as of the date hereof and we assume no obligation to update, revise or supplement this

opinion to reflect any facts or circumstances that may hereafter come to our attention or any changes in law that may hereafter occur.

Respectfully submitted