

during the term of the Note which would cause the Note to be an "arbitrage bond" within the meaning of the Code. The Issuer will comply with the requirements of the Code and any valid and applicable rules and regulations promulgated thereunder necessary to ensure the exclusion of interest on the Note from the gross income of the Owner thereof for purposes of federal income taxation.

Section 11: Amendment. No modification or amendment of this Ordinance or of any resolution amendatory hereof or supplemental hereto may be made without the consent in writing of the Owner; provided, however, that no consent of the Owner shall be required for amendments made to cure any ambiguity, formal defect or omission in this Ordinance.

Section 12: Limitation of Rights. With the exception of any rights herein expressly conferred, nothing expressed or mentioned in or to be implied from this Ordinance or the Note is intended or shall be construed to give to any Person other than the Issuer and the Owner any legal or equitable right, remedy or claim under or with respect to this Ordinance or any covenants, conditions and provisions herein contained; this Ordinance and all of the covenants, conditions and provisions hereof being intended to be and being for the sole and exclusive benefit of the Issuer and the Owner.

Section 13: Note Mutilated, Destroyed, Stolen or Lost. In case the Note shall become mutilated, or be destroyed, stolen or lost, the Issuer shall issue and deliver a new Note of like tenor as the Note so mutilated, destroyed, stolen or lost, in exchange and in substitution for such mutilated Note, or in lieu of and in substitution for the Note destroyed, stolen or lost and upon the Owner furnishing the Issuer proof of ownership thereof and indemnity reasonably satisfactory to the Issuer and complying with such other reasonable regulations and conditions as the Issuer may prescribe and paying such expenses as the Issuer may incur. The Note so surrendered shall be canceled.

Section 14: Impairment of Contract. The Issuer covenants with the Owner of the Note that it will not, without the written consent of the Owner of the Note, enact any ordinance or adopt any resolution which repeals, impairs or amends in any manner adverse to the Owner the rights granted to the Owner of the Note hereunder.

Section 15: Budget and Financial Information. At no cost to the Owner, the Issuer shall provide the Owner of the Note with annual audited financial statements for each Fiscal Year of the Issuer when available and in no event later than 270 days after the close of such Fiscal Year, prepared in accordance with applicable law and generally accepted accounting principles and audited by an independent certified public accountant. In addition, the Issuer shall provide to the Owner (at no cost to the Owner) of the Note such other financial and budget information as may be reasonably requested by the Owner from time to time. All accounting terms not specifically defined or specified herein shall have the meanings attributed to such terms under generally accepted accounting principles as in effect from time to time, consistently applied.

Section 16: Events of Default; Remedies of Owner. The following shall constitute "Events of Default": (i) if the Issuer fails to pay any payment of principal or interest on the Note as the same becomes due and payable; (ii) if the Issuer defaults in the performance or

observance of any covenant or agreement contained in this Ordinance or the Note (other than set forth in (i) above) and fails to cure the same within thirty (30) days following written notice thereof; or (iii) filing of a petition by or against the Issuer relating to bankruptcy, reorganization, arrangement or readjustment of debt of the Issuer or for any other relief relating to the Issuer under the United States Bankruptcy Code, as amended, or any other insolvency act or law now or hereafter existing, or the involuntary appointment of a receiver or trustee for the Issuer, and the continuance of any such event for ninety (90) days undismissed or undischarged.

Upon the occurrence and during the continuation of any Event of Default, the Owner of the Note may, in addition to any other remedies set forth in this Ordinance or the Note, either at law or in equity, by suit, action, mandamus or other proceeding in any court of competent jurisdiction, protect and enforce any and all rights under the laws of the State, or granted or contained in this Ordinance, and may enforce and compel the performance of all duties required by this Ordinance, or by any applicable statutes to be performed by the Issuer.

In case of an Event of Default pursuant to (i) above, upon written declaration of the Owner of the Note, the entire debt then remaining unpaid under the Note shall be immediately due and payable.

Section 17: *Anti-Dilution Test.* The Issuer may incur additional debt secured by Non-Ad Valorem Revenues only if (i) the total amount of Available Non-Ad Valorem Revenues for the prior Fiscal Year were at least 1.5 times the maximum annual debt service of all debt (including all long-term financial obligations appearing on the Issuer's most recent audited financial statements and the debt proposed to be incurred) to be paid from Non-Ad Valorem Revenues (collectively, "Debt"), including any Debt payable from one or several specific revenue sources (notwithstanding anything herein to the contrary, for purposes of the calculation, Debt shall not include any indebtedness the debt service on which is reasonably expected to be paid from sources other than Non-Ad Valorem Revenues), and (ii) projected maximum annual debt service requirements for all Debt will not exceed 20% of general fund revenues, exclusive of (a) Ad Valorem Revenues restricted to payment of debt service on any debt and (b) any debt proceeds, and based on the Issuer's prior two Fiscal Years audited financial statements (average of actual receipts of the prior two Fiscal Years).

For purposes of calculating maximum annual debt service on Debt that has a variable interest rate ("Variable Rate Debt"), interest on such Variable Rate Debt shall be computed at an interest rate equal to The Bond Buyer Index published not more than two weeks prior to the calendar of such rate.

For purposes of calculating maximum annual debt service, balloon indebtedness shall be assumed to amortize over 30 years (from the date of calculation) on a level debt service basis. In the event that the Issuer is required to fund a reserve fund, the funding of such reserve fund shall be included in the calculation of debt service. For purposes of this paragraph, "balloon indebtedness" means indebtedness structured with 25% or more of the principal amount coming due in any one year.

Notwithstanding anything herein to the contrary, the provisions of this Section 17 may be amended, supplemented, or waived from time to time only with the written consent of the Owner of the Note.

Section 18: *Validation Proceeding.* Note Counsel, together with the City Attorney, is hereby authorized and directed to institute appropriate proceedings in the Circuit Court in and for Pinellas County, Florida, for validation of the Note pursuant to Chapter 75, Florida Statutes, and the proper officers of the Issuer are hereby authorized to verify on behalf of the Issuer the pleadings in such proceedings.

Section 19: *Intent to Reimburse.* The City Commission hereby expresses its intention that the Issuer be reimbursed from the proceeds of the Note for any costs incurred in connection with the Project prior to the issuance of the Note.

Section 20: *Severability of Invalid Provisions.* If any one or more of the covenants, agreements or provisions of this Ordinance should be held contrary to any express provision of law or contrary to the policy of express law, though not expressly prohibited, or against public policy, or shall for any reason whatsoever be held invalid, then such covenants, agreements or provisions shall be null and void and shall be deemed separate from the remaining covenants, agreements or provisions and in no way affect the validity of all the other provisions of this Ordinance of the Note issued hereunder.

Section 21: *Business Days.* In any case where the due date of interest on or principal of a 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, provided that credit for payments made shall not be given until the payment is actually received by the Owner.

Section 22: *Bank Qualified.* If issued in calendar year 2019, the Issuer hereby designates the Note as a "qualified tax-exempt obligation" within the meaning of Section 265(b)(3) of the Code, and as such, the Issuer and any subordinate entities of the Issuer and any issuer of "tax-exempt" debt that issues "on behalf of" the Issuer do not reasonably expect during the calendar year 2019 to issue more than \$10,000,000 of "tax-exempt" obligations including the Note, exclusive of any private activity bonds as defined in Section 141(a) of the Code (other than qualified 501(c)(3) bonds as defined in Section 145 of the Code). If the Note is not issued in calendar year 2019, the Issuer may designate the Note as a "qualified tax-exempt obligation" pursuant to a Supplemental Resolution.

Section 23: *Applicable Provisions of Law; Waiver of Jury Trial.* This Ordinance shall be governed by and construed in accordance with the laws of the State of Florida. The Issuer and the Original Purchaser, as evidenced by acceptance of the Note, shall each consent to Florida jurisdiction and each agree to waiver trial by jury in any action arising under this Ordinance or Note.

Section 24: *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 Ordinance and not solely to the particular portion in which any such word is used.

Section 25: *Captions.* The captions and headings in this Ordinance are for convenience only and in no way define, limit or describe the scope or intent of any provisions or sections of this Ordinance.

Section 26: *No Personal Liability.* Neither the members of the City Commission nor any person executing the Note shall be personally liable therefore or be subject to any personal liability or accountability by reason of the issuance thereof.

Section 27: *Authorizations.* The Mayor and any member of the City Commission, the City Manager, the City Attorney, the Clerk, the Finance Director and such other officials and employees of the Issuer as may be designated by the Issuer are each designated as agents of the Issuer in connection with the issuance and delivery of the Note and are authorized and empowered, collectively or individually, to take all action and steps and to execute all instruments, documents, and contracts on behalf of the Issuer that are necessary or desirable in connection with the execution and delivery of the Note, and which are specifically authorized or are not inconsistent with the terms and provisions of this Ordinance.

Section 28: *Repealer.* All ordinances or parts thereof in conflict herewith are hereby repealed.

Section 29: *No Third Party Beneficiaries.* Except such other persons as may be expressly described in this Ordinance or in the Note, nothing in this Ordinance or in the Note, expressed or implied, is intended or shall be construed to confer upon any person, other than the Issuer and the Owner, any right, remedy or claim, legal or equitable, under and by reason of this Ordinance, 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 Issuer and the Persons who shall from time to time be the Owner.

Section 30: *Ordinance to Constitute a Contract.* In consideration of the acceptance of the Note authorized to be issued hereunder by the Owner, this Ordinance shall be deemed to be and shall constitute a contract between the Issuer and the Owner. The covenants and agreements herein set forth to be performed by the Issuer shall be for the benefit, protection and security of the Owner.

Section 31: *Severability.* If any provision of this Ordinance is held or deemed to be or in fact, is illegal, inoperative or unenforceable in any context, it will not affect any other provision of this Ordinance or render any other provision (or such provision in any other context) invalid, inoperative or unenforceable to any extent.

Section 32: *Effective Date.* This Ordinance must be published as provided by law and will take effect immediately upon its Second Reading and Public Hearing.

This Ordinance will take effect upon its final passage by 4/5th majority of the City Commission.

FIRST READING and PUBLIC HEARING on the ____ day of _____, 2019.

SECOND READING and PUBLIC HEARING on the ____ day of _____, 2019.

PUBLISHED in the Tampa Bay Times on the ____ day of _____, 2019.

Lawrence Lunn, Mayor

ATTEST:

Ruth Nickerson, City Clerk

APPROVED AS TO FORM:

Jennifer Cowan, City Attorney

Attachment: Agenda-Ordinance (01472534) (2056 : Ordinance 2019-06)

EXHIBIT A

[FORM OF NOTE]

_____, 2019

\$ _____

**CITY OF TREASURE ISLAND, FLORIDA
NON-AD VALOREM REVENUE NOTE, SERIES 2019
(CITY HALL PURCHASE/RENOVATE PROJECT)**

KNOW ALL MEN BY THESE PRESENTS that the City of Treasure Island, Florida (the "Issuer"), a municipal corporation created and existing pursuant to the Constitution and the laws of the State of Florida, for value received, promises to pay from the sources hereinafter provided, to the order of _____ or registered assigns (hereinafter, the "Owner"), the principal sum of \$_____, together with interest on the principal balance at the "Interest Rate" described below; provided, however, that such interest rate shall in no event exceed the maximum interest rate permitted by applicable law. This Note shall bear interest at a fixed rate equal to ____%. Interest shall be calculated on a 30/360 day basis. All of the principal on this Note shall be due on the "Maturity Date" of _____ 1, 20__.

Interest shall be payable to the Owner on each ____ 1 and _____ 1, commencing on _____ 1, 20__. No principal payments on this Note shall be required until the final maturity date.

[Prepayment Provisions must be determined in Bank Loan RFP]

If any date for the payment of principal and interest hereon shall fall on a day which is not a Business Day the payment due on such date shall be due on the next succeeding day which is a Business Day, but the Issuer shall not receive credit for the payment until it is actually received by the Owner.

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

THIS NOTE DOES NOT CONSTITUTE A GENERAL INDEBTEDNESS OF THE ISSUER WITHIN THE MEANING OF ANY CONSTITUTIONAL, STATUTORY OR CHARTER PROVISION OR LIMITATION, AND IT IS EXPRESSLY AGREED BY THE HOLDER OF THIS NOTE THAT SUCH OWNER SHALL NEVER HAVE THE RIGHT TO REQUIRE OR COMPEL THE EXERCISE OF THE AD VALOREM TAXING POWER OF THE ISSUER OR TAXATION OF ANY REAL OR PERSONAL PROPERTY THEREIN OR USE OR APPLICATION OF AD VALOREM TAX REVENUES OF THE ISSUER FOR THE PAYMENT OF THE PRINCIPAL OF AND INTEREST ON THIS NOTE OR THE MAKING OF ANY OTHER PAYMENTS PROVIDED FOR IN THE ORDINANCE.

This Note is issued pursuant to Article VIII, Section 2 of the Constitution of the State of Florida, Chapter 166, Parts I and II, Florida Statutes, the municipal charter of the Issuer and other applicable provisions of law and Ordinance No. 2019-06 duly enacted by the City Commission on _____, 2019, as supplemented by Resolution 19- __ adopted by the City Commission on _____, 2019 (collectively, the "Ordinance"), and is subject to all the terms and conditions of the Ordinance. All terms, conditions and provisions of the Ordinance including, without limitation, remedies in the Event of Default are by this reference thereto incorporated herein as a part of this Note. Payment of the Note is secured by a covenant to budget, appropriate and deposit Non-Ad Valorem Revenues of the Issuer and a pledge of and lien upon the Pledged Revenues, in the manner and to the extent described in the Ordinance. Terms used herein in capitalized form and not otherwise defined herein shall have the meanings ascribed thereto in the Ordinance.

In the event of a Determination of Taxability, the interest rate shall be subject to a full gross-up modification, as determined by the Owner (the "Taxable Rate"), effective retroactively to the date on which such Determination of Taxability was made. In addition, upon a Determination of Taxability, the Issuer 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" means a final decree or judgment of any federal court or a final action of the Internal Revenue Service or of the United States Treasury Department determining that any interest payable on this Note is includable in the gross income of the Owner, based only on an action or inaction by the Issuer and not based on a change in law. No such decree or action shall be considered final for the purposes of this paragraph unless the Issuer has been given written notice thereof and, if it is so desired by the Issuer and is legally permissible, the Issuer has been afforded the opportunity to contest the same, at its own expense, either directly or in the name of the Owner and until the conclusion of any appellate review, if sought.

A final payment in the amount of the entire unpaid balance, together with all accrued and unpaid interest thereon, shall be due and payable in full on the Maturity Date.

This Note may be exchanged or transferred by the Owner hereof but only upon the registration books maintained by the Issuer and in the manner provided in the Ordinance.

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

IN WITNESS WHEREOF, the City of Treasure Island, Florida has caused this Note to be executed in its name by the manual signature of its Mayor and City Manager and attested by the manual signature of its Clerk, and its seal to be impressed hereon, all as of this ____ day of _____, 2019.

CITY OF TREASURE ISLAND,
FLORIDA

(SEAL)

Mayor

City Manager

ATTESTED:

City Clerk

Attachment: Agenda-Ordinance (01472534) (2056 : Ordinance 2019-06)

EXHIBIT B**FORM OF LENDER'S CERTIFICATE**

This is to certify _____ (the "Lender") has made a loan (the "Loan") to the City of Treasure Island, Florida (the "Issuer"). The Loan is evidenced by the Issuer's Non-Ad Valorem Revenue Note, Series 2019 (City Hall Purchase/Renovate Project) dated _____, 2019 (the "Note"). The Lender acknowledges that the Loan is being made as a direct loan and not through the purchase of municipal securities. Any capitalized terms not otherwise defined herein shall have the meanings set forth in Ordinance No. 2019-06 enacted by the City Commission on _____, 2019, as amended and supplemented from time to time, and particularly as supplemented by Resolution No. 19-__ adopted by the City Commission on _____, 2019 (together, the "Ordinance").

We are aware that investment in the Loan involves various risks, that the Note is not a general obligation of the Issuer or payable from ad valorem tax revenues, and that the repayment of the Loan is secured solely from the sources described in the Ordinance (the "Loan Security").

We are a sophisticated investor and have made such independent investigation of the Loan Security as we, in the exercise of sound business judgment, consider to be appropriate under the circumstances. We have been provided access to and have reviewed all information about the Issuer we deemed necessary. In making our lending decision, we have relied upon the accuracy of information which has been provided to us by the Issuer and the Financial Advisor. We acknowledge that the Financial Advisor is not acting as a placement agent.

We have knowledge and experience in financial and business matters and are capable of evaluating the merits and risks of our Loan and can bear the economic risk of our Loan.

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 Issuer in connection with the Loan and no inference should be drawn that the Lender, in the acceptance of said Note, is relying on Note Counsel or the City Attorney as to any such matters other than the legal opinion rendered by such parties.

We acknowledge that no CUSIP numbers or credit ratings have been obtained with respect to the Note. We further acknowledge that we are making the Loan for our own account, we do not currently intend to syndicate the Loan, we will take no action to cause the Note to be characterized as a security, we will not treat the Loan as a municipal security for purposes of the securities law, the Loan will not be used in the future on a securitized transaction and is not a municipal security.

We understand that the Loan is evidenced by the Note and the Note is issued in a single denomination equal to the principal amount of the Loan and may only be transferred in whole to a Permitted Lender in a single denomination equal to the principal amount of the Note.

We are not acting as a broker or other intermediary and are funding the Loan with our own capital and for our own account and not with a present view to a resale or other distribution to the public. We are a bank as contemplated by Section 517.061(7), Florida Statutes. We are 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.

We are an "accredited investor" as such term is defined in the Securities Act of 1933, as amended, and Regulation D thereunder.

This Certificate is furnished by us as Lender based solely on our knowledge on the day hereof and is solely for the benefit of the Issuer and may not be relied upon by, or published or communicated to, any other person without our express written consent. We disclaim any obligation to supplement this letter to reflect any facts or circumstances that may hereafter come to our attention.

DATED this ____ of _____, 2019.

By: _____

Name: _____

Title: _____

Attachment: Agenda-Ordinance (01472534) (2056 : Ordinance 2019-06)

EXHIBIT C

FORM OF DISCLOSURE LETTER

The undersigned, as purchaser, proposes to negotiate with the City of Treasure Island, Florida (the "Issuer") for the purchase of its City of Treasure Island, Florida Non-Ad Valorem Revenue Note, Series 2019 (City Hall Purchase/Renovate Project) (the "Note") in the principal amount of \$_____. Prior to the award of the Note, the following information is hereby furnished to the Issuer:

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 Issuer):

_____, Lender's Counsel
\$_____

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 Issuer, for any paid or promised compensation or valuable consideration, directly or indirectly, expressly or implied, to act solely as an intermediary between the Issuer 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 \$__.

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

5. Truth-in-Bonding Statement:

The Note is being issued primarily to finance the costs of the Project (as such term is defined in the Ordinance) and pay the cost of issuance of the Note.

Unless earlier redeemed, the Note is expected to be repaid by _____ 1, ____; at an interest rate of ____%, total interest paid over the life of the Note is estimated to be \$_____.

The Note will be payable solely from a covenant to budget, appropriate and deposit from Non-Ad Valorem Revenues in the manner and to the extent described in Ordinance No. 2019-06 enacted by the City Commission on _____, 2019, as amended and supplemented from time to

time, and particularly as supplemented by Resolution No. 19-__ adopted by the City Commission on _____, 2019 (together, the "Ordinance"). See the Ordinance for a definition of Non-Ad Valorem Revenues. Issuance of the Note is estimated to result in an annual average of approximately \$_____ of revenues of the Issuer not being available to finance the other services of the Issuer during the life of the Note. This paragraph is provided pursuant to Section 218.385, Florida Statutes.

6. The name and address of the Lender is as follows:

IN WITNESS WHEREOF, the undersigned has executed this Disclosure Letter on behalf of the Lender this ___ day of _____, 2019.

By: _____

Name: _____

Title: _____

Attachment: Agenda-Ordinance (01472534) (2056 : Ordinance 2019-06)