
LOAN AGREEMENT

BETWEEN

TOWN OF PALM BEACH, FLORIDA

AND

PROFESSIONAL BANK

Dated: October __, 2019

This **LOAN** (the “Agreement”) is made and entered into October __, 2019, by and between the Town of Palm Beach, Florida, a municipal corporation in the State of Florida, and its successors and assigns (the “Town”), and Professional Bank, a Florida banking corporation and its successors and assigns (the “Financial Institution”);

WITNESSETH:

WHEREAS, the Town of Palm Beach, Florida (the “Town”), pursuant to the provisions of the Florida Constitution; the Town Charter of the Town as amended and supplemented; Chapter 166, Florida Statutes, as amended and supplemented; and other applicable provisions of law (collectively, the “Act”) is authorized to borrow money, contract loans and issue bonds, notes or other obligations or evidences of indebtedness of any type or character to finance or refinance the undertaking of any capital or other project for purposes permitted under Florida law; and

WHEREAS, pursuant to Resolution Nos. 13-10 and 14-10 (collectively, the “2010 Bond Resolution”) adopted by the Town Council of the Town on January 12, 2010, the Town issued its Public Improvement Revenue and Refunding Bonds, Series 2010A (Capital Improvement Program)(the “Series 2010A Bonds”) to finance and refinance certain capital improvements of the Town and pay related costs of issuance; and

WHEREAS, according to PFM Financial Advisors LLC, the Town’s Financial Advisor, recent low market interest rates make it advisable for the Town to refund the Series 2010A Bonds maturing on and after January 1, 2021 (the “Refunded Bonds”); and

WHEREAS, the Financial Institution has agreed to make a loan to the Town in an amount of not exceeding \$4,700,000 to be used by the Town to currently refund the Refunded Bonds and paying costs of issuance of the Series 2019 Bond, as described below; and

NOW, THEREFORE, THIS AGREEMENT WITNESSETH:

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

ARTICLE I

DEFINITION OF TERMS

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

“Act” shall mean the Florida Constitution, Chapter 166 of the Florida Statutes, as amended and supplemented and the Charter of the Town, as amended and supplemented, and other applicable provisions of the law.

“Agreement” shall mean this Loan Agreement, dated October __, 2019, between the Town and the Financial Institution and any and all modifications, alterations, amendment and supplements hereto made in accordance with the provisions hereof.

“Bond Counsel” shall mean Locke Lord LLP.

“Bondholder” shall mean Professional Bank, or any subsequent holder of any Series 2019 Bond.

“Bond Resolution” shall mean Resolution No. __-2019, adopted by the Town Council of the Town on October 10, 2019, which among other things authorized the issuance of the Series 2019 Bond pursuant to this Agreement to refund the Refunded Bonds.

“Clerk” shall mean the Clerk of the Town, including any deputy clerk.

“Code” shall mean the Internal Revenue Code of 1986, the applicable Treasury Regulations promulgated thereunder and any administrative or individual interpretations of the same published in a form on which the Town may rely as a matter of law.

“Escrow Deposit Agreement” shall mean that certain escrow deposit agreement by and between the Town and The Bank of New York Mellon Trust Company, N.A., as Escrow Agent dated as of the date hereof.

“Financial Institution” shall mean Professional Bank and its successors and assigns.

“Interest Payment Date” shall mean each January 1 and July 1, commencing on January 1, 2020.

“Interest Rate” shall mean 2.33% per annum.

“Loan” shall mean the outstanding principal amount from time to time of the Series 2019 Bond issued hereunder.

“Non-Ad Valorem Revenues” shall mean all legally available revenues of the Town derived from any source whatever other than ad valorem taxation on real and personal property, but including appropriable fund balances within all funds over which the Town Council of the Town has full and complete discretion to appropriate the resources therein and which are legally available for payment of debt service by the Town.

“Maturity Date” shall mean January 1, 2040.

“Payment Date” shall mean with respect to principal of and interest on the Series 2019 Bond, each Interest Payment Date, Principal Payment Date, the Maturity Date, or any date the principal of the Series 2019 Bond is optionally prepaid in whole or in part.

“Pledged Revenues” shall mean (a) the Town Moneys, (b) the proceeds of the Series 2019 Bond pending the application thereof, and (c) any other additional moneys the Town may elect by subsequent proceedings of the Town to encumber for the payment of the principal of, redemption premium, if any, and interest on the Series 2019 Bond.

“Principal Payment Date” shall mean each January 1, commencing on January 1, 2021 to and including the Maturity Date.

“Refunded Bonds” shall mean the Town’s outstanding Public Improvement Revenue and Refunding Bonds, Series 2010A (Capital Improvement Program) maturing on and after January 1, 2021.

“Series 2019 Bond” shall mean the Town’s Public Improvement Revenue Refunding Bond, Series 2019.

“Town” shall mean the Town of Palm Beach, Florida, a municipal corporation in the State of Florida.

“Town Moneys” shall mean the moneys budgeted and appropriated by the Town and set aside in the General Fund pursuant to Section 2.04 hereof for purposes of paying debt service on the Series 2019 Bond, from not otherwise pledged, restricted or encumbered Non-Ad Valorem Revenues pursuant to the Town’s covenant to budget and appropriate such Non-Ad Valorem Revenues.

SECTION 1.02. Interpretation. Unless the context clearly requires otherwise, words of masculine gender shall be construed to include correlative words of the feminine and neuter genders and vice versa, and words of the singular number shall be construed to include correlative words of the plural number and vice versa. Any capitalized terms used in this Agreement not herein defined shall have the meaning ascribed to such terms in the Bond Resolution.

This Agreement and all the terms and provisions hereof shall be construed to effectuate the purpose set forth herein and to sustain the validity hereof.

SECTION 1.03. Titles and Headings. The titles and headings of the articles and sections of this Agreement have been inserted for convenience of reference only and are not 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.

(End of Article I)

ARTICLE II

REPRESENTATIONS, WARRANTIES, AND COVENANTS

SECTION 2.01. Representations by the Town. The Town represents and warrants that:

(1) The Town is a municipal corporation in the State of Florida validly existing under the laws of the State of Florida (the “State”), including the Act. Pursuant to the Bond Resolution, the Town has authorized the issuance of the Series 2019 Bond and the execution and delivery of this Agreement and the Escrow Deposit Agreement, and the performance by the Town of all of its obligations hereunder, under the Escrow Deposit Agreement and under the Series 2019 Bond, and the Town has the power and authority to execute and deliver this Agreement and Escrow Deposit Agreement. This Agreement, the Escrow Deposit Agreement and the Series 2019 Bond have been duly executed and delivered by the Town and each constitutes the legal, valid and binding obligation of the Town, enforceable against the Town in accordance with their respective terms, subject to bankruptcy laws and other laws affecting creditor’s rights and the exercise of judicial discretion.

(2) The Town has complied with all of the provisions of the constitution and laws of the State, including the Act, and has full power and authority to enter into and consummate all transactions contemplated by this Agreement or under the Series 2019 Bond, and to perform all of its obligations hereunder and the transactions contemplated hereby do not conflict with the terms of any statute, order, rule, regulation, judgment, decree, agreement, instrument or commitment to which the Town is a party or by which the Town is bound.

(3) There are no actions, suits or proceedings pending or, to the knowledge of the Town, threatened against or affecting the Town or involving the validity or enforceability of this Agreement, the Bond Resolution or the Series 2019 Bond, or the authority of the Town to impose and collect its Non-Ad Valorem Revenues, at law or in equity, or before or by any governmental authority, except actions, suits and proceedings that are fully covered by insurance or that, if adversely determined, would not materially impair the ability of the Town to perform the Town’s obligations under this Agreement or under the Series 2019 Bond.

(4) The financial information furnished to Financial Institution in connection with this Agreement is complete and accurate, and Town has no known undisclosed direct or contingent liability.

(5) The Town has not incurred any debts, liabilities, or obligations and has not committed itself to incur any debts, liabilities, or obligations other than those disclosed to Financial Institution in connection with the Loan hereunder or shown on the financial statements submitted to Financial Institution.

(6) The Town will furnish to Financial Institution within 270 days after the close of each Fiscal Year an annual audited financial statement of the Town certified by an independent certified public accountant.

(7) The Town shall provide the Financial Institution with its annual budget within thirty (30) days of its adoption upon request of the Financial Institution, and the Town shall provide the Financial Institution with the right to inspect or receive copies of other financial reports, information, accounts, statements, documents upon reasonable prior notice.

SECTION 2.02. General Representations, Warranties and Covenants of the Financial Institution. The Financial Institution hereby represents, warrants and agrees that it is a Florida banking corporation authorized to execute and deliver this Agreement and to perform its obligations hereunder, and such execution and delivery will not constitute a violation of its charter, articles of association or bylaws. Pursuant to the terms and provisions of this Agreement, the Financial Institution agrees to loan to the Town up to \$4,700,000 for the purpose of refunding the Refunded Bonds and paying related costs of issuance.

SECTION 2.03. Tax Covenant. In order to maintain the exclusion from gross income for purposes of Federal income taxation of interest on the Series 2019 Bond, the Town shall comply with each necessary requirement of and not permit any omission under the Code to maintain the exclusion of interest on the Series 2019 Bond from gross income for Federal income tax purposes. In furtherance of the covenant contained in the preceding sentence, the Town agrees to continually comply with the provisions of the Tax Certificate, to be executed by the Town, at the time the Series 2019 Bond is issued, as such certificate may be amended from time to time, as a source of guidance for achieving compliance with the Code (herein referred to as the “Tax Certificate”).

The Town shall make any and all payments required to be made to the United States Department of the Treasury in connection with the Series 2019 Bond pursuant to Section 148(f) of the Code.

Notwithstanding any other provision of the Bond Resolution to the contrary, so long as necessary in order to maintain the exclusion from gross income of interest on the Series 2019 Bond for Federal income tax purposes, the covenants contained in this Section shall survive the payment of the Series 2019 Bond and the interest thereon, including any payment or defeasance thereof.

The Town shall not use or permit the use of any of the proceeds of the Series 2019 Bond, or any other funds of the Town, directly or indirectly, to acquire any securities, obligations or other investment property, and shall not take or permit to be taken any other action or actions, which would cause any Series 2019 Bond to be an “arbitrage bond” as defined in Section 148 of the Code.

SECTION 2.04. Covenant to Budget and Appropriate. The Town covenants and agrees to appropriate in its annual budget, by amendment, if necessary, from Non-Ad Valorem Revenues, amounts sufficient to pay the principal of, redemption price, if applicable, and interest on the Series 2019 Bond when due, all in accordance with the provisions of this Agreement. Such covenant and agreement on the part of the Town to budget and appropriate such amounts of Non-Ad Valorem Revenues shall be cumulative to the extent not paid, and shall continue until

such Non-Ad Valorem Revenues or other legally available funds in amounts sufficient to make all such required payments shall have been budgeted, appropriated and actually paid. Notwithstanding the foregoing covenant of the Town, the Town does not covenant to maintain any services or programs, now provided or maintained by the Town, which generate Non-Ad Valorem Revenues.

The Town agrees that its covenant and agreement to budget and appropriate Non-Ad Valorem Revenues shall be deemed entered into for the benefit of Bondholder and this obligation may be enforced by a court of competent jurisdiction. However, 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 Town from pledging in the future its Non-Ad Valorem Revenues, nor does it require the Town to levy and collect any particular Non-Ad Valorem Revenues, nor does it give the Bondholder a prior claim on the Non-Ad Valorem Revenues as opposed to claims of general creditors of such Town. However, the covenant to budget and appropriate for the purposes and in the manner stated herein shall have the effect of making available for the payment of the Series 2019 Bond, in the manner described herein, Non-Ad Valorem Revenues, and placing on the Town a positive duty to appropriate and budget, by amendment, if necessary, amounts sufficient to meet its obligations hereunder; subject, however, in all respects to the restrictions of Section 166.241(3), Florida Statutes, which provides, in part, that the governing body of each municipality make appropriations for each fiscal year which, in any one year, shall not exceed the amount to be received from taxation or other revenue sources; and subject, further, to the payment of services and programs which are for essential public purposes affecting the health, welfare and safety of the inhabitants of the Town or which are legally mandated by applicable law.

SECTION 2.05. Additional Debt Secured by a Covenant to Budget and Appropriate from Non-Ad Valorem Revenues. The Town covenants that in each fiscal year while the Series 2019 Bond is outstanding, the total Non-Self-Supporting Debt Service (as defined below) due in any fiscal year of the Town will not exceed 50% of Non-Ad Valorem Revenues of the Town. In addition, the Town has covenanted and agreed that it will not incur any indebtedness payable from or supported by a pledge of the Non-Ad Valorem Revenues unless the Town can show that following the incurrence of such additional indebtedness, (i) the total amount of Non-Ad Valorem Revenues (based on the most recent fiscal year) will be greater than 2.00 times the then Maximum Debt Service, and (ii) the total amount of Non-Ad Valorem Revenues in each fiscal year in which the Series 2019 Bond is outstanding (based on reasonable projections of the Town) will be greater than 2.00 times the Non-Self-Supporting Debt in each such fiscal year.

For purposes of determining compliance with the foregoing test, the term “Non-Ad Valorem Revenues” means all legally available revenues of the Town derived from any source whatever, other than ad valorem taxation on real and personal property, which are legally available for payment by the Town of Non-Self-Supporting Debt, excluding Project Grant Moneys, non-ad valorem special assessments which are exclusively pledged to the payment of obligations secured by the special assessments (“Special Assessment Obligations”), and Direct Payments, regardless of whether a particular source of Non-Ad Valorem Revenues has been pledged to any specific Non-Self-Supporting Debt or may not otherwise be available to pay debt service on any specific Non-Self-Supporting Debt. It should be noted that pursuant to applicable Florida law certain components

of Non-Ad Valorem Revenues may not be legally available to pay debt service on the Series 2019 Bond.

“Direct Payments” means any direct payments, grants or other subsidies received from the federal government or the State of Florida relative to debt service on debt obligations. “Project Grant Moneys” means any federal, State of Florida, county or other grant moneys relating to the capital projects financed by the Refunded Bonds that are legally available to pay principal and/or interest on the Bond, but does not include Direct Payments.

“Non-Self-Supporting Debt” means debt service on debt obligations of the Town other than debt obligations relating to an enterprise fund or general obligation bonds of the Town or Special Assessment Obligations. In addition, for purposes of the foregoing (i) “Non-Self- Supporting Debt Service” means the debt service on Non-Self-Supporting Debt, and (ii) “Maximum Debt Service” means, at any time, the maximum amount required in the then current or any future fiscal year to pay (a) all Non-Self-Supporting Debt, and (b) the proposed indebtedness of the Town (i) which will be payable from Non-Ad Valorem Revenues or (ii) for which the Non-Ad Valorem Revenues will be pledged.

The foregoing notwithstanding, in the event any debt obligations are additionally secured by non-ad valorem special assessments, debt service on such debt obligations shall be calculated net of the amount of non-ad valorem special assessments collected during the prior fiscal year provided that at least 90% of the non-ad valorem special assessments imposed in the prior fiscal year are collected, and in such event such non-ad valorem special assessments are not included in the calculation of Non-Ad Valorem Revenues. If less than 90% of the non-ad valorem special assessments imposed in the prior fiscal year are collected, the debt service on the debt obligations additionally secured by non-ad valorem special assessments will be included as Non-Self-Supporting Debt Service, but the Town will be permitted to treat the non-ad valorem special assessments that were collected as Non-Ad Valorem Revenues for purposes of the foregoing tests.

In the case of debt obligations bearing interest at a variable rate (“Variable Rate Bonds”), interest on such Variable Rate Bonds shall be assumed to be the greater of (A) one hundred ten percent (110%) of the average interest rate on such Variable Rate Bonds during the twenty-four (24) months ending with the month preceding the date of calculation or such shorter period that such Variable Rate Bonds shall have been outstanding; and (B) the actual rate of interest on such Variable Rate Bonds on the date of calculation; provided that if a series of Variable Rate Bonds had not been outstanding prior to the date of calculation, the amount set forth in clause (A) above shall be calculated as though such Variable Rate Bonds had been outstanding for the twenty-four (24) month period by using (i) one hundred ten percent (110%) of the average of the Securities and Financial Markets Association (SIFMA) Municipal Swap Index for the twenty-four (24) months ending with the month preceding the date of calculation, and (ii) if the Variable Rate Bonds are bonds the interest on which is includable in the gross income of the holders thereof for federal income tax purposes, the 1-month LIBOR interest rate.

SECTION 2.06. [Reserved].

SECTION 2.07. Payment Covenant. The Town covenants that it shall duly and punctually pay from Pledged Revenues the principal of the Series 2019 Bond, the interest thereon at the Interest Rate on the Payment Dates and place and in the manner provided herein and in the Series 2019 Bond according to the true intent and meaning thereof.

(End of Article II)

ARTICLE III
TOWN'S OBLIGATION, DESCRIPTION,
PAYMENT TERMS, OPTIONAL PREPAYMENT

SECTION 3.01. Series 2019 Bond Not to be Indebtedness of the Town or State. THE SERIES 2019 BOND, WHEN DELIVERED BY THE TOWN PURSUANT TO THE TERMS OF THIS AGREEMENT, SHALL NOT BE OR CONSTITUTE AN INDEBTEDNESS OF THE TOWN OR THE STATE OF FLORIDA, WITHIN THE MEANING OF ANY CONSTITUTIONAL, STATUTORY OR CHARTER LIMITATIONS OF INDEBTEDNESS, BUT SHALL BE PAYABLE SOLELY AS HEREIN PROVIDED. NO BONDHOLDER SHALL EVER HAVE THE RIGHT TO COMPEL THE EXERCISE OF THE AD VALOREM TAXING POWER OF THE TOWN OR PALM BEACH COUNTY, FLORIDA, OR TAXATION IN ANY FORM ON ANY PROPERTY THEREIN TO PAY THE SERIES 2019 BOND OR THE INTEREST THEREON.

The Series 2019 Bond is payable as to both principal, redemption premium, if any, and interest, from a lien on and pledge of Pledged Revenues in the manner herein provided.

The covenant to appropriate Non-Ad Valorem Revenues is not a pledge by the Town of such Non-Ad Valorem Revenues until appropriated in the Town's budget as Pledged Revenues but is subject in all respects to the payment of obligations secured by a pledge of Non-Ad Valorem Revenues of the Town heretofore or hereafter entered into, including the payment of debt service on bonds or other debt obligations.

SECTION 3.02. Description and Payment Terms of the Series 2019 Bond.

(a) The Town shall, pursuant to authority granted under the Bond Resolution, issue and deliver the Series 2019 Bond to the Financial Institution as Bondholder. The Series 2019 Bond shall be designated as "Town of Palm Beach, Florida Public Improvement Revenue Refunding Bond, Series 2019" with such other designation as the Town deems appropriate and the outstanding principal amount of such Series 2019 Bond shall not exceed Four Million Seven Hundred Thousand Dollars (\$4,700,000). The Series 2019 Bond shall be in the form attached hereto as Exhibit A.

(b) The Series 2019 Bond shall be dated its date of delivery and bear interest from its date at the rate or rates set forth therein.

(c) Each Series 2019 Bond shall be subject to prepayment in the manner set forth in the Series 2019 Bond.

(d) Each Series 2019 Bond shall be initially registered in the name of the Financial Institution. For so long as the Bond remains unpaid, the Town will keep books and records for the registration and transfer of the Bond. The Bond shall be transferable only upon such registration books in any denominations equal to the principal amount thereof. The person or entity in whose name a Bond shall be registered shall be deemed the registered Bondholder and the absolute owner thereof for all purposes, and the payment of principal and interest on such

Series 2019 Bond shall be made only to the Bondholder. The Financial Institution or any subsequent Bondholder shall be entitled to transfer, sell or assign the Series 2019 Bond in amount equal to the outstanding principal amount thereof, so long as such sale or transfer is in accordance with all applicable federal and State securities rules, laws, and regulations.

(End of Article III)

ARTICLE IV

CONDITIONS FOR LOAN

The Financial Institution shall not be obligated to make the Loan under this Agreement unless at the date specified for the making thereof the Town delivers to the Financial Institution:

(a) A certificate of the Finance Director of the Town, dated as of the date of such Loan, to the effect that no Event of Default (as defined in Article V of this Agreement) or event which, with the passage of time or the giving of notice or both, would constitute an Event of Default shall have occurred.

(b) An Opinion of Bond Counsel regarding the due authorization, execution, delivery, validity and enforceability of the Agreement and the Series 2019 Bond and the due adoption of the Bond Resolution (enforceability of such instruments may be subject to standard bankruptcy exceptions and the like), the exclusion of interest on the Series 2019 Bond from gross income for Federal income tax purposes, the designation of the Series 2019 Bond as the Town's "qualified tax-exempt obligation" for purposes of Section 265(b)(3)(B) of the Code, that the Series 2019 Bond is not a "private activity bond" within the meaning of Section 57(a)(5) of the Code, interest on the Series 2019 Bond is not a specific preference item for purposes of the federal individual alternative minimum taxes, that such interest is not included in computing the alternative minimum taxable income of individuals and that the Series 2019 Bond and the interest thereon are exempt from taxation under the existing laws of the State of Florida, except as to estate taxes imposed by Chapter 220, Florida Statutes, on interest, income or profits on debt obligations owned by corporations as defined therein; and

(c) Fully executed Series 2019 Bond, dated the date of the Loan; and

(d) An executed tax certificate and Internal Revenue Service form 8038-G.

(e) On or before the execution of this Agreement, the Town shall have caused to be delivered to the Financial Institution the following items in form and substance acceptable to the Financial Institution:

(i) Opinion of Counsel to Town regarding the due authorization, execution, delivery, validity and enforceability of this Agreement, the Escrow Deposit Agreement and the due adoption of the Bond Resolution (enforceability may be subject to standard bankruptcy exceptions and the like); and

(ii) A certified copy of the Bond Resolution of the Town approving the form of this Agreement and the form of the Escrow Deposit Agreement, and authorizing the issuance of the Series 2019 Bond in the outstanding principal amount of not exceeding \$4,700,000 to finance the cost of refunding the Refunded Bonds and related costs of issuance; and

(iii) Such additional certificates, instruments and all other closing documents as the Financial Institution, or its Counsel or Bond Counsel, or Counsel to the Town, may deem necessary or appropriate.

(f) Upon satisfaction of the conditions set forth in paragraphs (a)-(e) above, the Town may borrow up to \$4,700,000 from the Financial Institution. The Town shall apply the proceeds to the refunding of the Refunded Bonds and related costs of issuance.

(End of Article IV)

ARTICLE V

EVENTS OF DEFAULT

An “An “Event of Default” shall be deemed to have occurred under this Agreement if:

(a) Failure by the Town to pay the principal of and interest on the Series 2019 Bond when it becomes due and payable at maturity or upon redemption and such failure shall continue for more than five (5) business days; or

(b) A petition is filed against the Town under any bankruptcy, reorganization, arrangement, insolvency, readjustment of debt, dissolution or liquidation law of any jurisdiction, whether now or hereafter in effect, and an order for relief is entered or such petition is not dismissed within sixty (60) days of such filing; or

(c) The Town files a petition in voluntary bankruptcy or seeking relief under any provision of any bankruptcy, reorganization, arrangement, insolvency, readjustment of debt, dissolution or liquidation law of any jurisdiction, whether now or hereafter in effect, or consents to the filing of any petition against it under such law; or

(e) The Town admits insolvency or bankruptcy or its inability to pay its debts as they become due or is generally not paying its debts as such debts become due, or becomes insolvent or bankrupt or makes an assignment for the benefit of creditors, or a custodian (including without limitation a receiver, liquidator or trustee) of the Town or any of its property is appointed by court order or takes possession thereof and such order remains in effect or such possession continues for more than 60 days; or

(f) the Town shall default in the due and punctual performance of any other of its material covenants, conditions, agreements and provisions contained herein or in the Series 2019 Bond, and such default shall continue for thirty (30) days after written notice specifying such default and requiring the same to be remedied shall have been given to the Town by the Bondholder, or the Bondholder is notified of such noncompliance or should have been notified, whichever is earlier; provided, that if the nature of the default is such that it cannot be cured within thirty (30) days, it shall not be an Event of Default if the Town (a) begins to take action to cure such default within thirty (30) days, (b) works diligently to cure such default, and (c) cures such default within an additional sixty (60) days; or

(g) any material representation or warranty made in writing by or on behalf of the Town in this Agreement or the Series 2019 Bond shall prove to be false or incorrect in any material respect on the date made or reaffirmed.

Upon the occurrence of an Event of Default the Financial Institution may pursue any available remedy at law or in equity or by statute, including any applicable law or statute of the United States of America or of the State, to enforce the payment of principal of and interest on the Series 2019 Bond then outstanding or the obligations of the Town thereunder.

Any amount due under this Agreement or the Series 2019 Bond not paid when due shall bear interest at the default rate equal to the U.S. Federal Prime Rate as reported in The Wall Street Journal plus 4% per annum.

(End of Article V)

ARTICLE VI

MISCELLANEOUS

SECTION 6.01. Amendments, Changes or Modifications to the Agreement. This Agreement shall not be amended, changed or modified without the prior written consent of the Financial Institution and the Town. The Town agrees to pay all of the Financial Institution's costs and reasonable attorney fees incurred in modifying and/or amending this Agreement at Town's request or behest.

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

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

SECTION 6.04. Term of Agreement. This Agreement shall be in full force and effect from the date hereof and shall continue in effect as long as the Series 2019 Bond is outstanding (except for provisions stated to survive the expiration of the terms hereof).

SECTION 6.05. Notice of Changes in Fact. Promptly after the Town becomes aware of the same, the Town will notify the Financial Institution of (i) any change in any material fact or circumstance represented or warranted by the Town in this Agreement or in connection with the issuance of the Series 2019 Bond, and (ii) any default or event which, with notice or lapse of time or both, could become an Event of Default or default under this Agreement, the Bond Resolution or the Series 2019 Bond specifying in each case the nature thereof and what action the Town has taken, is taking, and/or proposes to take with respect thereto.

SECTION 6.06. Notices. Any notices or other communications required or permitted hereunder shall be sufficiently given if delivered personally or sent registered or certified mail, postage prepaid, to the Town, Town of Palm Beach, Florida, 360 South County Road, Palm Beach, Florida, Attention: Director of Finance, and to the Financial Institution, Professional Bank, 5100 PGA Boulevard, Suite 101, Palm Beach Gardens, Florida 33418, Attention: Executive Vice President, or at such other address as shall be furnished in writing by any such party to the other, and shall be deemed to have been given as of the date so delivered or deposited in the United States mail.

SECTION 6.07. Payments Due on Sundays and Holidays. If any date on which a payment is to be made is a Saturday, Sunday, legal holiday or day on which banking institutions are authorized by law to remain closed in the jurisdiction in which the payment is to be made, then such payment, notice or other action shall be made on the next succeeding day not a Saturday, Sunday,

legal holiday or day on which such banking institutions are authorized by law to remain closed, and no interest shall accrue for the period after such nominal date.

SECTION 6.08. Applicable Law and Venue. The substantive laws of the State of Florida shall govern this Agreement. In this regard, the parties hereto agree not to object to the jurisdiction of the Fifteenth Judicial Circuit Court in and for Palm Beach County, Florida or the United States District Court for the Southern District of Florida over any action resulting from this Agreement, and not to object to venue of either of said courts.

SECTION 6.09. Waiver of Jury Trial. To the extent permitted by applicable law, each of the Town and the Financial Institution, knowingly, voluntarily and intentionally waives any right each may have to a trial by jury in respect of any litigation based on, or arising out of, under or in connection with this Agreement, the Series 2019 Bond or any agreement contemplated to be executed in connection with this Agreement, or any course of conduct, course of dealing, statements (whether verbal or written) or actions of any party with respect hereto. This provision is a material inducement to the Financial Institution to enter into this Agreement.

SECTION 6.10. Incorporation by Reference. All of the terms and obligations of the Series 2019 Bond, Bond Resolution and other applicable closing certificate and documents are hereby incorporated herein by reference as if said Bond Resolution was fully set forth in this Agreement.

SECTION 6.11. No Third Party Beneficiaries. The terms and provisions of this Agreement shall inure exclusively to the benefit of the Town, the Financial Institution, the Bondholder, their successors and assigns and no other person shall have any rights hereunder.

(End of Article VI)

[Remainder of page left blank intentionally]

[Signature page follows]

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be duly executed as of the Date of Execution set forth below.

TOWN OF PALM BEACH, FLORIDA

SEAL

By: _____
Mayor

Date of Execution: _____

ATTEST:

By: _____
Clerk of the Town of Palm Beach, Florida

PROFESSIONAL BANK

By: _____
Name: J. Michael Woody, Jr.
Title: Executive Vice President

EXHIBIT A
TO AGREEMENT

No. R-1

UNITED STATES OF AMERICA
STATE OF FLORIDA
TOWN OF PALM BEACH
Public Improvement Revenue Refunding Bond
Series 2019

<u>Principal Sum</u>	<u>Date of Issuance</u>	<u>Maturity Date</u>	<u>Interest Rate</u>
\$	October __, 2019	January 1, 2040	2.33%

KNOW ALL MEN BY THESE PRESENTS, that the TOWN OF PALM BEACH, FLORIDA (the "Town"), for value received, hereby promises to pay, solely from the Pledged Revenues described in the within mentioned Bond Resolution, to the order of Professional Bank, or its assigns (the "Payee"), at 5100 PGA Boulevard, Suite 101, Palm Beach Gardens, Florida 33418, or at such other place as the Payee may from time to time designate in writing, the Principal Sum stated above advanced pursuant to that certain Loan Agreement by and between Payee and the Town, dated October __, 2019 (the "Agreement"), together with interest on the principal balance outstanding at the Interest Rate stated above, until the Principal Sum hereof has been paid in full.

The principal hereof shall be paid in installments due on January 1, 2021 and on each January 1 thereafter in the amounts and years as set forth in the following table.

Due Date (January 1)	Principal Payment Due	Due Date (January 1)	Principal Payment Due
2021		2031	
2022		2032	
2023		2033	
2024		2034	
2025		2035	
2026		2036	
2027		2037	
2028		2038	
2029		2039	
2030		2040	All remaining principal

On January 1, 2040, the Town will pay the Payee all remaining unpaid principal hereof and all accrued and unpaid interest thereon.

The interest hereon shall be payable in arrears on each January 1 and July 1, commencing on January 1, 2020, and on the date on which the final payment of principal due hereon is paid. Interest hereon shall be computed on the basis of a 360 day year consisting of twelve 30-day months.

The principal hereof may be prepaid at any time and from time to time, in whole or in part, upon the Town providing the Payee with at least three business days' prior written notice setting for the date and amount of the prepayment, and upon payment by the Town to the Payee of the principal amount to be prepaid plus accrued interest.

Any amount due under this Bond not paid due within five (5) business days of the due date shall be subject to a late fee of 5%.

Upon the occurrence of a Determination of Taxability of the Bond, the Town agrees to pay to the Payee a rate of interest from the effective date of such Determination of Taxability that would provide the Payee with an after-tax yield on the then outstanding principal amount equal to the after-tax yield the Payee could have received if a Determination of Taxability had not occurred.

“Determination of Taxability” shall mean the circumstance of the interest on this Bond being includable for federal income tax purposes in the gross income of the Payee hereof and/or the Bond ceasing to be a “qualified tax-exempt obligation” for purposes of Section 265(b)(3)(B) of the Internal Revenue Code of 1986, as amended and, in each case, as a result of any action or inaction of the Town. A Determination of Taxability shall be evidenced by either (a) the issuance of an Internal Revenue Service Technical Advice Memorandum or Statutory Notice of Deficiency which holds that any interest payable hereon is includable in the gross income of the Payee; (b) the issuance of any public or private ruling or other lawful and final action of the Internal Revenue Service that any interest borne hereby is includable in the gross income of the Payee or (c) the rendering of a final decree or judgment of a court of competent jurisdiction that any interest hereon is includable in the gross income of the Payee; provided, no Determination of Taxability shall be deemed to occur unless the Town has been given, to the extent permitted by law, an opportunity to participate in and seek, at the Town’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. A Determination of Taxability will be deemed to occur on the first date as of which the interest borne hereby is includable in the gross income of the Payee and/or the Bond ceases to be a “qualified tax-exempt obligation” for purposes of Section 265(b)(3)(B) of the Internal Revenue Code of 1986, as amended. A Determination of Taxability will only include circumstances resulting from the action or inaction of the Town.

Principal and interest being 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 and shall be made to the Payee hereof by check mailed to the Payee at the address designated in writing by the Payee for purposes of payment or by bank wire or bank transfer as such Payee may specify in writing to the Town or otherwise as the Town and Payee may agree.

This Bond is one of an authorized issue of Bonds authorized to be issued in the outstanding aggregate principal amount of not exceeding \$4,700,000 or like tenor and effect, except as to number and date of issue, under the authority of and in full compliance with the Constitution and statutes of the State of Florida, including, particularly, Chapter 166, Florida Statutes, as amended and supplemented, and other applicable provisions of law, and a resolution duly adopted by the Town on the 10th day of October, 2019, as such resolution may be amended and supplemented from time to time, and is subject to all terms and conditions of said resolution (the "Bond Resolution"). Any term used in this Bond and not otherwise defined shall have the meaning ascribed to such term in the Bond Resolution or the Agreement, as the case may be.

Notwithstanding any provision in this Bond to the contrary, in no event shall the interest contracted for, charged or received in connection with this Bond (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 Town greater than the amount contracted for herein. In the event the maturity of this Bond is accelerated or prepaid in accordance with the provisions hereof, then such amounts that constitute payments of interest, together with any costs or considerations which constitute interest under the laws of the State of Florida, may never exceed an amount which would result in payment of interest at a rate in excess of the nonusurious interest allowed by the laws of the State of Florida or the United States to the extent applicable, as presently in effect and to the extent an increase is allowable by such laws; and excess interest, if any, shall be canceled automatically as of the date of such acceleration, or, if theretofore paid, shall be credited on the principal amount of the Bond unpaid, but such crediting shall not cure or waive any default under the Agreement or Bond Resolution.

All payments made by the Town hereon shall apply first to other charges due the Payee, then to accrued interest and the balance thereof shall apply to the Principal amount then due on this Bond.

THE BOND, WHEN DELIVERED BY THE TOWN PURSUANT TO THE TERMS OF THE AGREEMENT AND THE BOND RESOLUTION, SHALL NOT BE OR CONSTITUTE AN INDEBTEDNESS OF THE TOWN OR OF 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 BOND RESOLUTION. NO BONDHOLDER SHALL EVER HAVE THE RIGHT TO COMPEL THE EXERCISE OF THE AD VALOREM TAXING POWER OF THE TOWN OR THE STATE, OR TAXATION IN ANY FORM ON ANY PROPERTY THEREIN TO PAY THE BOND OR THE INTEREST THEREON.

The Bond has all the qualities and incidents of a negotiable instrument under Article 8 of the Uniform Commercial Code, the State of Florida, Chapter 678, Florida Statutes. This Bond may be transferred or exchanged by the Bondholder hereof, but only upon the registration books maintained by the Town and in the manner provided in the Loan Agreement.

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 Bond do exist, have happened and have been performed in due time, form and manner as required by law, and that the issuance of this Bond is in full compliance with and does not exceed or violate any constitutional or statutory limitation. It is further certified that all of the representations, warranties, and covenants made and set forth in the Bond Resolution and the Loan Agreement and in the ancillary and closing documents relevant to this Bond are remade and incorporated fully by reference herein.

The Town hereby waives presentment, demand, protest and notice of dishonor.

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

(SEAL)

TOWN OF PALM BEACH, FLORIDA

ATTEST:

By: _____
Town Clerk

By: _____
Title: Mayor

FORM OF CERTIFICATE OF AUTHENTICATION

Date of Authentication:

This Bond is one of the Bonds delivered pursuant to the within mentioned Bond Resolution.

DIRECTOR OF FINANCE,
As Registrar

By: _____
Authorized Officer

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.