

RESOLUTION \_19-02-01\_\_\_\_\_

A RESOLUTION OF THE BOARD OF COMMISSIONERS OF THE LEHIGH ACRES FIRE CONTROL AND RESCUE DISTRICT, LEE COUNTY, FLORIDA; AUTHORIZING THE DISTRICT TO BORROW FUNDS FROM SYNOVUS BANK D/B/A FLORIDA COMMUNITY BANK IN THE PRINCIPAL AMOUNT NOT TO EXCEED \$8,900,000.00 TO CONSTRUCT A NEW FIRE STATION 2 AND RENOVATE AND PROVIDE FOR ADDITIONS TO FIRE STATIONS 1 AND 3; AWARDING THE NOTE TO SYNOVUS BANK D/B/A FLORIDA COMMUNITY BANK BY NEGOTIATED SALE; APPROVING A LOAN AGREEMENT BETWEEN THE DISTRICT AND SYNOVUS BANK D/B/A FLORIDA COMMUNITY BANK; DESIGNATING THE NOTE AS A "BANK QUALIFIED OBLIGATION" UNDER SECTION 265(b) OF THE INTERNAL REVENUE CODE OF 1986, AS AMENDED; REPEALING, TO THE EXTENT OF ANY CONFLICT HEREWITH, RESOLUTION 18-12-02; PROVIDING SEVERABILITY; PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the Board of Commissioners of the Lehigh Acres Fire Control and Rescue District (the "District") has determined that it is appropriate and necessary for the District to construct a new Fire Station 2 and renovate and provide for additions to Fire Stations 1 and 3 (the "Project") and to finance the Project through a bank loan; and

WHEREAS, Synovus Bank d/b/a Florida Community Bank has submitted a revised Term Sheet to the District dated February 20, 2019, to provide such loan, which is attached hereto as Exhibit "A" (the "Term Sheet"), the acceptance of which is in the best interest of the District; and

WHEREAS, the District desires to approve the form of the loan agreement pursuant to which such borrowing will be accomplished.

NOW, THEREOFRE, be it resolved by the Board of Commissioners of the Lehigh Acres Fire Control and Rescue District, that:

SECTION 1. INCORPORATION OF RECITALS

The recitals set forth are true and correct and form a part of this Resolution.

SECTION 2. AUTHORITY

This Resolution is adopted pursuant to the provisions of Chapter 2000-406, Laws of Florida, Chapter 97-340, Laws of Florida and Chapters 189 and 191, Florida Statutes, and other applicable provisions of law (collectively, the "Act").

SECTION 3. DEFINITIONS

The following words and phrases shall have the following meanings when used herein:

"Board" means the Board of Commissioners of the District.

"Chair" means the Chair or Vice Chair of the Board.

"District" means the Lehigh Acres Fire Control and Rescue District, an independent special district organized and existing under the Act, and its successors and assigns.

"Lender" means Synovus Bank d/b/a Florida Community Bank and its successors and assigns.

“Loan Agreement” means the Loan Agreement between the District and the Lender authorized by Section 5 hereof.

“Note” means the District’s Promissory Note, Series 2019 (Fire Station Construction and Renovation) authorized by Section 4 hereof.

“Pledged Revenues” means all revenues, income or earnings derived by District from ambulance transport charges imposed by the District.

“Project” means the construction by the District of a new Fire Station 2 and the renovation and provision for additions to Fires Stations 1 and 3.

“Resolution” means this Resolution, pursuant to which the Note is authorized to be issued, including any resolution or resolutions supplemental hereto.

“Secretary” means the Secretary or any Assistant Secretary of the District.

“State” means the State of Florida.

#### SECTION 4. AUTHORIZATION OF NOTE

Subject and pursuant to the provisions of this Resolution, an obligation of the District is hereby authorized to be issued in the principal amount not to exceed \$8,900,000.00 for the purpose of providing funds, together with other available funds of the District, to pay the costs of the Project and to pay closing costs. Because of the characteristics of the Note, prevailing market conditions, and additional savings to be realized from an award of the Note by negotiated sale, it is in the best interest of the District to award the Note to the Lender by negotiated sale in substantial accordance with the Lender's Term Sheet to the District, which letter is attached hereto as Exhibit “A” (the “Term Sheet”); provided, however, that the provisions of this Resolution and the Loan Agreement shall control to the extent of any conflict with the Term Sheet.

Prior to the issuance of the Note the District shall receive from the Lender a disclosure statement containing the information required by Section 218.385, Florida Statutes. The Note shall be dated the date of its execution and delivery, which shall be a date agreed upon by the District and the Lender, and shall have such other terms and provisions, including the interest rate and maturity date, as stated in the form of Note attached to the Loan Agreement as Exhibit “A.” The Note shall be in substantially the form set forth on Exhibit “A” to the Loan Agreement, together with such changes as shall be approved by the Chair, such approval to be conclusively evidenced by the execution thereof by the Chair. The Note shall be executed on behalf of the District with the manual or facsimile signature of the Chair, attested with the seal of the District and by the manual or facsimile signature of the Secretary; provided, that the signature of either the Chair or the Secretary must be a manual signature.

#### SECTION 5. LOAN AGREEMENT

Notwithstanding any other provision hereof, the Note shall not be issued nor shall the District be obligated to issue the same nor shall the Lender be obligated to purchase the same, unless and until the District and the Lender shall execute a Loan Agreement in substantially the form attached hereto as Exhibit “B” (the “Loan Agreement”), together with such changes as shall be approved by the Chair, such approval to be conclusively evidenced by the execution thereof by the Chair. The Loan Agreement shall be executed on behalf of the District with the manual or facsimile signature of the Chair, attested with the seal of the District and by the manual or facsimile signature of the Secretary.

SECTION 6. NOTE NOT TO BE GENERAL INDEBTEDNESS OF THE DISTRICT

The Note shall not be or constitute a general obligation or indebtedness of the District within the meaning of the Constitution of Florida, but shall be payable from and secured solely by a pledge of and lien on the Pledged Revenues and the funds and accounts created by the Loan Agreement, in the manner and to the extent herein, in the Loan Agreement and in the Note provided. No Holder shall ever have the right to compel the exercise of the ad valorem taxing power of the District or taxation in any form on any real or personal property to pay the Note or the interest thereon, nor shall any Holder be entitled to payment of such principal and interest from any funds of the District other than such Pledged Revenues and funds and accounts, all in the manner and to the extent herein, in the Loan Agreement and in the Note provided. The Holder shall have no lien upon any real or tangible personal property of the District.

SECTION 7. AUTHORIZATIONS

The Chair, the Secretary, the Fire Chief, the Finance Manager and Counsel to the District, and such other officials and employees of the District as may be designated by the Chair, are each designated as agents of the District in connection with the issuance and delivery of the Note and the Loan Agreement 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 District that are necessary or desirable in connection with the execution and delivery of the Note and the Loan Agreement, and which are specifically authorized or are not inconsistent with the terms and provisions of this Resolution.

SECTION 8. BANK QUALIFIED ISSUE

The District hereby designates the Note to be a “qualified tax-exempt obligation” within the meaning of Section 265(b) of the Internal Revenue Code of 1986, as amended.

SECTION 9. CAPTIONS

The captions and headings in this Resolution are for convenience only and in no way define, limit or describe the scope or intent of any provisions or sections of this Resolution.

SECTION 10. REPEALER

Resolution 18-12-02, adopted by the Board on December 18, 2018, is hereby repealed to the extent of any conflict herewith, except for Section 9 of Resolution 18-12-02, which shall remain in full force and effect. All other resolutions or parts thereof in conflict herewith are hereby repealed.

SECTION 11. SEVERABILITY

If any section, subsection, sentence, clause or other provision of this Resolution is held unconstitutional, inoperative or void by a court of competent jurisdiction, such holdings shall not affect the remainder of this Resolution.

SECTION 12. CONSTRUCTION AND EFFECTIVE DATE

This Resolution shall be liberally construed to affect the purposes hereof and shall take effect immediately upon its adoption.

SECTION 13. SCRIVENER’S ERRORS

The Board intends that all sections of this Resolution which contain typographical errors that do not affect the intent of this Resolution can be administratively corrected by the authorization of the District’s Fire Chief, or his designee, without the requirement of having a corrected Resolution adopted by the Board.

THE FOREGOING RESOLUTION WAS OFFERED BY COMMISSIONER Bennett WHO MOVED THE RESOLUTION'S ADOPTION, THE MOTION WAS SECONDED BY COMMISSIONER Cunningham AND, UPON BEING PUT TO A VOTE, THE VOTE WAS AS FOLLOWS:

Commissioner Catherine Kruse	<u>Aye</u> <i>CK</i>
Commissioner Debra Cunningham	<u>Aye</u> <i>DC</i>
Commissioner Linda Carter	<u>Aye</u> <i>LC</i>
Commissioner Robert Bennett	<u>Aye</u> <i>RTB</i>
Commissioner Lucia Sherman	<u>Aye</u> <i>LS</i>

Duly passed and adopted on this 26th day of February, 2019.

Board of Commissioners of the Lehigh Acres Fire Control and Rescue District

By: *Catherine Kruse*  
Catherine Kruse, Chair

Attest by: *Lucia Sherman*  
Lucia Sherman, Treasurer / Secretary



February 20, 2019 (revised)

Lehigh Acres Fire Control and Rescue District

*RE: \$8,900,000 Construction Facility*

Florida Community Bank, N. A. a national banking association ("Bank" and/or "FCB") is pleased to consider a financing arrangement (the "Facility") for the Lehigh Acres Fire Control and Rescue District (the "District"), the basic terms of which are set forth below. This financing proposal is not exhaustive, and the credit facility is subject to other terms and conditions normally required by FCB for similar transactions. The proposed Facility is subject to the satisfactory completion of FCB's customary due diligence, underwriting and receipt of credit approval. This letter is not a commitment to lend.

*Borrower:* Lehigh Acres Fire Control and Rescue District

*Facility:* Bank Qualified Tax Exempt Loan

*Amount:* \$8,900,000 (not to exceed)

*Purpose:* Provide funding needed for the new construction of Station 2, and provide funding for renovations and additions to existing Fire Stations 1 and 3 within District.

*Term:* Fifteen year, fully amortizing note

*Collateral:* The Loan will be secured by a lien upon and pledge of i) the Ambulance Revenue Fees, and ii) the Debt Service Reserve.

*Repayment:* Principal and interest will be paid semi-annually on the 1<sup>st</sup> of each June and December beginning June 1, 2019, with the final payment on December 1, 2033. Interest will be calculated on a 30 over 360 basis.

*Interest Rate:* 3.35%

The aforementioned rates will be held until March 7, 2019. In the event the closing is delayed past that date, the rate will be reset three days prior to the scheduled closing and will include 79 percent of the then prevailing Ten (10) Year Treasury Constant Maturity plus 150 basis points with a floor of 3.35%.

The Treasury Constant Maturity will be as published by the Federal Reserve (<http://www.federalreserve.gov/releases/h15/update/>).

*Pre-payment:* The District may pay down the loan, in whole or part, at any time or from time to time, without penalty or premium, by paying to the Bank all or a part of the principal amount of the Note to be repaid, together with the unpaid interest accrued on the amount of principal so prepaid to the date of such prepayment.

*Covenants:*

For so long as any of the principal amount of or interest on the proposed Loan is outstanding or any duty or obligation of the District contemplated under the proposed Loan remains unpaid or unperformed, the District covenants to the Bank as follows:

- 1) Additional Debt Test – Pledge revenues shall for any consecutive twelve (12) month period during the most recent eighteen (18) month period received by the District must be equal to at least 125% of the maximum annual debt service on the note plus all outstanding parity debt.
- 2) Payment – the District shall pay the principal of and interest on the proposed Loan at the time and place and in the manner provided in the Note.
- 3) Use of Proceeds – proceeds from the Note will be used to finance a public safety complex for the District.
- 4) Notice of Defaults – the District shall within ten days after it acquires knowledge thereof, notify the Bank in writing upon the happening, occurrence, or existence of any Event of Default, and any event or condition which with the passing of time or giving of notice, or both, would constitute an Event of Default, and shall provide the Bank with such written notice, a detailed statement by a responsible officer of the District of all relevant facts and the action being taken by the District with respect thereto.
- 5) Records – the District agrees that any and all records of the District shall be open to inspection by the Bank, or its representative's at all reasonable times at the office of the District.
- 6) Maintain Existence – The District will take all reasonable legal action within its control in order to maintain its existence as a municipality of the State, and shall not voluntarily dissolve.
- 7) Notice of Liabilities – the District shall promptly inform the Bank in writing of any actual or potential contingent liabilities or pending or threatened litigation of any amount that could reasonably be expected to have a material and adverse effect upon the financial condition of the District or upon the ability of the District to perform its obligation under the proposed Loan.
- 8) Insurance – The District shall maintain such liability, casualty, and other insurance as is reasonable and prudent for a similarly situated District and shall upon request of the Bank, provide evidence of such coverage to the Bank.
- 9) Comply with Laws – the District is in compliance and shall comply with all applicable federal, state, and local laws and regulatory requirements.
- 10) Books and Records – Books and records of the District shall be kept in which complete and correct entries shall be made, in accordance with generally accepted accounting principles.
- 11) Financial Reporting - The District will cause a financial audit to be completed of its books and accounts for each fiscal year, beginning with the fiscal year ending September 30, 2018, and shall furnish such financial audit to the Bank within 270 days of the end of each such fiscal year. The financial audit shall be prepared in accordance with Chapter 10.550 of the Rules of the Florida Auditor General or the provisions of any successor state or rule governing Florida local governmental entity audits. In addition, the District shall adopt an annual budget as required by law. The District shall provide the Bank with a copy of its annual operating budget for each fiscal year not later than 45 days after the commencement thereof.
- 12) Any other covenants usual and customary in a financing of this nature.

*Debt Service*

*Reserve Fund:*

The District agrees that it will maintain a Debt Service Reserve account at the Bank. The initial deposit to the Debt Service Reserve account shall be equal to \$890,000. Amounts of deposit in the Debt Service Reserve account may be invested only in accounts of Florida Community Bank. The Debt Service Reserve account will be pledged as security for the Note and the District will grant the Bank a security interest in the Debt Service Reserve account and the amounts therein to secure the Note. For so long as the Note is outstanding, the District may not withdraw amounts from the Debt Reserve account. In the event that at any time the District fails to pay the principal of or interest on the Note as the same becomes due, the Bank may withdraw such amount from the Debt Service Reserve account as shall be necessary in order to pay the principal of and interest on the Note as the same becomes due. The Bank shall notify the District in writing if any such withdrawal is made.

*Events of Default:*

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

- 1) The District shall fail to make any payment of the principal and interest on the Note after the same shall become due and payable.
- 2) The District shall default in the performance of or compliance with any term or covenant contained in the Loan Documents, which default or noncompliance shall continue and not be cured within thirty days after (i) notice thereof to the District by the Bank, or (ii) the Bank is notified of such noncompliance or should have been notified, whichever is earlier.
- 3) Any representations or warranty made in writing by or on behalf of the District in any Loan Documents shall prove to have been false or incorrect in any material respect on the date made or reaffirmed.
- 4) Any act of bankruptcy or the rearrangement, adjustment or readjustment of the obligations of the District under the provisions of any bankruptcy or moratorium laws or similar laws relating to or affecting creditor's rights.
- 5) Failure of the District to promptly remove any execution, garnishment or attachment of such consequence as will materially impair its ability to carry out its obligations under the Loan Documents.

*Consequences Of Default:*

The interest rate will increase to the maximum lawful rate. The default rate of interest shall only apply for interest during the period between when the Monetary Default occurs and when it is cured by the District.

*Interest Rate Adjustments:*

In the event the interest on the Loans become subject to federal income tax in any period, the interest rate will convert to the taxable rate during that period. The taxable rate will be calculated by dividing the current tax-exempt rate by 1 minus the effective federal tax rate. In addition, the District shall make the Bank whole for any interest, penalties, and additions to tax suffered by the Bank.

*Legal Opinion:*

Prior to the closing date, the Bank shall have received the following supporting documents, all of which shall be satisfactory in form and substance to the Bank; the opinion of bond counsel to the District, regarding the due authorization, execution, delivery, validity and enforceability of the Agreement and Note, the District's power to incur the debt evidenced by the Note, the due adoption and enforceability of the Note Resolution and the due creation and existence of the District and to the effect that the interest on the Note is excluded from gross income for federal income tax purposes and is exempt from State excise tax on documents.

*Other Conditions:*

- Proceeds from note shall be maintained in a separate FCB "Construction Fund" depository account.
- Proof of construction costs for all projects must be received prior to closing.
- No Material Adverse Change to the Borrower prior to closing.
- The implementation of certain terms, conditions, covenants or other non-material changes to the proposed Credit Accommodation required as part of the Bank's formal credit approval shall be deemed an approval in substantially the form outlined in this proposed Credit Accommodation.
- All legal matters and documentation to be executed in connection with the contemplated proposed Credit Accommodation shall be satisfactory in form and substance to the Bank and counsel to the Bank.



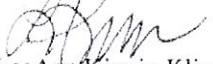
- The Bank shall not be required to enter into the proposed Credit Accommodation until the completion of all due diligence inquiries, receipt of approvals from all requisite parties and the execution and receipt of all necessary documentation reasonably acceptable to the Bank and its counsel. The Bank complies with the US Patriot Act of 2001 (the "Act"), including, but not limited to; those sections relating to customer identification, monitoring and reporting of suspicious activities, and the prevention of money laundering. This Act mandates that we verify certain information about the borrower and any guarantor while processing the Credit Accommodation request. Furthermore, certain assumptions are made for this proposal which, if altered, could affect the overall credit approval and or the terms of the proposed Credit Accommodation.

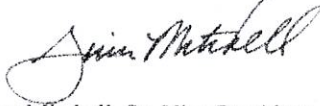
*Fees:* FCB loan commitment fee will be \$3,500.00 The District shall also be responsible for all legal and out of pocket expenses associated with the proposed financing. The Bank will be represented by Greenspoon Marder law, whose fee will be no more than \$15,000.00

Florida Community Bank appreciates the opportunity to submit this Proposal and looks forward to your favorable response. Please understand that this letter is not a formal commitment to extend a loan by the Lender, or any of its affiliates, but is merely intended for discussion purposes only in order to provide you with the basic terms and conditions of our proposal, which are outlined above. The terms and conditions contained within this proposal are in effect for 90 days from the date of this letter. If you have any questions or need additional information, please do not hesitate contacting either of us at the numbers below.

Sincerely,

FLORIDA COMMUNITY BANK, N.A.

  
Lee Ann Kirwin-Klimek, Vice President  
239-552-1879 [lkirwin@fcb1923.com](mailto:lkirwin@fcb1923.com)

  
Jim Mitchell, Sr. Vice President  
(239) 552-1819 [jmitchell@fcb1923.com](mailto:jmitchell@fcb1923.com)

Agreed to and accepted this 1st day of March, 2019

Borrower: Lehigh Acres Fire Control and Rescue District

Signature: Catherine Kruse

Name: Catherine Kruse

Title: Chair





## LOAN AGREEMENT

This LOAN AGREEMENT (this “Agreement”) is made and entered into as of March \_\_, 2019 and is by and between the Lehigh Acres Fire Control and Rescue District, an independent special district organized and existing under the Act (as herein defined), and its successors and assigns (the “District”), and Synovus Bank d/b/a Florida Community Bank, and its successors and assigns as holder of the hereinafter defined Note (the “Lender”);

WHEREAS, the Board of Commissioners of the District did, on February 26, 2019, adopt its Resolution No. 19-02-01 (the “Note Resolution”) authorizing, among other things, the issuance of a Promissory Note of the District in the principal amount not to exceed \$8,900,000.00 for the purpose of financing the herein described Project; and

WHEREAS, the District has determined to issue the Note in such principal amount (the “Note”); and

WHEREAS, the District hereby determines that it is desirable and in the best interest of the District to enter into this Agreement whereby the District will borrow funds (the “Loan”) to pay the costs of the Project from the Lender; and

WHEREAS, the obligation of the District to repay such Loan shall be evidenced by the delivery of the Note to the Lender in the principal amount of the Loan; and

WHEREAS, the Note shall be issued pursuant to the terms and provisions of the Note Resolution and this Agreement; and

WHEREAS, the execution and delivery of this Agreement have been duly authorized by the Note Resolution.

NOW, THEREFORE, 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 words and terms used in this Agreement shall have the meanings as set forth in the Note Resolution and in the recitals above, unless otherwise defined herein. Unless the context shall otherwise require, the following words and terms as used in this Agreement shall have the following meanings:

“Act” means Chapter 2000-406, Laws of Florida, Chapter 97-340, Laws of Florida and Chapters 189 and 191, Florida Statutes, and other applicable provisions of law,

“Additional Debt” means any obligation described in Section 6.01 hereof.

“Agreement” means this Loan Agreement and any and all modifications, alterations, amendments and supplements hereto made in accordance with the provisions hereof.

“Annual Budget” means the annual budget for the District for each Fiscal Year in accordance with Section 3.01(j) below and in accordance with the laws of the State of Florida.

“Annual Debt Service Requirement” means for a given Fiscal Year the aggregate amount required to pay the principal and interest coming due on the Note and any Additional Debt during that Fiscal Year.

“Authorized Depository” means any bank, trust company, national banking association, savings and loan association, savings bank or other banking association selected by the District as a depository, which is authorized under Florida law to be a depository of municipal funds and which has qualified with all applicable state and federal requirements concerning the receipt of District funds.

“Bond Counsel” means counsel experienced in matters relating to the validity of, and the exclusion from gross income for federal income tax purposes of interest on, obligations of states and their political subdivisions.

“Business Day” means any day other than a Saturday, Sunday or day on which banking institutions within Lee County, Florida are authorized or required by law to remain closed.

“Chair” means the Chair or Vice Chair of the Board.

“Chief Financial Officer” means the chief financial officer of the District as defined in Section 218.403, Florida Statutes.

“Code” means the Internal Revenue Code of 1986, as amended, including the applicable regulations of the Department of the Treasury (including applicable final regulations, temporary regulations and proposed regulations), the applicable rulings of the Internal Revenue Service (including published Revenue Rulings and private letter rulings) and applicable court decisions.

“Dated Date” means the date of issuance of the Note.

“Debt Service Fund” means the fund of that name established pursuant to Section 5.03 hereof.

“Debt Service Reserve Fund” means the fund of that name established pursuant to Section 5.03 hereof.

“District” means the Lehigh Acres Fire Control and Rescue District, an independent special district organized and existing under the Act, and its successors and assigns.

“Event of Default” shall mean an event of default specified in Article VII of this Agreement.

“Fiscal Year” means the period commencing on October 1 of each year and ending on the succeeding September 30, or such other consecutive 12-month period as may be hereafter designated as the fiscal year of the District pursuant to general law.

“Governing Body” means the Board of Commissioners of the District, or its successor in function.

“Governmental Authority” shall mean the government of the United States of America, any other nation or any political subdivision thereof, whether state or local, and any agency, authority, instrumentality, regulatory body, court, central bank or other entity exercising executive, legislative, judicial, taxing, regulatory or administrative powers or functions of or pertaining to government.

“Holder” means the registered owner (or its authorized representatives) of the Note from time to time, initially the Lender.

“Investment Obligations” means (a) until the District has adopted a written investment policy pursuant to Section 218.415, Florida Statutes, those investments listed in Section 218.415(17), Florida Statutes, and (b) after the District has adopted a written investment policy pursuant to Section 218.415, Florida Statutes, the investments listed in said policy.

“Lender” means Synovus Bank d/b/a Florida Community Bank, and its successors and assigns.

“Loan” means the outstanding principal amount of the Note issued hereunder.

“Loan Documents” means this Agreement, the Note, the Note Resolution and all other documents, agreements, certificates, schedules, notes, statements, and opinions, however described, referenced herein or executed or delivered pursuant hereto or in connection with or arising with the Loan or the transaction contemplated by this Agreement.

“Note” means the District’s Promissory Note, Series 2019B (Fire Stations Loan) authorized to be issued hereunder in an aggregate principal amount of \$8,900,000.

“Note Resolution” means Resolution 19-02-01, adopted by the District on February 26, 2019, pursuant to which the Note is authorized to be issued, including any resolution or resolutions supplemental hereto.

“Person” means natural persons, firms, trusts, estates, associations, corporations, partnerships and public bodies.

“Pledged Funds” means Pledged Revenues and, until applied in accordance with the terms of this Agreement, all moneys, including investments thereof, in the funds and accounts established hereunder.

“Pledged Revenues” means all revenues, income or earnings derived by the District from ambulance transport charges imposed by the District.

“Project” means, collectively, the construction of District Fire Station #2 and renovations and additions to District Fire Stations #1 and #3.

“Project Fund” means the fund of that name established pursuant to Section 5.03 hereof.

“Secretary” means the Secretary or any Assistant Secretary of the District.

“State” means the State of Florida.

Section 1.02. Interpretation. Unless the context clearly requires otherwise, words of masculine gender shall be construed to include correlative words of the feminine and neuter genders and vice versa, and words of the singular number shall be construed to include correlative words of the plural number and vice versa. This Agreement and all the terms and provisions hereof shall be construed to effectuate the purposes 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 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 OF DISTRICT

The District represents and warrants to the Lender that:

Section 2.01. Powers of District. The District is an independent special district organized and existing under the Act. The District has the power to borrow the amount provided for in this Agreement, to execute and deliver the Loan Documents, to secure the Note in the manner contemplated hereby, and to perform and observe all the terms and conditions of the Note and this Agreement on its part to be performed and observed. The District may lawfully issue the Note in order to obtain funds to finance the Project.

Section 2.02. Authorization of Loan. The District has, had or will have, as the case may be, full legal right, power, and authority to adopt the Note Resolution and to execute and deliver this Agreement, to issue, sell, and deliver the Note to the Lender, and to carry out and consummate all other transactions contemplated hereby and by the Loan Documents, and the District has complied and will comply with all provisions of applicable law in all material matters relating to such transactions. The District, by the Note Resolution, has duly authorized the borrowing of the amount provided for in this Agreement, the execution and delivery of this Agreement, and the making and delivery of the Note to the Lender, and to that end the District warrants that it will take all action and will do all things which it is authorized by law to take and to do in order to fulfill all

covenants on its part to be performed and to provide for and to assure payment of the Note. The District has duly adopted the Note Resolution and authorized the execution, delivery, and performance of the Note and the Agreement and the taking of any and all other such action as may be required on the part of the District to carry out, give effect to and consummate the transactions contemplated by the Loan Documents. The Note has been duly authorized, executed, issued and delivered to the Lender and constitutes a legal, valid and binding obligation of the District enforceable in accordance with its terms and the terms of the Note Resolution, and is entitled to the benefits and security of the Note Resolution and this Agreement. All approvals, consents, and orders of and filings with any Governmental Authority or agency which would constitute a condition precedent to the issuance of the Note or the execution and delivery of or the performance by the District of its obligations under the Loan Documents have been obtained or made and any consents, approvals, and orders to be received or filings so made are in full force and effect.

Section 2.03. Agreements. The making and performing by the District of this Agreement will not violate any provision of the Act, or any ordinance or resolution of the District, or any regulation, order or decree of any court, and will not result in a breach of any of the terms of any agreement or instrument to which the District is a party or by which the District is bound. The Loan Documents constitute legal, valid and binding obligations of the District enforceable in accordance with their respective terms.

Section 2.04. Litigation, Etc. There are no actions or proceedings pending against the District or affecting the District or, to the knowledge of the District, threatened, which, either in any case or in the aggregate, might result in any material adverse change in the financial condition of the District, or which question the validity of this Agreement, the Note or any of the other Loan Documents or of any action taken or to be taken in connection with the transactions contemplated hereby or thereby. The District is not in default in any material respect under any agreement or other instrument to which it is a party or by which it may be bound.

Section 2.05. Financial information. The financial information regarding the District furnished to the Lender by the District in connection with the Loan is complete and accurate, and there has been no material and adverse change in the financial condition of the District from that presented in such information.

Section 2.06. Debt Limitation. The total annual payments for principal and interest on all indebtedness of the District does not, and shall not in the future, exceed 50% of the total annual budgeted revenues of the District.

### **ARTICLE III**

#### **COVENANTS OF THE DISTRICT**

Section 3.01. Affirmative Covenants. The District covenants, for so long as any of the principal amount of or interest on the Note is outstanding and unpaid or any duty or obligation of the District hereunder or under any of the other Loan Documents remains unpaid or unperformed, as follows:

- (a) Use of Proceeds. The District covenants that the proceeds from the Note will be used only to pay the costs of the Project and to pay closing costs. The District represents that upon issuance of the Note there will be no other bonds, loans or obligations of the District secured by a pledge of or lien on the Pledged Revenues, except for the District's \$1,084,000 Promissory Note, Series 2019 (Equipment Loan).
- (b) Notice of Defaults. The District shall within ten (10) days after it acquires knowledge thereof, notify the Lender in writing 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 Lender with such written notice, a detailed statement by a responsible officer of the District of all relevant facts and the action being taken or proposed to be taken by the District with respect thereto.
- (c) Records. The District agrees that any and all records of the District shall be open to inspection by the Lender or its representative's at all reasonable times at the offices of the District.
- (d) Maintain Existence. The District shall do all things lawfully within its power to maintain its existence as an independent special district organized and existing under the Act, and shall not voluntarily dissolve.
- (e) Notice of Liabilities. The District shall promptly inform the Lender of any actual or potential contingent liabilities or pending or threatened litigation of any amount that could reasonably be expected to have a material and adverse effect upon the financial condition of the District or the Pledged Funds.
- (f) Insurance. The District shall maintain such liability, casualty and other insurance as is reasonable and prudent for similarly fire control districts in the State and shall upon the request of the Lender, provide evidence of such coverage to the Lender.
- (g) Comply with Laws. The District is in compliance with and shall comply with all applicable federal, state and local laws and regulatory requirements.
- (h) Taxes. In the event the Note, this Agreement or any other Loan Document should be subject to the excise tax on documents or the intangible personal property tax, or any similar tax, of the State of Florida, the District shall pay such taxes or reimburse the Lender for any such taxes paid by it.
- (i) Investments. The District shall invest the proceeds of the Note and its other funds only in obligations permitted by Section 218.345, Florida Statutes.
- (j) Operating Budget; Financial Statements. Before the first day of each Fiscal Year the Governing Body shall prepare, approve and adopt in the manner prescribed by law, a detailed Annual Budget. The District shall annually provide to the Lender (i) the District Annual Financial Report within 270 days of the end of each Fiscal Year and (ii) the Annual Budget within 45 days of the commencement of each Fiscal Year. The

Annual Financial Report shall be prepared in accordance with Chapter 10.550 of the Rules of the Florida Auditor General or the provision of any successor statute or rule governing Florida local government entity audits. The District will also provide the Lender with any financial information the Lender shall reasonably request.

Section 3.02. Lender Fees and Expenses. The District hereby agrees to pay Lender's loan commitment fee in the amount of \$3,500.00, and the fees and expenses of counsel to the Lender in connection with the issuance of the Note in the amount of \$15,000.00, said amounts to be due and payable upon the issuance of the Note.

Section 3.03. Registration and Exchange of Notes; Persons Treated as Owners. So long as the Note shall remain unpaid, the District will keep books for the registration and transfer of the Note. The Note shall be transferable only upon such registration books. The District will transfer the registration of a Note upon written request of the Lender specifying the name, address and taxpayer identification number of the transferee.

The Person in whose name the Note shall be registered shall be deemed and regarded as the absolute owner thereof for all purposes, and payment of principal and interest on the Note shall be made only to or upon the written order of such Person. All such payments shall be valid and effectual to satisfy and discharge the liability upon the Note to the extent of the sum or sums so paid.

Section 3.04. Pledge of and Lien on Pledged Funds. The District does hereby irrevocably pledge the Pledged Funds, and all earnings thereon, to the payment of the principal of and interest in the Note, the funding and maintaining of the reserves therefor as required herein and for all other payments as provided herein.

Section 3.05. Payment of Principal and Interest. The payment of the principal of and interest on the Note shall be secured forthwith equally and ratably by an irrevocable lien on the Pledged Funds and all earnings thereon, all in the manner and to the extent provided herein, prior and superior to all other liens or encumbrances on the Pledged Funds.

The District promises that it will promptly pay the principal of and interest on the Note at the place, on the dates and in the manner provided therein according to the true intent and meaning hereof and thereof, provided that the principal of and interest on the Note is secured solely by and payable from the Pledged Funds, and nothing in the Note or in this Agreement shall be construed as pledging any other funds or assets of the District to such payment or authorizing such payment to be made from any other source. The Note shall not be or constitute a general obligation or indebtedness of the District within the meaning of the Constitution of Florida, but shall be payable solely from and secured by a lien upon and a pledge of the Pledged Funds, in the manner and to the extent herein provided. No Holder shall ever have the right to compel the exercise of the ad valorem taxing power of the District or taxation in any form on any real or personal property to pay such Note or the interest thereon, nor shall any Holder be entitled to payment of such principal and interest from any other funds of the District other than the Pledged Funds, all in the manner and to the extent herein provided. The Holders shall have no lien upon any real or tangible personal property of the District.

Section 3.06. Redemption. The District shall be entitled to prepay the Note prior to maturity in whole or in part, without penalty or premium, in the manner and subject to the conditions set forth in the form of Note attached as Exhibit “A” hereto.

Section 3.07. Business Days. In any case where the due date of interest on or principal of the Note is not a Business Day, then payment of such principal or interest need not be made on such date but may be made on the next succeeding Business Day, provided that interest shall continue to accrue until the payment is actually received by the Lender.

Section 3.08. Officers and Employees of the District Exempt from Personal Liability. No recourse under or upon any obligation, covenant or agreement of this Agreement or the Note or for any claim based thereon or otherwise in respect thereof, shall be had against any member of the Governing Body, or any officer, agent or employee, as such, of the District past, present or future, it being expressly understood (a) that the obligation of the District under this Agreement and the Note is solely a corporate one, (b) that no personal liability whatsoever shall attach to, or is or shall be incurred by, the Governing Body, or the officers, agents, or employees, as such, of the District, or any of them, under or by reason of the obligations, covenants or agreements contained in this Agreement or implied therefrom, and (c) that any and all such personal liability of, and any and all such rights and claims against, every such member of the Governing Body, and every officer, agent, or employee, as such, of the District under or by reason of the obligations, covenants or agreements contained in this Agreement, or implied therefrom, are waived and released as a condition of, and as a consideration for, the execution of this Agreement and the issuance of the Note on the part of the District.

Section 3.09. Note Mutilated, Destroyed, Stolen or Lost. In case the Note shall become mutilated, or be destroyed, stolen or lost, the District 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 Holder furnishing the District proof of ownership thereof and complying with such other reasonable regulations and conditions as the District may prescribe and paying such expenses as the District may incur. The Note so surrendered shall be canceled.

Section 3.10. Section 265 Designation of Note. The reasonably anticipated amount of tax-exempt obligations (other than obligations described in clause (ii) of Section 265(b)(3)(C) of the Code) which have been or will be issued by the District during calendar year 2019 does not exceed \$10,000,000. There are no entities which are subordinate to or which issue obligations on behalf of the District. The District hereby designates the Note as a “qualified tax-exempt obligation” for purposes of Section 265(b)(3)(B)(i) of the Code. The District hereby covenants and agrees not to take any action or to fail to take any action if such action or failure would cause the Note to no longer be a “qualified tax-exempt obligation.”

Section 3.11. Tax Representations, Warranties and Covenants of the District. Notwithstanding anything herein to the contrary, the District hereby covenants and represents that it has taken and caused to be taken and shall make and take and cause to be made and taken all actions that may be required of it for the interest on the Note to be and remain excluded from the



gross income of the Holder for federal income tax purposes, and that to the best of its knowledge it has not taken or permitted to be taken on its behalf, and covenants that to the best of its ability and within its control, it shall not make or take, or permit to be made or taken on its behalf, any action which, if made or taken, would adversely affect such exclusion under the provisions of the Code.

The District acknowledges that the continued exclusion of interest on the Note from gross income for federal income tax purposes depends, in part, upon compliance with the arbitrage limitations imposed by Sections 103(b)(2) and 148 of the Code. The District hereby acknowledges responsibility to take all reasonable actions necessary to comply with these requirements. The District hereby agrees and covenants that it shall not permit at any time or times any of the proceeds of the Note or other funds of the District to be intentionally used, directly or indirectly, to acquire or to replace funds which were used directly or indirectly to acquire any higher yielding investments (as defined in Section 148 of the Code), the acquisition of which would cause the Note to be an arbitrage bond for purposes of Sections 103(b)(2) and 148 of the Code. The District further agrees and covenants that it shall do and perform all acts and things necessary in order to assure that the requirements of Sections 103(b)(2) and 148 of the Code are met.

Specifically, without intending to limit in any way the generality of the foregoing, the District covenants and agrees:

- (a) to pay to the United States of America at the times required pursuant to Section 148(f) of the Code, the excess of the amount earned on all non-purpose investments (as defined in Section 148(f)(6) of the Code) (other than investments attributed to an excess described in this sentence) over the amount which would have been earned if such non-purpose investments were invested at a rate equal to the yield on the Note, plus any income attributable to such excess (the “Rebate Amount”);
- (b) to maintain and retain all records pertaining to and to be responsible for making or causing to be made all determinations and calculations of the Rebate Amount and required payments of the Rebate Amount as shall be necessary to comply with the Code; and
- (c) to comply with all representations and restrictions contained in any Non Arbitrage Certificate executed by the District in connection with the Note.

The District understands that the foregoing covenants impose continuing obligations on it to comply with the requirements of Section 103 and Part IV of Subchapter B of Chapter 1 of the Code so long as such requirements are applicable.

Section 3.12. Additional Tax Covenants of the District. For so long as the Note remains outstanding, the District hereby covenants as follows:

It will comply with, and timely make or cause to be made all filings required by, all effective rules, rulings or regulations promulgated by the Department of the Treasury or the Internal Revenue Service;

- (a) It will not use, invest, direct or permit the investment of the proceeds of the Note or any investment earnings thereon in a manner that will result in such Note becoming a “private activity bond” within the meaning of Sections 141 and 145 of the Code;
- (b) It will not use or permit to be used more than ten percent (10%) of the proceeds of the Note (including any amounts used to pay costs associated with issuing such Note), including all investment income earned on such proceeds directly or indirectly, in any trade or business carried on by any person who is not the District or a state or political subdivision or instrumentality thereof as those terms are used in Section 103 of the Code (an “Exempt Person”);
- (c) It will not use or permit the use of any portion of the proceeds of the Note, including all investment income earned on such proceeds, directly or indirectly, to make or finance loans to persons who are not Exempt Persons;
- (d) It has not entered into, and will not enter into, any arrangement with any person or organization (other than an Exempt Person) which provides for such person or organization to manage, operate, or provide services with respect to more than 10% of the property financed with the proceeds of the Note (a “Service Contract”), unless the guidelines set forth in Revenue Procedure 2017-13, to the extent applicable, or any new, revised or additional guidelines applicable to Service Contracts (the “Guidelines”), are satisfied, except to the extent it obtains a private letter ruling from the Internal Revenue Service or an opinion of nationally recognized Bond Counsel which allows for a variation from the Guidelines.
- (e) It will not cause the Note to be treated as “federally guaranteed” for purposes of Section 149 of the Code, as may be modified in any applicable rules, rulings, policies, procedures, regulations or other official statements promulgated or proposed by the Department of the Treasury or the Internal Revenue Service with respect to “federally guaranteed” obligations described in Section 149 of the Code. For purposes of this paragraph, the Note shall be treated as “federally guaranteed” if (i) all or any portion of the principal or interest is or will be guaranteed directly or indirectly by the United States of America or any agency or instrumentality thereof, or (ii) 5% or more of the proceeds of the Note will be (A) used in making loans the payment of principal or interest with respect to which is to be guaranteed in whole or in part by the United States of America or any agency or instrumentality thereof, or (B) invested directly or indirectly in federally insured deposits or accounts, and (iii) such guarantee is not described in Section 149(b)(3) of the Code; and
- (f) It will comply with the information reporting requirements of Section 149(e)(2) of the Code.

The terms “debt service,” “gross proceeds,” “net proceeds,” “proceeds,” and “yield” have the meanings assigned to them for purposes of Section 148 of the Code.

Section 3.13. No Free Service. The District will not render or cause to be rendered any free ambulance transport services, nor will any preferential rates be established for users of the same class.

Section 3.14. Enforcement of Collections. The District will diligently enforce its right to receive the Pledged Revenues and will diligently enforce and collect the fees, rates, rentals and other charges for the use of the District’s ambulance transport services and facilities. The District will not take any action that will impair or adversely affect its rights to levy, collect and receive the Pledged Revenues, as herein pledged, or impair or adversely affect in any manner the pledge of the Pledged Revenues made herein or the rights of the Lender. The District shall be unconditionally and irrevocably obligated, so long as the Note is outstanding and unpaid, to take all lawful action necessary or required to continue to entitle the District to receive the Pledged Revenues in at least the amounts required by this Agreement.

Section 3.15. No Competing System. To the full extent permitted by law, the District will not, after the date hereof, grant, cause, consent to, or allow the granting of, any franchise or permit to any person for the provision of ambulance transport within the boundaries or service areas of the District.

## ARTICLE IV

### CONDITIONS OF LENDING

Section 4.01. Conditions of Lending. The obligations of the Lender to lend hereunder are subject to the following conditions precedent:

- (a) Representations and Warranties. The representations and warranties set forth in the Loan Documents are and shall be true and correct to the best of the District’s knowledge on and as of the date hereof.
- (b) No Default. On the date hereof the District shall be in compliance with all the terms and provisions set forth in the Loan Documents on its part to be observed or performed, and no Event of Default nor any event that, upon notice or lapse of time or both, would constitute such an Event of Default, shall have occurred and be continuing at such time.
- (c) Supporting Documents. On or prior to the date hereof, the Lender shall have received the following supporting documents, all of which shall be satisfactory in form and substance to the Lender (such satisfaction to be evidenced by the purchase of the Note by the Lender):
  - (i) The opinion of the Attorney for the District, regarding the due authorization, execution, delivery, validity and enforceability of this Agreement and the Note, the District’s power to incur the debt evidenced by the Note and to secure such debt

with a pledge of and lien on the Pledged Funds, the due adoption of the Note Resolution, and the absence of material litigation;

- (ii) The opinion of Bond Counsel to the effect that, (i) the interest on the Note is excluded from gross income for federal income tax purposes (ii) the Note is not an item of tax preference under Section 57 of the Code, (iii) the Note is a qualified tax-exempt obligation under Section 265(b)(3) of the Code, and (iv) the Note and this Loan Agreement are valid obligations of the District, enforceable against the District in accordance with their terms; and
- (iii) Such additional supporting documents as the Lender may reasonably request.

## ARTICLE V

### THE LOAN; DISTRICT'S OBLIGATION; DESCRIPTION AND PAYMENT TERMS

Section 5.01. The Loan. The Lender hereby agrees to loan to the District the amount of \$8,900,000 to be evidenced by the Note, to provide funds to pay the costs of the Project and to pay closing costs upon the terms and conditions set forth in the Note Resolution and in this Agreement.

The District agrees to repay the principal amount borrowed plus interest thereon, upon the terms and conditions set forth in the Loan Documents.

Section 5.02. Description and Payment Terms of the Note. To evidence the Loan, the District shall issue and deliver to the Lender the Note in substantially the form attached hereto as Exhibit "A."

Section 5.03. Funds and Accounts. There are hereby created the following funds and accounts to be known as: the "Debt Service Fund," the "Project Fund" and the Debt Service Reserve Fund." Such funds and accounts shall constitute trust funds for the purposes therein and herein provided until the Note has been paid in full, shall be delivered to and held by the Chief Financial Officer (or an Authorized Depository designated by the Chief Financial Officer), in each case who shall act as trustee of such funds for the purposes thereof and hereof, shall be subject to a lien and charge in favor of the Holder from time to time of the Note, and shall at all times be kept separate and distinct from all other funds of the District and used only as therein and herein provided.

Section 5.04. Application of Revenues.

(a) On or before 12:00 Noon on the last Business Day prior to each date on which principal of or interest on the Note is due, the District shall deposit into the Debt Service Fund an amount of Pledged Revenues at least equal to the principal of and interest on the Note due on such date.

(b) The District shall pay out of the Debt Service Fund to the Lender (i) on or before each interest payment date for the Note, the amount required for the interest payable on such date;

and (ii) on or before each principal payment date for the Note, the amount of principal payable on such date.

Section 5.05. Project Fund.

(a) The proceeds from the sale of the Note shall be deposited into the Project Fund and there may be paid into the Project Fund, at the option of the District, any moneys received for or in connection with the Project by the District from any other source. So long as the Lender is an Authorized Depository, the Project Fund shall be in an account with the Lender.

(b) During the period of construction of the Project or portion thereof, the moneys received pursuant to an insurance claim from insurance maintained against physical loss of or damage to the Project, or of contractors' performance bonds with respect thereto, pertaining to the period of construction thereof, shall be paid into the Project Fund.

(c) Amounts in the Project Fund shall be applied by the District to pay the cost of the Project, including, without limitation, costs of issuance of the Note.

(d) Upon the completion of the Project, the balance in the Project Fund in excess of the amount, if any, to be retained therein for payment of any remaining cost of the Project shall, as directed by the District (i) be deposited in the Debt Service Account and applied to the prepayment of the Note by payment, purchase, or redemption at the earliest date permissible under the terms of this Agreement, or (ii) to the extent the same shall not, in an opinion of Bond Counsel, adversely affect the exclusion from gross income for federal income tax purposes of interest on the Note, to be used for any other lawful purpose of the District.

(e) Until the completion of the Project, any earnings from moneys held in the Project Fund shall be retained in the Project Fund.

Section 5.06. Debt Service Reserve Fund. Simultaneous with the issuance of the Note, the District shall deposit \$890,000.00 into the Debt Service Reserve Fund from a source other than the proceeds of the Note. This shall be accomplished by the District designating \$890,000 of the District's Assigned Fund Balance – Debt Service for such purpose. Such amount is the least of (a) the maximum annual debt service on the Note, (b) 125% of the average annual debt service on the Note, or (c) 10% of the face value of the Note. If, on any date on which the principal of or interest on the Note is due, the District does not pay the full amount due, whether from the Debt Service Fund or otherwise, the Lender may withdraw from the Debt Service Reserve Fund the amount of such shortfall and apply it to such payment. The District shall replace any withdrawal from the Debt Service Reserve Fund from the Pledged Revenues or other available moneys of the District as soon as such moneys are available. So long as the Lender is an Authorized Depository, the Debt Service Reserve Fund shall be established and held at an account with the Lender.

Section 5.07. Accounting for Funds. For the purposes of this Agreement, each fund created hereunder shall be a series of self-balancing accounts within the book of accounts of the District and shall connote a segregation of accounts, which will support special purpose disclosure reports, not to be construed as a separate set of books of accounts.

For the purpose of investing or reinvesting, the District may commingle moneys in the funds created and established hereunder in order to achieve greater investment income; provided that the District shall separately account for the amounts so commingled. The amounts required to be accounted for in each of the funds designated herein may be deposited in a single bank account provided that adequate accounting procedures are maintained to reflect and control the restricted allocations of the amounts on deposit therein for the various purposes of such funds as herein provided. The designation and establishment of funds by this Agreement shall not be construed to require the establishment of any completely independent funds but rather is intended solely to constitute an allocation of certain revenues and assets of the District for certain purposes and to establish certain priorities for application of certain revenues and assets as herein provided.

Section 5.08. Investments. Moneys held in all funds and accounts established under this Agreement shall be invested in Investment Obligations. All Investment Obligations shall mature or shall be subject to redemption at the option of the holder thereof not later than the respective dates when moneys held for the credit of such funds or accounts will be required for the purposes intended, including, in particular, the payment of interest and principal on the Note when due.

Whenever a payment or transfer of moneys between two or more of the funds or accounts established pursuant to this Article V hereof is permitted or required, such payment or transfer may be made in whole or in part by transfer of one or more Investment Obligations at a value determined in accordance with this Article V; provided that the Investment Obligations transferred are those in which moneys of the receiving fund or account could be invested at the date of such transfer. Investment Obligations in all funds and accounts shall be valued at least annually at their fair market value.

Section 5.09. Auto-Debit. At all times while this Agreement is in effect, payments from the Debt Service Fund will be set up on an “auto-debit basis,” which will automatically be debited by the Lender from a predesignated account of the District maintained with the Lender for the interest and principal payments on the Note when due; provided, however, that the payment obligations of the District shall only be satisfied upon receipt by the Lender of such amounts owed.

## ARTICLE VI

### ANTI-DILUTION; CONDITIONS TO THE ISSUANCE OF ADDITIONAL DEBT

Section 6.01. Anti-Dilution; Issuance of Additional Debt. The District will cause to be in effect at all times fees, rates, rentals and other charges for the use of the District’s ambulance transport services and facilities such that the Pledged Revenues shall be at least 125% of the maximum annual debt service on debt secured by and/or payable from the Pledged Revenues, including the Note. In addition, the District will not issue any additional debt secured by or payable from the Pledged Revenues (“Additional Debt”) unless the Pledged Revenues for any consecutive twelve (12) months during the most recent eighteen (18) month period shall be equal to at least

125% of the maximum annual debt service on such Additional Debt and the Note. For purposes of determining compliance with the above, the interest rate on any Additional Debt which bears interest at a variable rate will be deemed to be the greater of (i) the average rate of interest borne by such Additional Debt over the preceding twelve (12) month period (for proposed variable rate Additional Debt based on the formula for calculating the interest rate set forth therein), or (ii) five percent (5.00%) per annum.

## **ARTICLE VII**

### **EVENTS OF DEFAULT**

Section 7.01. General. An "Event of Default" shall be deemed to have occurred under this Agreement if:

- (a) The District shall fail to make any payment of the principal of or interest on the Note when the same become due and payable, whether by maturity, by acceleration at the discretion of the Lender as provided for in Section 7.02, or otherwise; or
- (b) The District shall default in the performance of or compliance with any term or covenant contained in the Loan Documents, other than a term or covenant a default in the performance of which or noncompliance with which is dealt with in Section 7.01(a) or (c) through (h) hereof, which default or non-compliance shall continue and not be cured within thirty (30) days after (i) notice thereof to the District by the Lender; or (ii) the Lender is notified of such noncompliance or should have been so notified pursuant to the provisions of Section 3.01(c) of this Agreement, whichever is earlier; or
- (c) Any representation or warranty made in writing by or on behalf of the District in any Loan Document shall prove to have been false or incorrect in any material respect on the date made or reaffirmed; or
- (d) The District 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 or consents to the appointment of a receiver or trustee for itself; or
- (e) The District is adjudged insolvent by a court of competent jurisdiction, or it is adjudged a bankrupt on a petition in bankruptcy filed by or against the District, or an order, judgment or decree is entered by any court of competent jurisdiction appointing, without the consent of the District, a receiver or trustee of the District or of the whole or any part of its property, and if the aforesaid adjudications, orders, judgments or decrees shall not be vacated or set aside or stayed within sixty (60) days from the date of entry thereof; or
- (f) The District 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 the State of Florida; or

- (g) The District shall default in the due and punctual payment or performance of covenants under any obligation for the payment of money to the Lender or any other subsidiary or affiliate of the Lender; or
- (h) Failure of the District to promptly remove any execution, garnishment or attachment of such consequence as will materially impair its ability to carry out its obligations under the Loan Documents.

Section 7.02. Effect of Event of Default. Following the occurrence of any Event of Default described in Section 7.02(a) above (a “Monetary Default”), the Lender may declare all obligations of the District under the Loan Documents to be immediately due and payable without further action of any kind and upon such declaration the Note and the interest accrued thereon shall become immediately due and payable, but only from the Pledged Funds. In addition, and regardless whether such declaration is or is not made, the Lender may also seek enforcement of and exercise all remedies available to it under the Note Resolution, the Act and any other applicable law.

Should the District default in any obligation created by this Loan Agreement or the Note, the Lender may, in addition to any other remedies set forth in this Agreement 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 of Florida, or granted or contained in this Agreement, and may enforce and compel the performance of all duties required by this Agreement or by any applicable statutes to be performed by the District or by any officer thereof. Upon an Event of Default, the Lender may recover from the District all expenses incurred including without limitation reasonable attorney’s fees, at all levels of the proceedings, whether incurred in connection with collection, bankruptcy proceedings, trial, appeal or otherwise.

## ARTICLE VIII

### MISCELLANEOUS

Section 8.01. No Waiver; Cumulative Remedies. No failure or delay on the part of the Lender in exercising any right, power, remedy hereunder, or under the Note or other Loan Documents shall operate as a waiver of the Lender's rights, powers and remedies hereunder, nor shall any single or partial exercise of any such right, power or remedy preclude any other or further exercise thereof, or the exercise of any other right, power or remedy hereunder or thereunder. The remedies herein and therein provided are cumulative and not exclusive of any remedies provided by law or in equity.

Section 8.02. Amendments; Changes or Modifications to the Agreement. This Agreement shall not be amended, changed or modified except by written instrument between the Lender and the District. The District agrees to pay all of the Lender's costs and reasonable attorneys' fees incurred in modifying and/or amending this Agreement at the District's request or behest. Notwithstanding the foregoing, if the District in the future, with respect to any bonds or notes secured by or payable from the Pledged Funds, agrees to more restrictive covenants, ratios, tests or remedies than provided herein, such more restrictive covenants, ratios, tests or remedies shall automatically be deemed incorporated herein *mutatis mutandi*.





shall have no rights to assign any of their rights or obligations hereunder without the prior written consent of the Lender.

Section 8.08. Conflict. In the event any conflict arises between the terms of this Agreement and the terms of any other Loan Document, the terms of this Agreement shall govern in all instances of such conflict.

Section 8.09. No Third Party Beneficiaries. It is the intent and agreement of the parties hereto that this Agreement is solely for the benefit of the parties hereto and no person not a party hereto shall have any rights or privileges hereunder.

Section 8.10. Entire Agreement. Except as otherwise expressly provided, this Agreement and the other Loan Documents embody the entire agreement and understanding between the parties hereto and supersede all prior agreements and understandings relating to the subject matter hereof.

Section 8.11. Further Assurances. The parties to this Agreement will execute and deliver, or cause to be executed and delivered, such additional or further documents, agreements or instruments and shall cooperate with one another in all respects for the purpose of carrying out the transactions contemplated by this Agreement.

Section 8.12. Waiver of Jury Trial. The District and the Lender each knowingly, voluntarily, and intentionally waives any right it may have to a trial by jury, with respect to any litigation or legal proceedings based on or arising out of the Loan Documents, 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 Loan Documents.

Section 8.13. 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 the Note), the District acknowledges and agrees, that: (a) (i) the District has consulted its own legal, accounting, regulatory and tax advisors to the extent it has deemed appropriate, (ii) the District is capable of evaluating, and understands and accepts, the terms, risks and conditions of the transactions contemplated hereby and by the Note, (iii) the Lender is not acting as a municipal advisor or financial advisor to the District, and (iv) the Lender has no fiduciary duty pursuant to Section 15B of the Securities Exchange Act to the District 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 District on other matters); (b) (i) the Lender is and has been acting solely as a principal and, except as expressly agreed in writing by the relevant parties, has not been, is not, and will not be acting as an advisor, agent or fiduciary, for the District or any other person and (ii) the Lender has no obligation to the District, with respect to the transactions contemplated hereby except those obligations expressly set forth herein and in the Note; and (c) the Lender may be engaged in a broad range of transactions that involve interests that differ from those of the District, and the Lender has no obligation to disclose any of such interests to the District. This Agreement and the Note are entered into 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 8.14. Marketing. The District acknowledges and agrees that the Lender shall be permitted to use information related to the Note 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 of the Lender or other identifying name on marketing materials or of “tombstone” advertisements in publications of lender’s choice at Lender’s expense.

IN WITNESS WHEREOF, the parties have executed this Agreement to be effective between them as of the date of first set forth above.

LEHIGH ACRES FIRE CONTROL AND  
RESCUE DISTRICT

By: \_\_\_\_\_  
Catherine Kruse, Chair

Attest by: \_\_\_\_\_  
Lucia Sherman, Treasurer / Secretary

[SEAL]

SYNOVUS BANK

By: \_\_\_\_\_  
LeeAnn Kirwin, Vice President

## EXHIBIT A

THIS NOTE MAY NOT BE TRANSFERRED BY THE REGISTERED OWNER HEREOF TO ANY PERSON OTHER THAN (I) TO A “QUALIFIED INSTITUTIONAL BUYER” (AS DEFINED IN RULE 144A UNDER THE SECURITIES ACT OF 1933, AS AMENDED); OR (II) TO AN “ACCREDITED INVESTOR” (AS DEFINED IN RULE 501 OF REGULATION D UNDER THE SECURITIES ACT OF 1933, AS AMENDED).

March \_\_, 2019

\$8,900,000

LEHIGH ACRES FIRE CONTROL AND RESCUE DISTRICT

PROMISSORY NOTE, SERIES 2019B (FIRE STATIONS LOAN)

KNOW ALL MEN BY THESE PRESENTS that the Lehigh Acres fire Control and Rescue District (the “District”), an independent special district organized and existing under 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 Synovus Bank d/b/a Florida Community Bank. or registered assigns (hereinafter, the “Lender” or the “Holder”), the principal sum of \$8,900,000 or such lesser amount as shall be outstanding hereunder, together with interest on the principal balance outstanding at the rate of 3.35% per annum (the “Note Rate”) (subject to adjustment as hereinafter provided), based upon a 360 day year consisting of twelve 30 day months.

Principal of and interest on this Note are payable in lawful money of the United States of America by auto-debit as provided in the hereinafter described Agreement, or in such other manner as may be agreed upon by the Lender and the District from time to time.

The principal of and accrued interest on this Note shall be due and payable on the 1st day of each June and December, beginning June 1, 2019, through and including December 1, 2033 (the “Maturity Date”), in the amounts set forth in Schedule “I” hereto.

All payments by the District pursuant to this Note shall apply first to accrued interest, then to other charges due to the Holder, and the balance thereof shall apply to the principal sum due.

Each date when principal and/or interest on this Note is due is a “Payment Date.” If any Payment Date is not a Business Day, the payment otherwise due on such Payment Date shall be due on the next Business Day.

Upon the occurrence of an Event of Default consisting of the District’s failure to make any payment of the principal of or interest on this Note after the same shall become due and payable, whether by maturity, or otherwise (a “Monetary Default”), until such Monetary Default has been cured this Note shall bear interest at the maximum rate permitted by law. Upon the occurrence of a Monetary Default, this Note is also subject to acceleration as provided in the Agreement. In

addition, if any payment due to the Holder is more than fifteen (15) days overdue, a late charge equal to five percent (5%) of the overdue payment shall be assessed.

As used in this Note,

(1) “Code” means the Internal Revenue Code of 1986, as amended, including the applicable regulations of the Department of the Treasury (including applicable final regulations, temporary regulations and proposed regulations), the applicable rulings of the Internal Revenue Service (including published Revenue Rulings and private letter rulings) and applicable court decisions;

(2) “Determination of Taxability” shall mean interest on this Note is determined or declared, by the Internal Revenue Service or a court of competent jurisdiction to be includable in the gross income of the Registered Owner for federal income tax purposes under the Code.

Upon the occurrence of a Determination of Taxability, the interest rate on this Note shall be adjusted to a rate equal to the interest rate otherwise borne hereby divided by (1 minus the then maximum federal corporate income tax rate applicable to the Registered Owner) (the “Adjusted Interest Rate”) calculated on the basis of a 360-day year consisting of twelve 30-day months, as of and from the date such Determination of Taxability would be applicable with respect to this Note (the “Accrual Date”); and (i) the District shall on the next interest payment date (or if this Note shall have matured, within thirty days after demand by the Registered Owner) hereon pay to the Registered Owner an amount equal to the sum of (1) the difference between (A) the total interest that would have accrued on this Note at the Adjusted Interest Rate from the Accrual Date to such interest payment date (or payment date following such demand), and (B) the actual interest paid by the Issuer on this Note from the Accrual Date to such interest payment date (or payment date following such demand), and (2) any interest and penalties required to be paid as a result of any additional State of Florida and federal income taxes imposed upon the Registered Owner arising as a result of such Determination of Taxability; and (ii) from and after the Date of Determination of Taxability, this Note shall continue to bear interest at the Adjusted Interest Rate for the period such determination continues to be applicable with respect to this Note. The adjustment shall survive payment of this Note until such time as the federal statute of limitations under which the interest on this Note could be declared taxable under the Code shall have expired.

The District has designated this Note as a “qualified tax-exempt obligation” (QTEO) for purposes of Section 265 of the Code. If it should ever be determined that this Note is not a QTEO, then the District shall pay to the Registered Owner, within sixty days after demand, such amounts as shall provide to the Registered Owner the same rate of return hereon that the Registered Owner would have realized had this Note been a QTEO. This adjustment shall survive payment of this Note until such time as the federal statute of limitations under which this Note could be declared not to be a QTEO shall have expired.

No Determination of Taxability shall be deemed to occur unless the District has been given timely written notice of such occurrence by the Registered Owner and, to the extent permitted by law, an opportunity to participate in and seek, at the District’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; provided that the District, at its own expense, delivers to the Registered Owner an opinion of bond counsel acceptable to such Registered Owner to the effect that such appeal or action for judicial or administrative review is not without merit and there is a reasonable possibility that the judgment, order, ruling or decision from which such appeal or action for judicial or administrative review is taken will be reversed, vacated or otherwise set aside.

Notwithstanding the foregoing, in no event shall the interest rate payable on this Note exceed the maximum rate permitted by law.

This Note shall be subject to redemption in whole or in part on any date at the option of the District, at a redemption price equal to the principal amount thereof to be redeemed plus accrued interest thereon. In the event of a partial redemption, the Holder shall prepare a new principal repayment schedule that will proportionately reduce future debt service payments based on the lesser principal amount outstanding as a result of such partial redemption.

This Note is issued pursuant to a resolution duly adopted by the District on February 26, 2019, as from time to time amended and supplemented (herein referred to as the "Resolution"), and a Loan Agreement, dated of even date herewith, between the District and the Lender (the "Agreement") and is subject to all the terms and conditions of the Agreement. All terms, conditions and provisions of the Agreement are by this reference thereto incorporated herein as a part of this Note. Terms used herein in capitalized form and not otherwise defined herein shall have the meanings ascribed thereto in the Agreement.

This Note and the interest hereon are payable from and secured solely by a pledge of and lien on the Pledged Funds, in the manner and to the extent in the Agreement provided. Reference is hereby made to the Loan Agreement for the provisions, among others, relating to the terms, lien and security of the Note, the custody and application of the proceeds of the Note, the rights and remedies of the Holder of the Note, and the extent of and limitations on the District's rights, duties and obligations, to all of which provisions the Holder hereof for himself and his successors in interest assents by acceptance of this Note.

THIS NOTE SHALL NOT BE DEEMED TO CONSTITUTE A GENERAL DEBT OR A PLEDGE OF THE FAITH AND CREDIT OF THE DISTRICT, OR A DEBT OR PLEDGE OF THE FAITH AND CREDIT OF THE STATE OF FLORIDA OR ANY POLITICAL SUBDIVISION THEREOF WITHIN THE MEANING OF ANY CONSTITUTIONAL, LEGISLATIVE OR CHARTER PROVISION OR LIMITATION, AND IT IS EXPRESSLY AGREED BY THE HOLDER OF THIS NOTE THAT SUCH HOLDER SHALL NEVER HAVE THE RIGHT, DIRECTLY OR INDIRECTLY, TO REQUIRE OR COMPEL THE EXERCISE OF THE AD VALOREM TAXING POWER OF THE DISTRICT OR ANY OTHER POLITICAL SUBDIVISION OF THE STATE OF FLORIDA OR TAXATION IN ANY FORM ON ANY REAL OR PERSONAL PROPERTY FOR THE PAYMENT OF THE PRINCIPAL OF, PREMIUM, IF ANY, AND INTEREST ON THIS NOTE OR FOR THE PAYMENT OF ANY OTHER AMOUNTS PROVIDED FOR IN THE AGREEMENT

It is further agreed between the District and the Holder of this Note that this Note and the indebtedness evidenced hereby shall not constitute a lien upon any tangible personal property of or in the District, but the Note shall only be secured by the Pledged Funds, in the manner and to the extent provided in the Agreement. Neither the members of the governing body of the District nor any person executing the Note shall be liable personally on the Note by reason of its issuance.

This Note may be exchanged or transferred by the Holder hereof but only upon the registration books maintained by the District and in the manner provided in the Agreement.

This Note shall not require delivery for prepayment or principal installment payment.

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 Lehigh Acres Fire Control and Rescue District has caused this Note to be executed in its name by the manual signature of the Chair of its Board of Commissioners, and attested by the manual signature of its Secretary and its corporate seal or a facsimile thereof affixed hereto, all as of this \_\_\_\_ day of March, 2019.

LEHIGH ACRES FIRE CONTROL AND  
RESCUE DISTRICT

By: \_\_\_\_\_  
Catherine Kruse, Chair

Attest by: \_\_\_\_\_  
Lucia Sherman, Treasurer / Secretary

[SEAL]

#### FORM OF ASSIGNMENT

FOR VALUE RECEIVED, the undersigned hereby sells, assigns and transfers unto \_\_\_\_\_ the within Note and all rights thereunder, and hereby

irrevocably constitutes and appoints \_\_\_\_\_ attorney to transfer the within Note in the books kept by the District for the registration thereof, with full power of substitution in the premises.

Dated: \_\_\_\_\_

NOTICE: The signature of this assignment must correspond with the name as it appears upon the within Note in every particular, or any change whatever.

\_\_\_\_\_  
SOCIAL SECURITY NUMBER OR  
FEDERAL IDENTIFICATION  
NUMBER OF ASSIGNEE

[Form of Abbreviations]

The following abbreviations, when used in the inscription on the face of the within Note, shall be construed as though they were written out in full according to the applicable laws or regulations.

- TEN COM – as tenants in common
- TEN ENT – as tenants by the entireties
- JT TEN – as joint tenants with the right of survivorship and not as tenants in common
- UNIFORM TRANS MIN ACT - \_\_\_\_\_ Custodian for \_\_\_\_\_ (Cust.) (Minor) under Uniform Transfers to Minors Act of \_\_\_\_\_ (State).

Additional abbreviations may also be used though not in the above list.

Name and address of assignee for payment and notice purposes

Notice: _____	Payment: _____
_____	_____
_____	_____

Date: \_\_\_\_\_

Assignee: \_\_\_\_\_

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

Title: \_\_\_\_\_

SCHEDULE "I" – PRINCIPAL REPAYMENT SCHEDULE