RESOLUTION NO. 210536

A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF GAINESVILLE, FLORIDA AUTHORIZING THE EXECUTION OF A SECOND AMENDMENT TO THE FINANCING AGREEMENT ORIGINALLY ENTERED INTO IN CONNECTION WITH THE ISSUANCE OF THE CITY OF GAINESVILLE, FLORIDA CONTINUING CARE RETIREMENT COMMUNITY REVENUE REFUNDING NOTE (OAK HAMMOCK AT THE UNIVERSITY OF FLORIDA, INC. PROJECT), SERIES 2017A AND THE CITY OF GAINESVILLE, FLORIDA CONTINUING CARE RETIREMENT COMMUNITY REVENUE REFUNDING NOTE (OAK HAMMOCK AT THE UNIVERSITY OF FLORIDA, INC. PROJECT), SERIES 2017B FOR THE PURPOSE OF PROVIDING FUNDS TO MAKE A LOAN TO OAK HAMMOCK AT THE UNIVERSITY OF FLORIDA, INC. TO PROVIDE FUNDS TO FINANCE THE COST OF REFINANCING OBLIGATIONS OF THE BORROWER; AUTHORIZING CERTAIN OFFICIALS OF THE CITY OF GAINESVILLE, FLORIDA TO TAKE CERTAIN ACTION IN CONNECTION WITH THE AMENDMENTS; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the City of Gainesville, Florida (the "Issuer") previously authorized the issuance for the benefit of Oak Hammock at the University of Florida, Inc., a Florida not-for-profit corporation (the "Borrower") of its Continuing Care Retirement Community Revenue Refunding Note (Oak Hammock at the University of Florida, Inc. Project), Series 2017A (the "2017A Note") and its Continuing Care Retirement Community Revenue Refunding Note (Oak Hammock at the University of Florida, Inc. Project), Series 2017B (the "2017B Note" and, together with the 2017A Note, the "Notes") and the loan of the proceeds of the Notes to the Borrower to refinance the obligations of the Borrower; and

WHEREAS, the loan was funded from the proceeds of the sale of the Notes to TD Bank, N.A., a national banking association, as Initial Purchaser (the "Initial Purchaser"), pursuant to a Financing Agreement dated as of September 1, 2017, as amended by the First Amendment to Financing Agreement dated as of October 1, 2018 (collectively, the "Original Financing Agreement"), among the Initial Purchaser, the Issuer and the Borrower;

WHEREAS, the Borrower and the Initial Purchaser now desire to amend the Original Financing Agreement to modify the Initial Noteholder Put Date (as defined in the Original Financing Agreement) and interest rate formula applicable to the 2017A Note and to make certain changes to the financial covenants for Notes (the "Amendments");

WHEREAS, the Borrower and the Initial Purchaser have requested that the Issuer assist the Borrower in order to undertake the necessary actions; and

WHEREAS, it is necessary and desirable to approve the form of and authorize the execution and delivery of a Second Amendment to Financing Agreement (the "Second Amendment", together with Original Financing Agreement, the "Financing Agreement") in substantially the form attached hereto as Exhibit A and incorporated herein by reference.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COMMISSION OF THE CITY OF GAINESVILLE, FLORIDA THAT:

SECTION 1. AUTHORITY FOR THIS RESOLUTION. This resolution, hereinafter called the "Resolution," is adopted pursuant to the Constitution of the State of Florida, Chapter 166, Florida Statutes, Chapter 159, Part II, Florida Statutes, the Charter of the Issuer and other applicable provisions of law (the "Act").

SECTION 2. DEFINITIONS. Unless the context otherwise requires, the terms used in this Resolution in capitalized form and not otherwise defined herein shall have the meanings specified in the Financing Agreement. Words importing singular number shall include the plural number in each case and vice versa, and words importing persons shall include firms and corporations.

SECTION 3. INTERPRETATION. Unless the context shall clearly indicate otherwise in this Resolution: (i) references to sections and other subdivisions, whether by number or letter or otherwise, are to the respective or corresponding sections and subdivisions of this Resolution; (ii) the terms "herein," "hereunder," "hereby," "hereto," hereof," and any similar terms, refer to this Resolution only and to this Resolution as a whole and not to any particular section or subdivision hereof; and (iii) the term "heretofore" means before the date of adoption of this Resolution; the word "now" means at the time of enactment of this Resolution; and the term "hereafter" means after the date of adoption of this Resolution.

SECTION 4. FINDINGS. It is hereby ascertained, determined and declared that the Notes shall not be deemed to constitute a debt, liability or obligation, or a pledge of the faith and credit or taxing power, of the Issuer or of the State of Florida (the "State") or of any political subdivision thereof, but the Notes shall be payable solely from the revenues and proceeds to be derived by the Issuer from payments received under the Financing Agreement and the Issuer shall be obligated to pay the Notes only from the revenues and proceeds derived by the Issuer from such payments.

SECTION 5. AUTHORIZATION OF SECOND AMENDMENT TO FINANCING AGREEMENT. The form of the Second Amendment in substantially the form attached hereto as Exhibit "A" is hereby approved, subject to such changes, insertions and omissions and such filling of blanks therein, as may be approved and made in the form of the Second Amendment by the Mayor or such other person or persons who are authorized to act on his behalf, including the Mayor Pro-Tem (the "Mayor"), subject to the approval of the City Attorney or any Assistant City Attorney (the "City Attorney") as to form and legality, who are hereby authorized to execute, deliver and perform the Original Financing Agreement, as amended by the Second Amendment on behalf of the Issuer, and by the Borrower, in a manner consistent with the provisions of this Resolution, such execution by the Mayor and the attestation of signatures by the Clerk or any Deputy Clerk (the "Clerk"), to the extent required in the Financing Agreement, to be conclusive evidence of any such approval by the Issuer.

SECTION 6. FURTHER INSTRUMENTS AND ACTIONS; REPLACEMENT NOTES. At the request of the Borrower or the Initial Purchaser, the Issuer shall, at the expense of the Borrower, execute and deliver such further instruments or take such further actions as may be reasonably required to carry out the purposes of this Resolution, including, without limitation,

filing of form 8038 with the Internal Revenue Service, amending the Tax Regulatory Agreement and No Arbitrage Certificate dated September 28, 2017 between the Issuer and the City, as the Borrower and Initial Purchaser may deem necessary or appropriate, not inconsistent with the terms hereof. Further, the Issuer is authorized to enter on its books records any interest rate agreement or modifications to an existing interest rate hedge agreement necessary to identify such interest rate hedge for federal income tax purposes. The Issuer also consents to the waiver and modification of the notice provisions related to the prepayment of the Notes as agreed to by the Borrower and the Lender, including the provision for permitting a conditional notice of redemption.

SECTION 7. LIMITED LIABILITY OF ISSUER. Anything in this Resolution, the Notes or the Financing Agreement (collectively, the "Financing Documents") to the contrary notwithstanding, the performance by the Issuer of all duties and obligations imposed upon it hereby, the exercise by it of all powers granted to it hereunder, the carrying out of all covenants, agreements and promises made by it hereunder, and the liability of the Issuer for all warranties and other covenants hereunder, shall be limited solely to the revenues and receipts derived from the Financing Documents, and the Issuer shall not be required to effectuate any of its duties, obligations, powers or covenants hereunder except to the extent of such revenues and receipts.

SECTION 8. NO PERSONAL LIABILITY. No recourse under or upon any obligation, covenant or agreement contained in this Resolution, the Notes, any other Financing Document or under any judgment obtained against the Issuer, or by the enforcement of any assessment or by legal or equitable proceeding by virtue of any constitution or statute or otherwise or under any circumstances, under or independent of this Resolution, shall be had against any member of the City Commission, agent, employee or officer, as such, past, present or future, of the Issuer, either directly or through the Issuer, or otherwise, for the payment for or to the Issuer or any receiver thereof, or for or to the holder of the Notes or otherwise of any sum that may be due and unpaid by the Issuer upon the Notes. Any and all personal liability of every nature, whether at common law or in equity, or by statute or by constitution or otherwise, of any member or officer, as such, to respond by reason of any act or omission on his or her part or otherwise, for the payment for or to the Issuer or any receiver thereof, or for or to the holder of the Notes or otherwise, of any sum that may remain due and unpaid upon the Notes is hereby expressly waived and released as a condition of and in consideration for the execution of this Resolution and the Amendments.

SECTION 9. NOTES TO BE LIMITED OBLIGATIONS. Neither the State nor any political subdivision thereof (including the Issuer) shall in any event be liable for the payment of the principal of or interest on or late charges with respect to the Notes, except that the Issuer shall be liable to pay the Notes from the special sources as herein and in the Financing Documents established and provided. The Notes shall never constitute an indebtedness of the State or of any political subdivision of the State (including the Issuer) within the meaning of any state constitutional provisions or statutory limitation and shall never constitute or give rise to the pecuniary liability of the State or any political subdivision thereof or of the Issuer or a charge against their general credit. The holders of the Notes shall not have the right to compel any exercise of the ad valorem taxing power of the State or of any political subdivision of said State (including the Issuer) to pay the Notes or the interest thereon or any late charges with respect thereto.

SECTION 10. LAWS GOVERNING. This Resolution shall be governed exclusively by the provisions hereof and by the applicable laws of the State.

SECTION 11. NO THIRD PARTY BENEFICIARIES. Except as herein or in the documents herein mentioned otherwise expressly provided, nothing in this Resolution or in such documents, express or implied, is intended or shall be construed to confer upon any Person other than the Issuer, the Initial Purchaser and the Borrower any right, remedy or claim, legal or equitable, under and by reason of this Resolution or any provision hereof or of such documents; this Resolution and such documents being intended to be and being for the sole and exclusive benefit of such parties.

SECTION 12. PREREQUISITES PERFORMED. All acts, conditions and prerequisites relating to the passage of this Resolution and required by the Constitution or laws of the State to happen, exist and be performed precedent to and in the passage hereof have happened, exist and have been performed as so required. Any actions by officials of the Issuer with respect to the Notes, this Resolution and the other Financing Documents, and the transactions contemplated hereby and thereby, that may have occurred prior to the date of this Resolution are hereby ratified.

SECTION 13. GENERAL AUTHORITY. The Mayor, the Clerk, the City Attorney and the other officers and employees of the Issuer are hereby authorized to execute and deliver such documents, instruments and certificates as deemed necessary or appropriate to carry out the intent of this Resolution and do all acts and things required of them by this Resolution and the other Financing Documents or desirable or consistent with the requirements hereof or thereof, for the full punctual and complete performance of all terms, covenants and agreements contained in the Notes, this Resolution and the other Financing Documents, including, without limitation, amending or issuing replacement Notes in a manner not inconsistent herewith.

SECTION 14. RESOLUTION CONSTITUTES A CONTRACT. The Issuer covenants and agrees that this Resolution shall constitute a contract between the Issuer and the holders from time to time of the Notes and that all covenants and agreements set forth herein and in the Financing Documents and to be performed by the Issuer shall be for the benefit and security of the holder of the Notes.

SECTION 15. SEVERABILITY. If any one or more of the covenants, agreements, or provisions contained herein or in the Notes shall be held contrary to any express provisions of law or contrary to the policy of express law, though not expressly prohibited, or against public policy, or shall for any reason whatsoever be held invalid, then such covenants, agreements, or provisions shall be null and void and shall be deemed separable from the remaining covenants, agreements, or provisions hereof and thereof and shall in no way affect the validity of any of the other provisions of this Resolution or of the Notes.

SECTION 16. REPEALER. All resolutions or ordinances or parts thereof of the Issuer in conflict with the provisions herein contained are, to the extent of any such conflict, hereby superseded and repealed.

SECTION 17. EFFECTIVE DATE. This Resolution shall take effect immediately upon its passage and adoption.

SECTION 18. LIMITED APPROVAL. The approval given herein shall not be construed as (i) an endorsement of the creditworthiness of the Borrower or the financial viability of the Project, (ii) a recommendation to any current or prospective purchaser of the Notes, (iii) an evaluation of the likelihood of the repayment of the debt service on the Notes, or (iv) any necessary governmental approval relating to the Project, and the Issuer shall not be construed by reason of its adoption of this resolution to have made any such endorsement, finding or recommendation or to have waived any of the Issuer's rights or estopping the Issuer from asserting any rights or responsibilities it may have in that regard.

Passed and duly adopted in public session of the City Commission of the City of Gainesville, Florida on the 21st day of October, 2021.

CITY COMMISSION OF THE CITY OF GAINESVILLE, ~~FLORIDA~~

By: _____
Mayor

ATTESTED:

By: _____
~~Clerk of the Commission~~ Deputy Clerk

APPROVED AS TO FORM AND LEGALITY:

By: Nicolle M. Shalley
City Attorney

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EXHIBIT A

FORM OF SECOND AMENDMENT TO FINANCING AGREEMENT

SECOND AMENDMENT TO FINANCING AGREEMENT

This SECOND AMENDMENT TO FINANCING AGREEMENT (this *"Amendment"*) is dated as of November __, 2021 (the *"Amendment Date"*), and is among the CITY OF GAINESVILLE, FLORIDA, a municipal corporation duly created and existing under the laws of the State of Florida (the "*Issuer*"), OAK HAMMOCK AT THE UNIVERSITY OF FLORIDA, INC., a Florida not-for-profit corporation (the *"Borrower"*) and TD BANK, N.A., and its permitted successors and assigns (as *"Noteholder"*). All capitalized terms used herein and not defined herein shall have the meanings set forth in the hereinafter defined Agreement.

WITNESSETH

WHEREAS, the Issuer, the Borrower and the Noteholder have previously entered into that certain Financing Agreement dated as of September 1, 2017, as amended by the First Amendment to Financing Agreement dated as of October 1, 2018 (collectively, the *"Agreement"*);

WHEREAS, pursuant to Section 9.05 of the Agreement, the Agreement may be amended by a written amendment thereto executed by (i) in certain instances set forth therein, all of the parties thereto and (ii) in other instances, the Borrower and the Noteholder.

WHEREAS, the Borrower has requested that certain amendments be made to the Agreement and the Noteholder and Issuer have agreed to make such amendments to the Agreement subject to the terms and conditions set forth herein;

NOW THEREFORE, in consideration of the premises, the parties hereto hereby agree as follows:

1. AMENDMENTS.

Upon the satisfaction of the conditions precedent set forth in Section 2 hereof, the Agreement is hereby amended as follows:

1.01. Section 1.01 of the Agreement shall be amended by amending and restating the following defined terms therein in their entirety, each to read as follows:

> **"Applicable Percentage"** means (i) during the Initial Interest Period, (A) to but not including October 31, 2018, 69.50% and (B) from and including October 31, 2018, and thereafter, 81.50%, and (ii) during any Interest Period after the Initial Interest Period, such percentage as is determined by the Market Agent as the "Applicable Percentage," pursuant to Section 2.03(d).
>
> **"Applicable Spread"** means (i) during the Initial Interest Period, (A) to but not including December 1, 2021, 1.72% and (B) from and including December 1, 2021, 1.42% and (ii) during any Interest Period after the Initial Interest Period, such percentage as is determined by the Market Agent as the "Applicable Spread," pursuant to Section 2.03(d) (which may include a schedule for the Applicable

Spread based upon the ratings assigned to the long term debt of the Borrower that, when added to the product of Term SOFR multiplied by the Applicable Percentage (and multiplied by the Margin Rate Factor), as applicable, would equal the minimum interest rate per annum that would enable the Series 2017A Note to be sold on such date at a price equal to the principal amount thereof (without regard to accrued interest, if any, thereon)).

"Computation Date" means the second Business Day immediately preceding each Index Reset Date.

"Index Floating Rate" except as otherwise provided herein with respect to the Series 2017A Note, means a per annum rate established on each Computation Date (i) to but not including December 1, 2021, equal to (A) the Applicable Percentage multiplied by the sum of LIBOR plus the Applicable Spread, multiplied by (B) the Margin Rate Factor, and subject to adjustment to reflect changes in LIBOR and in the Margin Rate Factor and in accordance with Section 2.03 hereof and (ii) from and after December 1, 2021, equal to (A) the Applicable Percentage multiplied by the sum of Term SOFR plus the Applicable Spread, multiplied by (B) the Margin Rate Factor, and subject to adjustment to reflect changes in Term SOFR and in the Margin Rate Factor and in accordance with Section 2.03 hereof.

"Index Reset Date" means the first Business Day of each calendar month.

"Initial Noteholder Put Date" means [_____], 2031, as it may be extended in the sole discretion of the Noteholder. No consent of the Issuer shall be required in connection with such extension.

"Margin Rate Factor" means, (i) to but not including October 31, 2018, the product of (A) one minus the Maximum Federal Corporate Tax Rate and (B) 1.53846, and (ii) from and including October 31, 2018, and thereafter, the product of (A) Tax-Exempt Factor and (B) 1.22699, rounded upward to the second decimal place.

"Noteholder Put Date" means the Initial Noteholder Put Date and for any Interest Period after the Initial Interest Period, the date designated by the Borrower pursuant to Section 2.03(d) hereof.

"Taxable Rate" means (i) from the period from and including the Delivery Date to but excluding November 17, 2021, for each determination date, a rate of interest per annum equal to the product of (A) the interest rate applicable to the Notes for such day and (B) 1.5 and (ii) from and after November 17, 2021, for each determination date, a rate of interest per annum equal to the product of (A) the interest rate applicable to the Notes for such day and (B) the Taxable Rate Factor.

1.02 Section 1.01 of the Agreement shall be amended by the addition of the following defined terms in the appropriate alphabetical order:

"**Floor**" means a rate of interest equal to 0.00%.

"**SOFR**" means, with respect to any Business Day, a rate per annum equal to the secured overnight financing rate for such Business Day published by the SOFR Administrator on the SOFR Administrator's Website at approximately 2:30 p.m., New York time, on the immediately succeeding Business Day.

"**SOFR Administrator**" means The Federal Reserve Bank of New York (or a successor administrator of the secured overnight financing rate).

"**SOFR Administrator's Website**" means the website of the Federal Reserve Bank of New York, currently at http://www.newyorkfed.org, or any successor source for the secured overnight financing rate identified as such by the SOFR Administrator from time to time.

"**SOFR Interest Period**" means, initially, the period beginning on (and including) December 1, 2021 and ending on January 2, 2022, and thereafter, each period commencing on an Index Reset Date and ending on the day occurring immediately prior to the next Index Reset Date; *provided,* however, that no SOFR Interest Period may end later than the final maturity date of the Series 2017A Notes.

"Taxable Rate Factor" means, for each day that the Taxable Rate is determined, the quotient of (i) on *divided by* (ii) one minus the Maximum Federal Corporate Tax Rate in effect as of such day, rounded upward to the second decimal place.

"**Term SOFR**" means for any SOFR Interest Period, the greater of (a) the forward-looking term rate for a period comparable to such SOFR Interest Period based on SOFR that is published by an information service that publishes such rate from time to time as selected by the Calculation Agent in its reasonable discretion at the Computation Date in a manner substantially consistent with market practice and (b) the Floor.

1.03. Section 2.03 of the Agreement is hereby amended and as so amended shall be restated to read as follows:

SECTION 2.03. INTEREST RATE AND ADJUSTMENTS TO INTEREST RATE; OTHER PAYMENTS.

(a) (i) Subject to the provisions of this Section 2.03, the Series 2017A Note shall bear interest at the Index Floating Rate from the Delivery Date to and including the earliest of the day preceding (i) its redemption date, (ii) its prepayment in full (including upon acceleration or otherwise), (iii) the maturity date and (iv) the Mandatory Purchase Date. Interest on the Series 2017A Note shall be payable on each Interest Payment Date. The initial Index Floating Rate shall be established by the Calculation Agent on the day

preceding the Delivery Date and shall be effective for the period commencing on the Delivery Date through, but not including, October 1, 2017. Thereafter, the Calculation Agent shall determine the Index Float Rate on each Computation Date, which rate shall be effective commencing on (and including) each Index Reset Date (and including) and ending on the last day of such LIBOR Interest Period or SOFR Interest Period, as applicable. Interest on the Series 2017A Note shall be computed on the basis of a 360 day year for the actual number of days elapsed.

(ii) Subject to the provisions of this Section 2.03, the Series 2017B Note shall bear interest at the Fixed Rate from the Delivery Date to and including the earliest of the day preceding (i) its redemption date, (ii) its prepayment in full (including upon by acceleration or otherwise), (iii) the maturity date, and (iv) the Mandatory Purchase Date. Interest on the Series 2017B Note shall be payable on each Interest Payment Date. The initial Index Floating Rate shall be effective for the period commencing on the Delivery Date through each Mandatory Purchase Date.

(b) In the event of a Determination of Taxability, the Interest Rate on the Notes, shall be changed to the Taxable Rate effective retroactively to the date on which such Determination of Taxability was made. Immediately upon a Determination of Taxability, the Borrower agrees to pay to the Noteholder certain additional amounts, as follows:

(i) an additional amount equal to the difference between (x) the amount of interest paid on the Notes during the Taxable Period and (y) the amount of interest that would have been paid on the Notes during the Taxable Period had the Notes borne interest at the Taxable Rate; plus

(ii) an amount equal to any interest, penalties on overdue interest and additions to tax (as referred to in Subchapter A of Chapter 68 of the Code) owed by the Noteholder as a result of the occurrence of a Determination of Taxability.

The Noteholder shall, upon written request of the Borrower, provide reasonable evidence to the Borrower supporting the calculation of the Taxable Rate by the Noteholder.

Following the occurrence of a Determination of Taxability, neither the Noteholder nor the Issuer shall be obligated to contest or protest the determination that interest on the Notes is or was taxable, nor cooperate with the Borrower in pursuing any such contest or protest, but they may do so in their discretion if indemnified by the Borrower to their satisfaction.

(c) Increased Costs Generally. (i) If any Change in Law shall:

(A) impose, modify or deem applicable any reserve, liquidity ratio, special deposit, compulsory loan, insurance charge or similar requirement against assets of, deposits with or for the account of, or advances, loans or other credit extended or participated in by, a Noteholder;

(B) subject a Noteholder to any Taxes, of any kind whatsoever with respect to this Agreement or the Related Documents, or change the basis of taxation of payments to a Noteholder in respect thereof (except the imposition of, or any change in the rate of, any Excluded Taxes payable by the Noteholder); or

(C) impose on a Noteholder any other condition, cost or expense affecting this Agreement and the result of any of the foregoing shall be to increase the cost to any such Noteholder with respect to this Agreement or the Notes, or to reduce the amount of any sum received or receivable by such Noteholder hereunder (whether of principal, interest or any other amount) then, upon written request of such Noteholder, the Borrower shall pay to such Noteholder as set forth in subsection (g) below, the Borrower shall promptly pay to the Noteholder such additional amount or amounts as will compensate the Noteholder for such additional costs incurred or reduction suffered. In determining such amount or amounts to be paid by the Borrower, TD Bank, N.A. may use any reasonable method of averaging and attribution that it deems applicable.

(ii) Capital Requirements. If a Noteholder determines that any Change in Law under United States Law affecting such Noteholder or any such Noteholder's parent or holding company, if any, regarding capital adequacy, capital maintenance or similar requirements, has or would have the effect of reducing the rate of return on such Noteholder's capital or the capital of such Noteholder's parent or holding company, if any, as a consequence of this Agreement or the Notes to a level below that which such Noteholder or such Noteholder's parent or holding company could have achieved but for such Change in Law (taking into consideration such Noteholder's policies and the policies of such Noteholder's parent or holding company with respect to capital adequacy), then from time to time upon written request of such Noteholder, the Borrower shall promptly pay to the Noteholder such additional amount or amounts as will compensate the Noteholder or the Noteholder's parent or holding company for any such reduction suffered. In determining such amount or amounts to be paid by

the Bank, the Noteholder may use any reasonable method of averaging and attribution that it deems applicable.

(iii) Certificates for Reimbursement. A certificate of a Noteholder setting forth the amount or amounts necessary to compensate such Noteholder or its parent or holding company, as the case may be, as specified in subsection (i) or (ii) of this paragraph (c) and delivered to the Borrower shall be conclusive absent manifest error. The Borrower shall pay such Noteholder the amount shown as due on any such certificate within thirty (30) days after receipt thereof.

(iv) Failure or delay on the part of any Noteholder to demand compensation pursuant to the foregoing provisions of this Section shall not constitute a waiver of such Noteholder's right to demand such compensation; provided that the Obligated Group Representative, on behalf of itself and the other Obligated Group Members, shall not be required to compensate such Noteholder pursuant to the foregoing provisions of this Section for any increased costs or capital requirements incurred or reductions suffered more than 180 days prior to the date that such Noteholder notifies the Obligated Group Representative of the Change in Law giving rise to such increased costs or reductions or additional capital requirements and of such Noteholder's intention to claim compensation therefor (except that, if the Change in Law giving rise to such increased costs or reductions is retroactive, then the 180 day period referred to above shall be extended to include the period of retroactive effect thereof). Additionally, such Noteholder shall be entitled to make claims for compensation from the Obligated Group Representative, on behalf of itself and the other Obligated Group Members, as provided in this Section if it generally imposes increased costs on other issuers and borrowers in similar circumstances, as such circumstances are determined by such Noteholder in such Noteholder's commercially reasonable discretion. The foregoing shall not be construed to require such Noteholder to disclose to any Person the identity of any other customer or details with respect to its lending relationship with any other customer.

(v) Notwithstanding anything herein to the contrary, no Noteholder shall be entitled to receive any greater payment under this paragraph (c) than the initial Noteholder would have been entitled to receive with respect to the rights transferred.

(d) If the Mandatory Purchase Date shall not have been extended in accordance with the terms hereof, at least thirty (30) days prior to each Noteholder Put Date, the Borrower shall, with the consent of the Noteholder, appoint a Market Agent and shall notify the Issuer of such appointment. Not later than 11:00 a.m. Eastern time on the date that is two

(2) Business Days prior to the commencement of a new Interest Period, the Market Agent shall notify the Issuer and the Noteholder of (a) with respect to the Series 2017A Note, the Applicable Percentage and Applicable Spread, such Applicable Percentage and Applicable Spread to be those that, in the sole judgment of the Market Agent, taking into account prevailing financial market conditions, would be the minimum amounts required to sell the Series 2017A Note at Par on the first day of such Interest Period for a period of time equal to the duration of such Interest Period, and (b) with respect to the Series 2017B Note, the fixed annual rate of interest that, in the sole judgment of the Market Agent, taking into account prevailing financial market conditions, would be the minimum amounts required to sell the Series 2017B Note at Par on the first day of such Interest Period for a period of time equal to the duration of such Interest Period. The duration of the Interest Period shall be for the period from such Noteholder Put Date to the earlier of (i) the next succeeding Noteholder Put Date, and (ii) the final maturity date of the Series 2017A Note or Series 2017B Note, as applicable. The notice from the Market Agent to the Issuer, the Borrower and the Noteholder establishing the duration of the new Interest Period, the new Applicable Percentage and/or the new Applicable Spread with respect to the Series 2017A Note and/ or the new fixed rate of interest with respect to the Series 2017B Note, shall be accompanied by an Opinion of Bond Counsel to the effect that, on the date of such new Interest Period, the interest on the Notes is excludable from the gross income of the Noteholder thereof for federal income tax purposes or that the establishment of the new Applicable Percentage and/or Applicable Spread for the Interest Period with respect to the Series 2017A Note and/ or fixed rate of interest with respect to the Series 2017B Note will not, in and of itself, adversely affect the exclusion of interest on the Notes from the gross income of the holder thereof for federal income tax purposes. The Borrower shall maintain records setting forth the duration of the Interest Period, the Applicable Percentage and the Applicable Spread with respect to the Series 2017A Note and the fixed rate of interest with respect to the Series 2017B Note.

(e) Upon an Event of Default, (i) the Interest Rate on the Notes shall immediately and automatically be changed to the Default Rate and (ii) all other amounts due hereunder (after any applicable grace period) shall immediately and automatically bear interest at the Default Rate, in each case, until such time as the Event of Default shall have been cured or waived by the Noteholder in its sole discretion.

(f) Subject to Section 2.03(c)(iv) above, all of the Borrower's obligations under this Section 2.03 shall survive the termination of this Agreement and the repayment, satisfaction or discharge of all other amounts due the Noteholders hereunder.

1.04. Section 6.34 appearing in Exhibit C of the Agreement shall be amended and as so amended shall be restated to read as follows:

Section 6.34. Financial Covenants.

(a) *Annual Debt Service Coverage.* (i) Within 135 days after the end of each Fiscal Year, the Obligated Group Representative shall compute the Annual Debt Service Coverage Ratio for the Obligated Group for such Fiscal Year based on the Financial Statements and furnish to the Majority Noteholder in writing an Officer's Certificate setting forth the results of such computation. The Obligated Group Representative covenants that such Annual Debt Service Coverage Ratio shall not be less than 1.20:1.0; *provided, however,* that in any case where Long-Term Indebtedness has been incurred to acquire or construct Capital Improvements (as defined in the Master Indenture), the Annual Debt Service with respect thereto shall not be taken into account in making the foregoing calculation until the first full Fiscal Year commencing after the Fiscal Year in which substantially all of such capital improvements are placed in service (except that with respect to capital improvements consisting, in whole or in part, of the addition of residential units, assisted living units or nursing beds, the Annual Debt Service with respect thereto shall not be taken into account until the earlier to occur of (A) the first full Fiscal Year next succeeding the Fiscal Year in which the average occupancy of such residential units, assisted living units or nursing beds was forecasted (in connection with the incurrence of the related Long-Term Indebtedness) to reach 90% or (B) the first full Fiscal Year next succeeding the Fiscal Year in which occurs that date which is 18 months following the date upon which substantially all of such capital improvements are placed in service; in either case, the Obligated Group Representative agrees that it shall notify the Majority Noteholder when such capital improvements are placed in service within 10 days following its occurrence).

(ii) If the Annual Debt Service Coverage Ratio, calculated at the end of any annual period is less than 1.20:1.0, management of the Obligated Group Representative shall prepare a report to be delivered to the Majority Noteholder within 30 days after such calculation (but in no event later than one hundred sixty-five (165) days after the end of such annual period) explaining in detail the reasons the Annual Debt Service Coverage Ratio was less than 1.20:1.0 and stating actions to be taken by the Obligated Group to attempt to increase the coverage to such amount. Further, during the period in which the Annual Debt Service Coverage Ratio is less than 1.20:1.0, the Obligated Group shall furnish to the Majority Noteholder, on a quarterly basis within 30 days following the end of each quarter, an Officer's Certificate stating the Annual Debt Service Coverage Ratio for such 12-month period then ended. Subject to paragraph (vii) of this Section 6.34, if the Obligated Group complies in all material respects with such reporting, the Obligated Group will be deemed to have complied with the covenants set forth in this Section for such Fiscal Year, notwithstanding that the Annual Debt Service Coverage Ratio shall be less than 1.20:1.0.

(iii) In the event management of the Obligated Group Representative prepares the required report and the Annual Debt Service Coverage Ratio is not 1.20:1.0 or greater within the fourth quarterly period after the end of the period in which such coverage ratio required such report, it shall promptly employ an Independent Consultant to make recommendations as to a revision of the rates, fees and charges of the Obligated Group or the methods of operation of the Obligated Group to increase the Annual Debt Service Coverage Ratio to at least 1.20:1.0 for subsequent Fiscal Years (or, if in the opinion of the Independent Consultant, the attainment of such level is impracticable, to the highest practicable level). Copies of the recommendations of the Independent Consultant shall be filed with the Majority Noteholder in writing within 90 days of the retention of the Independent Consultant. Each Obligated Group Member shall, promptly upon its receipt of such recommendations, subject to applicable requirements or restrictions imposed by law, revise its rates, fees and charges or its methods of operation or collections and shall take such other action as shall be in conformity with such recommendations.

(iv) If the Obligated Group complies in all material respects with the reasonable recommendations of the Independent Consultant with respect to its rates, fees, charges and methods of operation or collection, the Obligated Group shall be deemed to have complied with the covenants set forth in this Section for such Fiscal Year, notwithstanding that the Annual Debt Service Coverage Ratio shall be less than 1.20:1.0; *provided, however,* that an immediate Event of Default shall exist if the Annual Debt Service Coverage Ratio is less than 1.0:1.0 for any Fiscal Year. Nevertheless, the Obligated Group Members shall not be excused from taking any action or performing any duty required under this Agreement or the Master Indenture and no other Event of Default shall be waived by the operation of the provisions of this subsection (iv).

(v) If a written report of an Independent Consultant is delivered to the Majority Noteholder stating that Industry Restrictions have made it impossible for the Annual Debt Service Coverage Ratio of 1.20:1.0 to be met, then such ratio shall be reduced to the maximum ratio which the Industry Restrictions would allow the Obligated Group Members to achieve, but in no event less than a ratio of 1.0:1.0.

(vi) Notwithstanding the foregoing, the Obligated Group Members may permit the rendering of services or the use of their Property without charge or at reduced charges, at the discretion of the Governing Body of such Obligated Group Member, to the extent necessary for maintaining its tax-exempt status or the tax-exempt status of its Property, Plant and Equipment or its eligibility for grants, loans, subsidies or payments from governmental entities, or in compliance with any recommendation for free services that may be made by an Independent Consultant.

(vii) Notwithstanding anything to the contrary set forth herein, an Event of Default shall occur in the event the Annual Debt Service Coverage Ratio is less than 1.00:1.0 as of any testing date.

(b) *Days' Cash on Hand.* (i) Within 135 days after the end of each Fiscal Year, the Obligated Group Representative shall compute the Days' Cash on Hand for the Obligated Group as of each December 31 based on the financial statements of the Obligated Group and within 60 days after the end of each June 30, the Days' Cash on Hand for the Obligated Group as of such June 30 based on unaudited financial statements of the Obligated Group (each December 31 and June 30, a *"Testing Date"*). The Obligated Group Representative shall cause the Obligated Group to maintain not less than 150 days Days' Cash on Hand as of each such Testing Date; *provided, however,* that a failure to maintain such Days' Cash on Hand shall not be an Event of Default so long as the Obligated Group Representative is in compliance with clause (b)(ii) below.

(ii) If the Days' Cash on Hand is less than 150 days as of any June 30 or December 31, management of the Obligated Group Representative shall (i) prepare a report to be delivered to the Majority Noteholder on such calculation date explaining in detail the reasons the Days' Cash on Hand was less than 150 days and stating actions proposed to be taken by the Obligated Group to increase the Days' Cash on Hand and (ii) promptly employ an Independent Consultant to make recommendations to be implemented by the Obligated Group to attempt to cause the Days' Cash on Hand to meet the requirements of clause (i) of this Section 6.34(b). Each Obligated Group Member shall promptly upon its receipt of such recommendations, subject to applicable requirements or restrictions imposed by Law, revise its rates, fees and charges or its methods of operation or collections and shall take such other action as shall be in conformity with such recommendations. Copies of the recommendations of the Independent Consultant shall be filed with the Master Trustee and the Majority Noteholder that shall request the same in writing within 90 days of the retention of the Independent Consultant.

(iii) Notwithstanding the foregoing, as of June 30 and December 31 of each Fiscal Year, the Obligated Group Representative shall cause the Obligated Group to maintain not less than 125 Days' Cash on Hand as of each such Testing Date.

The foregoing Days' Cash on Hand has been determined by the Initial Holder based upon documentation provided to the Initial Holder reflecting the Days' Cash on Hand that the Borrower has historically maintained.

1.05. Section 6.36 appearing in Exhibit C of the Agreement shall be amended and as so amended shall be restated to read as follows:

Section 6.36. Banking Relationship. The Obligated Group Representative shall, and shall cause each other Obligated Group Member to, (i) by June 30, 2022, establish a banking relationship with the Initial Noteholder relating to substantially all of their depository accounts and other traditional banking products and (ii) maintain such relationship with the Initial Noteholder for so long as it owns all or any portion of the Notes; provided, however, that it shall not be an Event of Default under the Financing Agreement if such relationship has not been established by June 30, 2022 to the extent the Obligated Group Representative and each other Obligated Group Member shall (x) have timely, in good faith and using its best efforts began the process of establishing such relationship, (y) have established such depository accounts and other traditional banking products that are able to established in such time frame and (z) continue in good faith and using its best efforts to established such depository accounts and other traditional banking products that are unable to established in such time frame. Notwithstanding the foregoing, investments, escrow and trustee held funds and donor restricted funds shall be excluded from the depository accounts and other traditional banking products required to be established with the Initial Noteholder.

2. CONDITIONS PRECEDENT.

This Amendment shall be effective as of the Amendment Date subject to the satisfaction of, or waiver by, the Noteholder of all of the following conditions precedent:

2.01. Delivery to the Noteholder of an executed (a) counterpart of this Amendment from the Borrower, and (b) Opinion of Bond Counsel, on which the Noteholder is entitled to rely, including such other customary matters as the Noteholder may reasonably request, in form and substance satisfactory to the Noteholder.

2.02. The Noteholder shall have received, in each case in form and substance satisfactory to it, (a) an incumbency certificate certifying the names and signatures of the persons authorized to sign, on behalf of the Borrower, this Amendment and any other documents in connection herewith and (b) evidence that the governing body of the Borrower has duly authorized the transactions contemplated hereby.

2.03. Payment to counsel of the Noteholder of the reasonable legal fees and expenses incurred in connection herewith.

2.04. All other legal matters pertaining to the execution and delivery of this Amendment shall be reasonably satisfactory to each of the Noteholder, and its counsel.

2.05. The Noteholder shall have received a satisfactory written "as-stabilized" MAI Real Estate appraisal (the "*Appraisal*") of the real property collateral (the *"Mortgaged Property"*), which Appraisal shall be paid for by the Obligated Group Representative and addressed to the Noteholder. The Appraisal shall be reasonably acceptable to the Initial Noteholder and confirm that the total Indebtedness of the Obligated Group secured under the Master Indenture does not to exceed the sum of (i) 80% of the value of Mortgaged Property (land and buildings); (ii) 60% of the value of Furniture, Fixtures, and Equipment; and (iii) 80% of the appraised Business Valuation.

3. REPRESENTATIONS AND WARRANTIES OF THE BORROWER.

3.01. The Borrower hereby represents and warrants that the following statements are true and correct as of the Amendment Date:

(a) the representations and warranties of the Borrower contained in Article V of Exhibit C of the Agreement and in each of the Related Documents are true and correct on and as of the Amendment Date as though made on and as of such date (except to the extent the same expressly relate to an earlier date);

(b) no Default or Event of Default has occurred and is continuing or would result from the execution of this Amendment; and

(c) no petition by or against either of the Borrower has at any time been filed under the United States Bankruptcy Code or under any similar law.

3.02. In addition to the representations given in Article V of Exhibit C of the Agreement, the Borrower hereby represents and warrants as follows:

(a) The execution, delivery and performance by the Borrower of this Amendment and the Agreement, as amended hereby, are within its powers, have been duly authorized by all necessary action and do not contravene any law, rule or regulation, any judgment, order or decree or any contractual restriction binding on or affecting the Borrower;

(b) no authorization, approval or other action by, and no notice to or filing with, any governmental authority or regulatory body is required for the due execution, delivery and performance by the Borrower of this Amendment or the Agreement, as amended hereby; and

(c) this Amendment and the Agreement, as amended hereby, constitute legal, valid and binding obligations of the Borrower enforceable against the Borrower in accordance with its respective terms, except that (i) the enforcement thereof may be limited by bankruptcy, reorganization, insolvency, liquidation, moratorium and other laws relating to or affecting the enforcement of creditors' rights and remedies generally, as the same may be applied in the event of the bankruptcy, reorganization, insolvency, liquidation or similar situation of the Borrower, and (ii) no representation or warranty is expressed as to the availability of equitable remedies.

4. MISCELLANEOUS.

4.01. Except as specifically amended herein, the Agreement shall continue in full force and effect in accordance with its terms. Reference to this Amendment need not be made in any note, document, agreement, letter, certificate, the Agreement or any communication issued or made subsequent to or with respect to the Agreement, it being hereby agreed that any reference to the Agreement shall be sufficient to refer to, and shall mean and be a reference to, the Agreement, as hereby amended. In case any one or more of the provisions contained herein

should be invalid, illegal or unenforceable in any respect, the validity, legality and enforceability of the remaining provisions contained herein shall not in any way be affected or impaired hereby. THIS AMENDMENT SHALL BE GOVERNED BY AND CONSTRUED IN ACCORDANCE WITH THE LAWS OF THE STATE OF FLORIDA.

4.02. This Amendment may be simultaneously executed in several counterparts, each of which shall be an original and all of which shall constitute but one and the same instrument. This Amendment may be delivered by the exchange of signed signature pages by facsimile transmission or by e-mail with a pdf copy or other replicating image attached, and any printed or copied version of any signature page so delivered shall have the same force and effect as an originally signed version of such signature page.

[SIGNATURE PAGE FOLLOWS]

IN WITNESS WHEREOF, the parties hereto have caused this Amendment to be duly executed and delivered as of the Amendment Date.

CITY OF GAINESVILLE, FLORIDA

Attest:

_____ _____

Clerk Mayor

APPROVED AS TO FORM AND LEGALITY:

By:_____
City Attorney

TD BANK, N.A.

By _____
Name:
Title:

OAK HAMMOCK AT THE UNIVERSITY OF FLORIDA, INC.

By _____
Chairman of the Board