

RESOLUTION NO. 200098

A RESOLUTION OF THE CITY OF GAINESVILLE, FLORIDA AUTHORIZING THE AMENDMENT AND EXTENSION OF AN EXISTING CREDIT AGREEMENT WITH RESPECT TO ITS UTILITIES SYSTEM COMMERCIAL PAPER NOTES, SERIES D; APPROVING THE FORM OF FOURTH AMENDMENT TO CREDIT AGREEMENT AND SECOND AMENDMENT TO FEE LETTER EACH WITH STATE STREET BANK AND TRUST COMPANY, AND DELEGATING TO AUTHORIZED OFFICERS THE AUTHORITY TO NEGOTIATE AND FINALIZE THE TERMS THEREOF AND AUTHORIZING THE EXECUTION AND DELIVERY THEREOF; AUTHORIZING PROPER OFFICIALS TO DO ALL OTHER THINGS DEEMED NECESSARY OR ADVISABLE IN CONNECTION WITH THE EXTENSION OF THE CREDIT FACILITY; PROVIDING CERTAIN OTHER MATTERS IN CONNECTION THEREWITH; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the City of Gainesville, Florida ("*City*") adopted on September 21, 2017 its Resolution No. 170395 incorporating by reference the Second Amended and Restated Utilities System Revenue Bond Resolution adopted by the City on September 21, 2017, as amended (the "*Master Bond Resolution*"), and authorized the issuance of Bonds; and

WHEREAS, the City heretofore adopted on May 17, 2018 its Resolution No. 171090 incorporating by referenced the Second Amended and Restated Subordinated Utilities System Revenue Bond Resolution (the "*Master Subordinated Bond Resolution*"), as amended and supplementing the Master Bond Resolution, and on June 15, 2000 the City heretofore adopted a resolution entitled the Fourth Supplemental Subordinated Utilities System Revenue Bond Resolution (together with the Master Subordinated Bond Resolution, the "*Subordinated Bond Resolution*") authorizing the issuance of the Utilities System Commercial Paper Notes, Series D (the "*Series D Commercial Paper Notes*"); and

WHEREAS, the Series D Commercial Paper Notes are secured by a Credit Agreement dated August 1, 2014 between the City and State Street Bank and Trust Company ("*State Street Bank*"), which is scheduled to expire by its terms on August 28, 2020 (the "*Commercial Paper Credit Agreement*"); and

WHEREAS, the City desires to approve the Fourth Amendment to Credit Agreement (the "*Fourth Amendment to Credit Agreement*") and the Second Amendment to Fee Letter (together with the Fourth Amendment to Credit Agreement the "*Amendments*") each in substantially the forms attached as Exhibit A hereto, with such changes as may be approved by the General Manager for Utilities or his designee or the Utility Chief Financial Officer, her designee, or such other Authorized Officer of the City in accordance with the authorizations set forth herein and to authorize the Authorized Officers, as hereafter defined, to take such other actions, provide such notices, and execute such other documents as may be required by the Resolutions (as defined herein), to effect extension of expiration date and the other amendments to the Commercial Paper Credit Agreement and the Fee Letter and to authorize and approve such

other amendments as determined by the General Manager for Utilities or Utility Chief Financial Officer to be advantageous to the City and commercially reasonable based upon advice of financial advisor to the System.

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

**ARTICLE I
DEFINITIONS**

Section 1.01 Authority; Definitions. All capitalized terms not otherwise defined herein shall have such meaning as given in the Master Bond Resolution and Subordinated Bond Resolution (collectively, the "Resolutions"). This Resolution is adopted pursuant to the provisions of Chapter 166, Florida Statutes, the City's Charter, the Resolutions and other applicable provisions of law (the "Act").

**ARTICLE II
CERTAIN FINDINGS AND DETERMINATIONS;
ADDITIONAL AUTHORIZATIONS**

Section 2.01 Certain Findings and Determinations. The City hereby finds and determines that:

(a) The factual recitals set forth in the WHEREAS clauses of this Resolution are hereby incorporated in this section as findings as if expressly set forth herein.

(b) It is in the best interest of the City to negotiate and to extend the expiration of the Commercial Paper Credit Agreement.

(c) Due to the current public health emergency that has been declared in the State and the state of emergency declared by the Governor of the State, there may be limited opportunities for the Commission to meet and it is therefore in the best interest of the City to delegate in accordance with the terms hereof the extension of the Commercial Paper Credit Agreement.

**ARTICLE III
APPROVAL OF CREDIT FACILITY, REOFFERING CIRCULAR AND NOTICES**

Section 3.01 Authorization to Extend the Term of the Commercial Paper Credit Agreement. The extension of the expiration date of the Commercial Paper Credit Agreement with State Street Bank and the other amendments set forth in the Amendments, each in substantially the forms attached as Exhibit A hereto, with such changes, alterations and corrections, and the completion of blanks therein, as may be approved by the General Manager for Utilities, his designee, the Utility Chief Financial Officer, or her designee and such other Authorized Officer of the City, or their respective designee (each an "Authorized Officer" and collectively, the "Authorized Officers") together with such other amendments as determined by the General Manager for Utilities or Utility Chief Financial Officer to be advantageous to the City and commercially reasonable based upon advice of financial advisor to the System, such approval to be presumed by the execution thereof by such Authorized Officer, subject to the

approval of the City Attorney as to form and legality, is hereby approved by the City and in conjunction with the execution thereof by State Street Bank, the City authorizes and directs the Authorized Officer to execute such Amendments and to deliver the same to State Street Bank. The Clerk of the City Commission or any Deputy Clerk is, to the extent necessary, hereby authorized to attest the execution of the amendments.

After the date hereof, the General Manager for Utilities or Utility Chief Financial Officer, or his or her respective designees, is hereby continued to be authorized in accordance with the Resolutions, from time to time, (1) to extend the term of a Credit Agreement or (2) to procure a substitute Credit Agreement in substitution for the Credit Agreement then in effect with respect thereto, in either such case, upon such terms and conditions as shall be determined by the General Manager for Utilities or Utility Chief Financial Officer, or such respective designees, to be advantageous to the City and commercially reasonable (which terms and conditions (including, without limitation, the amounts of the "commitment fee" and other fees payable by the City thereunder and the specification of the interest rates payable on loans or advances thereunder) may differ from the terms and conditions then in effect pursuant to such Credit Agreement then in effect), such determination to be confirmed in writing by the firm serving at that time as the System's financial advisor to the extent provided below.

Section 3.02 Authorization to Extend the Term or to Procure a Substitute Liquidity Facility or Substitute Credit Agreement in Substitution Therefor. The General Manager for Utilities or Utility Chief Financial Officer, or his or her respective designees, is hereby authorized in accordance with the Resolutions from time to time, (1) to extend the term of the Commercial Paper Credit Agreement, or (2) to procure substitute Credit Agreement or other facility in substitution for the Credit Agreement then in effect with respect thereto, in either such case, upon such terms and conditions as shall be determined by the General Manager for Utilities or Utility Chief Financial Officer, or such respective designees, to be advantageous to the City and commercially reasonable (which terms and conditions (including, without limitation, the amounts of the "commitment fee" and other fees payable by the City thereunder and the specification of the interest rates payable on loans or advances thereunder) may differ from the terms and conditions then in effect pursuant to such Credit Agreement then in effect), such determination to be confirmed in writing by the System's financial advisor to the extent provided below.

In connection with any such extension of the term of the Credit Agreement then in effect, the General Manager for Utilities or Utility Chief Financial Officer, or his or her respective designees, is hereby further authorized to execute and deliver, on behalf of the City, such documents and instruments (including, without limitation, an amendment to or amendment and restatement of such facilities then in effect and the related fee letter, dealer agreements, and issuing and paying agency agreement) as shall be determined by the General Manager for Utilities or Utility Chief Financial Officer, or his or her respective designees, to be (a) necessary or desirable and advantageous to the City and (b) in commercially reasonable form; provided, however, that if any such extension shall be on terms and conditions different from the terms and conditions of such facility as then in effect, then (a) such determination of the General Manager for Utilities or Utility Chief Financial Officer, or his or her respective designees, shall be confirmed in writing by the firm serving at that time as the System's financial advisor and (b) the form of each such document or instrument shall be approved by the City Attorney or his/her

designee as to form and legality prior to the execution thereof by the General Manager for Utilities or Utility Chief Financial Officer, or his or her respective designees.

In connection with any such procurement of a Credit Agreement in substitution for the Credit Agreement then in effect, the General Manager for Utilities or Utility Chief Financial Officer, or his or her respective designees, is hereby further authorized to execute and deliver, on behalf of the City, such documents and instruments (including, without limitation, a credit agreement or other similar document and a fee letter, dealer agreements, and issuing and paying agency agreement) as shall be determined by the General Manager for Utilities or Utility Chief Financial Officer, or his or her respective designees, to be (a) necessary or desirable and advantageous to the City and (b) in commercially reasonable form, such determination to be confirmed in writing by the firm serving at that time as the System's financial advisor; provided, however, that the form of each such document or instrument shall be approved by the City Attorney or his/her designee as to form and legality prior to the execution thereof by the General Manager for Utilities or Utility Chief Financial Officer, or his or her respective designees; and provided, further, that the procedures utilized in connection with any such procurement shall be consistent with any requirements of any law, rule, regulation, ordinance or resolution applicable thereto.

Section 3.03 Notices. The Authorized Officers are hereby authorized and directed to deliver such notices as may be required under the terms of each of the applicable Resolutions and the Commercial Paper Credit Agreement as may be necessary to effectuate the Amendments as described herein prior to the expiration thereof and all such prior actions, taken in conformance with the provisions hereof, are hereby ratified.

ARTICLE IV MISCELLANEOUS

Section 4.01 Further Authority. The Authorized Officers are each hereby authorized to do all acts and things required of them by this Resolution, the Resolutions, or otherwise, as may be necessary or desirable to effectuate the amendment and extension of the Commercial Paper Credit Agreement and the other amendments described herein. The Authorized Officers, collectively or individually, upon satisfaction of the conditions set forth herein, are hereby authorized to execute the Amendments on behalf of the City, each subject to completion thereof, and with such changes therein as the officer(s) executing the same may approve as necessary and desirable and in the best interests of the City, such approval to be evidenced by the execution and delivery thereof, subject to the approval of the City Attorney as to form and legality. The Authorized Officers, or their respective designees, are each hereby authorized and directed to execute and deliver any and all papers and instruments and to do and cause to be done any and all acts and things necessary or proper for carrying out the transactions contemplated hereunder, including, to the extent necessary, without limitation, amendments to the fee letter.

Section 4.02 Payment of Costs of Substitution. The Authorized Officers are hereby authorized to pay the costs of the amendment and extension of the Commercial Paper Credit Agreement, including those referenced in the fee letters, all other legal expenses, expenses for fiscal agents, financial advisors, accountants and other experts and such other expenses necessary

or incidental and incurred by the City in connection with the extension of the Commercial Paper Credit Agreement and other amendments described herein.

Section 4.03 Severability. If any one or more of the covenants, agreements or provisions of this Resolution should be held contrary to any express provision of law or contrary to the policy of express law, though not expressly prohibited, or against public policy, or shall for any reason whatsoever be held invalid, then such covenants, agreements or provisions shall be null and void and shall be deemed separate from the remaining covenants, agreements or provisions of this Resolution and the Resolutions or of the Series D Commercial Paper Notes issued thereunder.

Section 4.04 No Third-Party Beneficiaries. Except as herein otherwise expressly provided, nothing in this Resolution expressed or implied is intended or shall be construed to confer upon any person, firm or corporation other than the parties hereto, any right, remedy or claim, legal or equitable, under or by reason of this Resolution or any provision hereof, this Resolution and all its provisions being intended to be and being for the sole and exclusive benefit of the parties hereto.

Section 4.05 Controlling Law; Members of Issuer Not Liable. All covenants, stipulations, obligations and agreements of the City contained in this Resolution shall be deemed to be covenants, stipulations, obligations and agreements of the City to the full extent authorized by the Act and provided by the Constitution and laws of the State. No covenant, stipulation, obligation or agreement contained herein shall be deemed to be a covenant, stipulation, obligation or agreement of any present or future member, agent or employee of the City in their individual capacity, and neither the members of the City nor any official executing the Amendments shall be liable personally on the Commercial Paper Credit Agreement, the Series D Commercial Paper Notes or this Resolution or shall be subject to any personal liability or accountability by reason of the issuance or the execution by the City or such members thereof.

Section 4.06 Effective Date. This Resolution shall be fully effective immediately upon adoption.

[Signature Page Follows]

PASSED AND ADOPTED IN PUBLIC SESSION OF THE CITY COMMISSION OF THE CITY OF GAINESVILLE, FLORIDA, THIS 16th DAY OF JULY, 2020.

CITY COMMISSION OF THE CITY OF GAINESVILLE, FLORIDA

ATTESTED:

By: _____
Mayor

By: _____
Clerk of the Commission

APPROVED AS TO FORM AND LEGALITY:

By: _____
City Attorney

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EXHIBIT A TO RESOLUTION
FORM OF FOURTH AMENDMENT TO CREDIT AGREEMENT
AND
SECOND AMENDMENT TO FEE LETTER

**FOURTH AMENDMENT TO
CREDIT AGREEMENT**

This FOURTH AMENDMENT TO CREDIT AGREEMENT, dated as of July ___, 2020 (this "Amendment"), is entered into between THE CITY OF GAINESVILLE, FLORIDA (the "City") and STATE STREET BANK AND TRUST COMPANY (the "Bank").

W I T N E S S E T H:

WHEREAS, the City and the Bank entered into that certain Credit Agreement (as amended prior to the date hereof, the "Agreement"), dated as of August 1, 2014, pursuant to which the Bank agreed, subject to certain conditions, to make loans to the City from time to time to enable the City to pay the City's Utilities System Commercial Paper Notes, Series D (the "Commercial Paper Notes") upon maturity;

WHEREAS, the stated expiration date of the Agreement is August 28, 2020, and the City and the Bank have agreed to extend the stated expiration date of the Agreement and make certain other modifications; and

WHEREAS, the Bank is willing to enter into this Amendment with the City, subject to the following terms and conditions;

NOW THEREFORE, in consideration of the foregoing and other valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the parties hereto agree as follows:

Section 1. AUTHORITY AND DEFINITIONS

- (a) This Amendment is entered into pursuant to Section 9.04 of the Agreement.
- (b) This Amendment amends the Agreement.
- (c) Capitalized terms used herein but not herein defined, shall have the meanings ascribed to them in the Agreement.

Section 2. AMENDMENTS

The Agreement shall be amended as of the Amendment Effective Date (as defined in Section 3 to this Amendment) as follows:

- (a) The following definitions set forth in Section 1.01 of the Agreement shall be amended in their entirety, as follows:

"Bond Resolution" means Resolution No. 170395, incorporating by reference the Second Amended and Restated Utilities System Revenue Bond Resolution adopted by the City on September 21, 2017, as amended

through the date hereof, including as amended by the Thirtieth Supplemental Utilities System Revenue Bond Resolution No. 180747 adopted by the City on February 21, 2019.

“Subordinated Bond Resolution” means the Second Amended and Restated Subordinated Utilities System Revenue Bond Resolution incorporated by reference pursuant to Resolution No. 171090 adopted by the City on May 17, 2018.

“Termination Date” means the earlier of (i) August 27, 2021, or such later date to which the Revolving Credit Period shall have been extended pursuant to Section 3.01(c), or if any such date is not a Business Day, the next preceding Business Day, or (ii) the date on which all of the following shall have occurred: (A) a Tender Event shall have occurred and be continuing (and shall not have otherwise been waived by the Bank), (B) the Commitment of the Bank shall have terminated in accordance with Section 3.08(b), and (C) the Bank Bond shall be immediately due and payable pursuant to Section 7.02 hereof.

(b) Article V of the Agreement shall be amended to insert Section 5.19 therein immediately after Section 5.18, as follows:

SECTION 5.19. Commercial Paper Reporting. If requested by the Bank, the City shall cause the Issuing Agent to provide to the Bank written information with respect to the Commercial Paper Notes, including daily amounts outstanding, as may be required by the Bank to fulfill the Bank’s regulatory reporting needs with respect to the Commercial Paper Notes.

(c) Section 9.10 of the Agreement shall be amended in its entirety, as follows:

Section 9.10. Patriot Act Notice. The Bank hereby notifies the City that pursuant to the requirements of the Patriot Act, it is required to obtain, verify and record information that identifies the City, which information includes the name and address of the City and other information that will allow the Bank to identify the City in accordance with the Patriot Act. The City shall, promptly following a request by the Bank, to the extent permitted by law, provide all documentation and other information that the Bank reasonably requests in order to comply with its ongoing obligations under applicable law or regulation, including, without limitation, “know your customer” and anti-money laundering rules and regulations, including the Patriot Act, and shall comply, and cause any of its subsidiaries to comply, with all applicable Bank Secrecy Act (“BSA”) laws and regulations, as amended.

The City shall (i) ensure that no Person who owns a controlling interest in or otherwise controls the City is or shall be listed on the

Specially Designated Nationals and Blocked Person List or other similar lists maintained by the Office of Foreign Assets Control (“OFAC”), the Department of the Treasury or included in any Executive Orders, that prohibits or limits the Bank from making any advance or extension of credit to the City or from otherwise conducting business with the City and (ii) ensure that the Commercial Paper Note proceeds have not been, and shall not be, used to violate any of the regulations administered and enforced by OFAC or any enabling statute or Executive Order relating thereto. Further, the City shall comply, and cause any of its Affiliates to comply, with all applicable BSA laws and regulations, as amended. The City agrees to provide documentary and other evidence of the City’s identity as may be reasonably requested by the Bank at any time to enable the Bank to verify the City’s identity or to comply with any applicable law or regulation including, without limitation, Section 326 of the Patriot Act.

Section 3. CONDITIONS TO EFFECTIVENESS OF AMENDMENT

This Amendment shall be effective on July ___, 2020 (the “Amendment Effective Date”), provided that all of the following conditions have been fulfilled:

- (a) Delivery by the parties hereto of an executed counterpart of this Amendment.
- (b) Delivery by the parties thereto of an executed counterpart of the Second Amendment to Fee Letter dated July ___, 2020 between the Bank and the City.
- (c) All other legal matters pertaining to the execution and delivery of this Amendment shall be satisfactory to the Bank and its counsel.

Section 4. REPRESENTATIONS AND WARRANTIES

In order to induce the Bank to execute and deliver this Amendment, the City hereby makes each of the representations and warranties contained in Article V of the Agreement as of the date hereof, *provided* that the representations and warranties contained in Sections 5.01, 5.02, 5.11 and 5.13 of the Agreement shall not be remade by the City as of the Amendment Effective Date, notice in writing is made pursuant to the Reoffering Memorandum of the City dated May 8, 2020 of the matters regarding the City and the System set forth therein, including, without limitation under the captions “THE SYSTEM” AND “LITIGATION,” and all references to the Agreement therein shall be deemed to also refer to the Agreement, as amended by this Amendment.

In addition to the foregoing, the City represents and warrants as follows:

- (a) The execution, delivery and performance by the City 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 or any contractual restriction binding on or affecting the City.

- (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 City of this Amendment or the Agreement, as amended hereby.
- (c) This Amendment and the Agreement, as amended hereby, constitute legal, valid and binding obligations of the City, enforceable against the City, in accordance with their respective terms.
- (d) The balance sheet of Gainesville Regional Utilities at September 30, 2019, and the related statements of revenues, expenses and changes in net assets and cash flows for the year then ended, reported on by Baker Tilly Virchow Krause, LLP, heretofore delivered to the Bank, are complete and correct and present fairly the financial condition of Gainesville Regional Utilities as of such date, and the results of its operations and changes in financial position for the year then ended. All such financial statements, including the related schedules and notes thereto, have been prepared in accordance with GAAP applied consistently throughout the periods involved (except as approved by such accountants and as disclosed therein).
- (e) Except as disclosed in writing to the Bank, since September 30, 2019, there has been no material change in the business, operations, assets or financial or other condition of the System which would adversely affect the ability of the City to perform its obligations under this Agreement, the Fee Letter, the Commercial Paper Notes or the Bank Bond.

Section 5. COVENANTS

The City hereby reaffirms its agreement to observe and perform each covenant and obligation of the City contained in the Agreement.

Notwithstanding any other provision of the Agreement to the contrary, all obligations of the City to the Bank under the Agreement are special, limited obligations of the City payable solely from funds available for such purposes under the Subordinated Bond Resolution.

Section 6. MISCELLANEOUS

- (a) Except as specifically amended herein, the Agreement shall continue in full force and effect in accordance with its terms. Reference to this specific 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 in the Agreement to the “Agreement” shall be sufficient to refer to the Agreement, as hereby amended.
- (b) In case any one or more of the provisions contained herein should be declared 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.

- (c) **THIS AMENDMENT SHALL BE GOVERNED BY, AND CONSTRUED IN ACCORDANCE WITH, THE LAWS OF THE STATE OF NEW YORK; PROVIDED THAT THE OBLIGATIONS OF THE CITY HEREUNDER SHALL BE GOVERNED BY, AND CONSTRUED IN ACCORDANCE WITH, THE LAWS OF THE STATE OF FLORIDA.**
- (d) THE CITY AND THE BANK EACH HEREBY IRREVOCABLY WAIVE ANY AND ALL RIGHT TO TRIAL BY JURY IN ANY LEGAL PROCEEDING ARISING OUT OF OR RELATING TO THIS AMENDMENT OR THE TRANSACTIONS CONTEMPLATED HEREBY.
- (e) With respect to any suit, action or proceeding relating to, or arising from, this Amendment, each party hereto irrevocably submits to the jurisdiction of the courts of the State of New York or the State of Florida and the federal courts located in the State of New York and the State of Florida and agrees that any such suit, action or proceeding shall be had and maintained in (i) the Federal District Court for the Southern District of New York (but solely to the extent such court has jurisdiction, and otherwise in an appropriate court of the State of New York) or (ii) the Federal District Court for the Northern District of Florida (but solely to the extent such court has jurisdiction, and otherwise in an appropriate court of the State of Florida).
- (f) The City shall pay on demand the fees and expenses of, or incurred by counsel to, the Bank in connection with the negotiation, preparation, execution and delivery of this Amendment.
- (g) This Amendment may be signed in any number of counterpart copies, but all such copies shall constitute one and the same voluntary, legal and binding instrument.

[signature page immediately follows]

IN WITNESS WHEREOF, the City and the Bank have caused this Amendment to be duly executed as of the date first above written.

CITY OF GAINESVILLE, FLORIDA

By: _____
Name: Claudia Rasnick
Title: Utility Chief Financial Officer

Approved as to Form and Legality:

By: _____
Name: Nicolle M. Shalley, Esq.
Title: City Attorney

**STATE STREET BANK AND TRUST
COMPANY, as the Bank**

By _____
Name:
Title:

#75513308_v4

**SECOND AMENDMENT TO
FEE LETTER**

This SECOND AMENDMENT TO FEE LETTER, dated as of July __, 2020 (this "Amendment"), is entered into between THE CITY OF GAINESVILLE, FLORIDA (the "City") and STATE STREET BANK AND TRUST COMPANY (the "Bank").

W I T N E S S E T H:

WHEREAS, the City and the Bank entered into that certain Fee Letter dated August 28, 2014 (as amended prior to the date hereof, the "Fee Letter"), setting forth certain fees to be paid by the City to the Bank in connection with that certain Credit Agreement (the "Agreement"), dated as of August 1, 2014, pursuant to which the Bank agreed, subject to certain conditions, to make loans to the City from time to time to enable the City to pay the City's Utilities System Commercial Paper Notes, Series D (the "Commercial Paper Notes") upon maturity;

WHEREAS, the City and the Bank have agreed to make certain modifications and amendments to the Fee Letter; and

WHEREAS, the Bank is willing to enter into this Amendment with the City, subject to the following terms and conditions;

NOW THEREFORE, in consideration of the foregoing and other valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the parties hereto agree as follows:

Section 1. AUTHORITY AND DEFINITIONS

- (a) This Amendment is entered into pursuant the last paragraph of the Fee Letter.
- (b) This Amendment amends the Fee Letter.
- (c) Capitalized terms used herein but not herein defined, shall have the meanings ascribed to them in the Fee Letter or the Agreement.

Section 2. AMENDMENTS

The Fee Letter shall be amended as of the Amendment Effective Date (as defined in Section 3 to this Amendment) as follows:

- (a) Paragraph 1 of the Fee Letter shall be amended in its entirety, as follows:
 - 1. A. From August 28, 2017, to (but not including) August 28, 2020, the City hereby agrees to pay to the Bank a nonrefundable commitment fee (the "Commitment Fee") with respect to the Commitment of the Bank (without regard to whether any Loans remain outstanding) under the Agreement at a rate

per annum agreed to from time to time by the City and the Bank in writing (which as of July ___, 2020, are the rates per annum set forth below) (the “Commitment Fee Rate”) to but excluding the Termination Date on the average daily amount of the Commitment during each period in respect of which payment is made. The applicable Commitment Fee Rate for any period shall be determined on the basis of the publicly announced long-term credit rating assigned to Bonds by any of S&P, Fitch or Moody’s (the “Credit Ratings”), without giving effect to any bond insurance policy or other credit enhancement securing such Bonds:

<u>Credit Rating</u> (S&P/Fitch/Moody’s)	<u>Commitment Fee Rate</u>
AA-/AA-/Aa3 or better	0.42%
A+/A+/A1	0.47%
A/A/A2	0.57%
A-/A-/A3	0.72%
BBB+/BBB+/Baa1	0.87%
BBB/BBB/Baa2	1.02%

B. From (and including) August 28, 2020 and thereafter, the City hereby agrees to pay to the Bank a nonrefundable commitment fee (the “Commitment Fee”) with respect to the Commitment of the Bank (without regard to whether any Loans remain outstanding) under the Agreement at the rate per annum set forth below (the “Commitment Fee Rate”) to but excluding the Termination Date on the average daily amount of the Commitment during each period in respect of which payment is made. The applicable Commitment Fee Rate for any period shall be determined on the basis of the publicly announced long-term credit rating assigned to any Bonds by any of S&P, Fitch or Moody’s (the “Credit Ratings”), without giving effect to any bond insurance policy or other credit enhancement securing such Bonds:

<u>Credit Rating</u> (S&P/Fitch/Moody’s)	<u>Commitment Fee Rate</u>
A+/A+/A1 or better	0.67%
A/A/A2	0.73%
A-/A-/A3	0.98%
BBB+/BBB+/Baa1	1.23%
BBB/BBB/Baa2	1.78%

C. If the Credit Ratings assigned by S&P, Fitch and Moody's, respectively, appear in more than one rating category (i.e., a split rating), the Commitment Fee Rate will be based on the category that includes the lowest Credit Rating. References to ratings above are references to rating categories as presently determined by S&P, Fitch and Moody's, respectively, and in the event of adoption of any new or changed rating system by any such rating agency, each of the ratings from the rating agency in question

referred to above shall be deemed to refer to the rating category under the new rating system which most closely approximates the applicable rating category as currently in effect. Each change in the Commitment Fee Rate resulting from a change in the Credit Rating shall become effective on the date of announcement or publication by S&P, Fitch or Moody's of a change in such rating or, in the absence of such announcement or publication, on the effective date of such changed rating. In the event that the Credit Rating assigned by any of S&P, Fitch or Moody's falls below "BBB" or "Baa2", respectively, or has been suspended, withdrawn or otherwise is unavailable for any reason, the Commitment Fee then in effect will increase automatically, without notice, to 1.00% per annum and such increased Commitment Fee Rate shall be payable until no such Credit Rating remains below "BBB" or "Baa2", respectively, or is so suspended, withdrawn or unavailable, or the Agreement otherwise terminates. Upon the occurrence and during the continuance of a Tender Event under the Agreement, the Commitment Fee Rate then in effect will increase by an additional 1.00% per annum automatically and without notice to the City, commencing on the date such Tender Event occurs and such increased Commitment Fee Rate shall be payable until such Tender Event is cured (but solely to the extent curable under the Agreement) or is otherwise waived in writing by the Bank, or the Agreement otherwise terminates.

D. Such Commitment Fee shall be payable in immediately available funds quarterly in arrears, at or prior to 1:00 P.M. (New York City time), on each Quarterly Payment Date prior to the Termination Date (each such payment to be computed on the basis of a year of 365 days and the actual number of days elapsed), in respect of the Commitment from time to time in effect, and on the Termination Date.

(b) Paragraph 5 of the Fee Letter shall be amended in its entirety, as follows:

5. In the event that the Commitment of the Bank under the Agreement is terminated or otherwise permanently reduced by or on behalf of the City prior to February 28, 2021, the City agrees to pay to the Bank on such termination date or reduction date, as applicable, in addition to all other obligations of the City that may be due and payable at such time, a termination fee equal to the Commitment Fee which would have been payable to the Bank from (and including) such termination date or reduction date through February 28, 2021, calculated at the time of such termination or reduction on the basis of the then applicable Commitment (or, if as a result of a reduction of less than 100% of the Bank's Commitment, the reduced amount of such Commitment) and the then applicable Commitment Fee Rate. Notwithstanding the foregoing, such termination fee shall not be payable by the City to the Bank in the event that the termination of the Agreement in whole results from either of (i) (a) Moody's lowering or withdrawing the short-term rating on the Bank below "P-1", or (b) S&P lowering or withdrawing the short-term rating on the Bank below "A-1", or (ii) the Bank assesses increased costs against the City pursuant to Section 8.01 of the Agreement and the substitute bank (or banks) with respect to the CP Notes agrees not to assess such fee increase relating to such additional costs or does not otherwise include such costs in its calculation of fees or other amounts charged to the City, all as demonstrated in writing to the reasonable satisfaction of the Bank.

Termination of the Agreement shall be effective upon payment of the foregoing termination fee, if applicable, and the payment in full of all obligations of the City owing to the Bank (including, without limitation, such increased costs in accordance with Section 8.01 of the Agreement) under the Agreement.

Section 3. CONDITIONS TO EFFECTIVENESS OF AMENDMENT

This Amendment shall be effective on July __, 2020 (the "Amendment Effective Date"), provided that all of the following conditions have been fulfilled:

- (a) Delivery by the parties hereto of an executed counterpart of this Amendment.
- (b) Delivery by the parties thereto of an executed counterpart of the Fourth Amendment to Credit Agreement dated July __, 2020 between the Bank and the City.
- (c) All other legal matters pertaining to the execution and delivery of this Amendment shall be satisfactory to the Bank and its counsel.

Section 4. REPRESENTATIONS AND WARRANTIES

The City represents and warrants as follows:

- (a) The execution, delivery and performance by the City of this Amendment and the Fee Letter, as amended hereby, are within its powers, have been duly authorized by all necessary action and do not contravene any law or any contractual restriction binding on or affecting the City.
- (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 City of this Amendment or the Fee Letter, as amended hereby.
- (c) This Amendment and the Fee Letter, as amended hereby, constitute legal, valid and binding obligations of the City, enforceable against the City, in accordance with their respective terms.

Section 5. COVENANTS

The City hereby reaffirms its agreement to observe and perform each covenant and obligation of the City contained in the Fee Letter, as amended hereby.

Section 6. MISCELLANEOUS

- (a) Except as specifically amended herein, the Fee Letter shall continue in full force and effect in accordance with its terms. Reference to this specific Amendment need not be made in any note, document, agreement, letter, certificate, the Fee Letter or any communication issued or made subsequent to, or with respect to, the Fee Letter, it being hereby agreed that any reference in the Fee Letter to the “Fee Letter” shall be sufficient to refer to the Fee Letter, as hereby amended.

- (b) In case any one or more of the provisions contained herein should be declared 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.

- (c) **THIS AMENDMENT SHALL BE GOVERNED BY, AND CONSTRUED IN ACCORDANCE WITH, THE LAWS OF THE STATE OF NEW YORK; PROVIDED THAT THE OBLIGATIONS OF THE CITY HEREUNDER SHALL BE GOVERNED BY, AND CONSTRUED IN ACCORDANCE WITH, THE LAWS OF THE STATE OF FLORIDA.**

- (d) This Amendment may be signed in any number of counterpart copies, but all such copies shall constitute one and the same voluntary, legal and binding instrument.

[signature page immediately follows]

IN WITNESS WHEREOF, the City and the Bank have caused this Amendment to be duly executed as of the date first above written.

CITY OF GAINESVILLE, FLORIDA

By: _____
Name: Claudia Rasnick
Title: Utility Chief Financial Officer

Approved as to Form and Legality:

By: _____
Name: Nicolle M. Shalley, Esq.
Title: City Attorney

**STATE STREET BANK AND TRUST
COMPANY, as the Bank**

By _____
Name:
Title:

#75911074_v1