

**RESOLUTION NO. 191104**

**PASSED April 16, 2020**

**A RESOLUTION OF THE CITY OF GAINESVILLE, FLORIDA AUTHORIZING AN AMENDMENT TO A SWAP TRANSACTION ENTERED INTO BETWEEN THE CITY D/B/A GAINESVILLE REGIONAL UTILITIES AND CITIBANK N.A., AMENDING THE OPTIONAL PAR EARLY TERMINATION OPTION OF THE CITY UNDER THE PARAMETERS HEREIN SET FORTH; DELEGATING AUTHORITY TO DETERMINE CERTAIN OTHER MATTERS IN CONNECTION THEREWITH, SUBJECT TO CERTAIN DELEGATION PARAMETERS; AUTHORIZING CERTAIN CITY OFFICIALS TO TAKE OTHER ACTIONS IN CONNECTION WITH THE EXECUTION OF SWAP TRANSACTIONS THEREUNDER; AND PROVIDING AN EFFECTIVE DATE.**

**WHEREAS**, the City of Gainesville, Florida (the "City") has heretofore entered into an ISDA Master Agreement and Schedule with Citibank, N.A. ("Citibank"), each dated as of November 7, 2017, (the "Swap Agreement") and a Confirmation thereunder with a trade date of November 7, 2017 and a termination date of October 1, 2044, Reference No. MS4347 (the "Confirmation"), pursuant to which the City makes fixed rate payments to Citibank of 2.11% and Citibank makes floating rate payments to the City of 70% of one month USD-LIBOR-BBA on an original notional amount of \$45,000,000 (the "Transaction"); and

**WHEREAS**, Citibank has offered to make certain payments to the City, or in the alternative, to reduce the fixed rate upon which the City makes payments to Citibank under the Confirmation, in exchange for the City's agreement to extend the date on and after which the City can elect to terminate the swap without any settlement amounts being due from the City; and

**WHEREAS**, the City desires to delegate to the General Manager for Utilities and Chief Financial Officer, or either of them, the authority to negotiate an amendment to the Confirmation in a manner they determine is in the best interest of the City, subject to the delegation parameters and limitations set forth herein;

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

**ARTICLE I  
DEFINITIONS AND STATUTORY AUTHORITY**

**Section 1.01 Authority.** This Resolution is adopted pursuant to the provisions of the Act.

**Section 1.02 Definitions.** In this Resolution, in addition to the terms elsewhere defined herein, the following terms shall have the meanings as set forth below:

“Chief Financial Officer” shall mean the Chief Financial Officer for Utilities and who is the Utility Finance Director as referenced in the General Bond Resolution.

“City Attorney” shall mean the City Attorney to the City or such other assistant City Attorney in the City Attorney’s absence or unavailability.

“Clerk” shall mean the Clerk of the Commission or any Deputy Clerk or any Acting Clerk of the City.

“Financial Advisor” means PFM Financial Advisors LLC, PFM Swap Advisors, LLC or such other financial advisor as the City may designate.

“General Manager” shall mean the General Manager for Utilities.

“Mayor” shall mean the Mayor of the City or the Mayor-Commissioner Pro Tempore or such other member of the Commission delegated to act on behalf of the Mayor by the Commission.

## ARTICLE II

### AUTHORIZATION TO AMEND CONFIRMATION; DELEGATION PARAMETERS

**Section 2.01 Authorization of Amendments.** The General Manager and the Chief Financial Officer are, or either of them is, upon the recommendation of the Financial Advisor, hereby authorized and directed to negotiate with Citibank and, subject to the delegation parameters set forth in Section 2.02, execute and deliver, an amendment to the Confirmation or an amended and restated Confirmation, and such other documents as may be required in connection therewith (collectively, the “Amendment”) pursuant to which the City would amend the date on or after which it can, at its option, elect to terminate the Transaction “at par” with no termination payments being made by either party, other than accrued and unpaid amounts (the “At Par Termination Right”), in exchange for (i) an upfront payment from Citibank, or (ii) an annual supplemental payment from Citibank or (iii) a reduction in the fixed rate pursuant to which the City’s fixed amounts due to Citibank under the Confirm are calculated.

The City acknowledges that the London Interbank Offered Rate, commonly referred to as “LIBOR”, as a reference index published by International Continental Exchange Benchmark Administration Ltd. (“ICE”) as a sponsor, is expected to be cease to be required to be determined by the participating reference banks by the end of 2021 and a substitution rate and equivalency factors have not been commonly agreed to in the market. Thus, in connection with the negotiations described above, the City hereby delegates to the General Manager and the Chief Financial Officer, in consultation with the Financial Advisor, the authority to negotiate and determine (i) an appropriate substitution rate, whether now existing or subsequently developed, that is deemed approximately equivalent to LIBOR and other related adjustments and amendments to either or both of the fixed rate or variable portions of the swap as may be necessary and appropriate for the implementation and administration of the replacement index, and (ii) an appropriate effective date of the substitution rate (which could become immediately effective upon determination that LIBOR as a reference rate is no longer reliable or unascertainable), each of which may be

determined by a LIBOR fallback protocol to be published by the International Swaps and Derivatives Association.

**Section 2.02 Delegation Parameters.** The Amendment shall not be executed by the General Manager or the Chief Financial Officer and the Swap shall not be effectuated, until such time as the following conditions have been satisfied:

(x) The date on and after which the City can elect its At Par Termination Right pursuant to Paragraph 5 of the Confirm (the “*At Par Cancellation Date*”) may be changed from October 1, 2027 to a date no later than October 1, 2034, and (y) either (i) the upfront payment to be made by Citibank to the City under the Amendment in exchange for the extension of the At Par Cancellation Date shall not be less than \$2,100,000, exclusive of costs and expenses of the City incurred in connection therewith, or (ii) the fixed rate of 2.11% as stated in the Confirmation shall be reduced to a rate, which results in minimum annual savings to the City, based on such interest rate reduction, of at least \$90,000.

Any Amendment meeting these parameters shall be entered into by the City and become effective on or before September 30, 2020. The Amendment described herein shall relate only to the Confirmation and shall not affect any other transactions of the City with Citibank or other parties.

The General Manager or the Chief Financial Officer may rely conclusively upon the Financial Advisor for a determination that the City has complied with the conditions above.

**Section 2.03 Further Actions.** The Mayor and Clerk, the General Manager, the Chief Financial Officer, or their respective designees (each an “*Authorized Officer*” and collectively, the “*Authorized Officers*”), and the City Attorney, are hereby authorized and empowered to execute and deliver or cause to be executed and delivered the Amendment and such other documents and opinions and to do all such acts and things as may be necessary or desirable in connection with the adoption of this Resolution and the execution and delivery of the Amendment, for the full punctual and complete performance of all the terms, covenants and agreements contained herein and in the Confirmation and Amendment, and the Clerk is hereby authorized to attest such signatures to the extent required by the Amendment, subject to the approval of the City Attorney as to form and legality. The Authorized Officers, or their respective designees, the Clerk and the City Attorney are each hereby authorized and directed to execute and deliver any and all papers, instruments and opinions and to do and cause to be done any and all acts and things necessary or proper for carrying out the transactions contemplated hereunder.

**Section 2.04 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.

**Section 2.05 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 described herein, 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 described herein.

**Section 2.06 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 his individual capacity, and neither the members of the City nor any official executing the Swap shall be liable personally on the Swap 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 2.07 Effective Date.** This Resolution shall be fully effective immediately upon adoption.

*[Signature Page Follows]*

Passed and duly adopted in public session of the City Commission of the City of Gainesville, Florida on the 16th day of April, 2020.

CITY COMMISSION OF THE CITY OF  
GAINESVILLE, FLORIDA

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

ATTESTED:

By:   
Clerk of the Commission

APPROVED AS TO FORM AND  
LEGALITY:

By:   
City Attorney  
NICOLLE M. SHALLEY