

RESOLUTION NO. 18-33

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF PENSACOLA, FLORIDA, AUTHORIZING THE MODIFICATION TO THE TERMS OF A LOAN TO FINANCE THE COST OF THE RENTAL CAR SERVICE FACILITY AT THE PENSACOLA INTERNATIONAL AIRPORT; APPROVING CERTAIN AMENDMENTS TO THE LOAN AGREEMENT; AUTHORIZING CERTAIN OTHER MATTERS IN CONNECTION THEREWITH; PROVIDING FOR OTHER ADMINISTRATIVE ACTIONS AND APPROVALS; PROVIDING FOR SEVERABILITY; REPEALING INCONSISTENT PROVISIONS AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, on January 17, 2008, the City Council of the City of Pensacola, Florida (the "City") adopted Resolution No. 03-08, authorizing the execution and delivery of its Airport Taxable Customer Facility Charges Revenue Note dated February 4, 2008, in an amount not exceeding \$21,000,000 (the "2008 Note") evidencing the City's obligations under a Loan Agreement dated as of February 4, 2008 (the "Original Loan Agreement"), by and between the City and Bank of America, N.A. (the "Bank"); and

WHEREAS, the proceeds of the 2008 Note in the amount of \$17,847,177 were applied to pay the cost of construction and equipping of a rental car service center to serve the Pensacola International Airport, a City owned and operated airport; and

WHEREAS, on September 9, 2010, the City Council of the City adopted Resolution No. 29-10 authorizing the execution of a Modification to Loan Agreement dated as of September 23, 2010, by and between the City and the Bank (together with the Original Loan Agreement, the "2010 Loan Agreement"), pursuant to which, the City and the Bank agreed to substitute a new promissory note for the 2008 Note (the "2010 Modified Note") to reflect the modifications therein described, and

WHEREAS, on June 14, 2012, the City Council of the City adopted Resolution No. 17-12, authorizing the execution of a 2012 Modification to Loan Agreement dated as of June 28, 2012, by and between the City and the Bank (together with the Original Loan Agreement, the "2012 Loan Agreement"), pursuant to which, the City and the Bank agreed to substitute a new promissory note for the 2010 Modified Note (the "2012 Modified Note") to reflect the modifications therein described; and

WHEREAS, on September 17, 2015, the City Council of the City adopted Resolution No. 40-15, authorizing the execution of a 2015 Modification to Loan Agreement dated as of September 25, 2015, by and between the City and the Bank (together with the Original Loan Agreement, the "2015 Loan Agreement", and as modified as herein described, the "Loan

Agreement”), pursuant to which, the City and the Bank agreed to substitute a new promissory note for the 2012 Modified Note (the “2015 Modified Note”) to reflect the modifications therein described; and

WHEREAS, the 2015 Modified Note is secured by the Service Site Area Customer Facility Charge, the Service Site Area Ground Rent and the Facilities Rent, to the extent provided in the Original Loan Agreement, amounts in or required to be transferred to the Rental Car Account, and certain Airport Revenues deposited in the Subordinate Securities Fund under the Bond Resolution (as defined in the Original Loan Agreement); and

WHEREAS, prior to the execution and delivery of the 2018 Modified Note, as herein described, the City intends to pay the Bank the amount of \$3,000,000 as a principal reduction payment (the “2018 Principal Reduction”), leaving a remaining principal amount outstanding of \$5,800,000; and

WHEREAS, the 2015 Modified Note matures on December 31, 2018, and the Bank has agreed to extend the maturity date to December 31, 2021, at which time all amounts due in respect of principal and interest then due on such indebtedness will be payable by the City; and

WHEREAS, the 2015 Modified Note in a principal amount outstanding of \$8,800,000 will be surrendered to the City in exchange for a new note (the “2018 Modified Note”) payable monthly as to interest only until December 31, 2021, at which time all remaining unpaid principal and interest on the 2018 Modified Note shall be due and payable to the Bank; and

WHEREAS, the City and the Bank have agreed to modify the 2015 Loan Agreement (the “2018 Modification to Loan Agreement”) and to substitute and replace the corresponding 2015 Modified Note with the 2018 Modified Note evidencing the same indebtedness as the 2015 Modified Note after the 2018 Principal Reduction;

NOW, THEREFORE, BE IT RESOLVED, by the City Council of the City of Pensacola, Florida, as follows:

SECTION 1. DEFINITIONS. Terms defined in the preambles hereof shall have the meanings set forth therein. All capitalized terms used herein which are defined in the Loan Agreement shall have the meanings assigned thereto in the Loan Agreement, unless the context affirmatively requires otherwise. The following terms in this Resolution shall have the following meanings unless the text otherwise expressly requires:

“Chief Financial Officer” means the Chief Financial Officer of the City, or his or her designee.

“City Administrator” means the City Administrator of the City, or any acting or interim City Administrator, or his or her designee.

“City Attorney” means the City Attorney of the City, or his or her designee.

“City Council” means the City Council of the City, as the governing body of the City.

“Clerk” means the Clerk of the City, any acting, deputy, or assistant Clerk, or his or her designee.

“Mayor” means the Mayor of the City or the City Administrator or Chief Financial Officer on behalf of the Mayor.

SECTION 2. MODIFICATION OF 2015 LOAN AGREEMENT; APPROVAL OF 2018 MODIFICATION TO LOAN AGREEMENT; AND SUBSTITUTION OF 2015 MODIFIED NOTE. The modification of the 2015 Loan Agreement to establish a maturity date of December 31, 2021, a principal amount outstanding of \$5,800,000 and to effect other amendments described in the 2018 Modification to Loan Agreement is hereby authorized. The 2018 Modification to Loan Agreement, substantially in the form annexed hereto as Exhibit A and incorporated herein by reference, including by reference the 2018 Modified Note attached thereto, is hereby approved, with such omissions, insertions and variations as may be approved on behalf of the City by the Mayor, such approval to be evidenced conclusively by the Mayor’s execution thereof. Further, the City Council hereby authorizes the Mayor to execute the 2018 Modification to Loan Agreement and the 2018 Modified Note, each to be attested under seal by the City Clerk, approved as to substance by the Chief Financial Officer, and designated legal in form and valid as drawn by the City Attorney, and to deliver to the Bank, in exchange for the 2015 Modified Note, the 2018 Modification to Loan Agreement and the 2018 Modified Note, all of the provisions of which, when executed and delivered by the City as authorized herein and by the Bank duly authorized, shall be deemed to be part of this instrument as fully and to the same extent as if incorporated verbatim herein.

Because of terms of the 2015 Modified Note and prevailing market conditions, it is in the best interest of the City to execute and deliver the 2018 Modified Note in a private negotiated financing transaction. Prior to the execution and delivery of the 2018 Modified Note, the City shall receive a Disclosure Statement from the Bank containing the information required by Section 218.385, Florida Statutes, a form of which is attached hereto as Exhibit B.

SECTION 3. 2018 PRINCIPAL REDUCTION; PAYMENT OF ACCRUED INTEREST AND CANCELLATION OF 2015 MODIFIED NOTE. The 2018 Principal Reduction is hereby authorized, ratified and approved. The Mayor and the Chief Financial Officer for the City shall arrange for and effect payment of the 2018 Principal Reduction, plus payment of accrued interest until the 2015 Modified Note is exchanged for the 2018 Modified Note. The 2015 Modified Note received in exchange for the 2018 Modified Note, such 2015 Modified Note having an unpaid principal amount of \$8,800,000, shall be cancelled. The 2018 Modified Note shall evidence the same indebtedness as the 2015 Modified Note.

SECTION 4. ADDITIONAL AUTHORIZATIONS; NO PERSONAL LIABILITY. The Mayor, City Administrator, City Attorney, the Clerk, the Chief Financial Officer and such other authorized officers, employees and agents of the City, are each designated as agents of the City and are authorized and empowered, collectively or individually, to take all action and steps and to execute all instruments, documents and contracts on behalf of the City that are necessary or desirable in connection with the requirements hereof or with the execution and delivery of the 2018 Modification to Loan Agreement and 2018 Modified Note and which are specifically authorized or are not inconsistent with the terms and provisions of this Resolution or any action relating to the transactions contemplated hereunder. Such officers and those so designated are hereby charged with the responsibility for executing the 2018 Modification to Loan Agreement and 2018 Modified Note.

No covenant, stipulation, obligation or agreement contained in this Resolution or the 2018 Modification to Loan Agreement and 2018 Modified Note 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 or her individual capacity, and neither the members of the City Council of the City, nor any person executing the 2018 Modification to Loan Agreement and 2018 Modified Note shall be liable personally thereon or shall be subject to any personal liability or accountability by reason of the execution and delivery thereof.

SECTION 5. REPEALING CLAUSE. All resolutions or parts thereof of the City in conflict with the provisions herein contained are, to the extent of such conflict, hereby superseded and repealed.

SECTION 6. SEVERABILITY. If any provision of this Resolution shall be held or deemed to be or shall, in fact, be illegal, inoperative or unenforceable in any context, the same shall not affect any other provision herein or render any other provisions (or such provisions in any other context) invalid, inoperative or unenforceable to any extent whatever.

SECTION 7. APPLICABLE PROVISION OF LAW. This Resolution shall be governed by and construed in accordance with the laws of the State of Florida.

SECTION 8. VENUE. Venue for any claim, action or proceeding arising out of this Resolution, the 2018 Modification to Loan Agreement or 2018 Modified Note shall be Escambia County, Florida.

Notwithstanding anything in the 2018 Modification to Loan Agreement or 2018 Modified Note to the contrary, the Bank, by virtue of its execution and delivery of the 2018 Modification to Loan Agreement, shall be bound by the provisions of this Section 8.

[Remainder of page intentionally left blank]

SECTION 9. EFFECTIVE DATE. This Resolution shall become effective on the fifth business day after adoption, unless otherwise provided pursuant to Section 4.03(d) of the City Charter of the City of Pensacola.

Adopted: September 13, 2018

[SEAL]

Approved: _____
Gerald Wingate, Council President

Attest:

Ericka L. Burnett, City Clerk

EXHIBIT A

2018 MODIFICATION TO LOAN AGREEMENT

[Follows]

2018 MODIFICATION TO LOAN AGREEMENT

THIS 2018 MODIFICATION TO LOAN AGREEMENT (this “Modification”) is made and entered into as of September 20, 2018, and is by and between **CITY OF PENSACOLA, FLORIDA**, a municipal corporation organized and duly existing under the laws of the State of Florida (the “City”) and **BANK OF AMERICA, N.A.**, a national banking association, and its successors and assigns, as holder(s) of the hereinafter defined 2018 Modified Note (the “Bank”).

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

ARTICLE I DEFINITION OF TERMS

Section 1.01 Definitions. The words and terms which are defined in the Loan Agreement dated as of February 4, 2008 (the “Original Loan Agreement”), as modified by a Modification to Loan Agreement dated as of September 23, 2010 (together with the Original Loan Agreement, the “2010 Loan Agreement”), a 2012 Modification to Loan Agreement dated as of June 28, 2012 (together with the Original Loan Agreement, the “2012 Loan Agreement”), and a 2015 Modification to Loan Agreement dated as of September 25, 2015 (together with the Original Loan Agreement, the “2015 Loan Agreement” and as herein modified, the “Loan Agreement”) each between the City and the Bank, shall have the same meanings ascribed to them when used herein, unless the context or use indicates a different meaning or intent.

ARTICLE II BACKGROUND

(a) On February 4, 2008, the City obtained a loan from the Bank in the amount of not exceeding \$21,000,000 (the “2008 Loan”) pursuant to the Original Loan Agreement for the purpose of financing the cost of construction and equipping of a rental car service center to serve the Airport.

(b) As evidence of the 2008 Loan made pursuant to the Original Loan Agreement, the City executed and delivered its Airport Taxable Customer Facilities Charges Revenue Note in the principal amount of the 2008 Loan in the form attached to the Original Loan Agreement as Exhibit “A” (the “2008 Note”).

(c) The proceeds of the 2008 Note were applied to pay the cost of the Project.

(d) Pursuant to the 2010 Loan Agreement, the City and the Bank modified the Original Loan Agreement and substituted the corresponding 2008 Note with a new promissory note (the “2010 Modified Note”) to reflect the modifications therein described.

(e) Pursuant to the 2010 Loan Agreement, the City and the Bank modified the Original Loan Agreement and substituted the corresponding 2010 Modified Note with a new promissory note (the "2012 Modified Note") to reflect the modifications therein described.

(f) Pursuant to the 2012 Loan Agreement, the City and the Bank modified the Original Loan Agreement and substituted the corresponding 2012 Modified Note with a new promissory note (the "2015 Modified Note") to reflect the modifications therein described.

(g) The current amount outstanding of the 2015 Modified Note is \$5,800,000.

(h) The City and the Bank have agreed to modify the 2015 Loan Agreement and substitute the corresponding 2015 Modified Note with a new promissory note (the "2018 Modified Note") to reflect the modifications herein described.

ARTICLE III REPRESENTATIONS OF THE CITY

The City represents and warrants to the Bank that:

Section 3.01 Powers of the City. The City is a political subdivision and municipality, duly organized and validly existing under the laws of the State. The City has the power to execute and deliver this Modification and the 2018 Modified Note, to secure the 2018 Modified Note in the manner contemplated herein and in the Loan Agreement and to perform and observe all the terms and conditions of the Loan Agreement and the 2018 Modified Note on its part to be performed and observed.

Section 3.02 Authorization of Modification. The City had, has, or will have, as the case maybe, at all relevant times, full legal right, power, and authority to execute this Modification and the 2018 Modified Note, to make the 2018 Modified Note, and to carry out and consummate all other transactions contemplated hereby, and the City has complied and will comply with all provisions of applicable law in all material matters relating to such transactions. The City has duly authorized execution and delivery of this Modification, and the making and delivery of the 2018 Modified Note to the Bank and to that end the City warrants that it will take all action and will do all things which it is authorized by law to take and to do in order to fulfill all covenants on its part to be performed and to provide for and to assure payment of the 2018 Modified Note.

The 2018 Modified Note has been duly authorized, executed, issued and delivered to the Bank and constitutes the legal, valid and binding limited obligation of the City enforceable in accordance with the terms thereof and the terms hereof, and is entitled to the benefits and security of the Loan Agreement, subject to the provisions of the bankruptcy laws of the United States of America and to other applicable bankruptcy, insolvency, reorganization, moratorium or similar laws relating to or affecting creditors' rights, heretofore or hereinafter enacted, to the extent constitutionally applicable, and provided that its enforcement may also be subject to equitable principles that may affect remedies or other equitable relief, or to the exercise of

judicial discretion in appropriate cases. All approvals, consents, and orders of and filings with any governmental authority or agency which would constitute a condition precedent to the issuance of the 2018 Modified Note or the execution and delivery of or the performance by the City of its obligations under this Modification and the 2018 Modified Note have been obtained or made and any consents, approvals, and orders to be received or filings so made are in full force and effect.

Section 3.03 No Violation of Law or Contract. The City is not in default under the 2015 Loan Agreement or in any material respect under any other agreement or other instrument to which it is a party or by which it may be bound, the breach of which could result in a material and adverse impact on the financial condition of the City or the ability of the City to perform its obligations under the Loan Agreement and under the 2018 Modified Note. The making and performing by the City of this Modification and the 2018 Modified Note will not violate any applicable provision of law, and will not result in a material breach of any of the terms of any agreement or instrument to which the City is a party or by which the City is bound, the breach of which could result in a material and adverse impact on the financial condition of the City or the ability of the City to perform its obligations under the Loan Agreement and under the 2018 Modified Note.

Section 3.04 Pending or Threatened Litigation. There are no actions or proceedings pending against the City or affecting the City or, to the knowledge of the City, threatened, which, either in any case or in the aggregate, might result in any material adverse change in the financial condition of the City, or which questions the validity of this Modification or the 2018 Modified Note or of any action taken or to be taken in connection with the transactions contemplated hereby or thereby.

Section 3.05 Financial Information. The financial information regarding the City furnished to the Bank by the City in connection with this Modification is accurate, and there has been no material and adverse change in the financial condition of the City from that presented in such information.

ARTICLE IV MODIFICATION TO LOAN AGREEMENT

Section 4.01 Modification. Pursuant to Section 7.02 of the Original Loan Agreement, the undersigned hereby agree to modify the 2015 Loan Agreement as follows:

Any provision of the 2015 Loan Agreement and the 2015 Modified Note to the contrary notwithstanding, the terms of the 2015 Loan Agreement and the 2015 Modified Note are hereby modified to the extent described in the 2018 Modified Note attached hereto as Exhibit A which 2018 Modified Note replaces the 2015 Modified Note in its entirety. The City shall pay interest only each month until December 31, 2021, at which time the remaining principal and accrued and unpaid interest on the 2018 Modified Note shall be paid in full. The City shall have the

right to prepay the principal amount of the 2018 Modified Note in whole or in part at any time, as provided in the 2018 Modified Note.

Section 4.02 Loan Agreement to Remain in Effect. As amended and supplemented hereby, the Loan Agreement shall remain in full force and effect and the same is in all respects hereby ratified and confirmed, and the Loan Agreement as so amended and supplemented hereby shall be read, taken and construed as one and the same instrument.

ARTICLE V
MISCELLANEOUS

Section 5.01 Illegal or Invalid Provisions Disregarded. In case any provision of this Modification shall for any reason be held invalid, illegal or unenforceable in any respect, this Agreement shall be construed as if such provision had never been contained herein.

Section 5.02 Applicable Law. This Modification shall be deemed to be a contract made in the State and governed by State law.

Section 5.03 Term of Modification. This Modification and the respective obligations of the parties hereto shall be in full force and effect from the date hereof until the expiration of the term of the Loan Agreement.

Section 5.04 Headings. The captions or headings in this Modification are for convenience of reference only and shall not control or affect the meaning or construction of any provision hereof.

Section 5.05 Payment of Fees and Expenses. The City hereby agrees to pay the Bank a structuring fee in the amount of \$25,000 and to pay the costs of its counsel in the amount of \$1,500, such fee and payment is subject to the execution and delivery of this Modification and the 2018 Modified Note as herein described.

[Remainder of page intentionally left blank]

IN WITNESS WHEREOF, the parties hereto, intending to be legally bound, have caused this Modification to be executed and delivered as of the date first written above.

CITY OF PENSACOLA, FLORIDA

By: _____
Ashton J. Hayward, III, Mayor

(SEAL)

ATTEST:

By: _____
City Clerk

Approved as to Substance:

By: _____
Richard Barker, Jr.
Chief Financial Officer

Legal in Form and Valid as Drawn:

By: _____
Lysia H. Bowling
City Attorney

[Signature Page to 2018 Modification to Loan Agreement]

BANK OF AMERICA, N.A.

By: _____

Name: Joe R. Miller

Title: Senior Vice President

[Signature Page to 2018 Modification to Loan Agreement]

EXHIBIT A

FORM OF 2018 MODIFIED NOTE

KNOW ALL MEN BY THESE PRESENTS that the undersigned maker, the City of Pensacola, Florida (the "City"), a municipality created and existing pursuant to the Constitution and the laws of Florida, for value received, promises to pay solely from the sources hereinafter provided, to the order of Bank of America, N.A. or registered assigns (hereinafter, the "Bank"), the principal sum of \$5,800,000.00, together with interest on the principal balance outstanding at the rate set forth below, based upon a year of 360 days for the actual number of days elapsed. This Note evidences the same indebtedness originally issued in an amount not exceeding \$21,000,000 and currently outstanding and being exchanged and re-issued hereby in the amount of \$5,800,000.00 and is issued in conjunction with a Loan Agreement dated as of February 4, 2008, as modified by a Modification to Loan Agreement dated as of September 23, 2010, a 2012 Modification to Loan Agreement dated as of June 28, 2012, a 2015 Modification to Loan Agreement dated as of September 25, 2015, and as modified by a 2018 Modification to Loan Agreement dated even date herewith, each between the City and the Bank (collectively, the "Loan Agreement").

Principal of and interest on this Note is payable in immediately available funds constituting lawful money of the United States of America at such place (the "Payment Office of the Bank") as the Bank may designate to the City.

The City shall pay the Bank interest on the outstanding principal balance hereof on the first day of each month, beginning October 1, 2018 and the entire unpaid principal balance, together with all accrued and unpaid interest hereon, shall be due and payable in full on December 31, 2021 (the "Maturity Date"). No principal shall be due prior to the Maturity Date.

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

During each Interest Period other than the First Modified Interest Period (hereinafter defined) any principal outstanding hereunder will bear interest at a rate equal to the sum of (i) the LIBOR Rate (hereinafter defined) applicable to such Interest Period plus (ii) 0.75 percent (75 basis points). During the First Modified Interest Period any principal outstanding hereunder will bear interest at a rate of ____%.

"Interest Period" means each period commencing on and including the 1st day (or if not a Business Day, the next day which is a Business Day) of each month and ending on, but not including, the 1st day (or if not a Business Day, the next day which is a Business Day) of the next month, provided that the first Interest Period shall commence on September 20, 2018 (or if not a Business Day, the next succeeding Business Day) (the "First Modified Interest Period").

“LIBOR Rate” for each Interest Period is a rate of interest equal to the rate per annum equal to the London Interbank Offered Rate (or a comparable or successor rate which is approved by the Bank), as published by Bloomberg (or other commercially available source providing quotations of such rate as selected by the Bank from time to time) as determined for the first day of each Interest Period (the "Adjustment Date") at approximately 11:00 a.m. London time two (2) London Banking Days prior to such Adjustment date, for U.S. Dollar deposits (for delivery on such Adjustment Date) with a term of one month, as adjusted from time to time in the Bank’s sole discretion for reserve requirements, deposit insurance assessment rates and other regulatory costs. If such rate is not available at such time for any reason, then the rate for that Interest Period will be determined by such alternate method as reasonably selected by the Bank. A "London Banking Day" is a day on which banks in London are open for business and dealing in offshore dollars. If at any time the LIBOR Rate is less than zero, such rate shall be deemed to be zero.

Subject to three (3) days’ prior written notice to the Bank, this Note may be prepaid in whole or in part on the first Business Day of each month by payment in an amount equal to the principal amount to be prepaid plus accrued interest thereon to the date of prepayment, and without premium or penalty; provided, however, this Note may be prepaid in whole or in part on any date other than the first Business Day of each month, subject to a prepayment premium in an amount sufficient to compensate the Bank for any loss, cost or expense incurred by it as a result of the prepayment, including any loss of anticipated profits and any loss or expense arising from the liquidation or reemployment of funds obtained by it to maintain the amount prepaid or from fees payable to terminate the deposits from which such funds were obtained. The City shall also pay any customary administrative fees charged by the Bank in connection with the foregoing. For purposes of this paragraph, the Bank shall be deemed to have funded each prepaid amount by a matching deposit or other borrowing in the applicable interbank market, whether or not the amount was in fact so funded.

Upon the occurrence of an Event of Default (as defined in the Loan Agreement) then the Bank may declare the entire debt then remaining unpaid hereunder immediately due and payable; and in any such default and acceleration, the City shall also be obligated to pay (but only from the Pledged Revenues) as part of the indebtedness evidenced by this Note, all costs of collection and enforcement hereof, including such fees as may be incurred on appeal or incurred in any proceeding under bankruptcy laws as they now or hereafter exist, including specifically but without limitation, claims, disputes and proceedings seeking adequate protection or relief from the automatic stay. If any payment hereunder is not made within fifteen (15) days after it is due, then the City shall also be obligated to pay, from Pledged Revenues, as a part of the indebtedness evidenced by this Note a late payment fee in the amount of 4% of delinquent payment, which late payment shall be due and payable immediately.

In no event shall the aggregate amounts contracted for, demanded, charged, or collected in connection herewith which are deemed “interest” exceed the Lawful Rate. The term “*Lawful Rate*” shall mean the highest lawful rate of interest applicable to this Note pursuant to State law.

It is expressly stipulated and agreed to be the intent of the City and the Bank at all times to comply with the applicable law governing the Lawful Rate or amount of interest payable on or in connection with this Note (or applicable United States federal law). If the applicable law, as judicially interpreted from time to time, shall ever render usurious any amount called for under the Loan Agreement or this Note or contracted for, demanded, charged, taken, reserved, or received with respect to this Note, or if acceleration of the maturity of this Note or if any prepayment by the City results in the City having paid any interest in excess of that permitted by law, then it is the City's express intent that all excess amounts theretofore collected by the Bank be credited to the principal balance of this Note (or, if this Note has been or would thereby be paid in full, the excess refunded to the City), and the provisions of this Note immediately be deemed reformed and the amounts thereafter collectible hereunder and thereunder reduced, without the necessity of the execution of any new documents, so as to comply with the applicable law, but so as to permit the recovery of the fullest amount otherwise called for hereunder and thereunder. The right to accelerate maturity of this Note does not include the right to accelerate any interest which has not otherwise accrued on the date of acceleration. All sums paid or agreed to be paid by the City for the use, forbearance or detention of the indebtedness evidenced hereby shall, to the extent permitted by applicable law, be amortized, prorated, allocated and spread throughout the full term of such indebtedness until payment in full so that the rate or amount of interest on the account of such indebtedness does not exceed the applicable usury ceiling. Notwithstanding any provision contained in this Note that permits the compounding of interest, including, without limitation, any provision by which any accrued interest is added to the principal amount of this Note, the total amount of interest that the City is obligated to pay with respect to this Note under the terms of this paragraph shall not exceed the amount calculated on a simple (*i.e.*, noncompounded) interest basis at the Lawful Rate on the principal amount hereof, including any advances made pursuant to the Loan Agreement (such as the payment of taxes, insurance premiums and similar expenses or costs).

Interest at the maximum lawful rate per annum (not exceeding a rate of 25% per annum) shall be payable on the entire principal balance owing hereunder from and after the occurrence of and during the continuation of a default described in the preceding paragraph, irrespective of a declaration of maturity. Nothing herein shall be deemed to pledge or obligate any other funds, other than the Pledged Revenues as provided in the Loan Agreement, to the repayment of this Note. This Note shall not constitute a general or moral obligation of the City, or a pledge of the faith, credit or taxing power of the City.

The City to the extent permitted by law hereby waives presentment, demand, protest and notice of dishonor.

This Note is a limited and special obligation of the City, payable solely from the Pledged Revenues to the extent provided in the Loan Agreement. Notwithstanding any other provision of this Note, the City is not and shall not be liable for the payment of the principal of and interest on this Note or otherwise monetarily liable in connection herewith from any property other than as provided in the Loan Agreement.

All terms, conditions and provisions of the Loan Agreement are by this reference thereto incorporated herein as a part of this Note. Terms used herein in capitalized form and not otherwise defined herein shall have the meanings ascribed thereto in the Loan Agreement.

This Note may be exchanged or transferred but only as provided in the Loan Agreement.

It is hereby certified, recited and declared that all acts, conditions and prerequisites required to exist, happen and be performed precedent to and in the execution, delivery and the issuance of this Note do exist, have happened and have been performed in due time, form and manner as required by law, and that the issuance of this Note is in full compliance with and does not exceed or violate any constitutional or statutory limitations.

[Remainder of page intentionally left blank]

IN WITNESS WHEREOF, the City of Pensacola, Florida, has issued this Note in full substitution for the 2015 Modified Note, and has caused the same to be manually signed by the Mayor and the corporate seal of the City of Pensacola, Florida, to be affixed, impressed, lithographed or reproduced hereon, and attested by the City Clerk of the City of Pensacola, Florida, all as of this 20th day of September, 2018.

CITY OF PENSACOLA, FLORIDA

By: _____
Ashton J. Hayward, III, Mayor

(SEAL)

ATTEST:

By: _____
City Clerk

Approved as to Substance:

By: _____
Richard Barker, Jr.
Chief Financial Officer

Legal in Form and Valid as Drawn:

By: _____
Lysia H. Bowling
City Attorney

EXHIBIT B

FORM OF DISCLOSURE LETTER

The undersigned, as purchaser, proposes to negotiate with the City of Pensacola, Florida (the "City") for the private purchase of its Airport Taxable Customer Facility Charges Revenue Note, dated February 4, 2008, as modified on the date hereof (the "2018 Modified Note"), issued pursuant to Resolution No. 03-08 adopted by the City on January 17, 2008, as supplemented, and as particularly supplemented by Resolution No. 18-33 adopted by the City on September 13, 2018 (collectively, the "Resolution"), and currently outstanding in the principal amount of \$5,800,000. Any capitalized terms not otherwise defined herein shall have the meaning set forth in the Resolution. Prior to the award of the 2018 Modified Note, the following information is hereby furnished to the City:

1. Set forth is an itemized list of the nature and estimated amounts of expenses to be incurred for services rendered to us (the "Purchaser") in connection with the issuance of the 2018 Modified Note (such fees and expenses to be paid by the City):

Mark E. Raymond
Purchaser's Counsel
\$1,500

2. (a) No other fee, bonus or other compensation is estimated to be paid by the Purchaser in connection with the issuance of the 2018 Modified Note to any person not regularly employed or retained by the Purchaser (including any "finder" as defined in Section 218.386(1)(a), Florida Statutes), except as specifically enumerated as expenses to be incurred by the Purchaser, as set forth in paragraph (1) above.

(b) No person has entered into an understanding with the Purchaser, or to the knowledge of the Purchaser, with the City, for any paid or promised compensation or valuable consideration, directly or indirectly, expressly or implied, to act solely as an intermediary between the City and the Purchaser or to exercise or attempt to exercise any influence to effect any transaction in the purchase of the 2018 Modified Note.

3. The amount of the underwriting spread expected to be realized by the Purchaser is \$0.

4. The management fee to be charged by the Purchaser is \$0; provided, however, the Purchaser will assess a structuring fee of \$25,000.00.

5. Truth-in-Bonding Statement:

The 2018 Modified Note is being issued in exchange for and to fully replace the 2015 Modified Note, which 2015 Modified Note was issued in exchange for and to fully replace the 2012 Modified Note, which 2012 Modified Note was issued in exchange for and to fully replace the 2010 Modified Note, which 2010 Modified Note was issued in exchange for and to fully replace the 2008 Note, and the 2008 Note was issued to finance a rental car service facility at the Pensacola International Airport.

Unless earlier prepaid, the 2018 Modified Note is expected to be repaid no later than December 31, 2021 (the "Maturity Date"). At an assumed interest rate of ____%, and assuming no principal amortization prior to the Maturity Date, total interest paid over the life of the 2018 Modified Note is estimated to be \$_____.

The 2018 Modified Note will be payable solely from Pledged Revenues in the manner and to the extent described in a Loan Agreement dated as of February 4, 2008 (the "Original Loan Agreement"), as modified, and as particularly modified by a 2018 Modification to Loan Agreement dated as of September 20, 2018, each by and between the Purchaser and the City. See the Original Loan Agreement for a definition of Pledged Revenues. Based on the above assumptions, issuance of the 2018 Modified Note is estimated to result in a maximum of approximately \$_____ (which is equal to the principal amount of \$5,800,000 plus interest due on the Maturity Date based on calculations provided by RBC Capital Markets, LLC) of Pledged Revenues of the City not being available to finance other services of the City during the life of the 2018 Modified Note.

6. The name and address of the Purchaser is as follows:

Bank of America, N.A.
Doc Retention Center
NC1-001-05-13
One Independence Center
101 North Tryon Street
Charlotte, NC 28255-0001

IN WITNESS WHEREOF, the undersigned has executed this Disclosure Statement on behalf of the Purchaser this 20th day of September, 2018.

BANK OF AMERICA, N.A.

By: _____
Name: Joe R. Miller
Title: Senior Vice President