

RESOLUTION NO. 2019- 27

A RESOLUTION OF THE CITY OF LAKE WALES, FLORIDA; AUTHORIZING THE ISSUANCE OF A CAPITAL IMPROVEMENT REVENUE NOTE, SERIES 2019 OF THE CITY IN THE PRINCIPAL AMOUNT OF NOT TO EXCEED \$900,000 TO FINANCE A PORTION OF THE COST OF ACQUISITION, CONSTRUCTION, REHABILITATION AND EQUIPPING OF VARIOUS CAPITAL IMPROVEMENTS OF THE CITY, INCLUDING WITHOUT LIMITATION, A YMCA FACILITY AND PAYING ASSOCIATED TRANSACTIONAL COSTS; PROVIDING THAT THE NOTE SHALL BE A LIMITED OBLIGATION OF THE CITY PAYABLE FROM NON-AD VALOREM REVENUES BUDGETED, APPROPRIATED AND DEPOSITED AS PROVIDED HEREIN; PROVIDING FOR THE RIGHTS, SECURITIES AND REMEDIES FOR THE OWNER OF THE NOTE; MAKING SUCH DETERMINATIONS AS ARE REQUIRED TO AFFORD SUCH NOTE "BANK QUALIFIED" STATUS; MAKING CERTAIN COVENANTS AND AGREEMENTS IN CONNECTION THEREWITH; AND PROVIDING AN EFFECTIVE DATE.

BE IT RESOLVED BY THE CITY COMMISSION OF THE CITY OF LAKE WALES, FLORIDA:

SECTION 1: AUTHORITY FOR THIS RESOLUTION. This resolution is adopted pursuant to Article VIII, Section 2 of the Constitution of the State of Florida, Chapter 166, Part II, Florida Statutes, the Municipal Charter of the City of Lake Wales, Florida and other applicable provisions of law.

SECTION 2: DEFINITIONS. The following words and phrases shall have the following meanings when used herein:

"Act" means, collectively, Article VIII, Section 2 of the Constitution of the State of Florida, Chapter 166, Part II, Florida Statutes, the Municipal Charter of the Issuer, and other applicable provisions of law.

"Business Day" means any day except any Saturday or Sunday or day on which the Principal Office of the Owner is lawfully closed.

"City Attorney" means the City Attorney or assistant City Attorney of the Issuer, or any special counsel appointed by the City Commission of the Issuer.

"City Manager" means the City Manager or assistant, deputy, interim or acting City Manager of the Issuer.

"Clerk" means the City Clerk or assistant or deputy City Clerk of the Issuer, or such other person as may be duly authorized by the City Commission of the Issuer to act on his or her behalf.

"Code" means the Internal Revenue Code of 1986, as amended, and any Treasury Regulations, whether temporary, proposed or final, promulgated thereunder or applicable thereto.

"Finance Director" means the Finance Director of the Issuer, or such other person as may be duly authorized by the City Manager of the Issuer to act on his or her behalf.

"General Fund" means the "General Fund" of the Issuer as described and identified in the Comprehensive Annual Financial Report of the Issuer.

"Issuer" means the City of Lake Wales, Florida, a municipal corporation of the State of Florida.

"Maturity Date" means October 1, 2034.

"Mayor" means the Mayor of the Issuer, or in his or her absence or inability to act, the Vice Mayor of the Issuer or such other person as may be duly authorized by the City Commission to act on his or her behalf.

"Non-Ad Valorem Revenues" means all legally available non-ad valorem revenues of the Issuer; provided, however that Non-Ad Valorem Revenues shall (a) be received by the Issuer from sources other than the levy of ad valorem taxes upon property, and (b) not be restricted by law so as to be unable to be applied to pay the Debt Service on the Note and other Issuer debt secured by Non-Ad Valorem Revenues, and to make the other payments, if any, required under the Note or hereunder.

"Note" means the Note of the Issuer authorized by Section 4 hereof.

"Original Purchaser" means CenterState Bank, N.A.

"Owner" or *"Owners"* means the Person or Persons in whose name or names the Note shall be registered on the books of the Issuer kept for that purpose in accordance with provisions of this Resolution.

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

"Pledged Revenues" means the Non-Ad Valorem Revenues budgeted, appropriated and deposited as provided herein.

"Project" means the acquisition, construction, rehabilitation and equipping of various capital improvements of the Issuer, including without limitation, a YMCA facility.

"Principal Office" means the Original Purchaser's office at 7722 SR 544 East, Winter Haven, Florida 33881, or such other office as the Original Purchaser or future Owners may designate to the Issuer in writing.

"Resolution" means this Resolution, pursuant to which the Note is authorized to be issued, including any Supplemental Resolution(s).

"State" means the State of Florida.

SECTION 3: FINDINGS.

(A) For the benefit of its citizens, the Issuer finds, determines, and declares that it is necessary for the continued preservation of the health, welfare, convenience and safety of the Issuer and its citizens to finance a portion of the cost of the Project.

(B) Debt service on the Note will be secured by the Issuer's covenant to budget and appropriate Non-Ad Valorem Revenues and by a pledge of the Pledged Revenues as provided herein.

(C) Debt service on the Note and all other payments hereunder shall be payable solely from moneys deposited in the manner and to the extent provided herein. The Issuer shall never be required to levy ad valorem taxes or use the proceeds thereof to pay debt service on the Note or to make any other payments to be made hereunder or to maintain or continue any of the activities of the Issuer which generate user service charges, regulatory fees or any other Non-Ad Valorem Revenues. The Note shall not constitute a lien on any property owned by or situated within the limits of the Issuer.

(D) It is estimated that the Non-Ad Valorem Revenues will be available after satisfying funding requirements for obligations having an express lien on or pledge thereof and after satisfying funding requirements for essential governmental services of the Issuer, in amounts sufficient to provide for the payment of the principal of and interest on Note and all other payment obligations hereunder.

(E) The Issuer, after soliciting proposals in response to a request for loan proposals distributed by the Issuer on October 21, 2019 for financing a portion of the costs of the Project,

and receiving multiple responses complying with the structure described in such request, has selected the Original Purchaser to purchase the Note.

(F) The Issuer desires to make such determinations as are required to afford the Note "bank qualified" status for purposes of Section 265(b)(3) of the Code.

SECTION 4: AUTHORIZATION OF NOTE AND PROJECT. Subject and pursuant to the provisions of this Resolution, an obligation of the Issuer to be known as City of Lake Wales, Florida, Capital Improvement Revenue Note, Series 2019 is hereby authorized to be issued under and secured by this Resolution, in the principal amount of not to exceed \$900,000 for the purpose of financing a portion of the cost of the Project and pay the costs of issuing the Note. The Project is hereby authorized.

Because of the characteristics of the Note, prevailing market conditions, and additional savings to be realized from an expeditious sale of the Note, it is in the best interest of the Issuer to accept the offer of the Original Purchaser to purchase the Note at a private negotiated sale. Prior to the issuance of the Note, the Issuer shall receive from the Original Purchaser a Purchaser's Certificate, the form of which is attached hereto as Exhibit B and the Disclosure Letter containing the information required by Section 218.385, Florida Statutes, a form of which is attached hereto as Exhibit C.

In consideration of the purchase and acceptance of the Note authorized to be issued hereunder by those who shall be the Owner thereof from time to time, this Resolution shall constitute a contract between the Issuer and the Original Purchaser and any subsequent Owner.

SECTION 5: DESCRIPTION OF THE NOTE. The Note shall be dated the date of its execution and delivery, which shall be a date agreed upon by the Issuer and the Original Purchaser, subject to the following terms:

(A) **Interest Rate.** The Note shall have an initial fixed interest rate equal to 2.59% per annum (subject to adjustment upon the occurrence of certain events as provided in the Note) calculated on a 30/360 day basis.

(B) **Principal and Interest Payment Dates.** Interest on the Note shall be paid semi-annually on each April 1 and October 1, commencing April 1, 2020. Principal on the Note shall be paid in the amounts and on the dates set forth in the Note with a final maturity date of the Maturity Date.

(C) **Prepayment of the Note.** The Note shall be subject to prepayment as described in the Note.

(D) **Form of the Note.** The Note is to be in substantially the form set forth in Exhibit A attached hereto, together with such changes as shall be approved by the Mayor, such

approval to be conclusively evidenced by the execution thereof by the Mayor. The Note shall be executed on behalf of the Issuer by the Mayor and City Manager, be attested and countersigned by the Clerk and the official seal of the Issuer shall be placed thereon. In case any one or more of the officers who shall have signed or sealed the Note or whose facsimile signature shall appear thereon shall cease to be such officer of the Issuer before the Note so signed and sealed has been actually sold and delivered, the Note may nevertheless be sold and delivered as herein provided and may be issued as if the person who signed or sealed the Note had not ceased to hold such office. The Note may be signed and sealed on behalf of the Issuer by such person who at the actual time of the execution of the Note shall hold the proper office of the Issuer, although, at the date of issuance of the Note, such person may not have held such office or may not have been so authorized. The Issuer may adopt and use for such purposes the facsimile signatures of any such persons who shall have held such offices at any time after the date of the adoption of this Resolution, notwithstanding that either or both shall have ceased to hold such office at the time the Note shall be actually sold and delivered.

(E) **Original Denomination of the Note.** The Note shall originally be issued in a single denomination equal to the original principal amount authorized hereunder.

SECTION 6: REGISTRATION AND EXCHANGE OF NOTE; PERSONS TREATED AS OWNERS. The Note is initially registered to the Original Purchaser. So long as the Note shall remain unpaid, the Issuer will keep books for the registration and transfer of the Note. The Note shall be transferable only upon such registration books and only in whole.

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

SECTION 7: PAYMENT OF PRINCIPAL AND INTEREST; LIMITED OBLIGATION. The Issuer promises that it will promptly pay the principal of and interest on the Note at the place, on the dates and in the manner provided therein according to the true intent and meaning hereof and thereof. The Note shall not be or constitute a general obligation or indebtedness of the Issuer as a "bond" within the meaning of Article VII, Section 12 of the Constitution of Florida, but shall be payable solely from the Pledged Revenues in accordance with the terms hereof. No holder of the Note issued hereunder shall ever have the right to compel the exercise of any ad valorem taxing power or taxation of any real or personal property thereon or the use or application of ad valorem tax revenues to pay the Note, or be entitled to payment of the Note from any funds of the Issuer except from the Pledged Revenues as described herein.

SECTION 8: COVENANT TO BUDGET AND APPROPRIATE; DEBT SERVICE FUND. (A) Subject to the next paragraph, the Issuer covenants and agrees and has a positive

and affirmative duty to appropriate in its annual budget, by amendment, if necessary, from Non-Ad Valorem Revenues, and to deposit into the Debt Service Fund hereinafter created, amounts sufficient to pay the principal of and interest on the Note and all other payments due hereunder not being paid from other amounts as the same shall become due. Such covenant and agreement on the part of the Issuer to budget, appropriate and deposit such amounts of Non-Ad Valorem Revenues shall be cumulative to the extent not paid, and shall continue until such Non-Ad Valorem Revenues or other legally available funds in amounts sufficient to make all such required payments shall have been budgeted, appropriated, deposited and actually paid. No lien upon or pledge of such budgeted Non-Ad Valorem Revenues shall be in effect until such monies are budgeted, appropriated and deposited as provided herein. The Issuer further acknowledges and agrees that the obligations of the Issuer to include the amount of such amendments in each of its annual budgets and to pay such amounts from Non-Ad Valorem Revenues may be enforced in a court of competent jurisdiction in accordance with the remedies set forth herein.

Until such monies are budgeted, appropriated and deposited as provided herein, such covenant to budget and appropriate does not create any lien upon or pledge of such Non-Ad Valorem Revenues, nor does it preclude the Issuer from pledging in the future its Non-Ad Valorem Revenues, nor does it require the Issuer to levy and collect any particular Non-Ad Valorem Revenues, nor does it give the holder of the Note a prior claim on the Non-Ad Valorem Revenues as opposed to claims of general creditors of the Issuer. Such covenant to budget and appropriate Non-Ad Valorem Revenues is subject in all respects to the prior payment of obligations secured by a pledge of such Non-Ad Valorem Revenues heretofore or hereafter entered into (including the payment of debt service on bonds and other debt instruments). Anything in this Resolution to the contrary notwithstanding, it is understood and agreed that all obligations of the Issuer hereunder and under the Note shall be payable from the portion of Non-Ad Valorem Revenues budgeted, appropriated and deposited as provided for herein and nothing herein shall be deemed to pledge ad valorem tax power or ad valorem taxing revenues or to permit or constitute a mortgage or lien upon any assets owned by the Issuer and no holder of the Note nor any other person, may compel the levy of ad valorem taxes on real or personal property within the boundaries of the Issuer or the use or application of ad valorem tax revenues in order to satisfy any payment obligations hereunder. The obligation of the Issuer to budget, appropriate, deposit and make payments hereunder and under the Note from its Non-Ad Valorem Revenues is subject to the availability of Non-Ad Valorem Revenues after the satisfaction of the funding requirements for obligations having an express lien on or pledge of such revenues and the funding requirements for essential governmental services of the Issuer. Notwithstanding any provisions of this Resolution or the Note to the contrary, the Issuer shall never be obligated to maintain or continue any of the activities of the Issuer which generate user service charges, regulatory fees or any Non-Ad Valorem Revenues. Until such monies are budgeted, appropriated and deposited as provided herein, neither this Resolution nor the obligations of the Issuer hereunder shall be construed as a pledge of or a lien on all or any legally available Non-Ad Valorem Revenues of the Issuer, but shall be payable solely as provided herein and is subject to the payment of services and programs which are for essential

public purposes affecting the health, welfare and safety of the inhabitants of the Issuer and is further subject to the provisions of Section 166.241, Florida Statutes insofar as there are not sufficient Non-Ad Valorem Revenues in the General Fund to comply with such covenant after the satisfaction of the funding requirements for obligations having an express lien on or pledge of such revenues and the funding requirements for essential governmental services of the Issuer.

(B) There is hereby created and established the "City of Lake Wales, Florida Capital Improvement Revenue Note, Series 2019 Debt Service Fund," which fund shall be a trust fund of the Issuer held by the Finance Director, which shall be held solely for the benefit of the Owners of the Note. The Debt Service Fund shall be deemed to be held in trust for the purposes provided herein for such Debt Service Fund. The money in such Debt Service Fund shall be continuously secured in the same manner as state and municipal deposits are authorized to be secured by the laws of the State of Florida. The designation and establishment of the Debt Service Fund in and by this Resolution shall not be construed to require the establishment of a completely independent, self-balancing fund as such term is commonly defined and used in governmental accounting, but rather is intended solely to constitute an earmarking of certain revenues and assets of the Issuer for certain purposes and to establish certain priorities for application of such revenues and assets as herein provided. The Issuer may at any time and from time to time appoint one or more depositories to hold, for the benefit of the Owners of the Note, the Debt Service Fund established hereby. Such depository or depositories shall perform at the direction of the Issuer the duties of the Issuer in depositing, transferring and disbursing moneys to and from such Debt Service Fund as herein set forth, and all records of such depository in performing such duties shall be open at all reasonable times to inspection by the Issuer and its agent and employees. Any such depository shall be a bank or trust company duly authorized to exercise corporate trust powers and subject to examination by federal or state authority, of good standing, and having a combined capital, surplus and undivided profits aggregating not less than fifty million dollars (\$50,000,000).

Until applied in accordance with this Resolution, the Non-Ad Valorem Revenues of the Issuer on deposit in the Debt Service Fund and other amounts on deposit from time to time in the funds and accounts established herein, plus any earnings thereon, shall be pledged to the repayment of the Note.

SECTION 9. APPLICATION OF PROCEEDS OF NOTE. The proceeds received from the sale of the Note shall be applied by the Issuer when drawn as follows:

(1) To the extent not reimbursed therefor by the Original Purchaser of the Note, the Issuer shall pay all costs and expenses in connection with the preparation, issuance and sale of the Note; and

(2) Remaining proceeds shall be deposited in the Project Fund described below.

The Issuer covenants and agrees to establish a special fund to be designated "City of Lake Wales, Florida Capital Improvement Revenue Note, Series 2019, Project Fund." The designation and establishment of the Project Fund by this Resolution shall not be construed to require the establishment of a completely independent, self-balancing fund as such term is commonly defined and used in governmental accounting, but rather is intended solely to constitute an earmarking of certain revenues and assets of the Issuer for certain purposes and to establish certain priorities for application of such revenues and assets as herein provided. Amounts on deposit from time to time in the Project Fund, plus any earnings thereon, are pledged to the repayment of the Note. A portion of the cost of the Project will be paid from the Project Fund.

The Project Fund and Debt Service Fund created and established by this Resolution shall constitute trust funds for the purpose provided herein for such funds. Moneys on deposit to the credit of such Funds created hereunder may be invested pursuant to applicable law and the Issuer's written investment policy and shall mature not later than the dates on which such moneys shall be needed to make payments in the manner herein provided. The securities so purchased as an investment of funds shall be deemed at all times to be a part of the Fund from which the said investment was withdrawn, and the interest accruing thereon and any profit realized therefrom shall be credited to such Fund, except as expressly provided in this Resolution, and any loss resulting from such investment shall likewise be charged to said fund or account.

SECTION 10: BANK QUALIFIED. The Issuer hereby designates the Note as a "qualified tax-exempt obligation" within the meaning of Section 265(b)(3) of the Code. The Issuer does not reasonably expect during the calendar year 2019 to issue more than \$10,000,000 of "tax-exempt" obligations including the Note, exclusive of any private activity bonds as defined in Section 141(a) of the Code (other than qualified 501(c)(3) bonds as defined in Section 145 of the Code).

SECTION 11: TAX COVENANT. The Issuer covenants to the Owners of the Note provided for in this Resolution that the Issuer will not make any use of the proceeds of the Note at any time during the term of the Note which would cause the Note to be an "arbitrage bond" within the meaning of the Code. The Issuer will comply with the requirements of the Code and any valid and applicable rules and regulations promulgated thereunder necessary to ensure the exclusion of interest on the Note from the gross income of the holders thereof for purposes of federal income taxation.

SECTION 12: AMENDMENT. This Resolution shall not be modified or amended in any respect subsequent to the issuance of the Note except with the written consent of all of the Owners of the Note.

SECTION 13: LIMITATION OF RIGHTS. With the exception of any rights herein expressly conferred, nothing expressed or mentioned in or to be implied from this Resolution or

the Note is intended or shall be construed to give to any Person other than the Issuer and the Owners any legal or equitable right, remedy or claim under or with respect to this Resolution or any covenants, conditions and provisions herein contained; this Resolution and all of the covenants, conditions and provisions hereof being intended to be and being for the sole and exclusive benefit of the Issuer and the Owners.

SECTION 14: NOTE MUTILATED, DESTROYED, STOLEN OR LOST. In case the Note shall become mutilated, or be destroyed, stolen or lost, the Issuer shall issue and deliver a new Note of like tenor as the Note so mutilated, destroyed, stolen or lost, in exchange and in substitution for the mutilated Note, or in lieu of and in substitution for the Note destroyed, stolen or lost and upon the Owner furnishing the Issuer proof of ownership thereof and indemnity reasonably satisfactory to the Issuer and complying with such other reasonable regulations and conditions as the Issuer may prescribe and paying such expenses as the Issuer may incur. The Note so surrendered shall be canceled.

SECTION 15: IMPAIRMENT OF CONTRACT. The Issuer covenants with the Owners of the Note that it will not, without the written consent of the Owners of the Note, enact any ordinance or adopt any resolution which repeals, impairs or amends in any manner adverse to the Owners the rights granted to the Owners of the Note hereunder.

SECTION 16: BUDGET AND FINANCIAL INFORMATION; OTHER COVENANTS. While the Note remains outstanding, the Issuer shall provide the Owner such information it may reasonably request. The Issuer shall provide the Owners each year a copy of its annual budget within 60 days of its adoption and its annual financial statements for each fiscal year of the Issuer when available and in no event later than 270 days after the close of such fiscal year, prepared in accordance with applicable law and generally accepted accounting principles and audited by an independent certified public accountant and accompanied by an audit opinion of such accountant without qualification. All accounting terms not specifically defined or specified herein shall have the meanings attributed to such terms under generally accepted accounting principles as in effect from time to time, consistently applied.

At the time the annual financial statements are delivered, the Owner shall also receive an annual calculation substantially in the form attached hereto as Exhibit D for informational purposes only. There is no annual requirement that any coverage ratio be maintained.

While the Note remains outstanding, the Issuer agrees that (i) any and all records of the Issuer shall be open to inspection by the Owner or its representatives at all reasonable times at the office of the Issuer, (ii) the Issuer shall maintain such liability, casualty, and other insurance as is reasonable and prudent for a similarly situated city and shall upon request of the Owner provide evidence of such coverage to the Owner, (iii) the Issuer is in compliance and shall comply with all applicable federal, state, and local laws and regulatory requirements, (iv) books and records of the Issuer shall be kept in which complete and correct entries shall be made in accordance with generally accepted accounting principles, and (v) the Issuer will take all

reasonable legal action within its control in order to maintain its existence as a municipality of the State, and will not voluntarily dissolve.

SECTION 17: EVENTS OF DEFAULT; REMEDIES OF OWNER OF THE NOTE. The following shall constitute Events of Default:

(i) if the Issuer fails to pay any payment of principal of or interest on the Note as the same becomes due and payable, whether by maturity, or otherwise; or

(ii) if the Issuer defaults in the performance or observance of any covenant or agreement contained in this Resolution or the Note (other than set forth in (i) above) and fails to cure the same within thirty (30) days after (a) notice thereof to the Issuer by the Owner or (b) the Owner is notified of such noncompliance or should have been notified, whichever is earlier; or

(iii) any representation or warranty made in writing by or on behalf of the Issuer in this Resolution or the Note shall prove to have been false or incorrect in any material respect on the date made or reaffirmed; or

(iv) the Issuer admits in writing its inability to pay its debts generally as they become due or files a petition in bankruptcy or makes an assignment for the benefit of its creditors or consents to the appointment of a receiver or trustee for itself; or

(v) the Issuer is adjudged insolvent by a court of competent jurisdiction, or it is adjudged a bankrupt on a petition in bankruptcy filed by or against the Issuer, or an order, judgment or decree is entered by any court of competent jurisdiction appointing, without the consent of the Issuer, a receiver or trustee of the Issuer or of the whole or any part of its property, and if the aforesaid adjudications, orders, judgments or decrees shall not be vacated or set aside or stayed within 90 days from the date of entry thereof; or

(vi) the Issuer shall file a petition or answer seeking reorganization or any arrangement under the federal bankruptcy laws or any other applicable law or statute of the United States of America or the State; or

(vii) the Issuer shall default in the due and punctual payment or performance of covenants under any obligation for the payment of money to the Owner or any subsidiary or affiliate of the Owner.

The Issuer shall within ten (10) days after it acquired knowledge thereof, notify the Owner in writing upon the happening, occurrence, or existence of any event or condition which with the passage of time or giving of notice, or both, would constitute an Event of Default, and shall provide the Owner, with such written notice, a detailed statement by a responsible officer of the Issuer of all relevant facts and the action being taken or proposed to be taken by the

Issuer with respect thereto. Regardless of the date of receipt of such notice by the Owner, such date shall not in any way modify the date of occurrence of the actual Event of Default.

Upon the occurrence and during the continuation of any Event of Default, in addition to any other remedies set forth in this Resolution or the Note, including charging a Default Rate and/or Late Fee as defined in the Note, the Owner of the Note may, either at law or in equity, by suit, action, mandamus or other proceeding in any court of competent jurisdiction, protect and enforce any and all rights under the laws of the State, or granted or contained in this Resolution, and may enforce and compel the performance of all duties required by this Resolution, or by any applicable statutes to be performed by the Issuer or by any officer thereof.

SECTION 18: ANTI-DILUTION TEST. As a condition precedent to the issuance of any debt or the incurrence of any other obligations which are secured by and/or payable from Non-Ad Valorem Revenues, the Issuer agrees to certify that it is in compliance with the following: The annual Non-Ad Valorem Revenues received by the City less essential government expenditures for the prior audited fiscal year for which audited financial statements are available equals at least 1.25 times the existing and projected maximum annual debt service on existing obligations and the proposed obligations payable from or secured by Non-Ad Valorem Revenues calculated as provided in Exhibit D attached hereto. Debt service on an obligation, the secondary source of payment for which is a covenant to budget and appropriate from Non-Ad Valorem Revenues need only be included in the calculation if the City has used or reasonably expects to apply Non-Ad Valorem Revenues to the payment of debt service, directly or indirectly, on such obligations and only to the extent that amounts other than Non-Ad Valorem Revenues available and pledged to pay such obligations during the prior fiscal year for which audited financial statements are available were less than the maximum annual debt service for such obligations for the then current or any subsequent fiscal year.

For the purposes of these covenants, "maximum annual debt service" means the lesser of the actual maximum annual debt service on all such debt and other obligations, or 15% of the original par amount of such debt and other obligations, in each case, secured by and/or payable solely from the Issuer's Non-Ad Valorem Revenues. As used above, the term "maximum annual debt service" shall only include debt service that the Issuer reasonably expects to apply Non-Ad Valorem Revenues to actually pay; provided however, notwithstanding the foregoing, maximum annual debt service shall include the debt service on any debt which has pledged any of the Issuer's Non-Ad Valorem Revenues or is secured solely by a covenant to budget and appropriate Non-Ad Valorem Revenues. For the purpose of calculating maximum annual debt service on any indebtedness which bears interest at a variable rate, such indebtedness shall be deemed to bear interest at the greater of (i) 7% per annum or (ii) the actual interest rate borne by the variable rate debt for the month immediately preceding such calculation. The provisions of this Section may be amended, supplemented, or waived from time to time only with the prior written consent of the Owner.

SECTION 19: 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 provision (or such provision in any other context) invalid, inoperative or unenforceable to any extent whatever.

SECTION 20: BUSINESS DAYS. In any case where the due date of interest on or principal of the Note is not a Business Day, then payment of such principal or interest need not be made on such date but may be made on the next succeeding Business Day, provided that credit for payments made shall not be given until the payment is actually received by the Owners.

SECTION 21: WAIVER OF JURY TRIAL. To the extent legally permissible, the Issuer and the Owner agree that in any suit, action or proceeding brought in connection with this Resolution or the Note (including any appeal(s)), the prevailing party shall be entitled to recover costs and attorneys' fees from the other party.

THE OWNER AND THE ISSUER HEREBY KNOWINGLY, VOLUNTARILY AND INTENTIONALLY WAIVE THE RIGHT EITHER MAY HAVE TO A TRIAL BY JURY IN RESPECT TO ANY LITIGATION BASED HEREON, OR ARISING OUT OF, UNDER OR IN CONNECTION WITH THIS RESOLUTION, THE NOTE OR ANY AGREEMENT CONTEMPLATED TO BE EXECUTED IN CONJUNCTION HEREWITH, OR ANY COURSE OF CONDUCT, COURSE OF DEALING, STATEMENTS (WHETHER VERBAL OR WRITTEN), OR ACTIONS OF EITHER PARTY.

SECTION 22: RULES OF INTERPRETATION. Unless expressly indicated otherwise, references to sections or articles are to be construed as references to sections or articles of this instrument as originally executed. Use of the words "herein," "hereby," "hereunder," "hereof," "hereinbefore," "hereinafter" and other equivalent words refer to this Resolution and not solely to the particular portion in which any such word is used.

SECTION 23: CAPTIONS. The captions and headings in this Resolution are for convenience only and in no way define, limit or describe the scope or intent of any provisions or sections of this Resolution.

SECTION 24: CITY COMMISSION MEMBERS OF THE ISSUER EXEMPT FROM PERSONAL LIABILITY. No recourse under or upon any obligation, covenant or agreement of this Resolution or the Note or for any claim based thereon or otherwise in respect thereof, shall be had against any City Commission Members of the Issuer, as such, of the Issuer, past, present or future, either directly or through the Issuer it being expressly understood (a) that no personal liability whatsoever shall attach to, or is or shall be incurred by, the City Commission Members of the Issuer, as such, under or by reason of the obligations, covenants or agreements contained in this Resolution or implied therefrom, and (b) that any and all such personal liability, either at common law or in equity or by constitution or statute, of, and any and all such rights and claims

against, every such City Commission Members of the Issuer, as such, are waived and released as a condition of, and as a consideration for, the execution of this Resolution and the issuance of the Note, on the part of the Issuer.

SECTION 25: AUTHORIZATIONS. The Mayor and any member of the City Commission, the City Manager, the City Attorney, the Clerk, the Finance Director and such other officials and employees of the Issuer as may be designated by the Issuer are each designated as agents of the Issuer in connection with the issuance and delivery of the Note 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 Issuer that are necessary or desirable in connection with the execution and delivery of the Note, and which are specifically authorized or are not inconsistent with the terms and provisions of this Resolution.

SECTION 26: REPEALER. All resolutions or parts thereof in conflict herewith are hereby repealed.

SECTION 27: EFFECTIVE DATE. This Resolution shall take effect immediately upon its adoption.

DULY RESOLVED this 3rd day of December, 2019.

CITY COMMISSION OF THE CITY OF
LAKE WALES, FLORIDA



Mayor

(SEAL)

ATTEST:



City Clerk

EXHIBIT A

[FORM OF NOTE]

December 5, 2019

\$900,000

Interest Rate: 2.59%
(subject to adjustment as described herein)

CITY OF LAKE WALES, FLORIDA
CAPITAL IMPROVEMENT REVENUE NOTE, SERIES 2019

Maturity Date: October 1, 2034

KNOW ALL MEN BY THESE PRESENTS that the City of Lake Wales, Florida (the "Issuer"), a municipal corporation created and existing pursuant to the Constitution and the laws of the State of Florida, for value received, promises to pay from the sources hereinafter provided, to the order of CenterState Bank, N.A. or registered assigns (hereinafter, the "Owner"), the principal amount of \$900,000, together with interest at the Interest Rate (hereinafter defined). The Issuer shall pay interest upon the unpaid principal balance of this Note at the Interest Rate, subject to adjustment as provided herein. Interest shall be calculated on a 30/360 day basis. This Note shall have a final maturity date of October 1, 2034.

Except as otherwise provided herein, "Interest Rate" means a per annum rate equal to 2.59%; provided, however, the Interest Rate is subject to further adjustment as hereinafter provided. Notwithstanding anything herein to the contrary, upon occurrence and during the continuance of an Event of Default under the herein defined Resolution, the Interest Rate shall be the Default Rate (as such terms are hereinafter defined). Further, the Owner may, at its option, collect from the Issuer a late charge (the "Late Fee") of five percent (5.00%) of any payment not received by the Owner within ten (10) days after the payment is due.

Principal of and interest on this Note is payable in lawful money of the United States of America at such place as the Owners may designate to the Issuer in writing.

The Issuer promises to pay the Owner interest on amounts outstanding from the date of this Note at the Interest Rate, but in no event shall it exceed the maximum interest rate permitted by applicable law. Interest shall be payable to the Owner on each April 1 and October 1, commencing on April 1, 2020.

Principal on this Note shall amortize on the following dates and in the following amounts:

Date	Principal
------	-----------

October 1, 2020	\$50,000
October 1, 2021	51,000
October 1, 2022	52,000
October 1, 2023	54,000
October 1, 2024	55,000
October 1, 2025	57,000
October 1, 2026	58,000
October 1, 2027	60,000
October 1, 2028	61,000
October 1, 2029	63,000
October 1, 2030	64,000
October 1, 2031	66,000
October 1, 2032	68,000
October 1, 2033	70,000
October 1, 2034	<u>71,000</u>
Total	\$900,000

The principal of this Note may be prepaid in whole or in part at the option of the Issuer at any time without penalty, provided that the Issuer pays all accrued interest which shall have accrued to the date of prepayment. No less than five (5) Business Days prior to the date of prepayment selected by the Issuer, the Issuer shall provide written notice of such prepayment to the Owner of the Note. Any prepayment in part shall be applied to principal payments in inverse order.

A final payment in the amount of the entire unpaid principal balance, together with all accrued and unpaid interest hereon, shall be due and payable in full on the Maturity Date.

If any date for the payment of principal and interest hereon shall fall on a day which is not a Business Day (as defined in the Resolution hereinafter defined) the payment due on such date shall be due on the next succeeding day which is a Business Day, but the Issuer shall not receive credit for the payment until it is actually received by the Owner.

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

THIS NOTE DOES NOT CONSTITUTE A GENERAL INDEBTEDNESS OF THE ISSUER WITHIN THE MEANING OF ANY CONSTITUTIONAL, STATUTORY OR CHARTER PROVISION OR LIMITATION, AND IT IS EXPRESSLY AGREED BY THE HOLDER OF THIS NOTE THAT SUCH NOTEHOLDER SHALL NEVER HAVE THE RIGHT TO REQUIRE OR COMPEL THE EXERCISE OF THE AD VALOREM TAXING POWER OF THE ISSUER OR TAXATION OF ANY REAL OR PERSONAL PROPERTY THEREIN OR USE OR APPLICATION OF AD VALOREM TAX REVENUES OF THE ISSUER FOR THE PAYMENT

OF THE PRINCIPAL OF AND INTEREST ON THIS NOTE OR THE MAKING OF ANY OTHER PAYMENTS PROVIDED FOR IN THE RESOLUTION.

This Note is issued pursuant to Article VIII, Section 2 of the Constitution of the State of Florida, Chapter 166, Florida Statutes, the Charter of the Issuer and a resolution duly adopted by the Issuer on December 3, 2019, as from time to time amended and supplemented (herein referred to as the "Resolution"), and is subject to all the terms and conditions of the Resolution. All terms, conditions and provisions of the Resolution are by this reference thereto incorporated herein as a part of this Note. Payment of this Note is secured by a covenant to budget, appropriate and deposit Non-Ad Valorem Revenues of the Issuer, as provided for in the Resolution. Terms used herein in capitalized form and not otherwise defined herein shall have the meanings ascribed thereto in the Resolution.

This Note may be exchanged or transferred by the Owner hereof but only upon the registration books maintained by the Issuer and in the manner provided in the Resolution; provided, however, this Note may only be transferred in whole.

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

As used herein, the following terms shall have the following meanings:

"Adjusted BQ Rate" means upon a Loss of BQ Status, the interest rate per annum that shall provide the Owner with the same after tax yield that the Owner would have otherwise received had the Loss of BQ Status not occurred, taking into account the increased taxable income of the Owner as a result of such Loss of BQ Status. The Owner shall provide the Issuer with a written statement explaining the calculation of the Adjusted BQ Rate, which statement shall, in the absence of manifest error, be conclusive and binding on the Issuer.

"Default Rate" means the then applicable Interest Rate plus 3.00%.

"Determination of Taxability" means with respect to this Note, the circumstance that shall be deemed to have occurred if interest paid or payable on this Note becomes includable for federal income tax purposes in the gross income of the Owner as a consequence of any action or inaction by the Issuer. A Determination of Taxability will be deemed to have occurred upon the earlier of (a) a final decree or judgment of any Federal court or a final action of the Internal Revenue Service determining that interest paid or payable on this Note is or was includable in the gross income of the Owner for Federal income tax purposes as a result of action or inaction of the Issuer, or (b) receipt by the Issuer of an opinion of the Issuer's Note Counsel to the effect that an action or inaction by the Issuer has caused or will cause the interest

on the Note to be includable in the gross income of the Owner for federal income tax purposes. In the case of (a) above, no Determination of Taxability shall be deemed to occur unless the Issuer has been given written notice of such occurrence and, to the extent permitted by law, an opportunity to participate in and seek, at the Issuer's own expense, a final administrative determination by the Internal Revenue Service or determination by a court of competent jurisdiction (from which no further right of appeal exists) as to the occurrence of such Determination of Taxability.

"Loss of BQ Status" means a determination by the Owner that this Note is not a "qualified tax-exempt obligation" within the meaning of Section 265(b)(3) of the Code (or any successor provision).

"Taxable Period" means the period of time between (a) the date that any interest on this Note is deemed to be includable in the gross income of the Owner for federal income tax purposes as a result of a Determination of Taxability, and (b) the date of the Determination of Taxability.

"Taxable Rate" means the current tax-exempt rate of this Note divided by 0.79.

Upon the occurrence of a Determination of Taxability and for as long as this Note remains outstanding, assuming no Event of Default shall have occurred and remains ongoing, the Interest Rate on this Note shall be converted to the Taxable Rate. In addition, upon a Determination of Taxability, the Issuer shall pay to the Owner (i) an additional amount equal to the difference between (A) the amount of interest actually paid on this Note during the Taxable Period and (B) the amount of interest that would have been paid during the Taxable Period had this Note borne interest at the Taxable Rate, and (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 Owner as a result of the Determination of Taxability. This adjustment shall survive payment of this Note until such time as the federal statute of limitations under which the interest on this Note could be declared taxable under the Code shall have expired.

So long as no Determination of Taxability or Event of Default shall have occurred and remain ongoing, upon the occurrence of a Loss of BQ Status and for as long as this Note remains outstanding, the Interest Rate on this Note shall be converted to the Adjusted BQ Rate. In addition, upon a Loss of BQ Status, the Issuer shall pay to the Owner (i) an additional amount equal to the difference between (A) the amount of interest actually paid on this Note during the period of time from the date of issuance of this Note and the next succeeding interest payment date, and (B) the amount of interest that would have been paid during the period in clause (A) had this Note borne interest rate at the Adjusted BQ Rate, and (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 Owner as a result of the Loss of BQ Status.

IN WITNESS WHEREOF, the City of Lake Wales, Florida, has issued this Note and has caused the same to be signed by the Mayor and City Manager and attested and countersigned by the City Clerk and its seal to be affixed, impressed, imprinted, lithographed or reproduced hereon.

CITY OF LAKE WALES, FLORIDA

(SEAL)

Mayor

City Manager

ATTESTED AND COUNTERSIGNED:

City Clerk

EXHIBIT B

FORM OF PURCHASER'S CERTIFICATE

This is to certify that CenterState Bank, N.A. (the "Purchaser") has not required the City of Lake Wales, Florida (the "Issuer") to deliver any offering document and has conducted its own investigation, to the extent it deems satisfactory or sufficient, into matters relating to business affairs or conditions (either financial or otherwise) of the Issuer in connection with the issuance of the \$900,000 City of Lake Wales, Florida, Capital Improvement Revenue Note, Series 2019, dated December 5, 2019 (the "Note"), and no inference should be drawn that the Purchaser, in the acceptance of the Note, is relying on Note Counsel or Issuer's Counsel as to any such matters other than the legal opinion rendered by Note Counsel, Bryant Miller Olive P.A. and by Issuer's Counsel, Albert C. Galloway, Jr., P.A. Any capitalized undefined terms used herein not otherwise defined shall have the meaning set forth in a resolution adopted by the City Commission of the Issuer on December 3, 2019 (the "Resolution").

We are aware that investment in the Note involves various risks, and that the payment of the Note is secured solely from the sources described in the Resolution (the "Note Security").

We have made such independent investigation of the Note Security as we, in the exercise of sound business judgment, consider to be appropriate under the circumstances. In making our investment decision, we have relied upon the accuracy of information which has been provided to us by the Issuer.

We have knowledge and experience in financial and business matters and are capable of evaluating the merits and risks of our investment in the Note and can bear the economic risk of our investment in the Note.

We acknowledge and understand that the Resolution is not being qualified under the Trust Indenture Act of 1939, as amended, and is not being registered in reliance upon the exemption from registration under Section 3(a)(2) of the Securities Act of 1933, Section 517.051(1), Florida Statutes, and that neither the Issuer, Note Counsel nor Issuer's Counsel shall have any obligation to effect any such registration or qualification.

We are not acting as a broker or other intermediary, and are purchasing the Note as an investment for our own account and not with a present view to a resale or other distribution to the public. We understand that the Note may be transferred only in whole.

We are an "accredited investor" as such term is defined in the Securities Act of 1933, as amended, and Regulation D thereunder. We are not purchasing the Note for direct or indirect promotion of any scheme or enterprise with the intent of violating or evading any provision of Chapter 517, Florida Statutes.

DATED this 5th of December, 2019.

CENTERSTATE BANK, N.A.

By: _____

Name: Russel L. Mouton, II

Title: Senior Vice President-Commercial Lender

EXHIBIT C

FORM OF DISCLOSURE LETTER

The undersigned, as purchaser, proposes to negotiate with the City of Lake Wales, Florida (the "Issuer") for the private purchase of its \$900,000 Capital Improvement Revenue Note, Series 2019 (the "Note"). Prior to the award of the Note, the following information is hereby furnished to the Issuer:

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

Nabors, Giblin & Nickerson, P.A.
Bank Counsel Fee -- \$7,500.00

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

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

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

4. The management fee to be charged by the Bank is \$0.

5. Truth-in-Bonding Statement:

The Issuer has informed the Bank that the Note is being issued primarily to finance a portion of the cost of the Project (as defined in the hereinafter defined Resolution) and pay the costs of issuing the Note.

Unless earlier prepaid, the Note is expected to be repaid on October 1, 2034. At an interest rate of 2.59%, total interest paid over the life of the Note is estimated to be \$193,498.90.

The Note will be payable solely from a covenant to budget and appropriate from Non-Ad Valorem Revenues sufficient to make such payments, appropriated and deposited as

described in a resolution of the Issuer adopted on December 3, 2019 (the "Resolution"). See the Resolution for a definition of Non-Ad Valorem Revenues. Based on the above assumptions, issuance of the Note is estimated to result in an annual maximum of approximately \$72,786.05 of revenues of the Issuer not being available to finance the services of the Issuer during the life of the Note.

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

CenterState Bank, N.A.
7722 SR 544 East
Winter Haven, Florida 33881
Attention: Russel L. Mouton

IN WITNESS WHEREOF, the undersigned has executed this Disclosure Statement on behalf of the Bank this 5th of December, 2019.

CENTERSTATE BANK, N.A.

By: _____
Name: Russel L. Mouton, II
Title: Senior Vice President-Commercial Lender

EXHIBIT D

Form of Coverage Certificate

<u>Revenues</u>	<u>FY</u>
Total Governmental Fund Revenues	\$
Less: Ad Valorem Revenues	
Less: Restricted Funds	
Total Net Non-Ad Valorem Revenue Available	\$ -
<u>Expenditures</u>	
Essential Expenditures	
General Government	
Public Safety	
Total Essential and Legally Mandated Expenditures	\$ -
Less: Essential expenditures paid from ad valorem revenues net of ad valorem debt service or otherwise designated	
Total Adjusted Expenditures	\$ -
Legally Available Non-Ad Valorem Revenues	\$
Less: Essential Expenditures to be paid from Non-Ad Valorem	\$
Net Legally Available Non-Ad Valorem Available for Debt Service	\$

Existing and Projected Maximum Annual Debt Service \$

Coverage Ratio*

*Pursuant to Section 16 of Resolution No. __, this Certificate is delivered for informational purposes only. There is no annual requirement that any coverage ratio be maintained.