

## RESOLUTION NO. 2019-35

**A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF LAKE CLARKE SHORES, FLORIDA; AUTHORIZING THE TOWN TO BORROW FUNDS FROM JPMORGAN CHASE BANK, NA IN THE PRINCIPAL AMOUNT NOT TO EXCEED \$3,000,000 TO DESIGN CERTAIN IMPROVEMENTS TO THE TOWN'S UTILITY SYSTEM AND TO REFUND CERTAIN PROMISSORY NOTES OF THE TOWN RELATING TO THE TOWN'S UTILITY SYSTEM; AWARDING THE NOTE TO JPMORGAN CHASE BANK, NA BY NEGOTIATED SALE; APPROVING A LOAN AGREEMENT BETWEEN THE TOWN AND JPMORGAN CHASE BANK, NA: DESIGNATING THE NOTE AS A "BANK QUALIFIED OBLIGATION" UNDER SECTION 265(b) OF THE INTERNAL REVENUE CODE OF 1986, AS AMENDED; PROVIDING FOR REPEAL OF CONFLICTING RESOLUTIONS; AND PROVIDING AN EFFECTIVE DATE.**

**BE IT RESOLVED BY THE TOWN COUNCIL OF THE TOWN OF LAKE CLARKE SHORES, FLORIDA, THAT:**

Section 1. Authority for this Resolution. This Resolution is adopted pursuant to the provisions of Part I of Chapter 159, Florida Statutes, Part II of Chapter 166, Florida Statutes, as amended, the Charter of the Town of Lake Clarke Shores, and other applicable provisions of law.

Section 2. Definitions. The following words and phrases shall have the following meanings when used herein:

"Act" means Part I of Chapter 159, Florida Statutes, Part II of Chapter 166, Florida Statutes, as amended, the Charter of the Town of Lake Clarke Shores, and other applicable provisions of law.

"Clerk" means the Clerk, Acting Clerk or any Deputy Clerk of the Town.

"Council Member" means a member of the Town Council.

"Lender" means JPMorgan Chase Bank, NA, and its successors and assigns.

"Loan Agreement" means the Loan Agreement between the Town and the Lender authorized by Section 4 hereof.

"Mayor" means the Mayor or Vice Mayor of the Town.

"Note" means the Town's Utility System Revenue and Revenue Refunding Note, Series 2019 (Utility System Improvements) authorized by Section 3 hereof.

"Project" means the design of improvements to the Town's Utility System consisting of a conversion from septic tanks to a wastewater collection system.

"Refunded Notes" means the Town's Promissory Note, Series 2016, initially issued in the principal amount of \$1,250,000 and currently outstanding in the principal amount of \$905,692.10, and the Town's Promissory Note, Series 2018 (Utility System Improvements), initially issued in the principal amount of \$1,000,000 and currently outstanding in the principal amount of \$900,000.

"Resolution" means this Resolution, pursuant to which the Note is authorized to be issued,

including any resolution or resolutions supplemental hereto.

“State” means the State of Florida.

“Town” means Town of Lake Clarke Shores, a Florida municipal corporation.

“Town Manager” means the Town Manager or his or her designee.

Section 3. Authorization of Note. Subject and pursuant to the provisions of this Resolution, an obligation of the Town is hereby authorized to be issued in the principal amount not to exceed \$3,000,000 for the purpose of providing funds, together with other available funds of the Town, to pay the costs of the Project, refund the Refunded Notes and pay closing costs. Because of the characteristics of the Note, prevailing market conditions, and additional savings to be realized from an award of the Note by negotiated sale, it is in the best interest of the Town to award the Note to the Lender by negotiated sale in substantial accordance with the Lender's Term Sheet to the Town in response to the Town's Request for Bids, which letter is attached hereto as Exhibit “A” (the “Term Sheet”); provided, however, that the provisions of this Resolution and the Loan Agreement shall control to the extent of any conflict with the Term Sheet.

Prior to the issuance of the Note the Town shall receive from the Lender a disclosure statement containing the information required by Section 218.385, Florida Statutes. The Note shall be dated the date of its execution and delivery, which shall be a date agreed upon by the Town and the Lender, and shall have such other terms and provisions, including the interest rate and maturity date, as stated in the form of Note attached to the Loan Agreement as Exhibit “A.” The Note is to be in substantially the form set forth on Exhibit “A” to the Loan Agreement, 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 Town with the manual signature of the Mayor, and the Mayor is hereby authorized to execute the Note on behalf of the Town.

Section 4. Loan Agreement. Notwithstanding any other provision hereof, the Note shall not be issued nor shall the Town be obligated to issue the same nor shall the Lender be obligated to purchase the same, unless and until the Town and the Lender shall execute a Loan Agreement in substantially the form attached hereto as Exhibit “B” (the “Loan Agreement”). The form of the Loan Agreement is hereby approved by the Town and the Mayor is authorized to execute the same, with such changes as may be approved by the Mayor, such approval to be conclusively evidenced by the execution thereof by the Mayor.

Section 5. 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 6. Applicable Provisions of Law. This Resolution shall be governed by and construed in accordance with the laws of the State.

Section 7. 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,” “hereat,” “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 8. 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 9. Authorizations. The Town Manager, the Clerk, and any Council Member, and such other officials and employees of the Town as may be designated by the Mayor are each designated as agents of the Town 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 Town 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 10. Bank Qualified Issue. The Town hereby designates the Note to be a "qualified tax-exempt obligation" within the meaning of Section 265(b) of the Internal Revenue Code of 1986, as amended.

Section 11. Repealer. All resolutions or parts thereof in conflict herewith are hereby repealed.

Section 12. Effective Date. This Resolution shall take effect immediately upon its adoption.

**PASSED AND ADOPTED** by the Town Council of the Town of Lake Clarke Shores, Florida, this 12<sup>th</sup> day of November, 2019.

**TOWN OF LAKE CLARKE SHORES, FLORIDA**

	FOR	AGAINST
BY: _____ Valentin Rodriguez, Jr., Mayor	_____	_____
_____	_____	_____
Paul R. Shalhoub, Vice Mayor	_____	_____
_____	_____	_____
Robert M. W. Shalhoub President Pro Tem	_____	_____
_____	_____	_____
Gregory P. Freebold, Council Member	_____	_____
_____	_____	_____
Vacant	_____	_____

**ATTEST:**

BY: \_\_\_\_\_  
Mary Pinkerman, Town Clerk

Res# 2019-35 Sponsored by: The Town Council

EXHIBIT "A"

TERM SHEET FROM LENDER

EXHIBIT "B"

FORM OF LOAN AGREEMENT