

TD BANK, N.A. ("BANK")

TERMS AND CONDITIONS OF CREDIT ACCOMMODATION DATED
4/24/2015 ("DIRECT PURCHASE LOAN")

THIS IS A STATEMENT OF TERMS AND CONDITIONS AND NOT A COMMITMENT TO LEND. ALL CREDIT ACCOMMODATIONS ARE SUBJECT TO FORMAL CREDIT UNDERWRITING AND APPROVAL.

1. Loan.

- (a) Borrower(s): Town of Cutler Bay, Florida ("the Town")
- (b) Guarantor: N/A
- (c) Facility: **Bank Qualified**, Tax Exempt Term Loan
- (d) Purpose: To re-structure the Town's existing Series 2010A, Series 2010C, and Series 2010D (as amended) Promissory Notes, which were issued by the Town to finance various capital projects.

Current balances outstanding under the Series 2010A, Series 2010C, and Series 2010D (as amended) Promissory Notes are \$3,000,000; \$1,773,885.69; and \$1,265,000, respectively.

- (e) Amount: Up to **\$6,100,000**
- (f) Collateral: The Facility shall be secured by a first security lien of the proceeds of the Town's share of the Local Government Half-Cent Sales Tax ("Pledged Revenue Source"), for which the Town collected \$2,964,403 and \$2,789,076 during the fiscal years 2013 and 2014, respectively.
- (g) Maturity: Fifteen Years (15-yr Term): June 15, 2030.
- (h) Repayment Terms: Quarterly interest and principal payments will be payable on September 15th, December 15th, March 15th and June 15th of every year beginning on September 15th, 2015 based on a level debt service amortization using a 30/360 day count interest rate calculation basis.
- (i) Interest Rate: Tax Exempt **Bank Qualified** Fixed Rate as of 4/24/15:
15-year term: 2.50%

The quoted fixed rate of interest is based upon the greater of (67% of the prevailing ten (10) year H-15 Swap Rate) plus 101 basis points, or (67% of the prevailing ten (10) year Treasury Rate) plus 139 basis points as publicized in the following website:

H-15 Source: <http://www.federalreserve.gov/release/h15/update/>

BANK RATE HOLD: The quoted rate of 2.50% will be held by the Bank through closing which is expected to be on or before May 25th, 2015.

- (j) Prepayment Privilege: Loan Facility can be prepaid at any time during the term of the Loan with NO Prepayment Penalty.
- (k) Default Rate of Interest: The “default rate of interest” shall be six (6) percentage points in excess of the prevailing loan rate of interest that was being charged at the time of the event of default.
- (l) Late Charge: If any payment due the Bank is more than fifteen (15) days overdue a late charge payment of six percent (6%) of the overdue payment shall be assessed.
- (m) Events of Default: Will include but not be limited to:
 - (1) Breach of representation or warranties.
 - (2) Violation of covenants.
 - (3) Bankruptcy or insolvency.
 - (4) Payment default.

2. Fees and Expenses:

The Borrower shall pay to the Bank on demand any and all costs and expenses (including, without limitation, reasonable attorneys' fees and disbursements, court costs, litigation and other expenses) incurred or paid by the Bank in connection with the loan. The Borrower's bond counsel will provide documentation associated with this transaction. Documentation will be subject to the review and approval of the Lender and the Lender's counsel. The Borrower agrees to pay all legal fees and expenses of the lender associated with the review and closing of this transaction, which costs may be paid with proceeds of the Loan. Bank Counsel Fee shall not exceed \$5,000.

3. Legal Opinions.

Prior to closing, there shall be delivered to the Bank an opinion of Bond Counsel acceptable to the Bank covering matters customary for a transaction of this type and nature and which shall, without limitation, opine that: (1) the Borrower is duly formed; (2) all loan documents have been validly authorized and executed by and on behalf of the Borrower, if any; (3) all loan documents are valid, binding, enforceable in accordance with their terms and do not violate any legal requirements, including without limitation, organizational documents, laws and material agreements; and (4) Facility is Tax Exempt and Bank Qualified.

4. Financial Reporting:

a) Borrower(s) shall furnish the following financial reports:

<u>Type of Report(s)</u>	<u>Frequency</u>	<u>Due Date</u>
Audited Financial Statement	Annually	Within 210 days of fiscal year end
Operating Budget	Annually	Within 60 days of approval or

		acceptance by Borrower's Board
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- b) The Bank reserves the right to request additional financial information to supplement or verify certain financial assumptions or verify the creditworthiness of the Borrower and if applicable.

5. Annual Coverage / Additional Bonds Test:

Annual Coverage Test

The Town's Local Government Half-Cent Sales Tax Revenues collected in each fiscal year shall be at least 1.50x the annual debt service on the proposed loan and all parity obligations.

Additional Bonds Test

No additional parity bonds are permitted unless a) no event of default shall have occurred and is continuing and b) the Town's Local Government Half-Cent Sales Tax Revenues during any 12 consecutive months within the 24 months immediately preceding the issuance of additional bonds is at least 1.50x the maximum annual debt service on the existing debt and proposed bonds to be issued.

6. Other Conditions:

- a. No Material Adverse Change to the Borrower prior to closing.
- b. Town agrees to have all future loan payments be settled via auto debit through an account maintained with the Bank.
- c. Town agrees to move its primary operating accounts to TD Bank.
- d. Borrower shall comply with all laws applicable to its operations.
- e. Standard gross up language with respect to changes in Tax Status of the loan.
- f. Borrower covenants and agrees that documents will include language stipulating that the Loan Facility and all existing and future debt secured by the half cent sales tax pledge of the Town will be on parity with no preference given to any particular issuance.
- g. The implementation of certain terms, conditions, covenants or other non-material changes to the proposed Credit Accommodation required as part of the Bank's formal credit approval shall be deemed an approval in substantially the form outlined in this proposed Credit Accommodation.
- h. All legal matters and documentation to be executed in connection with the contemplated proposed Credit Accommodation shall be satisfactory in form and substance to the Bank and counsel to the Bank.
- i. The Bank shall not be required to enter into the proposed Credit Accommodation until the completion of all due diligence inquiries, receipt of approvals from all requisite parties and the execution and receipt of all necessary documentation reasonably acceptable to the Bank and its counsel. The Bank complies with the US Patriot Act of 2001 (the "Act"), including, but not limited to; those sections relating to customer identification, monitoring and reporting of suspicious activities, and the prevention of money laundering. This Act mandates that we verify certain information about the borrower and any guarantor while processing the Credit Accommodation request. Furthermore, certain assumptions are made for this proposal which, if altered, could affect the overall credit approval and or the terms of the proposed Credit Accommodation
- j. All other standard terms & conditions as currently in place.

THIS PROPOSAL IS NOT AND SHOULD NOT BE CONSTRUED AS A COMMITMENT BY THE BANK OR ANY AFFILIATE TO ENTER INTO ANY CREDIT ACCOMMODATION.

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1. Loan.

- (a) Borrower(s): Town of Cutler Bay, Florida ("the Town")
- (b) Guarantor: N/A
- (c) Facility: Taxable Loan Facility.
- (d) Purpose: To re-structure the Town's existing Series 2010B and Series 2010E (as amended) Promissory Notes which were issued by the Town to finance various capital projects.
- Current balances outstanding under the Series 2010B and Series 2010E (as amended) Promissory Notes are \$5,589,191.86 and \$678,461.05 respectively.
- (e) Amount: Up to **\$6,300,000.**
- (f) Collateral: The Facility shall be secured by a first security lien of the proceeds of the Town's share of the Local Government Half-Cent Sales Tax ("Pledged Revenue Source"), for which the Town collected \$2,964,403 and \$2,789,076 during the fiscal years 2013 and 2014, respectively.
- (g) Maturity: Ten Years (10-yr Term): June 15, 2025.
- (h) Repayment Terms: Quarterly interest and principal payments will be payable on September 15th, December 15th, March 15th and June 15th of every year beginning on September 15th, 2015 based on a level debt service amortization using a 30/360 day count interest rate calculation basis.
- (i) Interest Rate: Taxable Fixed Rate as of 4/06/2015:
10-year term: 2.80%

The quoted fixed rate of interest is based upon the greater of the prevailing Five (5) year H-15 Swap Rate plus 128 basis points, or the prevailing Five (5) year Treasury Rate plus 111 basis points as publicized in the following website:

H-15 Source: <http://www.federalreserve.gov/release/h15/update/>

BANK RATE HOLD: The quoted rate of 2.50% will be held by the Bank through closing which is expected to be on or before May 25th, 2015.

- (j) **Prepayment Premium:** Loan Facility can be prepaid at any time during the term of the Loan with NO Prepayment Penalty.
- (k) **Default Rate of Interest:** The “default rate of interest” shall be six (6) percentage points in excess of the prevailing loan rate of interest that was being charged at the time of the event of default.
- (l) **Late Charge:** If any payment due the Bank is more than fifteen (15) days overdue a late charge payment of six percent (6%) of the overdue payment shall be assessed.
- (m) **Events of Default:** Will include but not be limited to:
 - (1) Breach of representation or warranties.
 - (2) Violation of covenants.
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 - (4) Payment default.

2. **Fees and Expenses:**

The Borrower shall pay to the Bank on demand any and all costs and expenses (including, without limitation, reasonable attorneys’ fees and disbursements, court costs, litigation and other expenses) incurred or paid by the Bank in connection with the loan. The Borrower’s bond counsel will provide documentation associated with this transaction. Documentation will be subject to the review and approval of the Lender and the Lender’s counsel. The Borrower agrees to pay all legal fees and expenses of the lender associated with the review and closing of this transaction, which costs may be paid with proceeds of the Loan. Bank Counsel Fee shall not exceed \$2,500.

3. **Legal Opinions.**

Prior to closing, there shall be delivered to the Bank an opinion of Bond Counsel acceptable to the Bank covering matters customary for a transaction of this type and nature and which shall, without limitation, opine that: (1) the Borrower is duly formed; (2) all loan documents have been validly authorized and executed by and on behalf of the Borrower, if any; and (3) all loan documents are valid, binding, enforceable in accordance with their terms and do not violate any legal requirements, including without limitation, organizational documents, laws and material agreements.

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6. Other Conditions:

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- b. Town agrees to have all future loan payments be settled via auto debit through an account maintained with the Bank.
- c. Town agrees to move its primary operating accounts to TD Bank.
- d. Borrower shall comply with all laws applicable to its operations.
- e. Borrower covenants and agrees that documents will include language stipulating that the Loan Facility and all existing and future debt secured by the half cent sales tax pledge of the Town will be on parity with no preference given to any particular issuance.
- f. The implementation of certain terms, conditions, covenants or other non-material changes to the proposed Credit Accommodation required as part of the Bank's formal credit approval shall be deemed an approval in substantially the form outlined in this proposed Credit Accommodation.
- g. All legal matters and documentation to be executed in connection with the contemplated proposed Credit Accommodation shall be satisfactory in form and substance to the Bank and counsel to the Bank.
- h. The Bank shall not be required to enter into the proposed Credit Accommodation until the completion of all due diligence inquiries, receipt of approvals from all requisite parties and the execution and receipt of all necessary documentation reasonably acceptable to the Bank and its counsel. The Bank complies with the US Patriot Act of 2001 (the "Act"), including, but not limited to; those sections relating to customer identification, monitoring and reporting of suspicious activities, and the prevention of money laundering. This Act mandates that we verify certain information about the borrower and any guarantor while processing the Credit Accommodation request. Furthermore, certain assumptions are made for this proposal which, if altered, could affect the overall credit approval and or the terms of the proposed Credit Accommodation
- i. All other standard terms & conditions as currently in place.

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