

**FIRST SUPPLEMENTAL LOAN AGREEMENT**

**DATED AS OF \_\_\_\_\_, 2017**

**Among**

**CITY OF GULF BREEZE, FLORIDA**  
*as Sponsor*

**and**

**U.S. BANK NATIONAL ASSOCIATION**  
*As Trustee*

**And**

**CITY OF MIAMI BEACH, FLORIDA**  
*As Governmental Unit*

**RELATING TO THE LOAN AGREEMENT DATED AS OF MAY 1, 2006  
EXECUTED IN CONNECTION WITH  
WATER AND SEWER REVENUE BONDS, TAXABLE SERIES 2006B-2  
(CITY OF MIAMI BEACH, FLORIDA)**

**\$18,300,000**

**LOAN FROM THE CITY OF GULF BREEZE, FLORIDA,  
LOCAL GOVERNMENT LOAN PROGRAM FLOATING RATE DEMAND REVENUE  
BONDS, SERIES 1985B**

This Document prepared by  
and return to:  
JoLinda Herring  
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Miami, Florida 33131

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## FIRST SUPPLEMENTAL LOAN AGREEMENT

This **FIRST SUPPLEMENTAL LOAN AGREEMENT**, dated as of \_\_\_\_\_, 2017, is entered into by and between **U.S. BANK NATIONAL ASSOCIATION**, as successor Trustee for the holders of the Program Bonds (as defined in the Original Loan Agreement), **MATT DANNHEISSER**, Mayor, as Administrator (the "Administrator") acting on behalf of the **CITY OF GULF BREEZE, FLORIDA** (the "Sponsor") and the **CITY OF MIAMI BEACH, FLORIDA**, a municipal corporation organized and duly existing under the laws of the State of Florida (the "Governmental Unit"), for and in consideration of the mutual benefits and obligations herein conferred and undertaken and for other good and valuable consideration, receipt of which is hereby acknowledged.

### WITNESSETH AS FOLLOWS:

#### Section 1. DEFINITIONS.

All capitalized terms used herein which are defined in the Loan Agreement dated as of May 1, 2006 (the "Original Loan Agreement") between the Trustee, the Administrator and the Governmental Unit, shall have the meanings set forth in the Original Loan Agreement.

#### Section 2. AMENDMENTS.

Pursuant to Section 6.7 of the Original Loan Agreement, the undersigned hereby agree to the following amendments to the Original Loan Agreement:

(A) Section 3.4 of the Original Loan Agreement is hereby amended to read as follows:

(a) The Governmental Unit shall be entitled to prepay the Series 2006B-2 Loan in whole or in part on any date upon which the Program Bonds converted to a Long Fixed Rate in connection with the Series 2006B-2 Loan may be redeemed or converted to another Mode at the option of the Sponsor or may be called for mandatory tender by the Sponsor, upon not less than one hundred twenty-ninefour (~~129~~124) days prior written notice to the Sponsor, ~~the Administrator~~ and the Trustee. ~~Such Program Bonds may be redeemed or converted as and to the extent provided on Schedule "III".~~

(b) Any such prepayment in whole shall be made with the effect provided in Section 4.04 of the Indenture, it being understood that ~~all prepayments, unless such deposit already constitutes Eligible Funds for Tender, the principal portion of any prepayment permitted pursuant to this section~~ must be made not less than one hundred twenty-ninefour (~~129~~124) days in advance of any application thereof, unless the Indenture shall otherwise permit. The prepayment shall be in an amount equal to the sum of (A) accrued and unpaid interest on the Series 2006B-2 Loan as of the date on which redemption or tender of the Program Bonds can occur following processing of such

notice and (B) the product obtained by multiplying (i) the outstanding principal amount of the Series 2006B-2 Loan to be prepaid by (ii) the quotient obtained by dividing (y) the principal amount of the Program Bonds then Outstanding by (x) the amount of Program Assets (as defined in the Indenture) held by the Trustee, provided that the quotient shall not be less than 1.0. In no event, however, shall the prepayment amount for such prepayment in whole be less than the principal amount of the Series 2006B-2 Loan then Outstanding plus accrued interest and any unpaid Reserve Payment amount due in respect of the Series 2006B-2 Loan.

In the case of a partial prepayment of the Series 2006B-2 Loan, the amount of any such prepayment which shall be applied to the reduction of the outstanding principal balance of the Series 2006B-2 Loan shall be reduced by an amount equal to the sum of (A) the amount of interest which accrues on the Series 2006B-2 Loan from the date of its deposit with the Trustee until the first Business Day which is not earlier than one hundred twenty-~~nine~~four (~~129~~124) days thereafter (the "Prepayment Effective Date") and (B) the difference between (1) the product obtained by multiplying (i) the outstanding principal amount of the Series 2006B-2 Loan to be prepaid (as reduced by the amount described in clause (A) of this sentence) by (ii) the quotient obtained by dividing (y) the principal amount of the Program Bonds then Outstanding by (x) the amount of Program Assets on the Prepayment Effective Date, provided that the quotient shall not be less than 1.0 and (2) the outstanding principal amount of the Series 2006B-2 Loan to be prepaid (as reduced by the amount described in clause (A) of this sentence).

Notwithstanding anything herein to the contrary, the one hundred twenty-~~nine~~four (~~129~~124) day periods mentioned in paragraphs (a) and (b) hereof may run concurrently. The Governmental Unit shall receive credit for any income from investment of the amount of any such prepayment. Any computation of the prepayment amount under this Section 3.4(b) shall be made assuming all payments are made by Participating Governmental Units, as provided in Section 3.3(d) hereof.

With respect to payments from other than Eligible Funds for Tender, prior to such Prepayment Effective Date, the Governmental Unit shall continue to pay monthly interest and Program Expenses with respect to the prepayment amount, less credit for any interest earnings actually realized on the investment of such prepayment amount. No prepayment hereunder shall take effect prior to the Prepayment Effective Date unless such prepayment is made from funds otherwise constituting Eligible Funds for Tender.

(c) The amount of any prepayment shall also include any amounts necessary to pay prepayment premiums, if any, to the holders of the Converted Bonds in connection with a redemption thereof from the proceeds of the prepayment.

(d) In determining the amount and effect of any prepayments under this Section 3.4, Program Assets shall include any unpaid Loans, including any unpaid Loans that may have been discharged in bankruptcy or declared void or unenforceable.

(e) The Governmental Unit may make provision for prepayment of the scheduled principal and Fixed Rate interest of the Series 2006B-2 Loan in whole by deposit of Government Obligations (or other investments acceptable to the Credit Facility Issuer) in irrevocable escrow prior to the Prepayment Effective Date. Upon making such deposit in escrow in accordance with the provisions hereof, or at any time thereafter, the Governmental Unit may, with the consent of the Administrator and the Credit Facility Issuer, deposit with the Trustee an amount to be applied to the reduction of any Non-Asset Bonds, including, among other things, (i) Non-Asset Bonds related to the deficiency between the amount of Bonds Outstanding and the amount of Program Assets, and (ii) Non-Asset Bonds related to accrued and unpaid Program Expenses. On the Prepayment Effective Date, the Governmental Unit shall receive credit in the amount of such deposit toward the Prepayment Requirement, as defined in the Indenture (the "Prepayment Requirement"), due to the Trustee on such date; provided, however, that in computing the Prepayment Requirement on such date, the figure for Program Assets held by the Trustee shall be reduced by the amount of such credit. In no event, however, shall the Prepayment Requirement for such prepayment in whole be less than the principal amount of the Series 2006B-2 Loan then Outstanding plus accrued interest and premium.

(B) Section 4.1(b) of the Original Loan Agreement is hereby amended to read as follows:

(b) The Governmental Unit shall deliver to the Sponsor, the Credit Facility Issuer and the Trustee, not later than the 135<sup>th</sup> but not earlier than the ~~128~~125<sup>th</sup> day following (i) in the case of a Loan secured by a Local Letter of Credit, the date of each Loan Payment pursuant to the terms of this Agreement (whether by prepayment or regularly scheduled payment) or (ii) as to Loans not so secured, ~~within 135 days following~~ and solely with respect to payments from other than Eligible Funds for Tender, upon the final payment upon the Series 2006B-2 Loan, a certificate of the Governmental Unit, or other evidence in form and substance satisfactory to the Trustee, to the effect that, during the period ending ~~128~~one hundred twenty-four (124) days following such payment, no bankruptcy, insolvency or similar proceeding has been commenced by or against the Governmental Unit and that no other event has occurred which would have constituted an Event of Default under Section 5.1(f) of this Agreement (except such as has been vacated, dismissed or discharged by an order which is not subject to further appeal). Notwithstanding the payment in full of the Series 2006B-2 Loan, the Governmental Unit shall pay any ~~reasonable~~ charges incurred by the Sponsor or the Trustee in connection with any payment under the Credit Facility by reason of the Governmental Unit's failure to deliver such certificate or evidence on a timely basis. In addition, notwithstanding the payment in full of the Series 2006B-2 Loan, the Governmental Unit shall pay to any Substitute Credit Facility Issuer an amount, if any, equal to the Credit Facility Issuer Rate per annum on the amount which was disbursed under the Credit Facility by reason of any payment of the Governmental Unit's Series 2006B-2 Loan payment to the holders of the Program Bonds being deemed a Preference Payment (as defined in the Indenture), for the period between the disbursement of such

amount under the Credit Facility and the repayment of such amount by the Governmental Unit.

**Section 3. PRIOR AGREEMENT TO REMAIN IN EFFECT.**

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

**Section 4. LIMITATION OF LIABILITY.**

In the event of any default by the Sponsor under the Original Loan Agreement, the liability of the Sponsor or the Credit Facility Issuer to the Governmental Unit shall be enforceable only out of its interest under the Original Loan Agreement and there shall be no other recourse for damages by the Governmental Unit against the Sponsor, the Credit Facility Issuer, its officers, members, agents and employees, or against any of the property now or hereafter owned by it or them.

In the event of any default by the Governmental Unit under the Original Loan Agreement, the liability of the Governmental Unit shall be enforceable only out of the Pledged Revenues, and there shall be no other recourse for damages by the Sponsor or the Credit Facility Issuer against the Governmental Unit, its officers, members, agents and employees.

**Section 5. NO PERSONAL RECOURSE.**

Neither any member nor any officer, employee or agent of the Governmental Unit nor any person executing this First Supplemental Loan Agreement shall be personally liable on the Series 2006B-2 Loan or the Program Bonds or this First Supplemental Loan Agreement by reason of the issuance thereof.

**Section 6. ILLEGAL OR INVALID PROVISIONS DISREGARDED.**

In case any provision of this Agreement 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 7. APPLICABLE LAW.**

This Agreement shall be deemed to be a contract made in Florida and governed by Florida law.

**Section 8. ASSIGNMENTS.**

The Governmental Unit shall not assign this Agreement or any interest of the Governmental Unit herein, either in whole or in part. The Administrator on behalf of the Sponsor and the Trustee may assign this Agreement as provided in Section 3.9 of the Original Loan Agreement. Except as provided in Section 3.9 of the Original Loan Agreement this Agreement shall be binding upon shall inure to the benefit of the successors and assigns of the parties hereto.

**Section 9. AMENDMENTS.**

This Agreement may not be amended except in accordance with amendments to the Original Loan Agreement.

**Section 10. TERM OF AGREEMENT.**

This Agreement 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 Original Loan Agreement.

**Section 11 NOTICES.**

The provisions for notices set forth in Section 6.3 of the Original Loan Agreement shall be amended to read as follows:

Notice hereunder shall be effective upon receipt by the contact set forth below and shall be given by certified mail, return receipt requested, to:

**As to the Sponsor:**

City Manager  
City of Gulf Breeze, Florida  
P.O. Box 640  
Gulf Breeze, Florida 32561

**As to the Trustee:**

U.S. Bank National Association  
225 Water Street, Suite 700  
Jacksonville, Florida 32202  
Attn: Sheryl Lear

**As to the Governmental Unit:**

City of Miami Beach, Florida  
1700 Convention Center Drive  
Miami Beach, FL 33139  
Attn: Chief Financial Officer  
CC: City Attorney

**Section 12. HEADINGS.**

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

**Section 13. AMENDMENT TO INTERLOCAL AGREEMENT.**

This Supplemental Loan Agreement shall be deemed to be an amendment to the interlocal agreement established by the execution and delivery of the Original Loan Agreement and recorded in the public records of Dade and Santa Rosa Counties in the same manner as the Original Loan Agreement.

**Section 14. COUNTERPARTS.**

This Agreement may be executed in several counterparts, all or any of which shall be regarded for all purposes as duplicate originals and shall constitute and be but one and the same instrument.

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

**MATT DANNHEISSER**, Mayor  
Administrator

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

WITNESS:

\_\_\_\_\_  
\_\_\_\_\_

**CITY OF MIAMI BEACH, FLORIDA**  
Governmental Unit

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

(SEAL)

**ATTEST:**

By: \_\_\_\_\_  
City Clerk

Approved as to form and  
sufficiency:

By: \_\_\_\_\_  
City Attorney

APPROVED AS TO  
FORM & LANGUAGE  
& FOR EXECUTION  
*Raul Aguila* 9/5/17  
\_\_\_\_\_  
City Attorney *RAP* Date

**U.S. BANK NATIONAL ASSOCIATION,  
Trustee**

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

**STATE OF FLORIDA**

**COUNTY OF SANTA ROSA**

I, \_\_\_\_\_, a Notary Public in and for the said County in the State aforesaid, do hereby certify that Matt Dannheisser, personally known to me to be the same person whose is Mayor of the City of Gulf Breeze, Florida, and Administrator of the City's , Local Government Loan Program Floating Rate Demand Revenue Bonds, Series 1985B subscribed to the foregoing instrument, appeared before me this day in person and severally acknowledged that he, being thereunto duly authorized, signed in the presence of two subscribing witnesses and delivered the said instrument as the free and voluntary act of said City and as his own free and voluntary act, for the uses and purposes therein set forth and took an oath.

Given under my hand and notarial seal this \_\_\_\_\_ day of \_\_\_\_\_, 2017.

(SEAL)

Personally Known \_\_\_\_\_ or  
Produced Identification \_\_\_\_\_  
Type of Identification \_\_\_\_\_  
Produced \_\_\_\_\_

\_\_\_\_\_  
Notary Public

My Commission Ends: \_\_\_\_\_

Name: \_\_\_\_\_

Address: \_\_\_\_\_  
\_\_\_\_\_

**STATE OF FLORIDA**

**COUNTY OF MIAMI-DADE**

I, \_\_\_\_\_, a Notary Public in and for the said County in the State aforesaid, do hereby certify that Philip Levine and Rafael E. Granado, personally known to me to be the Mayor and City Clerk, respectively, of the City of Miami Beach, Florida, subscribed to the foregoing instrument, appeared before me this day in person and severally acknowledged that they, being thereunto duly authorized, signed, sealed with the seal of said City, and delivered the said instrument as the free and voluntary act of said City and as their own free and voluntary act, for the uses and purposes therein set forth and took an oath.

(SEAL)

Personally Known \_\_\_\_\_ or  
Produced Identification \_\_\_\_\_  
Type of Identification \_\_\_\_\_  
Produced \_\_\_\_\_

\_\_\_\_\_  
Notary Public

My Commission Ends: \_\_\_\_\_

Name: \_\_\_\_\_

Address: \_\_\_\_\_

\_\_\_\_\_

**STATE OF FLORIDA**

**COUNTY OF DUVAL**

I, \_\_\_\_\_, a Notary Public in and for the said County in the State aforesaid, do hereby certify that Sheryl Lear, personally known to me to be the Vice President of U.S. Bank National Association, subscribed to the foregoing instrument, appeared before me this day in person and severally acknowledged that they, being thereunto duly authorized, signed, sealed with the seal of said Bank, and delivered the said instrument as the free and voluntary act of said Bank and as their own free and voluntary act, for the uses and purposes therein set forth and took an oath.

(SEAL)

Personally Known \_\_\_\_\_ or  
Produced Identification \_\_\_\_\_  
Type of Identification \_\_\_\_\_  
Produced \_\_\_\_\_

\_\_\_\_\_  
Notary Public

My Commission Ends: \_\_\_\_\_

Name: \_\_\_\_\_

Address: \_\_\_\_\_

\_\_\_\_\_