

RESOLUTION NO. 47-2020

RESOLUTION OF THE CITY COMMISSION OF THE CITY OF LAKE WORTH BEACH, FLORIDA, AMENDING AND SUPPLEMENTING RESOLUTION NO. 45-2020 OF THE CITY; AUTHORIZING THE ISSUANCE OF NOT EXCEEDING \$123,000,000 IN AGGREGATE PRINCIPAL AMOUNT OF CITY OF LAKE WORTH BEACH, FLORIDA CONSOLIDATED UTILITY REVENUE BONDS, SERIES 2020A AND SERIES 2020B (FEDERALLY TAXABLE), TO PROVIDE FUNDS FOR THE PURPOSE OF FINANCING THE ACQUISITION, CONSTRUCTION AND EQUIPPING OF CAPITAL IMPROVEMENTS TO THE CITY'S CONSOLIDATED UTILITY SYSTEM AND FINANCING CERTAIN COSTS OF THE CITY; MAKING CERTAIN OTHER COVENANTS AND AGREEMENTS IN CONNECTION WITH THE ISSUANCE OF SUCH BONDS; PROVIDING CERTAIN TERMS AND DETAILS OF SUCH BONDS, INCLUDING AUTHORIZING A NEGOTIATED SALE OF SAID BONDS AND THE EXECUTION AND DELIVERY OF A BOND PURCHASE CONTRACT WITH RESPECT THERETO UPON COMPLIANCE WITH CERTAIN PARAMETERS; APPOINTING THE PAYING AGENT AND REGISTRAR WITH RESPECT TO SAID BONDS; AUTHORIZING THE EXECUTION AND DELIVERY OF AN OFFICIAL STATEMENT WITH RESPECT THERETO; AUTHORIZING THE EXECUTION AND DELIVERY OF A CONTINUING DISCLOSURE CERTIFICATE; AUTHORIZING THE PURCHASE OF BOND INSURANCE AND THE EXECUTION AND DELIVERY OF AN INSURANCE AGREEMENT WITH RESPECT THERETO AUTHORIZING THE EXECUTION AND PROVIDING AN EFFECTIVE DATE

BE IT RESOLVED BY THE CITY COMMISSION OF THE CITY OF LAKE WORTH BEACH, FLORIDA, as follows:

SECTION 1. FINDINGS. It is hereby found and determined that:

(A) On October 6, 2020, the City Commission of the City of Lake Worth Beach, Florida (the "City" or "Issuer") duly adopted Resolution No. ___-2020 (the "Original Resolution"). All capitalized terms not otherwise defined herein shall have the meanings set forth in the Original Resolution.

(B) The Original Resolution, as supplemented hereby, is referred to herein as the "Bond Resolution."

(C) The Original Resolution provides for the issuance of the Bonds, upon meeting the requirements set forth in the Original Resolution.

(D) The Issuer has also enacted its Ordinance No. __ - 2020 (the "Ordinance") providing additional authority for the issuance of the Bonds.

(E) The City deems it to be in the best interests of its citizens and taxpayers to issue its Consolidated Utility Revenue Bonds, Series 2020A and Series 2020B (Federally Taxable) (the "Bonds") for the purpose of financing and refinancing the acquisition and construction of certain capital improvements to the City's consolidated utility system and funding the cost of certain reserves (the "Project," as described in the Original Resolution).

(E) The principal of and interest on the Bonds and all required sinking fund, reserve and other payments shall be limited obligations of the City, payable solely from the Pledged Funds set forth in the Original Resolution. The Bonds shall not constitute a general obligation, or a pledge of the faith, credit or taxing power of the City, the State of Florida, or any political subdivision thereof, within the meaning of any constitutional or statutory provisions, except to the extent specifically set forth in the Original Resolution. Neither the State of Florida, nor any political subdivision thereof, nor the City shall be obligated (1) to exercise its ad valorem taxing power in any form on any real or personal property of or in the City to pay the principal of the Bonds, the interest thereon, or other costs incidental thereto or (2) to pay the same from any other funds of the City except from the Net Revenues, in the manner provided in the Original Resolution.

(F) Due to the present volatility of the market for tax-exempt obligations such as the Bonds, it is in the best interest of the City to sell the Bonds by a negotiated sale, allowing the City to enter the market at the most advantageous time, rather than at a specified advertised date, thereby permitting the City to obtain the best possible price and interest rate for the Bonds. The City acknowledges receipt of the information required by Section 218.385, Florida Statutes, in connection with the negotiated sale of the Bonds. A copy of the letter of the underwriter for said Bonds containing the aforementioned information is a condition precedent to the execution and delivery by the Issuer of the Purchase Contract referred to below.

(G) Morgan Stanley & Co. and Raymond James & Associates, Inc. (collectively, the "Underwriters") expect to offer to purchase the Bonds from the City and submit a Bond Purchase Agreement in the form attached hereto as Exhibit A (the "Purchase Contract") expressing the terms of such offer, and, assuming compliance with the provisions of Section 5 hereof, the Issuer does hereby find and determine that it is in the best financial interest of the Issuer that the terms expressed in the Purchase Contract be accepted by the Issuer.

(H) The Original Resolution provides that the Bonds shall mature on such dates and in such amounts, shall bear such rates of interest, shall be payable in such places and shall be subject to such redemption provisions as shall be determined by Supplemental Resolution adopted by the City; and it is now appropriate that the City determine parameters for such terms and details.

SECTION 2. AUTHORITY FOR THIS SUPPLEMENTAL RESOLUTION. This Supplemental Resolution is adopted pursuant to Articles II and V of the Original Resolution, the provisions of the Act (as defined in the Original Resolution), including the Ordinance, and other applicable provisions of law.

SECTION 3. AUTHORIZATION AND DESCRIPTION OF THE BONDS. The City hereby determines to issue separate series of Bonds in an aggregate principal amount not exceeding \$123,000,000, the exact respective principal amounts to be as set forth in the Purchase Contract, to be known as its "Consolidated Utility Revenue Bonds, Series 2020A and Series 2020B (Federally Taxable)," for the principal purpose of financing the Cost of the Project.

The Bonds shall be dated as of their date of delivery, shall be issued as fully registered Bonds, numbered consecutively from one upward in order of maturity with the prefix "R"; shall bear interest from their date of delivery, payable semi-annually, on April 1 and October 1 of each year, commencing on April 1, 2021, at such rates and maturing in such amounts on October 1 of such years as to be set forth in the Purchase Contract. The Bonds shall be issued in denominations of \$5,000 and any integral multiple thereof.

The Bonds shall be subject to redemption prior to maturity as set forth in the Purchase Contract. The Bonds shall be subject to a book-entry system of registration described in the Official Statement referenced below.

The respective amounts of the Series 2020A and Series 2020B Bonds and the Reserve Account Requirement with respect to the Bonds shall be as set forth in the Purchase Contract referenced below.

SECTION 4. AUTHORIZATION OF THE PROJECT. The acquisition and implementation of the Project (including the reimbursement to the Issuer of certain costs incurred with respect thereto), is hereby authorized by the Issuer.

SECTION 5. SALE OF THE BONDS. Upon delivery to the Mayor and the City Clerk of a Purchase Contract substantially in the form of Exhibit A attached hereto, evidencing:

- (A) Bonds in an aggregate principal amount not exceeding \$123,000,000;
- (B) A final maturity of the Bonds of not later than December 31, 2051;
- (C) A true interest cost with respect to the Bonds of not greater than 5% per annum;

- (D) Optional redemption of the Bonds beginning no later than October 1, 2030 at a price no greater than 100% of par; and
- (E) An Underwriter's discount not in excess of \$3.00 per \$1,000 of Bonds;

the Bonds shall be sold to the Underwriters pursuant to the Purchase Contract at the purchase price provided therein (including any original issue discounts or original issue premiums); all terms and conditions set forth in said Purchase Contract being hereby approved. Upon compliance with the foregoing, the Mayor is hereby authorized and directed to execute said Purchase Contract and to deliver the same to the Underwriters.

SECTION 6. OFFICIAL STATEMENT; CONTINUING DISCLOSURE CERTIFICATE.

(A) The form, terms and provisions of the Official Statement, dated the date of execution of the Purchase Contract, in substantially the form attached hereto as Exhibit B, which shall include the terms and provisions set forth in the executed version of the Purchase Contract, relating to the Bonds, be and the same hereby are approved with respect to the information therein contained. The Mayor and the City Clerk, upon execution of the Purchase Contract described above, are hereby authorized and directed to execute and deliver said Official Statement in the name and on behalf of the City, and thereupon to cause such Official Statement to be delivered to the Underwriters with such changes, amendments, omissions and additions as may be approved by the Mayor. The use of the Preliminary Official Statement, in the form attached hereto as Exhibit B, in the marketing of the Bonds is hereby authorized, and the Official Statement, including any such changes, amendments, modifications, omissions and additions as approved by the Mayor, and the information contained therein are hereby authorized to be used in connection with the sale of the Bonds to the public. Execution by the Mayor and the City Clerk of the Official Statement shall be deemed to be conclusive evidence of approval of such changes, amendments, modifications, omissions and additions. The Mayor and City Clerk are hereby authorized to deem the Preliminary Official Statement "final," within the meaning of Securities and Exchange Commission Rule 15c2-12, except for permitted omissions as described therein.

(B) In order to enable the Underwriters to comply with the provisions of SEC Rule 15c2-12 relating to secondary market disclosure, the Mayor is hereby authorized and directed to execute and deliver the Continuing Disclosure Certificate in the name and on behalf of the City substantially in the form attached hereto as Exhibit C, with such changes, amendments, omissions and additions as shall be approved by the Mayor, her execution and delivery thereof being conclusive evidence of such approval.

SECTION 7. APPOINTMENT OF REGISTRAR AND PAYING AGENT. U.S. Bank National Association is hereby designated Registrar and Paying Agent for the Bonds. The Mayor and the City Clerk are hereby authorized to enter into any agreement which may be necessary to affect the transactions contemplated by this Section 7.

SECTION 8. PURCHASE OF RESERVE POLICY AND BOND INSURANCE POLICY. The City hereby authorizes the purchase of a Reserve Account Insurance Policy and a Bond Insurance Policy from a nationally-recognized bond insurance company with respect to its issuance of the Bonds. The authority to select the bond insurer is hereby delegated to the Mayor, based upon the advice of the City's financial advisor. In connection therewith, the City hereby authorizes and directs the Mayor to execute and deliver an Insurance Agreement and a bond insurance commitment, and the City Clerk to attest the same under the official seal of the City. The Insurance Agreement shall be in substantially the form of the Insurance Agreement attached hereto as Exhibit D, with such changes, amendments, modifications, omissions and additions as may be approved by the Mayor. Execution by the Mayor of the Insurance Agreement shall be deemed to be conclusive evidence of approval of such changes. All of the provisions of the Insurance Agreement, when executed and delivered by the City as authorized herein and when duly authorized, executed and delivered by the insurer, shall be deemed to be a part of this Supplemental Resolution as fully and to the same extent as if incorporated verbatim herein.

SECTION 9. DEPOSITORY AGREEMENT. The City hereby authorizes and directs the Mayor and City Clerk to enter into an Depository Agreement, in substantially the form attached hereto as Exhibit E (the "Depository Agreement"), with such modifications and changes as approved by the Mayor and City Clerk, including the investment of amounts deposited therein, approval to be presumed by their execution thereof. U.S. Bank National Association is hereby appointed Depository under the Depository Agreement.

SECTION 10. ESCROW DEPOSIT AGREEMENT. The City hereby authorizes and directs the Mayor and City Clerk to enter into an Escrow Deposit Agreement, in substantially the form attached hereto as Exhibit F (the "Escrow Deposit Agreement"), and which may take the form of separate agreements, with such modifications and changes as approved by the Mayor and City Clerk, including the investment of amounts deposited therein, approval to be presumed by their execution thereof. U.S. Bank National Association is hereby appointed Escrow Agent under the Escrow Deposit Agreement.

SECTION 11. GENERAL AUTHORITY. The members of the City Commission of the City and the officers, attorneys and other agents or employees of the City and the City Clerk are hereby authorized to do all acts and things required of them by this Supplemental Resolution or the Original Resolution, or desirable or consistent with the requirements hereof or the Original Resolution, including the execution of such documents necessary to establish a book-entry system of registration with respect to the Bonds, for the full punctual and complete performance hereof or thereof. Each member, employee, attorney and officer of the City is hereby authorized and directed to execute and deliver any and all papers and instruments and to be and cause to be done any and all acts and things necessary or proper for carrying out the transactions contemplated hereunder. The Mayor and/or the City Clerk are hereby authorized to execute such tax forms or agreements as shall be necessary to affect the transactions contemplated hereby, including designating Bond Counsel to assist or act as agent with respect thereto.

SECTION 12. ORIGINAL RESOLUTION TO CONTINUE IN FORCE. Except as herein expressly provided, the Original Resolution and all the terms and provisions thereof, including the covenants contained therein, are and shall remain in full force and effect.

SECTION 13. SEVERABILITY AND INVALID PROVISIONS. If any one or more of the covenants, agreements or provisions herein contained shall be held contrary to any express provision of law or contrary to the policy of express law, even though not expressly prohibited, or against public policy, or shall for any reason whatsoever be held invalid, then such covenants, agreements or provisions shall be null and void and shall be deemed separable from the remaining covenants, agreements or provisions and shall in no way affect the validity of any of the other covenants, agreements or provisions hereof or the Bonds issued hereunder.

SECTION 14. EFFECTIVE DATE. This Supplemental Resolution shall become effective immediately upon its adoption.

The passage of this resolution was moved by _____, seconded by _____, and upon being put to a vote, the vote was as follows:

Mayor Pam Triolo
Vice Mayor Andy Amoroso
Commissioner Scott Maxwell
Commissioner Herman Robinson

The Mayor thereupon declared this resolution duly passed and adopted on the 20th day of October, 2020.

LAKE WORTH BEACH CITY COMMISSION

Pam Triolo, Mayor

ATTEST:

Deborah M. Andrea, CMC, City Clerk

APPROVED AS TO FORM:

Nabors, Giblin & Nickerson, P.A.

EXHIBIT A

FORM OF PURCHASE CONTRACT

EXHIBIT B

FORM OF OFFICIAL STATEMENT

EXHIBIT C
FORM OF CONTINUING DISCLOSURE CERTIFICATE

EXHIBIT D

FORM OF INSURANCE AGREEMENT

EXHIBIT E

FORM OF DEPOSITORY AGREEMENT

EXHIBIT F

FORM OF ESCROW DEPOSIT AGREEMENT