

# Boggy Creek Improvement District

12051 Corporate Boulevard Orlando, FL 32817; Phone: 407-723-5900

[www.boggycreekid.org](http://www.boggycreekid.org)

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The following is the proposed agenda for the upcoming Continued Meeting of the Board of Supervisors for the Boggy Creek Improvement District ("District"), scheduled to be held at **2:00 p.m. on Wednesday, July 7, 2021 at Courtyard Orlando Lake Nona, 6955 Tavistock Lakes Blvd, Orlando, FL 32827**. A quorum will be confirmed prior to the start of the meeting.

Please use the following information to join via computer or the conference line:

**Phone:** 1-844-621-3956      **Computer:** pfmgroup.webex.com      **Participant Code:** 796 580 192#

## BOARD OF SUPERVISORS' MEETING AGENDA

### Organizational Matters

- Roll Call to Confirm a Quorum
- Public Comment Period

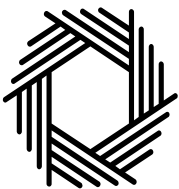
### Continued Business Matters

1. Continued Discussion and Consideration of Electric Bus Financing with Truist Bank
  - a) Consideration of Resolution 2021-06 – Approving Lease Purchase of Certain Equipment Consisting of Autonomous Electric Vehicles; Accepting the Proposal of Truist Bank for Such Lease Purchase Financing for Such Equipment; Authorizing the District to Enter Into a Lease Purchase Agreement and a Developer Funding Agreement for Acquisition of Autonomous Electric Vehicles and Related Certifications and Approving Forms of Such Agreements
    - i. Exhibit A – Truist Financing Proposal
    - ii. Exhibit B – Lease Purchase Agreement with Truist Bank
    - iii. Developer Funding Agreement for Acquisition of Autonomous Electric Vehicles with Lake Nona Land Company, LLC
  - b) Discussion of Autonomous Electric Vehicles Operational Matters

### Other Business

- A. Staff Reports
  1. District Counsel
  2. District Manager
  3. District Engineer
  4. Landscape Supervisor
  5. Irrigation Supervisor
  6. Construction Supervisor
- B. Supervisor Requests

### Adjournment



pfm

# **BOGGY CREEK IMPROVEMENT DISTRICT**

**Electric Bus Financing with Truist Bank**

# **BOGGY CREEK IMPROVEMENT DISTRICT**

**Resolution 2021-06,  
Approving Lease Purchase of Certain Equipment  
Consisting of Autonomous Electric Vehicles;  
Accepting the Proposal of Truist Bank for Such  
Lease Purchase Financing for Such Equipment;  
Authorizing the District to Enter Into a Lease  
Purchase Agreement and a Developer Funding  
Agreement for Acquisition of Autonomous Electric  
Vehicles and Related Certifications and Approving  
Forms of Such Agreements**

## RESOLUTION 2021-06

**A RESOLUTION MAKING CERTAIN FINDINGS; APPROVING THE LEASE PURCHASE OF CERTAIN EQUIPMENT CONSISTING OF AUTONOMOUS ELECTRIC VEHICLES; ACCEPTING THE PROPOSAL OF TRUIST BANK FOR SUCH LEASE PURCHASE FINANCING FOR SUCH EQUIPMENT; AUTHORIZING THE DISTRICT TO ENTER INTO A LEASE PURCHASE AGREEMENT AND A DEVELOPER FUNDING AGREEMENT FOR ACQUISITION OF AUTONOMOUS ELECTRIC VEHICLES AND RELATED CERTIFICATIONS AND APPROVING FORMS OF SUCH AGREEMENTS; PROVIDING FOR CONFLICTS, SEVERABILITY AND AN EFFECTIVE DATE**

**WHEREAS**, the Boggy Creek Improvement District (“**District**”) is authorized pursuant to Chapter 190, *Florida Statutes*, to undertake, install, establish, construct or acquire certain public improvements and to finance such public improvements through the issuance of bonds and to levy such special assessments, fees and other charges as may be necessary in furtherance of the District's activities and services; and

**WHEREAS**, Lake Nona Land Company, LLC (the “**Developer**”) presently owns and/or is developing the majority of all real property within the District (the “**Property**”) and has requested that the District acquire two autonomous electric vehicles (the “**Equipment**”) for the purpose of establishing District-operated shuttle services within the District; and

**WHEREAS**, the District is willing to lease purchase the Equipment pursuant to a financing proposal (the “**Proposal**”) of Truist Bank (the “**Lender**”), attached hereto as **Exhibit A** and enter into a Lease Purchase Agreement with Lender (“**Financing Agreement**”), the form of which is attached hereto as **Exhibit B**; and

**WHEREAS**, the obligations of District pursuant to the Financing Agreement will be subject to annual appropriation; and

**WHEREAS**, the Developer has agreed, pursuant to a Developer Funding Agreement for Acquisition of Autonomous Electric Vehicles (the “**Developer Agreement**”), the form of which is attached hereto as **Exhibit C**, to provide monies to enable the District to pay any and all costs and expenses incurred by the District under, related to, or as a result of the Financing Agreement and the acquisition of the Equipment; and

**WHEREAS**, the District now desires to authorize District staff, including but not limited to legal, engineering, and managerial staff (collectively “**District Staff**”), to provide such services as are necessary to effectuate the acquisition of the Equipment and to execute and deliver the Financing Agreement and the Developer Agreement (together, the “**Agreements**”), and all certifications and closing documents required by the Lender related thereto.

**NOW THEREFORE, BE IT RESOLVED BY THE BOARD OF SUPERVISORS OF THE BOGGY CREEK IMPROVEMENT DISTRICT AS FOLLOWS:**

**SECTION 1. AUTHORITY FOR THIS RESOLUTION.** This Resolution is adopted pursuant to the provisions of Florida law, including Chapters 189 and 190, Florida Statutes.

**SECTION 2. FINDINGS.** The Board of Supervisors of the Boggy Creek Improvement District (the “**Board**”) hereby adopts, affirms and determines each of the findings in the preamble hereto as though restated herein.

**SECTION 3. NEGOTIATED SALE; AUTHORIZATION OF LEASE-PURCHASE FINANCING.**

(a) Based on the advice of the District's financial advisor, PFM Financial Advisors LLC (“**PFM**”) and because of the characteristics of the Equipment, the annual appropriation structure of the Financing Agreement and the repayment of the Financing Agreement pursuant to the Developer Agreement, prevailing conditions in the financial markets, reduced upfront costs of issuance and additional savings to be realized from an expeditious sale of the Financing Agreement, it is in the best interest of the District to accept the offer of the Lender to enter into the Financing Agreement at a private negotiated sale, and accordingly, the Board finds and determines that it is in the best financial interest of the District that a negotiated sale be authorized.

(b) The District is hereby authorized to execute and deliver the Financing Agreement in substantial accordance with the Proposal of Truist Bank, provided that the aggregate principal amount of the lease payments shall not exceed \$700,000, and the interest rate component of the lease payments shall be in accordance with the Proposal attached hereto as Exhibit A, which Proposal is hereby approved; however, execution of such Proposal shall not obligate the District to close on the transaction. The Financing Agreement shall terminate on the earlier of the date the Financing Agreement has been paid in full and five (5) years (the “**Lease Termination Date**”). On the Lease Termination Date and upon payment in full of all amounts due thereunder, the Financing Agreement shall terminate and the District shall own the Equipment free of any lien or interest of the Lender.

(c) Prior to the execution and delivery of the Financing Agreement, only to the extent required by the Act, the District shall receive a Disclosure Letter from Truist Bank containing the information required by Section 218.385, Florida Statutes.

(d) The Financing Agreement shall provide, among other things, for the payment of rent from the District to the Lender and is subject to annual appropriation by the District.

**SECTION 4. AUTHORIZATION OF FINANCING AGREEMENT AND DEVELOPER AGREEMENT.**

To express the contract between the District and the Lender, the District does hereby authorize the execution and delivery on behalf of the District by the Chairman or Vice Chairman (together, the “**Chairman**”) and attested by the Board Secretary and any Assistant Board Secretary (together, the “**Secretary**”), under the seal of the District, of the Financing Agreement. To provide

for the security of the Financing Agreement and to express the contract between the District and the Lender, the District does hereby authorize the execution and delivery on behalf of the District by the Chairman and attested by the Secretary, under the seal of the District, of the Developer Agreement. The Agreements shall be in substantially the forms attached hereto as Exhibit B and Exhibit C, respectively, and are hereby approved, with such changes, amendments, modifications, omissions and additions as may be approved by the Chairman and the Board Secretary, execution and delivery thereof to be conclusive evidence of such approval.

**SECTION 5. GENERAL AUTHORIZATION.** The Chairman and any member of the Board, the Board Secretary and such other officials and employees of the District as may be designated by the District are each designated as agents of the District in connection with the issuance and delivery of the Agreements and are authorized and empowered, collectively or individually, to take all actions and steps and to execute all instruments, documents, and contracts on behalf of the District that are necessary or desirable in connection with the execution and delivery of the Agreements, and which are specifically authorized or are not inconsistent with the terms and provisions of this Resolution.

**SECTION 6. OPEN MEETINGS.** It is hereby found and determined that all official acts of this Board concerning and relating to the to the matters set forth herein, including but not limited to adoption of this Resolution, were taken in open meetings of the members of the Board and all deliberations of the members of the Board that resulted in such official acts were in meetings open to the public, in compliance with all legal requirements including, but not limited to, the requirement of Section 286.01, Florida Statutes.

**SECTION 7. SEVERABILITY.** If any section or part of a section of this resolution be declared invalid or unconstitutional, the validity, force and effect of any other section or part of a section of this resolution shall not thereby be affected or impaired unless it clearly appears that such other section or part of a section of this resolution is wholly or necessarily dependent upon the section or part of a section so held to be invalid or unconstitutional.

**SECTION 8. EFFECTIVE DATE.** This Resolution shall become effective upon its adoption.

**PASSED AND ADOPTED** this 7th day of July, 2021.

ATTEST:

**BOGGY CREEK IMPROVEMENT  
DISTRICT**

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Assistant Secretary

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Richard Levey, Chairman

- Exhibit A:** *Proposal*  
**Exhibit B:** *Lease Purchase Agreement*  
**Exhibit C:** *Developer Agreement*

**Exhibit A**

**Proposal**





**Branch Banking & Trust Company**

**Governmental Finance**

5130 Parkway Plaza Boulevard  
Charlotte, North Carolina 28217  
Phone (704) 954-1700  
Fax (704) 954-1799

June 3, 2021

Mr. Brent Wilder  
PFM Financial Advisors, LLC

**Re: Boggy Creek Improvement District, FL**

Dear Mr. Wilder:

Trust Bank ("Lender") is pleased to offer this proposal for the financing requested by the Boggy Creek Improvement District, FL ("Borrower").

**PROJECT:** Electric Bus Financing

**AMOUNT:** \$700,000.00

**TERM:** 3 years  
5 years

**INTEREST RATE:**

	3 year term	5 year term
Tax Exempt – Bank Qualified	0.87%	1.17%
Tax Exempt – Non-Bank Qualified	0.90%	1.22%
Taxable	1.10%	1.49%

**TAX STATUS:** See Above

**PAYMENTS:** Interest: Annual  
Principal: Annual

**INTEREST RATE CALCULATION:** 30/360

**SECURITY:** Vehicles and Equipment. Borrower will also levy assessments in an amount sufficient to pay debt service.

**PREPAYMENT TERMS:** Prepayable in whole at any time without penalty

**RATE EXPIRATION:** July 19, 2021

**DOCUMENTATION/ LEGAL REVIEW FEE:** N/A

**FUNDING:** Proceeds will be deposited into an account held at Lender pending disbursement unless equipment is delivered prior to closing.

**DOCUMENTATION:** Lender proposes to use its standard form financing contracts and related documents for this installment financing. We shall provide a sample of those documents to you should Lender be the successful proposer.

The financing documents shall include provisions that will outline appropriate changes to be implemented in the event that this transaction is determined to be taxable or non-bank qualified in accordance with the Internal Revenue Service Code. All documentation must be deemed appropriate by Lender before closing.

**REPORTING REQUIREMENTS:** Lender will require financial statements to be delivered within 270 days after the conclusion of each fiscal year-end throughout the term of the financing.

Should we become the successful proposer, we have attached the form of a resolution that your governing board can use to award the financing to Lender. If your board adopts this resolution, then Lender shall not require any further board action prior to closing the transaction.

Lender shall have the right to cancel this offer by notifying the Borrower of its election to do so (whether this offer has previously been accepted by the Borrower) if at any time prior to the closing there is a material adverse change in the Borrower's financial condition, if we discover adverse circumstances of which we are currently unaware, if we are unable to agree on acceptable documentation with the Borrower or if there is a change in law (or proposed change in law) that changes the economic effect of this financing to Lender.

Costs of counsel for the Borrower and any other costs will be the responsibility of the Borrower.

The stated bank qualified interest rates assume that the Borrower expects to borrow no more than \$10,000,000 in the current calendar year and that the financing will qualify as qualified tax-exempt financing under the Internal Revenue Code. Lender reserves the right to terminate this bid or to negotiate a mutually acceptable interest rate if the financing is not qualified tax-exempt financing.

We appreciate the opportunity to offer this financing proposal. Please call me at (803) 413-4991 with your questions and comments. We look forward to hearing from you.

Sincerely,

*Truist Bank*



Andrew G. Smith  
Senior Vice President

**Resolution Approving Financing Terms**

**WHEREAS:** The Boggy Creek Improvement District, FL ("Borrower") has previously determined to undertake a project for the financing of an electric bus (the "Project"), and the Finance Officer has now presented a proposal for the financing of such Project.

**BE IT THEREFORE RESOLVED, as follows:**

1. The Borrower hereby determines to finance the Project through Truist Bank ("Lender") in accordance with the proposal dated June 3, 2021. The amount financed shall not exceed \$700,000.00, the annual interest rate (in the absence of default or change in tax status) shall not exceed \_\_\_\_\_%, and the financing term shall not exceed \_\_\_\_\_ years from closing.

2. All financing contracts and all related documents for the closing of the financing (the "Financing Documents") shall be consistent with the foregoing terms. All officers and employees of the Borrower are hereby authorized and directed to execute and deliver any Financing Documents, and to take all such further action as they may consider necessary or desirable, to carry out the financing of the Project as contemplated by the proposal and this resolution.

3. The Finance Officer is hereby authorized and directed to hold executed copies of the Financing Documents until the conditions for the delivery of the Financing Documents have been completed to such officer's satisfaction. The Finance Officer is authorized to approve changes to any Financing Documents previously signed by Borrower officers or employees, provided that such changes shall not substantially alter the intent of such documents or certificates from the intent expressed in the forms executed by such officers. The Financing Documents shall be in such final forms as the Finance Officer shall approve, with the Finance Officer's release of any Financing Document for delivery constituting conclusive evidence of such officer's final approval of the Document's final form.

4. The Borrower shall not take or omit to take any action the taking or omission of which shall cause its interest payments on this financing to be includable in the gross income for federal income tax purposes of the registered owners of the interest payment obligations. For a bank qualified transaction, the Borrower hereby designates its obligations to make principal and interest payments under the Financing Documents as "qualified tax-exempt obligations" for the purpose of Internal Revenue Code Section 265(b)(3).

5. The Borrower intends that the adoption of this resolution will be a declaration of the Borrower's official intent to reimburse expenditures for the Project that are to be financed from the proceeds of the Lender financing described above. The Borrower intends that funds that have been advanced, or that may be advanced, from the Borrower's general fund or any other Borrower fund related to the Project, for project costs may be reimbursed from the financing proceeds.

6. All prior actions of Borrower officers in furtherance of the purposes of this resolution are hereby ratified, approved and confirmed. All other resolutions (or parts thereof) in conflict with this resolution are hereby repealed, to the extent of the conflict. This resolution shall take effect immediately.

Approved this \_\_\_\_\_ day of \_\_\_\_\_, 2021

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

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

Title: \_\_\_\_\_

Title: \_\_\_\_\_

SEAL

**Exhibit B**

**Lease Purchase Agreement**

## LEASE PURCHASE AGREEMENT

THIS LEASE PURCHASE AGREEMENT (this “*Agreement*”) is dated as of July 8, 2021, and is between **BOGGY CREEK IMPROVEMENT DISTRICT**, Orlando, Florida, a public body of the State of Florida (the “*Lessee*”), and **TRUIST BANK**, as lessor (the “*Lender*”).

### RECITALS:

The Lessee has the power to acquire such personal property as it may deem appropriate for carrying out its governmental and proprietary functions, and to acquire such property pursuant to lease agreements. This Agreement provides for Lender to make available to the Lessee the sum of \$700,000.00 to enable the Lessee to acquire the Equipment (as defined herein) by lease, and provides for securing the Lessee’s obligations under this Agreement in favor of Lender.

**NOW THEREFORE**, for and in consideration of the mutual promises in this Agreement, and other good and valuable consideration, the parties hereby agree as follows:

### ARTICLE I DEFINITIONS; INTERPRETATION

Unless the context clearly requires otherwise, capitalized terms used in this Agreement and not otherwise defined shall have the following meanings:

“*Additional Payments*” means any of Lender’s reasonable and customary fees and expenses related to the transactions contemplated by this Agreement, any of Lender’s expenses (including attorneys’ fees) in prosecuting or defending any action or proceeding in connection with this Agreement, any required license or permit fees, state and local sales and use or ownership taxes or property taxes which Lender is required to pay as a result of this Agreement, inspection and re-inspection fees, and any other amounts payable by the Lessee (or paid by Lender on the Lessee’s behalf) due and owing under this Agreement (together with interest that may accrue on any of the above if the Lessee shall fail to pay the same, as set forth in this Agreement).

“*Amount Advanced*” has the meaning assigned in Section 2.02 hereof.

“*Base Payments*” means the rental payments payable by the Lessee pursuant to Section 3.01 hereof.

“*Budget Officer*” means the Lessee officer or official from time to time charged with preparing the Lessee’s draft budget as initially submitted to the Governing Board for its consideration.

“*Business Day*” means any day on which banks in the State are not by law authorized or required to remain closed.

“*Closing Date*” means the date on which this Agreement is first executed and delivered by the parties.

“**Equipment**” is as set forth in Exhibit A of this Agreement.

“**Event of Default**” means one or more events of default as defined in Section 7.01 hereof.

“**Event of Nonappropriation**” means the election by the Governing Board to adopt, by the first day of any Fiscal Year, a budget for the Lessee that does not include an appropriation for Required Payments, or the Governing Board’s amendment of an annual budget to remove an appropriation for Required Payments, in each case, as contemplated by Section 3.05 hereof.

“**Fiscal Year**” means the Lessee’s fiscal year beginning October 1, or such other fiscal year as the Lessee may later lawfully establish.

“**Governing Board**” means the Board of Supervisors of Lessee as from time to time constituted.

“**Lessee**” means the Boggy Creek Improvement District, Orlando, Florida.

“**Net Proceeds**,” when used with respect to any amounts derived from claims made on account of insurance coverages required under this Agreement, any condemnation award arising out of the condemnation of all or any portion of the Equipment, or any amounts received in lieu or in settlement of any of the foregoing, means the amount remaining after deducting from the gross proceeds thereof all expenses (including attorneys’ fees and costs) incurred in the collection of such proceeds, and after reimbursement to the Lessee or Lender for amounts previously expended to remedy the event giving rise to such payment or proceeds.

“**Prime Rate**” means the interest rate so denominated and set by Lender (whether or not such bank, or any affiliate thereof, is at any time the counterparty to this Agreement) as its “Prime Rate,” as in effect from time to time.

“**Required Payments**” means Base Payments and Additional Payments.

“**State**” means the State of Florida.

All references in this Agreement to designated “Sections” and other subdivisions are to the designated sections and other subdivisions of this Agreement. The words “hereof” and “hereunder” and other words of similar import refer to this Agreement as a whole and not to any particular Section or other subdivision unless the context indicates otherwise. Words importing the singular number shall include the plural number and vice versa.

## ARTICLE II

### LEASE; ADVANCE

**Section 2.01. Lease.** Lender hereby leases to the Lessee, and the Lessee hereby leases from Lender, the Equipment, for a term beginning on the Closing Date and ending upon final

payment of all Required Payments, unless this Agreement is earlier terminated as provided herein. The Lessee shall be entitled to possession of all property constituting any portion of the Equipment and may retain possession of all property constituting any portion of the Equipment so long as no Event of Default is continuing under this Agreement and no Event of Nonappropriation has occurred.

**Section 2.02. Advance.** On the date hereof, Lender shall advance \$700,000.00 (the “*Amount Advanced*”) to the Lessee pursuant to the Borrower’s Wire Instructions for Closing delivered on the date hereof. The Lessee hereby accepts the Amount Advanced from Lender.

**Section 2.03. [Reserved].**

**Section 2.04. Lessee’s Limited Obligation.**

(a) No provision of this Agreement shall be construed or interpreted as creating a pledge of the Lessee’s full faith, credit or taxing power within the meaning of any constitutional debt limitation. No provision of this Agreement shall be construed or interpreted as an improper delegation of governmental powers or as a donation or a lending of the Lessee’s credit within the meaning of the State constitution. No provision of this Agreement shall be construed to pledge or to create a lien on any class or source of the Lessee’s moneys except that the Developer Payments (defined below) are pledged to secure the Lessee’s obligation to make the Required Payments, nor shall any provision of this Agreement restrict the future issuance of any of the Lessee’s bonds or obligations payable from any class or source of the Lessee’s moneys (except to the extent this Agreement restricts the incurrence of additional obligations secured by the Equipment); provided, that if the Lessee determines to levy assessments and appropriates such assessments to make Required Payments pursuant to Section 3.05 hereof, such assessments shall be pledged to secure the Lessee’s obligation to make such Required Payments. On the date hereof, the Lessee entered the Developer Funding Agreement for Acquisition of Autonomous Electric Vehicles with Lake Nona Land Company, LLC (the “Funding Agreement”), pursuant to which the District agrees to pledge and use the funds provided by the Developer thereunder (the “Developer Payments”) solely for payments of amounts due hereunder. The Lessee hereby covenants that such Developer Payments will not in the future be pledged, in whole or in part, directly or indirectly, except as to pay amounts due under this Agreement.

(b) Nothing in this Section is intended to impair or prohibit execution on the Equipment if the Required Payments are not paid when due or otherwise upon the occurrence of an Event of Default under this Agreement.

**Section 2.05. Lessee’s Continuing Obligations.** Except for an Event of Nonappropriation as described in Section 3.05 hereof, the Lessee shall remain liable for full performance of all its covenants under this Agreement (subject to the limitations described in Section 2.04 hereof), including payment of all Required Payments, notwithstanding the occurrence of any event or circumstances whatsoever, including any of the following:

(a) Lender’s waiver of any right granted or remedy available to it;

(b) The forbearance or extension of time for payment or performance of any obligation under this Agreement, whether granted to the Lessee, a subsequent owner of the Equipment or any other person;

(c) The release of all or part of the Equipment or the release of any party who assumes all or any part of such performance;

(d) Any act or omission by Lender (but this provision does not relieve Lender of any of its obligations under this Agreement);

(e) The sale of all or any part of the Equipment; or

(f) Another party's assumption of the Lessee's obligations under this Agreement.

### ARTICLE III

#### LESSEE'S PAYMENT OBLIGATION AND RELATED MATTERS

##### **Section 3.01. Rental; Purchase Option.**

(a) As rental for the Equipment, the Lessee shall make Base Payments to Lender in lawful money of the United States at the times and in the amounts set forth in Exhibit B attached hereto, except as otherwise provided in this Agreement. As indicated in Exhibit B, the Base Payments reflect the repayment of the Amount Advanced and include designated interest components.

(b) Upon payment of all the Base Payments and all Additional Payments, the Lessee may, at its option, purchase all of Lender's interest in the Equipment, on an as-is, where-is basis, upon notice and payment to Lender of the sum of Ten Dollars (\$10.00). This option to purchase the Equipment is personal to the Lessee and is not assignable.

**Section 3.02. Additional Payments.** The Lessee shall pay all Additional Payments on a timely basis directly to the person or entity to which such Additional Payments are owed in lawful money of the United States.

**Section 3.03. Prepayment.** At its option at any time, the Lessee may prepay the outstanding principal component of the Amount Advanced (in whole but not in part), and thereby obtain ownership of all the Equipment free of this lease and Lender's interest in the Equipment, by paying (a) all Additional Payments then due and payable, (b) all interest accrued and unpaid to the prepayment date, and (c) 100% of the outstanding principal component of the Amount Advanced, in accordance with the provisions of Exhibit B attached hereto.

**Section 3.04. Late Payments.** If the Lessee fails to pay any Base Payment when due, the Lessee shall pay additional interest on the principal component of the late Base Payment at an annual rate equal to the Prime Rate from the original due date.



**Section 3.05. Appropriations.**

(a) The Budget Officer shall include in the initial proposal for each of the Lessee's annual budgets the amount of all Base Payments and estimated Additional Payments coming due during the Fiscal Year to which such budget applies. Notwithstanding that the Budget Officer includes such an appropriation for Required Payments in a proposed budget, the Governing Board may determine not to include such an appropriation in the Lessee's final budget for such Fiscal Year.

(b) The Budget Officer shall provide the Lender with a copy of the adopted annual budget within thirty days of adoption thereof; provided, however, that the Budget Officer shall deliver notification to Lender within 15 days after the adoption of the annual budget if an amount equal to the Base Payments and estimated Additional Payments coming due during the next Fiscal Year has not been appropriated by the Lessee in such budget for such purposes.

(c) The actions required of the Lessee and its officers and/or officials pursuant to this Section shall be deemed to be and shall be construed to be in fulfillment of ministerial duties, and it shall be the duty of each and every Lessee officer and/or official to take such action and do such things as are required by law in the performance of the official duty of such officers and/or officials to enable the Lessee to carry out and perform the actions required pursuant to this Section and the remainder of this Agreement to be carried out and performed by the Lessee.

(d) Subject to its right of nonappropriation, the Lessee currently believes that it can obtain funds sufficient to pay all Required Payments when due. The Lessee's expectation is that the source of Required Payments will be payments made by Lake Nona Land Company, LLC (the "Primary Landowner") pursuant to that certain Developer Funding Agreement for Acquisition of Autonomous Electric Vehicles between the Lessee and the Primary Landowner dated the date hereof (the "Developer Funding Agreement").

If the Primary Landowner fails to provide the Lessee with funds sufficient for the Lessee to make the Required Payments when due or advises the Lessee that it will not make any of such payments when due, the Lessee shall, as soon as practicable thereafter, proceed to certifying the Required Payments due as non-ad valorem assessments in accordance with Section 3b of the Developer Funding Agreement.

(e) Notwithstanding any other provision of the Agreement to the contrary, if the Lessee elects not to appropriate funds to pay the Required Payments for the next Fiscal Year to continue leasing of the Equipment, this Agreement shall terminate, shall create no further obligation of the Lessee as to subsequent Fiscal Years and shall be null and void. In such Event of Nonappropriation, the Lessee shall notify Lender at least twenty (20) days prior to the end of the then current Fiscal Year. The Lessee shall not, in this sole event, be obligated to make any Required Payments due beyond the end of such Fiscal Year. The happening of such occurrence shall be conclusively presumed from the Lessee's notification of Lender or Lender's assignee of such occurrence. In such Event of Nonappropriation, this Agreement shall terminate on the later of (i) the last day of the Fiscal Year for which appropriations were budgeted, or (ii) the date the Required Payments for such

Fiscal Year were made to the Lender without penalty or expense to the Lessee of any kind whatsoever. Subsequent to such termination of this Agreement, the Lessee shall have no continuing obligation to make Required Payments under this Agreement. No right of action or damages shall accrue to the benefit of Lender or its assignee as to that portion of this Agreement which may so terminate. The provisions of this paragraph shall remain in full force and effect notwithstanding the failure of any party to comply with any provision of this Agreement and whether or not the Lessee is in default under this Agreement. The Lessee agrees to surrender possession of the Equipment to Lender or its assignee on the last day of the Fiscal Year for which appropriations were budgeted. Lender shall have all the rights and remedies to receive possession of the Equipment and to sell, lease, or otherwise dispose of the Equipment as its own property; provided, however, that all amounts collected that exceed the amounts unpaid by the Lessee and the collection and attorneys' fees related to such collection shall be returned to the Lessee by the Lender.

**Section 3.06. No Abatement.** There shall be no abatement or reduction of the Required Payments for any reason, including, but not limited to, any defense, recoupment, setoff, counterclaim, or any claim (real or imaginary) arising out of or related to the Equipment, except as expressly provided in this Agreement. The Lessee assumes and shall bear the entire risk of loss and damage to the Equipment from any cause whatsoever. The Required Payments shall be made in all events unless the Lessee's obligation to make Required Payments is terminated as otherwise provided in this Agreement.

#### **ARTICLE IV RESERVED**

#### **ARTICLE V LESSEE'S COVENANTS, REPRESENTATIONS AND WARRANTIES**

**Section 5.01. Indemnification.** The Lessee shall indemnify, protect and save Lender and its officers and directors harmless from all liability, obligations, losses, claims, damages, actions, suits, proceedings, costs and expenses, including attorneys' fees, arising out of, connected with, or resulting directly or indirectly from the Equipment or the transactions contemplated by this Agreement, including without limitation the possession, condition or use of the Equipment. The indemnification arising under this Section shall survive the Agreement's termination.

**Section 5.02. Reserved.**

**Section 5.03. Validity of Organization and Acts.** The Lessee is validly organized and existing under State law, has full power to enter into this Agreement and has duly authorized and has obtained all required approvals and all other necessary acts required prior to the execution and delivery of this Agreement. This Agreement is a valid, legal and binding obligation of the Lessee.

**Section 5.04. Maintenance of Existence.** The Lessee shall maintain its existence, shall continue to be a local governmental unit of the State, validly organized and existing under State law, and shall not consolidate with or merge into another local governmental unit of the State, or permit one or more other local governmental units of the State to consolidate with or merge into it, unless

the local governmental unit thereby resulting assumes the Lessee's obligations under this Agreement.

**Section 5.05. Acquisition of Permits and Approvals.** All permits, consents, approvals or authorizations of all governmental entities and regulatory bodies, and all filings and notices required on the Lessee's part to have been obtained or completed as of today in connection with the authorization, execution and delivery of this Agreement, the consummation of the transactions contemplated by this Agreement and the acquisition, installation and equipping of the Equipment have been obtained and are in full force and effect, and there is no reason why any future required permits, consents, approvals, authorizations or orders cannot be obtained as needed.

**Section 5.06. No Breach of Law or Contract.** Neither the execution and delivery of this Agreement nor the consummation of the transactions contemplated by this Agreement, nor the fulfillment of or compliance with the terms and conditions of this Agreement, (a) to the best of the Lessee's knowledge, constitutes a violation of any provision of law governing the Lessee or (b) results in a breach of the terms, conditions or provisions of any contract, agreement or instrument or order, rule or regulation to which the Lessee is a party or by which the Lessee is bound.

**Section 5.07. No Litigation.** There is no litigation or any governmental administrative proceeding to which the Lessee (or any official thereof in an official capacity) is a party that is pending or, to the best of the Lessee's knowledge after reasonable investigation, threatened with respect to (a) the Lessee's organization or existence, (b) its authority to execute and deliver this Agreement or to comply with the terms of this Agreement, (c) the validity or enforceability of this Agreement or the transactions contemplated by this Agreement, (d) the title to office of any Governing Board member or any other Lessee officer or official, (e) any authority or proceedings relating to the Lessee's execution or delivery of this Agreement, or (f) the undertaking of the transactions contemplated by this Agreement.

**Section 5.08. No Current Default or Violation.** (a) The Lessee is not in violation of any existing law, rule or regulation applicable to it, (b) the Lessee is not in default under any contract, other agreement, order, judgment, decree or other instrument or restriction of any kind to which the Lessee is a party or by which it is bound or to which any of its assets are subject, including this Agreement, and (c) no event or condition has happened or existed, or is happening or existing, under the provisions of any such instrument, including this Agreement, which constitutes or which, with notice or lapse of time, or both, would constitute an event of default hereunder or thereunder.

**Section 5.09. No Misrepresentation.** No representation, covenant or warranty by the Lessee in this Agreement is false or misleading in any material respect.

**Section 5.10. Environmental Warranties and Indemnification.**

(a) The Lessee warrants and represents to Lender that, to the best of the Lessee's knowledge after thorough investigation, the Equipment is not now and has not ever been used to generate, manufacture, refine, transport, treat, store, handle, dispose, transfer, produce or process Hazardous Materials (defined below).

(b) The Lessee covenants that the Equipment shall be kept free of Hazardous Materials and shall not be used to generate, manufacture, refine, transport, treat, store, handle, dispose, transfer, produce or process Hazardous Materials, except in connection with the normal maintenance and operation of the Equipment, and the Lessee shall not cause or permit, as a result of any intentional or unintentional act or omission on the part of the Lessee or any lessee, the release of Hazardous Materials onto the Equipment or suffer the presence of Hazardous Materials on the Equipment, except in connection with the normal maintenance and operation of the Equipment.

(c) The Lessee shall comply with, and ensure compliance by all users and lessees with, all applicable federal, State and local laws, ordinances, rules and regulations with respect to Hazardous Materials and shall keep the Equipment free and clear of any liens imposed pursuant to such laws, ordinances, rules and regulations. If the Lessee receives any notices from any governmental agency or any lessee with regard to Hazardous Materials on, from or affecting the Equipment, the Lessee shall immediately notify Lender. The Lessee shall conduct and complete all investigations, studies, sampling and testing and all remedial, removal and other actions necessary to clean up and remove all Hazardous Materials, on, from or affecting the Equipment in accordance with all applicable federal, State and local laws, ordinances, rules, regulations and policies and to Lender's satisfaction.

(d) "*Hazardous Materials*" means any explosives, radioactive materials, hazardous materials, hazardous wastes, hazardous or toxic substances, or related materials, asbestos or any materials containing asbestos, or any other substance or material as defined by any federal, State or local environmental law, ordinance, rule or regulation including, without limitation, the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, as amended (42 U.S.C. sections 9601 *et seq.*), the Hazardous Materials Transportation Act, as amended (49 U.S.C. sections 1801 *et seq.*), the Resource Conservation and Recovery Act, as amended (42 U.S.C. sections 9601 *et seq.*), and the regulations adopted and publications promulgated pursuant thereto.

(e) To the extent permitted by law, the Lessee shall indemnify and hold Lender harmless from and against (i) any and all damages, penalties, fines, claims, liens, suits, liabilities, costs (including clean-up costs), judgments and expenses (including attorneys', consultants' or experts' fees and expenses) of every kind and nature suffered by or asserted against Lender as a direct or indirect result of any warranty or representation made by the Lessee in subsections (a) through (c) above being false or untrue in any material respect, or (ii) any requirement under any law, regulation or ordinance, local, State or federal, which requires the elimination or removal of any hazardous materials, substances, wastes or other environmentally regulated substances by Lender or the Lessee or any transferee or assignee Lender or the Lessee.

(f) The Lessee's obligations under this Section shall continue in full force and effect notwithstanding full payment of the Required Payments under this Agreement.

**Section 5.11. Further Instruments.** Upon Lender's request, the Lessee shall execute, acknowledge and deliver such further instruments reasonably necessary or desired by Lender to carry out the purposes of this Agreement or any other document related to the transactions

contemplated by this Agreement, and all or any part of the Equipment intended to be given or conveyed hereunder or thereunder, whether now given or conveyed or acquired and conveyed subsequent to the date of this Agreement.

**Section 5.12. Lender's Advances for Performance of Lessee's Obligations.** If the Lessee fails to perform any of its obligations under this Agreement, Lender is hereby authorized, but not obligated, to perform such obligation or cause it to be performed. All expenditures incurred by Lender (including any advancement of funds for payment of taxes, insurance premiums or other costs of maintaining the Equipment, and any associated legal or other expenses, together with interest at the Prime Rate), shall be secured as Additional Payments under this Agreement. The Lessee promises to pay all such amounts to Lender immediately upon demand.

**Section 5.13. Equipment Will Be Used and Useful.** The acquisition, installation and equipping of the Equipment is necessary and expedient for the Lessee, and will perform essential functions of the Lessee appropriate for units of local government. The Lessee has an immediate need for, and expects to make immediate use of, all of the Equipment, and does not expect such need or use to diminish in any material respect during the term of the Agreement.

**Section 5.14. Financial Information.**

(a) The Lessee shall send to Lender a copy of the Lessee's audited financial statements for each Fiscal Year within 30 days of the Lessee's acceptance of such statements, but in any event within 270 days of the completion of such Fiscal Year.

(b) The Lessee shall furnish Lender, at such reasonable times as Lender shall request, all other financial information (including, without limitation, the Lessee's annual budget as submitted or approved) as Lender may reasonably request. The Lessee shall permit Lender or its agents and representatives to inspect the Lessee's books and records and make extracts therefrom.

**Section 5.15. Taxes and Other Governmental Charges.** The Lessee shall pay, as Additional Payments, the full amount of all taxes, assessments and other governmental charges lawfully made by any governmental body during the term of this Agreement. With respect to special assessments or other governmental charges which may be lawfully paid in installments over a period of years, the Lessee shall be obligated to provide for Additional Payments only for such installments as are required to be paid during the Agreement term. The Lessee shall not allow any liens for taxes, assessments or governmental charges with respect to the Equipment or any portion thereof to become delinquent (including, without limitation, any taxes levied upon the Equipment or any portion thereof which, if not paid, will become a charge on any interest in the Equipment, including Lender's interest, or the rentals and revenues derived therefrom or hereunder).

**Section 5.16. Lessee's Insurance.**

(a) The Lessee shall, at its own expense, acquire, carry and maintain broad-form extended coverage property damage insurance with respect to all Equipment in an amount equal to the actual cash value of the Equipment. Such property damage insurance shall include Lender as

loss payee. Any Net Proceeds of the insurance required by this subsection (a) shall be payable as provided in Section 6.15 hereof.

(b) The Lessee shall, at its own expense, acquire, carry and maintain comprehensive general liability insurance (and auto liability insurance, if applicable) in accordance with State statute or as customarily held by similar entities in the State.

(c) The Lessee shall also maintain workers' compensation insurance issued by a responsible carrier authorized under State law to insure the Lessee against liability for compensation under applicable State law as in effect from time to time.

(d) All insurance shall be maintained with generally recognized responsible insurers in accordance with State law and may carry reasonable deductible or risk-retention amounts.

(e) Lender shall not be responsible for the sufficiency or adequacy of any required insurance and shall be fully protected in accepting payment on account of such insurance or any adjustment, compromise or settlement of any loss agreed to by Lender.

(f) Upon request by Lender, the Lessee shall deliver to Lender a certificate stating that the risk coverages required by this Agreement are in effect, and stating the carriers, policy numbers, coverage limits and deductible or risk-retention amounts for all such coverages.

## **ARTICLE VI THE EQUIPMENT**

**Section 6.01. Acquisition, Installation and Equipping.** The Lessee shall comply with all provisions of law applicable to the acquisition of the Equipment, accept all portions of the Equipment when properly delivered, provide for the proper installation and equipping thereof and thereafter promptly place each such portion in service.

**Section 6.02. Changes in Location.** The Lessee shall promptly inform Lender if any component of the Equipment shall be removed from Orange County, Florida.

**Section 6.03. Acquisition and Installation within Funds Available.** The Lessee represents that, based upon its examination of the plans and specifications for the Equipment, estimated installation costs and the Equipment's anticipated configuration, the Equipment can be acquired and installed for a total price within the total amount of funds to be available therefor hereunder and other funds previously identified and designated for such purposes. If the total amount available for such purposes hereunder shall be insufficient to pay the entire cost of acquiring and installing the Equipment, the Lessee promises to pay any such excess costs, with no resulting reduction or offset in the amounts otherwise payable by the Lessee under this Agreement.

**Section 6.04. Disclaimer of Warranties.** The Lessee agrees that Lender has not designed the Equipment, that Lender has not supplied any plans or specifications with respect thereto and that Lender (a) is not a manufacturer of, nor a dealer in, any of the component parts of the Equipment or similar equipment, (b) has not made any recommendation, given any advice nor taken any other

action with respect to (i) the choice of any supplier, vendor or designer of, or any other contractor with respect to, the Equipment or any component part thereof or any property or rights relating thereto, or (ii) any action taken or to be taken with respect to the Equipment or any component part thereof or any property or rights relating thereto at any stage of the acquisition, installation and equipping thereof, (c) has not, at any time, had physical possession of the Equipment or any component part thereof or made any inspection thereof or of any property or rights relating thereto, and (d) has not made any warranty or other representation, express or implied, that the Equipment or any component part thereof or any property or rights relating thereto (i) will not result in or cause injury or damage to persons or property, (ii) has been or will be properly designed, or will accomplish the results which the Lessee intends therefor, or (iii) is safe in any manner or respect.

Lender MAKES NO EXPRESS OR IMPLIED WARRANTY OR REPRESENTATION OF ANY KIND WHATSOEVER WITH RESPECT TO THE EQUIPMENT OR ANY COMPONENT PART THEREOF, INCLUDING BUT NOT LIMITED TO ANY WARRANTY OR REPRESENTATION WITH RESPECT TO THE MERCHANTABILITY OR THE FITNESS OR SUITABILITY THEREOF FOR ANY PURPOSE, and further including the design or condition thereof; the safety, quality or capacity thereof; compliance thereof with the requirements of any law, rule, specification or contract pertaining thereto; any latent defect; the Equipment's ability to perform any function; that the Amount Advanced will be sufficient to pay all costs of the acquisition and installation of the Equipment; or any other characteristic of the Equipment; it being agreed that the Lessee is to bear all risks relating to the Equipment, the installation thereof and the transactions contemplated by this Agreement, and the Lessee hereby waives the benefits of any and all implied warranties and representations of Lender.

The provisions of this Section shall survive the Agreement's termination.

**Section 6.05. Right of Entry and Inspection.** Upon reasonable notice to the Lessee, Lender and its representatives and agents shall have the right to enter upon the Lessee's property and inspect the Equipment from time to time, and the Lessee shall cause any vendor, contractor or sub-contractor to cooperate with Lender and its representatives and agents during such inspections.

No right of inspection or approval granted in this Section shall be deemed to impose upon Lender any duty or obligation whatsoever to undertake any inspection or to make any approval. No inspection made or approval given by Lender shall be deemed to impose upon Lender any duty or obligation whatsoever to identify or correct any defects in the Equipment or to notify any person with respect thereto, and no liability shall be imposed upon Lender, and no warranties (either express or implied) are made by Lender as to the quality or fitness of any improvement, any such inspection and approval being made solely for Lender's benefit.

**Section 6.06. Compliance with Requirements.**

(a) The Lessee shall cause the Equipment to be installed in a careful manner and in compliance with all applicable legal requirements.

(b) The Lessee shall observe and comply promptly with all current and future requirements relating to the Equipment's use or condition imposed by (i) any judicial, governmental

or regulatory body having jurisdiction over the Equipment or any portion thereof or (ii) any insurance company writing a policy covering the Equipment or any portion thereof, whether or not any such requirement shall necessitate structural changes or improvements or interfere with the use or enjoyment of the Equipment.

(c) The Lessee shall obtain and maintain in effect all licenses and permits required for the Equipment's operation.

(d) The Lessee shall in no event use the Equipment or any part thereof, nor allow the same to be used, for any unlawful purpose, or suffer any act to be done or any condition to exist with respect to the Equipment or any part thereof, nor any article to be brought thereon, which may be dangerous, unless safeguarded as required by law, or which may, in law, constitute a nuisance, public or private, or which may make void or voidable any insurance then in force with respect thereto.

**Section 6.07. Use and Operation.** The Lessee shall use and operate the Equipment and related property for its reasonably intended use or purpose and for no other purpose unless required by law. The Lessee shall be solely responsible for the Equipment's operation, and shall not contract with any other person or entity for the Equipment's operation.

**Section 6.08. Maintenance and Repairs; Additions.**

(a) The Lessee shall keep the Equipment in good order and repair (reasonable wear and tear excepted) and in good operating condition, shall not commit or permit any waste or any other thing to occur whereby the value or usefulness of the Equipment might be impaired, and shall make from time to time all necessary or appropriate repairs, replacements and renewals.

(b) The Lessee may, also at its own expense, make from time to time any additions, modifications or improvements to the Equipment that it may deem desirable for its governmental or proprietary purposes and that do not materially impair the effective use, nor materially decrease the value or substantially alter the intended use, of the Equipment. The Lessee shall do, or cause to be done, all such things as may be required by law in order fully to protect the interests of and all Lender's rights under this Agreement.

(c) Any and all additions to or replacements of the Equipment and all parts thereof shall constitute accessions to the Equipment and shall be subject to all the terms and conditions of this Agreement and included in the "Equipment" for the purposes of this Agreement.

(d) Notwithstanding the provisions of subsection (c) of this Section, however, the Lessee may, from time to time in its sole discretion and at its own expense, install machinery, equipment and other tangible property in or on the Equipment. All such property shall remain the Lessee's sole property in which Lender shall have no interest; provided, however, that any such property which becomes permanently affixed to the Equipment shall be subject to interest arising under this Agreement if Lender shall reasonably determine that the Equipment would be damaged or impaired by the removal of such machinery, equipment or other tangible property.



**Section 6.09. Security.** The Lessee shall take all reasonable steps necessary to safeguard the Equipment against theft. The security afforded the Equipment shall at all times be equal to or better than the security afforded the Lessee's personal property that is not subject to this Agreement.

**Section 6.10. Utilities.** The Lessee shall pay all charges for utility services furnished to or used on or in connection with the Equipment, as may be applicable dependent upon the type of equipment.

**Section 6.11. Risk of Loss.** The Lessee shall bear all risk of loss to the Equipment.

**Section 6.12. Condemnation.** The Lessee shall immediately notify Lender if any governmental authority shall institute, or shall notify the Lessee of any intent to institute, any action or proceeding for the taking of, or damages to, all or any part of the Equipment or any interest therein under the power of eminent domain, or if there shall be any damage to the Equipment due to governmental action, but not resulting in a taking of any portion of the Equipment. The Lessee shall file and prosecute its claims for any such awards or payments in good faith and with due diligence and cause the same to be collected and paid over to Lender, and to the extent permitted by law hereby irrevocably authorizes and empowers Lender, in the Lessee's name or otherwise, to collect and receipt for any such award or payment and to file and prosecute such claims. If the Lessee receives any Net Proceeds arising from any such action, the Lessee shall apply such Net Proceeds as provided in Section 6.15.

**Section 6.13. Title.** Title to the Equipment and any and all additions, repairs, replacements or modifications thereto shall at all times be in the Lessee, subject to the lien of this Agreement. Upon the Lessee's payment in full of all Required Payments, this Agreement shall be terminated and no lien shall exist on the Equipment hereunder.

**Section 6.14. No Encumbrance, Mortgage or Pledge of Equipment.**

(a) The Lessee shall not directly or indirectly create, incur, assume or suffer to exist any mortgage, pledge, lien (including mechanics' and materialmen's liens), charge, encumbrance or other claim in the nature of a lien on or with respect to the Equipment. The Lessee shall promptly, at its own expense, take such action as may be duly necessary to discharge any such mortgage, pledge, lien, charge, encumbrance or claim not excepted above which it shall have created, incurred or suffered to exist.

(b) The Lessee shall reimburse Lender for any expense incurred by Lender to discharge or remove any such mortgage, pledge, lien, security interest, encumbrance or claim, with interest thereon at the Prime Rate.

**Section 6.15. Damage and Destruction; Use of Net Proceeds.**

(a) The Lessee shall promptly notify Lender if (i) the Equipment or any portion thereof is stolen or is destroyed or damaged by fire or other casualty, (ii) a material defect in the installation of the Equipment shall become apparent, or (iii) title to or the use of all or any portion of the

Equipment shall be lost by reason of a defect in title. Each notice shall describe generally the nature and extent of such damage, destruction or taking.

(b) The Lessee shall apply the Net Proceeds, (i) to the prompt completion, repair or restoration of the Equipment, (and pay any costs in excess of Net Proceeds, if necessary), or (ii) together with other available funds as may be necessary, to the prepayment of all outstanding Required Payments pursuant to Section 3.03. The Lessee shall promptly report to Lender regarding the use of Net Proceeds. Said Net Proceeds are pledged to the repayment of outstanding Required Payments, to the extent not applied as set forth in Section 6.15(b)(i).

(c) Any repair, restoration, modification, improvement or replacement paid for in whole or in part out of Net Proceeds shall be the Lessee's property and shall be part of the Equipment.

## **ARTICLE VII DEFAULTS AND REMEDIES; TERMINATION**

**Section 7.01. Events of Default.** An "*Event of Default*" is any of the following:

(a) Except as provided in Section 7.04 hereof, the Lessee's failing to make any Base Payment when due.

(b) The Lessee's breaching or failing to perform or observe any term, condition or covenant of this Agreement on its part to be observed or performed, other than as provided in subsection (a) of this Section, including payment of any Additional Payment, for a period of 15 days after written notice specifying such failure and requesting that it be remedied shall have been given to the Lessee by Lender, unless Lender shall agree in writing to an extension of such time prior to its expiration.

(c) The institution of proceedings under any bankruptcy, insolvency, reorganization or similar law by or against the Lessee as a debtor, or the appointment of a receiver, custodian or similar officer for the Lessee or any of its property, and the failure of such proceedings or appointments to be vacated or fully stayed within 30 days after the institution or occurrence thereof.

(d) Any warranty, representation or statement made by the Lessee in this Agreement is found to be incorrect or misleading in any material respect on the Closing Date (or, if later, on the date made).

(e) Any lien, charge or encumbrance affecting the validity of the Agreement, is found to exist, or proceedings are instituted against the Lessee to enforce any lien, charge or encumbrance against the Equipment .

**Section 7.02. Remedies on Default.** Upon the continuation of any Event of Default, Lender may, without any further demand or notice, exercise any one or more of the following remedies:

(a) Declare the unpaid principal component of the Base Payments that has been appropriated pursuant to Section 3.05 hereof immediately due and payable;

(b) Proceed by appropriate court action to enforce the Lessee's performance of the applicable covenants of this Agreement or to recover for the breach thereof;

(c) Avail itself of all available remedies under this Agreement, and recovery of attorneys' fees and other expenses.

**Section 7.03. RESERVED.**

**Section 7.04. Effect of Nonappropriation.** Upon an Event of Nonappropriation, the Lessee shall have no further obligation to pay Base Payments beyond the end of the Fiscal Year for which amounts have been appropriated for Base Payments. This Agreement shall terminate on the last day of the Fiscal Year for which amounts have been appropriated for Base Payments without any penalty to the Lessee whatsoever. The Lessee agrees to peaceably surrender possession the Equipment to Lender or its assignees on the first day of the Fiscal Year to which the Event of Nonappropriation applies, packed for shipment in accordance with manufacturer specifications and freight prepaid and insured to any location in the State of Florida as designated by Lender.

In addition, upon the occurrence of any Event of Nonappropriation, Lender may, without any further demand or notice, take action with respect to the Lessee and the Equipment as contemplated in Section 7.05 hereof.

**Section 7.05. Possession of Equipment.** Upon the continuation of an Event of Default or the occurrence of an Event of Nonappropriation, the Lessee shall immediately lose the right to possess, use and enjoy the Equipment (but may remain in possession of the Equipment as a lessee at will of Lender), and thereupon the Lessee (a) shall pay monthly in advance to Lender the amounts due hereunder absent the occurrence of such Event of Default or occurrence of an Event of Nonappropriation for the use and possession of the Equipment, and (b) upon Lender's demand, shall deliver possession of the Equipment to Lender or, at Lender's direction, to any purchaser of the Equipment after an execution sale, subject to Section 7.04 hereof.

In addition, upon the continuation of any Event of Default or the occurrence of an Event of Nonappropriation, Lender, to the extent permitted by law, is hereby authorized to (i) institute legal action to take possession of the Equipment in the event the Lessee does not voluntarily relinquish possession; (ii) lease the Equipment, (iii) collect all rents and profits therefrom, with or without taking possession of the Equipment, and (iv) after deducting all costs of collection and administration expenses, apply the net rents and profits first to the payment of necessary maintenance and insurance costs, and then to the Lessee's account and in reduction of the Lessee's corresponding Required Payments in such fashion as Lender shall reasonably deem appropriate. Lender shall be liable to account only for rents and profits it actually receives. Notwithstanding anything herein, the Lender is not entitled to repossess or forcefully take possession of the Equipment without an action of a county or circuit court authorizing such forceful repossession.

**Section 7.06. No Remedy Exclusive; Delay Not Waiver.** All remedies under this Agreement are cumulative and may be exercised concurrently or separately. The exercise of any one remedy shall not be deemed an election of such remedy or preclude the exercise of any other remedy. If any Event of Default shall occur and thereafter be waived by Lender, such waiver shall be limited to the particular breach so waived and shall not be deemed a waiver of any other breach under this Agreement.

**Section 7.07. Payment of Costs and Attorney's Fees.** If Lender employs an attorney to assist in the enforcement or collection of Required Payments, or if Lender voluntarily or otherwise shall become a party to any suit or legal proceeding (including a proceeding conducted under any state or federal bankruptcy or insolvency statute) to protect the Equipment, to protect the lien of this Agreement, to enforce collection of the Required Payments or to enforce compliance by the Lessee with any of the provisions of this Agreement, the Lessee, to the extent permitted by law, agrees to pay reasonable attorneys' fees and all of the costs that may reasonably be incurred (whether or not any suit or proceeding is commenced), and such fees and costs (together with interest at the Prime Rate) shall be secured as Required Payments.

## **ARTICLE VIII WIRE TRANSFER REQUIREMENTS**

In order to prevent unauthorized or fraudulent wire transfers through cyber fraud and other means, Lender and the Lessee hereby agree to the provisions of this Article VIII.

**Section 8.01. Wire Transfer Requirements.** In the event a wire transfer is made by Lender to disburse funds as contemplated by this Agreement (a "***Disbursement***"), said wire transfer shall be delivered as directed in a written "***Disbursement Authorization***" provided to Lender by a representative of the Lessee, subject to the terms and conditions set forth in this Article. For the purposes of this Article, a representative of the Lessee shall include employees and elected and/or appointed officials of the Lessee, the Lessee's legal counsel or the Lessee's financial advisor.

**Section 8.02. Verification Procedures.** Prior to making any Disbursement pursuant to a Disbursement Authorization not delivered to Lender in person by a representative of the Lessee, Lender shall verify such Disbursement Authorization verbally via telephone communication with a representative of the Lessee. The Lessee shall ensure that a representative of the Lessee will provide such verification to Lender. The Lessee shall not disclose, or allow to be disclosed, such Lender verification procedures to any third party unless there is a legitimate business need to make such disclosure or such disclosure is required by law, and the Lessee accepts the risk of such third-party knowledge of the security procedures. If the Lessee has reason to believe that a security procedure has been obtained by or disclosed to an unauthorized person or learns of any unauthorized transfer or of any discrepancy in a transfer request, then the Lessee shall notify Lender immediately.

**Section 8.03. Payee Identification.** The Lessee is solely responsible for accurately identifying the wire transfer information contained in the Disbursement Authorization delivered to Lender by a representative of the Lessee, including but not limited to the bank name and its

ABA number, beneficiary's account name and account number and beneficiary's physical address, together with other information requested by Lender (collectively, "**Remittance Instructions**"). If the Remittance Instructions describe a beneficiary inconsistently by name and account number, the Lessee acknowledges that Lender may make payment on the basis of the account number alone, that Lender is not obligated to detect such errors, and that the Lessee assumes the risk of any loss resulting therefrom.

**Section 8.04. Duty to Reconcile Written Confirmation.** Upon request from a representative of the Lessee, Lender shall use its best efforts to send a representative of the Lessee written confirmation of the Disbursement in the form of a reference number, beneficiary name and wire amount. A representative of the Lessee shall promptly review and reconcile the written confirmation of the Disbursement sent by Lender, and shall report to Lender in writing, promptly, but in no event later than ten (10) Business Days after the date of such written confirmation, any unauthorized, erroneous, unreceived or improperly executed payment. Lender and the Lessee agree that ten (10) Business Days is a reasonable time for the detection and reporting to Lender of such information. After that time, all items on the written confirmation will be considered correct and the Lessee will be precluded from recovering from Lender if such wire transfer identified in the written confirmation was actually made by Lender. For the avoidance of doubt, any such writings can be provided electronically.

**Section 8.05. Unauthorized Payments.** Notwithstanding any other provision herein, if a Disbursement has been verified by a representative of the Lessee pursuant to Section 8.02, it shall be binding on the Lessee if Lender acted in good faith in making such Disbursement.

**Section 8.06. Recordation.** Lender may record any telephone conversation between Lender and a representative of the Lessee in order to reduce the risk of unauthorized or erroneous transfers. Lender may retain such recordings for as long as Lender may deem necessary.

**Section 8.07 Indemnification and Hold Harmless.** If Lender complies with the provisions of this Article VIII, the Lessee agrees that Lender shall not be responsible for any communication or miscommunication by a representative of the Lessee, and the Lessee further agrees to indemnify, to the extent allowed by law, Lender and hold Lender harmless from and against any and all losses, claims, expenses, suits, costs or damages, demands or liabilities of whatever kind or nature, whether now existing or hereafter relating in any way to a wire transfer made pursuant to the Agreement.

**Section 8.08. Applicable Law.** All wire transfer orders are governed by Article 4A of the UCC, except as any provisions thereof that may be and are modified by the terms hereof. If any part of the applicable wire transfer order involves the use of the Fedwire, the rights and obligations of Lender and the Lessee regarding that wire transfer order are governed by Regulation J of the Federal Reserve Board.

## **ARTICLE IX MISCELLANEOUS**

**Section 9.01. Notices.**

(a) Any communication required or permitted by this Agreement must be in writing.

(b) Any communication under this Agreement shall be sufficiently given and deemed given when delivered by hand, on the date shown on a certified mail receipt, or delivery receipt from a national commercial package delivery service or five days after being mailed by first-class mail, postage prepaid, if addressed as follows:

(i) If to the Lessee, to Boggy Creek Improvement District, c/o PFM Consulting Group, LLC, District Manager, 12051 Corporate Blvd, Orlando, FL 32817; or

(ii) If to Lender, to Truist Bank, 5130 Parkway Plaza Boulevard, Charlotte, North Carolina 28217, Attention: Governmental Finance.

(c) Any addressee may designate additional or different addresses for communications by notice given under this Section to each of the others.

**Section 9.02. No Assignments by Lessee.** The Lessee shall not sell or assign any interest in this Agreement.

**Section 9.03. Assignments by Lender.** Lender may, at any time and from time to time, assign all or any part of its interest in the Equipment or this Agreement, including, without limitation, Lender's rights to receive Required Payments. Any assignment made by Lender or any subsequent assignee shall not purport to convey any greater interest or rights than those held by Lender pursuant to this Agreement.

The Lessee agrees that this Agreement may become part of a pool of obligations at Lender's or its assignee's option. Lender or its assignees may assign or reassign all or any part of this Agreement, including the assignment or reassignment of any partial interest through the use of certificates evidencing participation interests in this Agreement. Notwithstanding the foregoing, no assignment or reassignment of Lender's interest in the Equipment or this Agreement shall be effective unless and until the Lessee shall receive a duplicate original counterpart of the document by which such assignment or reassignment is made disclosing the name and address of each such assignee.

The Lessee further agrees that Lender's interest in this Agreement may be assigned in whole or in part upon terms which provide in effect that the assignor or assignee will act as a collection and paying agent for any holders of certificates of participation in this Agreement, provided the Lessee receives a copy of such agency contract and such collection and paying agent covenants and agrees to maintain for the full remaining term of this Agreement a written record of each assignment and reassignment of such certificates of participation.

The Lessee agrees to execute any document reasonably required in connection with any assignment. Any assignor must provide notice of any assignment to the Lessee, and the Lessee shall keep a complete and accurate record of all assignments. After the giving of any such notice, the Lessee shall thereafter make all payments in accordance with the notice to the assignee named

therein and shall, if so requested, acknowledge such assignment in writing, but such acknowledgment shall in no way be deemed necessary to make the assignment effective.

**Section 9.04. Amendments.** No term or provision of this Agreement may be amended, modified or waived without the prior written consent of the Lessee and Lender.

**Section 9.05. Governing Law.** The Lessee and Lender intend that State law shall govern this Agreement.

**Section 9.06. Liability of Officers and Agents.** No officer, agent or employee of the Lessee shall be subject to any personal liability or accountability by reason of the execution of this Agreement or any other documents related to the transactions contemplated by this Agreement. Such officers or agents shall be deemed to execute such documents in their official capacities only, and not in their individual capacities. This Section shall not relieve an officer, agent or employee of the Lessee from the performance of any official duty provided by law.

**Section 9.07. Severability.** If any provision of this Agreement shall be determined to be unenforceable, that shall not affect any other provision of this Agreement.

**Section 9.08. Non-Business Days.** If the date for making any payment or the last day for performance of any act or the exercising of any right shall not be a Business Day, such payment shall be made or act performed or right exercised on or before the next preceding Business Day.

**Section 9.09. Entire Agreement.** This Agreement constitutes the Lessee's entire agreement with respect to the general subject matter covered by this Agreement.

**Section 9.10. Binding Effect.** Subject to the specific provisions of this Agreement, and in particular, Section 9.03 hereof, this Agreement shall be binding upon and inure to the benefit of and be enforceable by the parties and their respective successors and assigns.

**Section 9.11. No Advisory or Fiduciary Relationship.** In connection with the Lender's entering into this Agreement, and all aspects of each transaction contemplated hereunder (including in connection with any amendment, waiver or other modification hereof), the Lessee acknowledges and agrees, that: (a) (i) the Lessee has consulted its own legal, accounting, regulatory and tax advisors to the extent it has deemed appropriate, (ii) the Lessee is capable of evaluating, and understands and accepts, the terms, risks and conditions of the transactions contemplated hereby, (iii) the Lender is not acting as a municipal advisor or financial advisor to the Lessee, and (iv) the Lender has no fiduciary duty pursuant to Section 15B of the Securities Exchange Act to the Lessee with respect to the transactions contemplated hereby and the discussions, undertakings and procedures leading thereto (irrespective of whether the Lender has provided other services or is currently providing other services to the Lessee on other matters); (b) (i) the Lender is and has been acting solely as a principal and, except as expressly agreed in writing by the relevant parties, has not been, is not, and will not be acting as an advisor, agent or fiduciary, for the Lessee or any other person and (ii) the Lender has no obligation to the Lessee with respect to the transactions contemplated hereby except those obligations expressly set forth herein; and (c) the Lender may be engaged in a broad range of

transactions that involve interests that differ from those of the Lessee, and the Lender has no obligation to disclose any of such interests to the Lessee. The Lessee acknowledges that the Lender is entering into this Agreement pursuant to and in reliance upon the bank exemption and/or the institutional buyer exemption provided under the municipal advisor rules of the Securities and Exchange Commission, Rule 15Ba1-1 *et seq.*, to the extent that such rules apply to the transactions contemplated hereunder.

**Section 9.12: Waiver of Jury Trial. THE LENDER AND THE LESSEE, BY ENTERING INTO THIS AGREEMENT, 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 AGREEMENT OR ANY OTHER 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.**

**IN WITNESS WHEREOF**, the parties have duly signed, sealed and delivered this Agreement by duly authorized officers, all as of the date first above written.

**(SEAL)**

Attest:

**BOGGY CREEK IMPROVEMENT DISTRICT**

By: \_\_\_\_\_  
Printed Name:  
Title:

By: \_\_\_\_\_  
Printed Name:  
Title:

**TRUIST BANK**

By: \_\_\_\_\_  
Printed Name:  
Title:

*[Lease Purchase Agreement dated July 8, 2021, between the Boggy Creek Improvement District, and Truist Bank]*



**EXHIBIT A -- EQUIPMENT DESCRIPTION**

Two Autonomous Vehicles:

Olli 2.0 VIN 1L90LL125KT571214

Olli 2.0 VIN 1L90LL125KT571215

Provided however, that the hardware and software installed on the Equipment by the Lessee shall not constitute part of the Equipment.

**EXHIBIT B -- PAYMENT SCHEDULE**

Bond Debt Service  
 Boggy Creek Improvement District, FL Client No. 9909002203 NAICS: 925120  
 Electric Buses Note No. 00001  
 Dated Date 7/8/2021  
 Delivery Date 7/8/2021

Period Ending	Principal	Coupon	Interest	Debt Service	Annual Debt Service	Bond Balance	Total Bond Value
7/8/2021						700,000.00	700,000.00
7/8/2022	135,889.70	1.490%	10,430.00	146,319.70		564,110.30	564,110.30
7/8/2023	137,914.45	1.490%	8,405.24	146,319.70		426,195.85	426,195.85
7/8/2024	139,969.38	1.490%	6,350.32	146,319.70		286,226.47	286,226.47
7/8/2025	142,054.92	1.490%	4,264.77	146,319.70		144,171.54	144,171.54
7/8/2026	144,171.54	1.490%	2,148.16	146,319.70			
<b>Total</b>	<b>700,000.00</b>		<b>31,598.49</b>	<b>731,598.49</b>			

**Exhibit C**

**Developer Agreement**

**BOGGY CREEK IMPROVEMENT DISTRICT  
DEVELOPER FUNDING AGREEMENT FOR ACQUISITION OF  
AUTONOMOUS ELECTRIC VEHICLES**

This Funding Agreement of Acquisition of Autonomous Electronic Vehicles (“**Agreement**”) is made and entered into this \_\_\_ day of July, 2021, by and between:

**BOGGY CREEK IMPROVEMENT DISTRICT**, a local unit of special-purpose government established pursuant to Chapter 190, *Florida Statutes*, and located in City of Orlando, Florida (hereinafter “**District**”), and

**LAKE NONA LAND COMPANY, LLC**, a Florida limited liability company and a landowner in the District (hereinafter “**Developer**”) with an address of 6900 Tavistock Lakes Boulevard, Suite 200, Orlando, Florida 32827.

**RECITALS**

**WHEREAS**, the District was established by an ordinance adopted by the City Council of the City of Orlando, Florida, for the purpose of planning, financing, constructing, operating and/or maintaining certain infrastructure; and

**WHEREAS**, the District, pursuant to Chapter 190, *Florida Statutes*, is authorized to levy such taxes, special assessments, fees and other charges as may be necessary in furtherance of the District's activities and services; and

**WHEREAS**, Developer presently owns and/or is developing the majority of all real property within the District and has requested that the District acquire two autonomous electric vehicles (“**Equipment**”) from LM Industries Group, Inc., for the purpose of establishing District-operated shuttle services within the District; and

**WHEREAS**, the District is willing to acquire the Equipment from LM Industries Group, Inc., pursuant to the *Lease Purchase Agreement* with Truist Bank (“**Financing Agreement**”), attached hereto as **Exhibit A**, provided the Developer has agreed, pursuant to this Agreement, to provide monies to enable the District to pay any and all costs and expenses incurred by the District under, related to, or as a result of the Financing Agreement and the acquisition of the Equipment (together, the “**Acquisition Expenses**”); and

**WHEREAS**, the District has authorized District staff, including but not limited to legal, engineering, and managerial staff (collectively “**District Staff**”), to provide such services as are necessary to effectuate the acquisition of the Equipment.

**NOW, THEREFORE**, based upon good and valuable consideration and the mutual covenants of the parties, the receipt of which and sufficiency of which are hereby acknowledged, the parties agree as follows:

## 1. FUNDING.

a. The Developer acknowledges that contemporaneous with the execution of this Agreement, the District has entered into the Financing Agreement with Truist Bank (“**Truist**”) for the purchase of the Equipment. Upon closing, Truist will deposit into the District’s account the amount of Seven Hundred Thousand Dollars (\$700,000.00), the “**Amount Advanced**”), subject to the terms and conditions outlined in the executed Financing Agreement. The Developer hereby agrees to make available to the District all monies for any and all amounts due under the Financing Agreement, including, but not limited to, amounts necessary for the Base Payments and any Additional Payments (collectively, the “**Required Payments**,” as such terms are defined in the Financing Agreement), in advance of the due date or as such payments come due, as further described in this Section.

b. To the extent that the Required Payments are fixed and assessed on a regular repeating schedule, as described in **Exhibit A**, the Developer agrees to provide such funds to the District in accordance with the payment schedule set forth in Exhibit B to the Financing Agreement.

c. The Developer agrees that, in addition to the amounts due under the Financing Agreement, the Developer will provide such monies as are necessary for any other Acquisition Expenses, including but not limited to such monies as are necessary to enable District Staff and associated consultants to assist in the purchase and acquisition of the Equipment. The District financial manager shall require consultants to provide invoices for the Acquisition Expenses separate from other services provided to the District.

d. To the extent that the Required Payments, or any other Acquisition Expenses, are assessed one time or are variable, the Developer will make such funds available within fifteen (15) days of a written request by the District.

e. At its option at any time, the Developer may prepay the outstanding principal component of the Amount Advanced (in whole but not in part), thereby allowing the District to obtain ownership of all the Equipment free of the Financing Agreement and Truist Bank’s interest in the Equipment, by paying:

- i. all Additional Payments then due and payable,
- ii. all interest accrued and unpaid to the prepayment date, and
- iii. 100% of the outstanding principal component of the Amount Advanced, in accordance with the provisions of Exhibit B attached hereto.

f. Should the Developer fail to timely provide the monies necessary to make the Required Payments, the Developer agrees to pay any and all additional interest in accordance with the Financing Agreement.

g. The parties agree that such monies as the Developer may provide the District under the terms of this Agreement will not be reimbursed.

**2. DISTRICT USE OF FUNDS.** The District agrees to use the funds provided by the Developer under this agreement solely for the Acquisition Expenses. The District shall not

have any obligation to reimburse or repay the Developer for funds provided to the District under this Agreement.

**3. ALTERNATIVE COLLECTION METHODS.**

a. In the alternative or in addition to the collection method set forth in Paragraph 1 above, the District may enforce the collection of funds due under this Agreement by action against the Developer in the appropriate judicial forum in and for Orange County. The enforcement of the collection of funds in this manner shall be in the sole discretion of the District Manager on behalf of the District. In the event that either party is required to enforce this Agreement by court proceedings or otherwise, then the parties agree that the prevailing party shall be entitled to recover from the other all costs incurred, including reasonable attorneys' fees and costs for trial, alternative dispute resolution, or appellate proceedings.

b. The District hereby finds that the Equipment provides a special and peculiar benefit to the Property, which benefit is initially allocated on an equal developable acreage basis. Such special and peculiar benefit to the Property is equal to or in excess of the Acquisition Expenses; therefore, in the alternative or in addition to the other methods of collection set forth in this Agreement, the District, in its sole discretion, may choose to certify amounts due hereunder as a non-ad valorem assessment on all or any part of the Property for collection, either through the Uniform Method of Collection set forth in Chapter 197, *Florida Statutes*, or under any method of direct bill and collection authorized by Florida law. Such assessment, if imposed, may be certified on the next available tax roll of the County property appraiser.

**4. TERM.** This Agreement shall remain in effect until the earlier of (i) such time as all payment obligations of the District as set forth in the Financing Agreement are satisfied and all Acquisition Expenses have been paid in full by the Developer, or (ii) an Event of Nonappropriation (as defined in the Financing Agreement) shall occur in accordance with the requirements of the Financing Agreement and all Acquisition Expenses have been paid in full by the Developer. Upon termination and receipt of a written request by one party to the other, the parties shall execute a termination of the Agreement.

**5. ENFORCEMENT OF AGREEMENT.** In the event that either party is required to enforce this Agreement by court proceedings or otherwise, then the prevailing party shall be entitled to recover all fees and costs incurred, including reasonable attorney's fees, paralegal fees, expert witness fees and costs for trial, alternative dispute resolution, or appellate proceedings.

**6. AGREEMENT; AMENDMENTS.** This instrument shall constitute the final and complete expression of the agreement between the parties relating to the subject matter of this Agreement. Amendments to and waivers of the provisions contained in this Agreement may be made only by an instrument in writing which is executed by both of the parties hereto. In addition, no proposed amendment to or waiver of the provisions of this Agreement shall be effective without the written consent of Truist.

**7. AUTHORIZATION.** The execution of this Agreement has been duly authorized by the appropriate body or official of all parties hereto, each party has complied with all the

requirements of law, and each party has full power and authority to comply with the terms and provisions of this instrument.

**8. ASSIGNMENT.** This Agreement may be assigned, in whole or in part, by either party only upon the written consent of the other, which consent shall not be unreasonably withheld. In addition, no assignment shall be effective without the written consent of Truist.

**9. DEFAULT.** A default by either party under this Agreement shall entitle the other to all remedies available at law or in equity, which shall include, but not be limited to, the right of damages, injunctive relief and specific performance and specifically including the ability of the District to enforce any and all payment obligations under this Agreement in the manner described herein in Paragraphs 1 and 3 above.

**10. NOTICES.** All notices, requests, consents and other communications under this Agreement (“Notices”) shall be in writing and shall be delivered, mailed by First Class Mail, postage prepaid, or overnight delivery service, to the parties, as follows:

**A. If to Developer:**       **Lake Nona Land Company, LLC**  
6900 Tavistock Lakes Boulevard, Suite 200  
Orlando, Florida 32827

**B. If to District:**       **Boggy Creek Improvement District**  
12051 Corporate Boulevard  
Orlando, Florida 32817  
Attn: District Manager

**With a copy to:**       **Hopping Green & Sams, P.A.**  
119 South Monroe Street, Suite 300  
Post Office Box 6526  
Tallahassee, Florida 32314  
Attn: District Counsel

Except as otherwise provided in this Agreement, any Notice shall be deemed received only upon actual delivery at the address set forth in this Agreement. Notices delivered after 5:00 p.m. (at the place of delivery) or on a non-business day, shall be deemed received on the next business day. If any time for giving Notice contained in this Agreement would otherwise expire on a non-business day, the Notice period shall be extended to the next succeeding business day. Saturdays, Sundays, and legal holidays recognized by the United States government shall not be regarded as business days. Counsel for the parties may deliver Notice on behalf of the parties. Any party or other person to whom Notices are to be sent or copied may notify the other parties and addresses of any change in name or address to which Notices shall be sent by providing the same on five (5) days written notice to the parties and addresses set forth in this Agreement.

**11. THIRD PARTY RIGHTS; TRANSFER OF PROPERTY.** This Agreement is solely for the benefit of the formal parties herein and no right or cause of action shall accrue upon or by reason hereof, to or for the benefit of any third party not a formal party hereto. Nothing in



this Agreement expressed or implied is intended or shall be construed to confer upon any person or corporation other than the parties hereto any right, remedy or claim under or by reason of this Agreement or any provisions or conditions hereof; and all of the provisions, representations, covenants and conditions herein contained shall inure to the sole benefit of and shall be binding upon the parties hereto and their respective representatives, successors and assigns. Notwithstanding anything herein to the contrary, Truist shall be a direct third party beneficiary of the terms and conditions of this Agreement and shall be entitled to enforce the Developer's obligations hereunder. Truist shall not be deemed to have assumed any obligations hereunder. In the event the Developer sells or otherwise disposes of its business or of all or substantially all of its assets relating to improvements, work product, or lands within the District, the Developer shall continue to be bound by the terms of this Agreement and additionally shall expressly require that the purchaser agree to be bound by the terms of this Agreement. The Developer shall give 90 days prior written notice to the District under this Agreement of any such sale or disposition.

**12. FLORIDA LAW GOVERNS.** This Agreement and the provisions contained herein shall be construed, interpreted and controlled according to the laws of the State of Florida.

**13. PUBLIC RECORDS.** Developer understands and agrees that all documents of any kind provided to the District in connection with this Agreement may be public records, and, accordingly, Developer agrees to comply with all applicable provisions of Florida law in handling such records, including but not limited to Section 119.0701, *Florida Statutes*. Developer acknowledges that the designated public records custodian for the District is Jennifer Walden ("**Public Records Custodian**"). Among other requirements and to the extent applicable by law, the Developer shall 1) keep and maintain public records required by the District to perform herein; 2) upon request by the Public Records Custodian, provide the District with the requested public records or allow the records to be inspected or copied within a reasonable time period at a cost that does not exceed the cost provided in Chapter 119, *Florida Statutes*; 3) ensure that public records which are exempt or confidential, and exempt from public records disclosure requirements, are not disclosed except as authorized by law for the duration of the contract term and following the contract term if the Developer does not transfer the records to the Public Records Custodian of the District; and 4) upon completion of the contract, transfer to the District, at no cost, all public records in Developer's possession or, alternatively, keep, maintain and meet all applicable requirements for retaining public records pursuant to Florida laws. When such public records are transferred by the Developer, the Developer shall destroy any duplicate public records that are exempt or confidential and exempt from public records disclosure requirements. All records stored electronically must be provided to the District in a format that is compatible with Microsoft Word or Adobe PDF formats.

**IF THE DEVELOPER HAS QUESTIONS REGARDING THE APPLICATION OF CHAPTER 119, *FLORIDA STATUTES*, TO THE DEVELOPER'S DUTY TO PROVIDE PUBLIC RECORDS RELATING TO THIS CONTRACT, CONTACT THE CUSTODIAN OF PUBLIC RECORDS AT 407-723-5900, [waldenj@pfm.com](mailto:waldenj@pfm.com), OR AT 12051 CORPORATE BLVD, ORLANDO, FL 32817.**

**14. ARM'S LENGTH TRANSACTION.** This Agreement has been negotiated fully between the parties as an arm's length transaction. The parties participated fully in the preparation of this Agreement with the assistance of their respective counsel. In the case of a dispute concerning the interpretation of any provision of this Agreement, the parties are each deemed to have drafted, chosen and selected the language, and the doubtful language will not be interpreted or construed against any party.

**15. EFFECTIVE DATE.** The Agreement shall be effective after execution by both parties hereto. The enforcement provisions of this Agreement shall survive its termination, until all payments due under this Agreement are paid in full.

*[remainder of page left intentionally blank]*

**IN WITNESS WHEREOF**, the parties execute this Agreement the day and year first written above.

Attest:

**BOGGY CREEK IMPROVEMENT DISTRICT**

\_\_\_\_\_  
Secretary/Assistant Secretary

\_\_\_\_\_  
Richard Levey, Chairperson

**LAKE NONA LAND COMPANY, LLC**

\_\_\_\_\_  
Witness

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

**EXHIBIT A:** Financing Agreement  
**EXHIBIT B:** Property Description

# **BOGGY CREEK IMPROVEMENT DISTRICT**

## **Autonomous Electric Vehicles Operational Matters**