

RESOLUTION 18-44

A RESOLUTION BY THE PINELLAS INDUSTRIAL DEVELOPMENT AUTHORITY APPROVING THE FORM OF AND AUTHORIZING THE EXECUTION AND DELIVERY OF A FIRST AMENDMENT TO FINANCING AGREEMENT AMENDING CERTAIN PROVISIONS OF A FINANCING AGREEMENT RELATING TO THE AUTHORITY'S OUTSTANDING SERIES 2012 BONDS; APPROVING AND AUTHORIZING THE EXECUTION AND DELIVERY OF ALL OTHER RELATED INSTRUMENTS; PROVIDING FOR OTHER MISCELLANEOUS MATTERS IN CONNECTION WITH THE FOREGOING; AND PROVIDING AN EFFECTIVE DATE.

**WHEREAS**, the Pinellas Industrial Development Authority doing business as the Pinellas County Economic Development Authority (the "Authority") previously issued its Industrial Development Refunding Revenue Bonds (YMCA of the Suncoast Project), Series 2012 in the original principal amount of \$10,270,150 (the "Series 2012 Bonds"), the proceeds of which were loaned (the "Loan") to the Young Men's Christian Association of the Suncoast, Inc. (the "Borrower") to (i) refund an existing loan, the proceeds of which were used to finance the equipping, acquiring and renovating of social service centers in Pinellas County and elsewhere for the Borrower, which provides social services to the community and currently operates in Pinellas County, Florida, Hernando County, Florida, Pasco County, Florida and Citrus County, Florida, and (ii) pay certain costs of issuance;

**WHEREAS**, the Loan was funded from the proceeds of the sale of the Series 2012 Bonds to SunTrust Bank., a Georgia banking corporation, as bondholder (the "Bondholder"), pursuant to a Financing Agreement dated as of September 12, 2012 (the "Original Financing Agreement"), among the Bondholder, the Borrower and the Authority;

**WHEREAS**, the Borrower and the Bondholder now desire to amend the Original Financing Agreement to modify the interest rate formula applicable to the Series 2012 Bonds (the "Amendments"), which, as of the date hereof, will result in a lower variable interest rate on the Series 2012 Bonds;

**WHEREAS**, the Borrower and the Bondholder have requested that the Authority assist the Borrower in order to undertake the necessary actions; and

**WHEREAS**, it is necessary and desirable to approve the form of and authorize the execution and delivery of a First Amendment to Financing Agreement (the "First Amendment, together with Original Financing Agreement, the "Financing Agreement") in substantially the form attached hereto as Exhibit A and incorporated herein by reference to, *inter alia*, specify the new formula for the interest rate applicable to the Series 2012 Bonds.

**NOW, THEREFORE, BE IT RESOLVED BY THE PINELLAS INDUSTRIAL DEVELOPMENT AUTHORITY THAT:**

Section 1. This resolution, hereinafter called the "Resolution," is adopted pursuant to the laws of the State of Florida (the "State"), including the Constitution of the State and Chapter 159, Parts II and III, Florida Statutes, as amended (collectively, the "Act").

Section 2. Unless the context otherwise requires, the terms used in this Resolution in capitalized form and not otherwise defined herein shall have the meanings specified herein and in the Financing Agreement, as amended. Words importing singular number shall include the plural number in each case and vice versa, and words importing persons shall include firms and corporations.

Section 3. The Authority hereby finds, determines and declares as follows:

(a) The Authority is authorized under the Act to enter into the First Amendment as herein contemplated and to fully perform the obligations of the Authority in connection therewith in order to promote the economy of Pinellas, increase and preserve opportunities for gainful employment and purchasing power, improve the educational opportunities, prosperity and welfare of the State of Florida and its inhabitants, and otherwise contribute to the prosperity, health and welfare of Pinellas, and the inhabitants thereof.

(b) Based solely upon information provided by the Borrower, the Refunded Projects continue to be "social service centers" and a "project" within the meaning and contemplation of the Act, is appropriate to the needs and circumstances of, and shall continue to make a significant contribution to the economic growth of Pinellas, Florida, shall continue to provide or preserve gainful employment and shall continue to serve a public purpose by advancing the economic prosperity, and the general welfare of the State of Florida and its people and by improving living conditions within the State of Florida.

(c) Based solely upon information provided by the Borrower, Pinellas, Florida, will continue to be able to cope satisfactorily with the impact of the Refunded Projects and will continue to provide, or cause to be provided when needed, the public facilities, including utilities and public services that will be necessary for the operation, repair and maintenance of the Refunded Projects and on account of any increases in population or other circumstances resulting therefrom.

(d) Adequate provision has been made in the Financing Agreement for the operation, repair and maintenance of the Refunded Projects at the expense of the Borrower and for the repayment by the Borrower of the loan in installments sufficient to pay the principal of and the interest on the Series 2012 Bonds and all costs and expenses relating thereto in the amounts and at the times required.

(e) Based solely upon information provided by the Borrower, the Borrower shall continue to be financially responsible based on the criteria established by the Act, the Borrower is

fully capable and willing to fulfill its obligations under the Financing Agreement, as amended, including the obligation to repay the loan in installments in the amounts and at the times required, the obligation to, in lieu of its own expense, to operate, repair and maintain the Refunded Projects and such other obligations and responsibilities as are imposed under the Financing Agreement, as amended. The payments to be made by the Borrower to the Authority and the other security provided by the Financing Agreement, as amended, as those terms are hereinafter defined, are adequate within the meaning of the Act for the security of the Series 2012 Bonds.

(f) The Authority is not obligated to pay the Series 2012 Bonds except from the proceeds derived from the repayment of the loan to the Borrower, or from the other security pledged therefor, and neither the faith and credit of the Authority or the State of Florida or any political subdivision thereof, nor the taxing power of the State of Florida or any political subdivision thereof is pledged to the payment of the principal of, premium, if any, or the interest on the Series 2012 Bonds. The Authority has no taxing power.

(g) The Authority and the Borrower will, concurrently with the Amendments, execute the documentation required for the reissuance of the Series 2012 Bonds, as contemplated hereby to effectuate the Amendments.

(h) The Authority has been advised that due to the desire to coordinate the Amendments and due to the limited market for tax-exempt obligations such as the Series 2012 Bonds, it is in the best interest of the Borrower to continue to have the Series 2012 Bonds placed with the Bondholder, and the Authority, wishing to lower the interest rate on the Series 2012 Bonds for the benefit of the Borrower, has determined to continue to have the Series 2012 Bonds placed with the Bondholder, permitting the Borrower to arrange the most advantageous rates and terms, rather than at a specified advertised date, and accordingly it is in the best interest of the Authority that a negotiated placement of the Series 2012 Bonds be authorized on behalf of the Borrower.

Section 4. As authorized by and in conformity with the Act, it is desirable and in the public interest that the Authority authorize the Amendments pursuant to the First Amendment, and the execution and delivery of the First Amendment. The form of the First Amendment attached hereto as Exhibit A is hereby approved, subject to such changes, insertions and omissions and such filling of blanks therein as may be approved by either of the officers of the Authority executing the same, in a manner consistent with the provisions of this Resolution, such execution to be conclusive evidence of such approval.

Section 5. The Authority and the officers, employees and agents of the Authority acting on behalf of the Authority are hereby authorized and directed to execute such documents, instruments, tax returns, and certifications, whether or not expressly contemplated hereby, and to do all acts and things required by the provisions of this Resolution and by the provisions of the Financing Agreement and the Amendments as may be necessary for the full, punctual and complete performance of all the terms, covenants, provisions and agreements herein and therein contained, or as otherwise may be necessary or desirable to effectuate the purpose and intent of

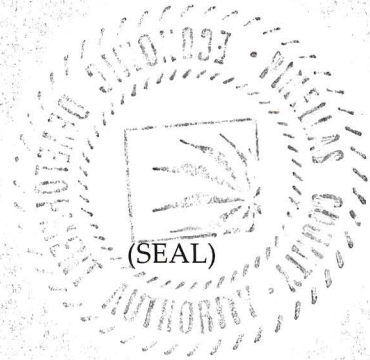
this Resolution, or as may be requested by the Bondholder or the Borrower. The Chairman or Vice Chairman and the Secretary are hereby designated the primary officers of the Authority charged with the responsibility of effectuating the Amendments, and the Chairman or Vice Chairman is hereby authorized to delegate to any other person any of the duties or authorizations of the Chairman or Vice Chairman or the Secretary hereunder.

Section 6. In case any one or more of the provisions of this Resolution shall for any reason be held to be illegal or invalid, such illegality or invalidity shall not affect any other provisions of this Resolution, and this Resolution shall be construed and enforced as if such illegal or invalid provision had not been contained herein. This Resolution is adopted and the First Amendment shall be executed with the intent that the laws of the State of Florida shall govern their construction, except as shall otherwise be expressly provided by the terms thereof.

[Remainder of Page Intentionally Left Blank]

Section 7. This Resolution shall become effective immediately upon its adoption.

PASSED AND ADOPTED this 17th day of July, 2018.



PINELLAS COUNTY INDUSTRIAL  
DEVELOPMENT AUTHORITY d/b/a PINELLAS  
COUNTY ECONOMIC DEVELOPMENT  
AUTHORITY

By: Kenneth T. Welch

Name: Kenneth T. Welch

Title: Chairman

ATTEST:

By: Mike Meidel

Name: Mike Meidel

Title: Executive Director

-----  
APPROVED AS TO FORM

By: Christy Amazon Perleto  
Office of the County Attorney

**EXHIBIT A**

**FORM OF FIRST AMENDMENT TO FINANCING AGREEMENT**

## FIRST AMENDMENT TO FINANCING AGREEMENT

This First Amendment to Financing Agreement (the "Amendment") is entered into as of the 1st day of August, 2018, among **SunTrust Bank**, a Georgia banking corporation as bondholder (the "Bondholder"), the **Pinellas County Industrial Development Authority d/b/a Pinellas County Economic Development Authority**, a public body corporate and politic duly organized and existing under the Constitution and laws of the State of Florida, as issuer (the "Issuer") and the **Young Men's Christian Association of the Suncoast, Inc.**, a Florida not-for-profit corporation (the "Borrower"), for the purpose of amending the Financing Agreement dated as of September 12, 2012 (the "Agreement") among the Bondholder, the Issuer and the Borrower as provided herein.

WHEREAS, the Issuer issued its Pinellas County Industrial Development Authority Industrial Development Refunding Revenue Bonds (YMCA of the Suncoast Project), Series 2012 (the "Bonds") on September 12, 2012 which were purchased by the Bondholder; and

WHEREAS, the Bondholder, the Issuer and the Borrower entered into the Agreement, pursuant to which the Issuer made available to the Borrower the proceeds from the sale of the Bonds to the Bondholder; and

WHEREAS, pursuant to Section 9.05 of the Agreement, the terms of the Agreement may be amended with the consents of the parties thereto and an opinion of Bond Counsel (as defined in the Agreement) is delivered which provides that the tax-exempt status of the Bonds is not adversely affected by such amendment; and

WHEREAS, the Borrower and the Bondholder have previously agreed to amend certain terms of the Agreement and now desire to formalize such amendments in this Amendment;

NOW, THEREFORE, in consideration of the mutual agreements contained herein, and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereto hereby agree as follows:

### SECTION 1. Amendments to the Agreement.

A. The following definitions are hereby added to Section 1.01 of the Agreement:

"Applicable Percentage" means (a) prior to the Rate Change Date, 0.77, and (b) on and after the Rate Change Date, 0.8140.

"Applicable Spread" means 1.60%.

"Base Rate" means the higher of (i) the per annum rate that SunTrust Bank announces from time to time as its prime lending rate, as in effect from time to time, and (ii) the Federal Funds Rate, as in effect from time to time, plus one-half of one percent (0.50%) per annum. SunTrust Bank's prime lending rate is a reference or benchmark rate, is purely discretionary, and does not necessarily represent the lowest or best rate

actually charged to any customer. SunTrust Bank may make commercial loans or other loans at rates of interest at, above, or below its prime lending rate. Each change in SunTrust Bank's prime lending rate or the Federal Funds Rate shall be effective from and including the date of such change.

"LIBOR Business Day" means a day on which the Bondholder is open for business and on which dealings in U.S. dollar deposits are carried on in the London Inter-Bank Market.

"Rate Change Date" means August 1, 2018.

B. The following definitions in Section 1.01 of the Agreement are hereby amended and restated in their entirety to read as follows:

"Interest Rate" except as otherwise provided herein, means a per annum rate equal to (i) the Applicable Percentage multiplied by the sum of LIBOR plus the Applicable Spread, multiplied by (ii) the Margin Rate Factor, and subject to adjustment to reflect changes in LIBOR and in the Margin Rate Factor and in accordance with Section 2.03 hereof.

"LIBOR Rate" means that rate per annum effective on any Interest Rate Determination Date which is equal to the quotient of: (i) the rate per annum equal to the offered rate for deposits in U.S. Dollars for a one (1) month period, which rate appears on that page of Reuters reporting service, or such similar service as determined by the Bondholder, that displays ICE Benchmark Administration ("ICE") (or any successor thereto if ICE is no longer making a London Interbank Offered Rate available) interest settlement rates for deposits in U.S. Dollars as of 11:00 a.m. (London, England time) two (2) LIBOR Business Days prior to the Interest Rate Determination Date; provided, that if no such offered rate appears on such page, the rate used for such interest period will be the per annum rate of interest determined by the Bondholder to be the rate at which U.S. dollar deposits for the interest period, are offered to the Bondholder in the London Interbank Market as of 11:00 a.m. (London, England time), on the day which is two (2) LIBOR Business Days prior to the Interest Rate Determination Date, divided by (ii) a percentage equal to 1.00 minus the maximum reserve percentages (including any emergency, supplemental, special or other marginal reserves) expressed as a decimal (rounded upward to the next 1/100th of 1%) in effect on any day to which the Bondholder or an affiliate thereof is subject with respect to any LIBOR loan pursuant to regulations issued by the Board of Governors of the Federal Reserve System with respect to eurocurrency funding (currently referred to as "eurocurrency liabilities" under Regulation D). This percentage will be adjusted automatically on and as of the effective date of any change in any reserve percentage. If quotient is less than zero, LIBOR shall be deemed to be zero.

If, at any time, the Bondholder shall have determined (which determination shall be conclusive and binding upon the Issuer and the Borrower) that, by reason of



circumstances affecting the relevant interbank market, adequate means do not exist for ascertaining LIBOR, or the Bondholder shall have determined that LIBOR does not adequately and fairly reflect the cost of maintaining its investment in the Series 2012 Bonds, or if any Change in Law shall make it unlawful or impossible for the Bondholder to establish the interest rate on the Series 2012 Bonds based upon LIBOR, the Bondholder shall give written notice (or telephonic notice, promptly confirmed in writing) to the Issuer and the Borrower as soon as practicable thereafter. Until the Bondholder shall notify the Issuer and the Borrower that the circumstances giving rise to such notice no longer exist, the Interest Rate on the Series 2012 Bonds, from the date of such determination by the Bondholder, shall be established at a rate equal to (x) the Applicable Percentage multiplied by the sum of the Base Rate plus the Applicable Spread, multiplied by (y) the Margin Rate Factor.

"Margin Rate Factor" means greater of (a) 1.00 and (b) a fraction, the numerator of which is equal to 1.00 minus the Maximum Federal Corporate Tax Rate on the date of calculation and the denominator of which is (a) prior to the Rate Change Date 0.65, and (b) on and after the Rate Change Date 0.79. The Margin Rate Factor shall increase or decrease from time to time effective as of the effective date of any decrease or increase in the Maximum Federal Corporate Tax Rate but in no event shall the Margin Rate Factor be less than 1.00; provided, however, should the Marginal Corporate Rate increase the Borrower on behalf of the Issuer must notify the Bondholder in writing of any errors to such rate and the Bondholder shall only be responsible to correct such rate for no more than 30 days prior to notification of the Bondholder.

"Maximum Federal Corporate Tax Rate" means the maximum rate of income taxation imposed on corporations pursuant to Section 11(b) of the Code, determined without regard to tax rate or tax benefit make-up provisions such as the last two sentences of Section 11(b)(1) of the Code, as in effect from time to time (or, if as a result of a change in the Code the rate of income taxation imposed on corporations shall not be applicable to the Bondholder, the maximum statutory rate of federal income taxation which could apply to the Bondholder). As of January 1, 2018 the Maximum Federal Corporate Tax Rate is 21%.

## SECTION 2. Representations and Warranties.

A. In order to induce the parties to execute and deliver this Amendment, the Bondholder, the Issuer, and the Borrower hereby reaffirms and hereby make each of the representations and warranties contained in the Agreement as of the date hereof, and all references to the Agreement therein shall be deemed to also refer to the Agreement, as amended by this Amendment.

B. In addition to the foregoing, the Borrower represents and warrants as follows:

(i) The execution, delivery and performance by the Borrower of this Amendment are within its powers, have been duly authorized by all necessary action

and do not contravene any law or any contractual restriction binding on or affecting the Borrower.

(ii) No authorization, approval or other action by, and no notice to or filing with, any governmental authority or regulatory body not otherwise undertaken is required for the due execution, delivery and performance by the Borrower of this Amendment.

(iii) This Amendment constitutes a legal, valid and binding obligation of the Borrower, enforceable against the Borrower, in accordance with its terms.

C. In addition to the foregoing, the Issuer represents and warrants as follows:

(i) The execution, delivery and performance by the Issuer of this Amendment are within its powers, have been duly authorized by all necessary action and do not contravene any law or any contractual restriction binding on or affecting the Issuer.

(ii) No authorization, approval or other action by, and no notice to or filing with, any governmental authority or regulatory body is required for the due execution, delivery and performance by the Issuer of this Amendment.

(iii) This Amendment constitutes a legal, valid and binding obligation of the Issuer, enforceable against the Issuer, in accordance with its terms.

D. In addition to the foregoing, the Bondholder represents and warrants as follows:

(i) The execution, delivery and performance by the Bondholder of this Amendment are within its powers, have been duly authorized by all necessary action and do not contravene any law or any contractual restriction binding on or affecting the Bondholder.

(ii) No authorization, approval or other action by, and no notice to or filing with, any governmental authority or regulatory body is required for the due execution, delivery and performance by the Bondholder of this Amendment.

(iii) This Amendment constitutes a legal, valid and binding obligation of the Bondholder, enforceable against the Bondholder, in accordance with its terms.

SECTION 3. Covenants. The Bondholder, the Issuer and the Borrower hereby reaffirms its agreement to observe and perform each of the respective covenants and obligations of the Bondholder, the Issuer and the Borrower contained in the Agreement.

SECTION 4. Counterparts. This Amendment may be executed in multiple counterparts, all of which shall constitute one and the same instrument, each of which shall be deemed to be an original.

SECTION 5. Limited Scope. Except as expressly amended hereby, all other provisions of the Agreement shall remain in full force and effect.

SECTION 6. Conditions to Effectiveness of Amendment. This Amendment shall be effective on August 1, 2018, provided that all of the following conditions have been fulfilled:

- A. Delivery by the parties hereto of an executed counterpart of this Amendment.
- B. A Bond Counsel opinion is delivered providing in effect, that the interest on the Bonds is excludable from gross income for federal income tax purposes.
- C. All other legal matters pertaining to the execution and delivery of this Amendment shall be satisfactory to the Bondholder and its counsel.

SECTION 7. Express Consent to Amendment. For avoidance of doubt, for the purposes of Section 9.05 of the Agreement, each of the parties hereto hereby expressly consent to the amendments to the Agreement described in Section 1 hereof.

[Remainder of Page Intentionally Left Blank | Signature Page Follows]

IN WITNESS WHEREOF, the Bondholder, the Issuer and the Borrower have executed this Amendment by their respective duly authorized representatives, all as of the date first written above.

SUNTRUST BANK

By:

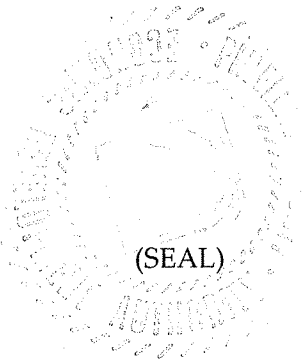


Name: Jill Wilkinson

Title: Senior Vice President

[Signature Page | First Amendment to Financing Agreement]

01368274.DOC



(SEAL)

PINELLAS COUNTY INDUSTRIAL DEVELOPMENT AUTHORITY d/b/a PINELLAS COUNTY ECONOMIC DEVELOPMENT AUTHORITY

By: Kenneth T. Welch  
Name: Kenneth T. Welch  
Title: Chairman

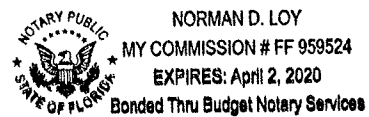
Attest:

By: Mike Meidel  
Name: Mike Meidel  
Title: Executive Director

APPROVED AS TO FORM  
By: [Signature]  
Office of the County Attorney

STATE OF FLORIDA )  
COUNTY OF PINELLAS: )

The foregoing instrument was acknowledged before me this 19<sup>th</sup> day of July, 2018, by Kenneth T. Welch, as Chairman of the Pinellas County Industrial Development Authority. He is personally known to me or he has produced \_\_\_\_\_ as identification.



Norman D. Loy  
NOTARY PUBLIC, STATE OF FLORIDA  
Print Name: Norman D. Loy  
Commission Number: FF959524

[Signature Page | First Amendment to Financing Agreement]

01368274.DOC

YOUNG MEN'S CHRISTIAN ASSOCIATION  
OF THE SUNCOAST, INC.

By: \_\_\_\_\_  
Name: G. Scott Goyer  
Title: President/CEO

STATE OF FLORIDA )  
COUNTY OF PINELLAS: )

The foregoing instrument was acknowledged before me this 27 day of July, 2018, by G. Scott Goyer, as President of Young Men's Christian Association of the Suncoast, Inc. He () is personally known to me or () has produced \_\_\_\_\_ as identification.



Jane Gunnin  
NOTARY PUBLIC, STATE OF FLORIDA  
Print Name: JANE GUNNIN  
Commission Number: FF 145296

[Signature Page | First Amendment to Financing Agreement]