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**\$1,005,000**  
**CITY OF LEESBURG, FLORIDA**  
**CAPITAL IMPROVEMENT REVENUE REFUNDING NOTE,**  
**SERIES 2009 (THE “NOTE”)**

**October 2, 2009**

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*Prepared by:*

AKERMAN SENTERFITT

**\$1,005,000**  
**CITY OF LEESBURG, FLORIDA**  
**CAPITAL IMPROVEMENT REVENUE REFUNDING NOTE, SERIES 2009**  
**(the “Note”)**

**Listing of Closing Documents**  
**October 2, 2009**

1. Certified copy of City of Leesburg, Florida (the “City”) Resolution No. 8511 adopted on September 14, 2009, authorizing the issuance of the Note, among other matters, without attachment.
2. Loan Agreement dated as of October 2, 2009, between the City and Branch Banking and Trust Company (the “Bank”).
3. Incumbency Certificate.
4. Federal Tax Certificate.
5. Certificate as to Specimen Note.
6. Cross Receipt.
7. Closing Certificate of the City.
8. Internal Revenue Service Form 8038-G, together with proof of filing letter.
9. Notice of Sale to Division of Bond Finance.
10. Division of Bond Finance Forms BF2003 and BF2004A and 2004B, together with proof of filing.
11. Acceptance of Duties of Registrar and Paying Agent.
12. Signature Certificate.
13. Opinion of Akerman Senterfitt, Bond Counsel.
14. Opinion of McLin & Burns P.A., City Attorney.
15. Purchaser’s Letter.
16. Truth in Bonding Statement.
17. Florida Statute 218.385(6) Disclosure Statement
18. Certified copy of all ordinances and resolutions of the City imposing the Communications Enterprise Revenues.
19. Bank Qualified Certificate
20. Acknowledgment of FMPA that Refunded Note has been paid in full.

**Distribution:**

(1) City of Leesburg  
(1) Branch Banking and Trust Company  
(1) Greenberg Traurig, P.A.

(1) Akerman Senterfitt  
(1) McLin & Burns P.A.  
(1) Larson Consulting Services, LLC

**CERTIFICATE REGARDING RESOLUTION NO. 8511**


The undersigned, a duly appointed, qualified and acting City Clerk of the City of Leesburg, Florida (the "City"), and the keeper of the records of the City, HEREBY CERTIFIES that:

Attached hereto is a copy of Resolution No. 8511 of the City which was adopted at a meeting of the City Commission duly called and held on September 14, 2009, at which meeting a quorum was present and acting throughout, which resolution has been compared by me with the original thereof as recorded in the Minute Book of said City and that said resolution is a true, complete and correct copy thereof, and said resolution has been duly adopted and has not been modified, amended, supplemented or repealed and is in full force and effect on and as of the date hereof in the form attached hereto.

IN WITNESS WHEREOF; I have hereunto set my hand and affixed the official seal of the City as of this 2<sup>nd</sup> day of October, 2009.

**CITY OF LEESBURG, FLORIDA**

[SEAL]

  
\_\_\_\_\_  
City Clerk

**RESOLUTION NO. 8511**

**A RESOLUTION OF THE CITY OF LEESBURG, FLORIDA ACCEPTING THE PROPOSAL OF BRANCH BANKING AND TRUST COMPANY TO PURCHASE THE CITY'S NOT TO EXCEED \$1.2 MILLION CAPITAL IMPROVEMENT REVENUE REFUNDING NOTE, SERIES 2009 TO REFINANCE THE CITY'S OUTSTANDING PROMISSORY NOTE PAYABLE TO FLORIDA MUNICIPAL POWER AGENCY AND RELATED COSTS; AUTHORIZING THE EXECUTION AND DELIVERY OF A LOAN AGREEMENT WITH SAID BANK TO SECURE THE REPAYMENT OF SAID LOAN; PROVIDING FOR THE PAYMENT OF SUCH NOTE FROM THE CITY'S COMMUNICATIONS ENTERPRISE REVENUES AND THE CITY'S COVENANT TO BUDGET AND APPROPRIATE NON AD VALOREM REVENUES ALL AS PROVIDED IN THE LOAN AGREEMENT; AUTHORIZING THE PROPER OFFICIALS OF THE CITY TO DO ANY OTHER ADDITIONAL THINGS DEEMED NECESSARY OR ADVISABLE IN CONNECTION WITH THE EXECUTION OF THE LOAN AGREEMENT, THE NOTE, AND THE SECURITY THEREFORE; AUTHORIZING THE EXECUTION AND DELIVERY OF OTHER DOCUMENTS IN CONNECTION WITH SAID LOAN; PROVIDING FOR SEVERABILITY; AND PROVIDING AN EFFECTIVE DATE.**

**BE IT RESOLVED BY THE CITY COMMISSION OF THE CITY OF LEESBURG, FLORIDA, AS FOLLOWS:**

**SECTION 1. AUTHORITY FOR THIS RESOLUTION.** This Resolution is adopted pursuant to the provisions of Chapter 166, Florida Statutes, the Florida Constitution, and other applicable provisions of law.

**SECTION 2. FINDINGS.** It is hereby ascertained, determined and declared:

(A) Following notice to the City of Leesburg, Florida (the "City") by Florida Municipal Power Agency ("FMPA"), the City deems it necessary, desirable and in the best interests of the City that the City refinance its outstanding promissory note payable to FMPA (the "Refunded Note"), all as more particularly described in the Loan Agreement (as defined herein).

(B) Pursuant to Section 2(b), Article VIII of the State Constitution, and Section 166.021, Florida Statutes, municipalities have the governmental, corporate and

proprietary powers to enable them to conduct municipal government, perform municipal functions, and render municipal services, and may exercise any power for municipal purposes, except when expressly prohibited by law. The issuance of the 2009 Note (hereinafter defined) and the execution and delivery of the Loan Agreement for the purposes of refinancing the Refunded Note is not prohibited by law.

(C) The City's financial advisor, Larson Consulting Services, LLC ("Financial Advisor"), and City staff have reviewed the proposal of Branch Banking and Trust Company (the "Bank") regarding a loan in an amount of not to exceed \$1.2 million as provided in the 2009 Note (the "Loan") to the City, the proceeds of which will be applied to refinance the Refunded Note and to pay costs of issuing the 2009 Note.

(D) The Loan will be secured by the Pledged Revenues as provided in the Loan Agreement pursuant to which the City will issue its Capital Improvement Revenue Refunding Note, Series 2009 (the "2009 Note") to secure the repayment of the Loan.

(E) The City is advised by its Financial Advisor that due to the present volatility of the market for municipal debt, it is in the best interest of the City to issue the 2009 Note pursuant to the Loan Agreement by negotiated sale, allowing the City to issue the 2009 Note at the most advantageous time, rather than a specified advertised future date, thereby allowing the City to obtain the best possible price, interest rate and other terms for the 2009 Note and, accordingly, the City Commission of the City hereby finds and determines that it is in the best financial interest of the City that a negotiated sale of the 2009 Note to the Bank be authorized.

**SECTION 3. AUTHORIZATION OF REFINANCING OF REFUNDED NOTE.** The City hereby authorizes the refinancing of the Refunded Note as more particularly described in the Loan Agreement.

**SECTION 4. ACCEPTANCE OF COMMITMENT LETTER WITH BANK.** Based on a recommendation from the City's selection team and the City's Financial Advisor, the City hereby accepts the commitment letter of the Bank dated August 21, 2009 to provide the City with the Loan.

**SECTION 5. APPROVAL OF FORM OF AND AUTHORIZATION OF LOAN AGREEMENT AND EXECUTION OF LOAN AGREEMENT AND 2009 NOTE.** The Loan and the repayment of the Loan as evidenced by the 2009 Note shall be pursuant to the terms and provisions of the Loan Agreement and the 2009 Note. The City hereby approves the Loan Agreement in substantially the form attached hereto as **Exhibit A** and authorizes the Mayor or the Mayor Pro-Tem of the City (collectively, the "Mayor") and the City Clerk or any deputy or assistant City Clerk of the City (collectively, the "City Clerk") to execute and deliver on behalf of the City the Loan Agreement by and between the City and the Bank substantially in the form attached hereto as **Exhibit A** (the "Loan Agreement") and the 2009 Note in substantially the form attached to the Loan Agreement, with such changes, insertions and additions as they may approve, their execution thereof being evidence of such approval.

**SECTION 6. PAYMENT OF DEBT SERVICE ON 2009 Note.** Pursuant to the Loan Agreement, the 2009 Note will be secured by Communications Enterprise Revenues and a City covenant to budget and appropriate Non Ad Valorem Revenues, all as more particularly described in the Loan Agreement.

**SECTION 7. AUTHORIZATION OF OTHER DOCUMENTS TO EFFECT TRANSACTION.** To the extent that other documents, certificates, opinions, or items are needed to effect any of the transactions referenced in this Resolution, the Loan Agreement or the 2009 Note and the security therefore, the Mayor, the City Clerk, the City Manager and the City Attorney are hereby authorized to execute and deliver such documents, certificates, opinions, or other items and to take such other actions as are necessary for the full, punctual, and complete performance of the covenants, agreements, provisions, and other terms as are contained herein and in the documents included herein by reference.

**SECTION 8. PAYING AGENT AND REGISTRAR.** The City hereby accepts the duties to serve as Registrar and Paying Agent for the 2009 Note.

**SECTION 9. LIMITED OBLIGATION.** The obligation of the City to repay amounts under the Loan Agreement and the 2009 Note are limited and special obligations, payable solely from the sources and in the manner set forth in the Loan Agreement and shall not be deemed a pledge of the faith and credit or taxing power of the City.

**SECTION 10. EFFECT OF PARTIAL INVALIDITY.** If any one or more provisions of this Resolution, the Loan Agreement or the 2009 Note shall for any reason be held to be illegal or invalid, such illegality or invalidity shall not effect any other provision of this Resolution or the 2009 Note, but this Resolution, the Loan Agreement and the 2009 Note shall be construed and enforced as if such illegal or invalid provision had not been contained therein. The 2009 Note and Loan Agreement shall be issued and this Resolution is adopted with the intent that the laws of the State of Florida shall govern their construction.

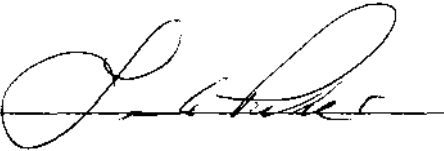
**SECTION 11. DESIGNATION OF 2009 NOTE AS BANK QUALIFIED.** The City designates the 2009 Note as a “qualified tax-exempt obligation” within the meaning of Section 265(b)(3) of the Internal Revenue Code of 1986, as amended (the “Code”). The City does not reasonably anticipate that the City, any subordinate entities of the City, and issuers of debt that issue “on behalf” of the City, will during the calendar year 2009 issue more than \$30,000,000 of “tax-exempt” obligations, exclusive of those obligations described in Section 265(b)(3)(C)(ii) of the Code.

**SECTION 12. EFFECTIVE DATE.** This Resolution shall take effect immediately upon its adoption.

**PASSED, APPROVED AND ADOPTED** this 14<sup>th</sup> day of September, 2009.


**CITY OF LEESBURG, FLORIDA**

[SEAL]

By 

Mayor

ATTEST:

By   
City Clerk

Approved as to form and correctness:

By   
City Attorney

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**LOAN AGREEMENT**

**Dated as of October 2, 2009**

**By and Between**

**THE CITY OF LEESBURG, FLORIDA**  
**(the “City”)**

**and**

**BRANCH BANKING AND TRUST COMPANY**  
**(the “Bank”)**

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## **LOAN AGREEMENT**

**THIS LOAN AGREEMENT** (the “Agreement”), made and entered into this 2<sup>nd</sup> day of October, 2009, by and between **THE CITY OF LEESBURG, FLORIDA** (the “City”), a municipal corporation of the State of Florida, and **BRANCH BANKING AND TRUST COMPANY**, a North Carolina state banking corporation authorized to do business in Florida, and its successors and assigns (the “Bank”).

### **WITNESSETH:**

**WHEREAS**, capitalized terms used in these recitals and not otherwise defined shall have the meanings specified in Article I of this Agreement;

**WHEREAS**, the City, pursuant to the provisions of the Florida Constitution, Chapter 166, Florida Statutes, and other applicable provisions of law (all of the foregoing, collectively, the “Act”), and Resolution No. 8511, adopted by the City on September 14, 2009, is authorized to borrow money, and more particularly issue the Note described below for the City’s public purposes; and

**WHEREAS**, in response to a request for proposal by the City dated August 11, 2009, regarding an intended borrowing to refinance the City’s outstanding promissory note payable to Florida Municipal Power Agency (the “Refunded Note”), and related costs of issuance, the Bank submitted its commitment, dated August 21, 2009, to the City (the “Commitment”); and

**WHEREAS**, following recommendations by Larson Consulting Services, LLC, financial advisor to City, the City has accepted the Commitment and the Bank is willing to purchase the Note (as hereinafter defined), but only upon the terms and conditions of this Agreement;

**NOW, THEREFORE**, the parties hereto agree as follows:

## **ARTICLE I**

### **DEFINITION OF TERMS**

**Section 1.01. Definitions.** Capitalized terms used in this Agreement and not otherwise defined shall have the respective meanings as follows:

“Act” shall have the meaning assigned to that term in the recitals hereof.

“Agreement” shall mean this Loan Agreement and all modifications, alterations, amendments and supplements hereto made in accordance with the provisions hereof.

“Bank” shall mean Branch Banking and Trust Company, a North Carolina state banking corporation, and its successors and assigns.

“Bond Counsel” shall mean, Akerman Senterfitt, Orlando, Florida, or any other attorney at law or firm of attorneys of nationally recognized standing in matters pertaining to the federal

tax exemption of interest on obligations issued by states and political subdivisions hired by the City to render an opinion on such matters with regard to the Note.

“Business Day” shall mean any day other than a Saturday, a Sunday, or a day on which the office of the Bank at which payments on the Note are due is lawfully closed.

“City” shall mean the City of Leesburg, Florida, a municipal corporation of the State of Florida.

“City Clerk” shall mean the City Clerk or any Deputy City Clerk of the City and such other person as may be duly authorized to act on his or her behalf.

“City Manager” shall mean the City Manager of the City and such other person as may be duly authorized to act on his or her behalf.

“Code” shall mean the Internal Revenue Code of 1986, as amended from time to time, and the applicable rules and regulations promulgated thereunder.

“Communications Enterprise Revenues” shall mean the revenues received by the City from the rates and charges imposed by the City for “Telecommunication Services”.

“Debt Service” means principal and interest, and other debt-related costs, due in connection with the Note, as applicable.

“Default Rate” shall mean the Note Rate plus two percent (2%) provided such rate shall not exceed the highest rate of interest allowed by applicable law.

“Determination of Taxability” shall mean, with respect to the Note, any determination, decision or decree by the Commissioner or any District Director of the Internal Revenue Service, as such officers are identified by the Code, or any court of competent jurisdiction, or delivery of an opinion of Bond Counsel, that the interest payable under the Note is includable in the gross income (as defined in Section 61 of the Code) of the Holder as a result of the occurrence of a Taxable Event (as hereinafter defined).

“Event of Default” shall mean an Event of Default as defined in Section 5.01 of this Agreement.

“Final Maturity Date” shall mean the date on which all principal and all unpaid interest accrued on the Note shall be due and payable in full, which date shall be, if not sooner due to acceleration or prepayment, November 1, 2019.

“Finance Director” shall mean the City’s Finance Director or such other person as may be duly authorized to act on his or her behalf.

“Financial Advisor” shall mean Larson Consulting Services, LLC, Orlando, Florida.

“Fiscal Year” shall mean the 12-month period commencing October 1 of each year and ending on the succeeding September 30, or such other 12-month period as the City may designate as its “fiscal year” as permitted by law.

“Loan” shall refer to an amount equal to the outstanding principal of the Note, together with unpaid interest which has accrued.

“Non-Ad Valorem Revenues” shall mean all revenues of the City derived from any source whatsoever other than from ad valorem taxation on real or personal property and except for revenues of any enterprise fund of the City but inclusive of any enterprise fund revenues transferred to the City’s general fund, which are legally available to make the payments required herein, but only after provision has been made by the City for the payment of all essential or legally mandated services.

“Note” shall mean the City of Leesburg, Florida Capital Improvement Revenue Refunding Note, Series 2009 issued by the City under the Agreement and the Resolution.

“Note Rate” shall mean the rate of interest to be borne by the Note which shall be a fixed rate equal to 4.13% per annum calculated on the basis of a 360-day year of 12, 30-day months.

“Noteholder” or “Holder” shall mean the Bank as the holder of the Note and any subsequent registered holder of the Note.

“Payment Date” shall mean each May 1 and November 1, commencing November 1, 2010 until the Note has been paid in full.

“Pledged Revenues” shall mean the Communications Enterprise Revenues and Non-Ad Valorem Revenues budgeted and appropriated and set aside for the payment of debt service on the Note by the City in accordance with Section 4.03 hereof.

“Refunded Note” shall have the meaning set forth in the “Whereas” clauses to this Agreement.

“Resolution” shall mean Resolution No. 8511, adopted at a meeting of the City Commission on September 14, 2009, which, among other things, authorized and confirmed the borrowing of the Loan and execution and delivery of this Agreement and the issuance of the Note.

“Telecommunications Services” shall mean the following services and related infrastructure offered by the City’s Telecommunications Utility to the public: data transport (wireless or by fiber optic, ethernet or other cable), dark fiber leasing, tower rentals, internet services, and other services and the equipment and infrastructure required to utilize those services, for the purpose of transmitting electronic data or signals from one point to another.

**Section 1.02. Interpretation.** Unless the context clearly requires otherwise, words of masculine gender shall be construed to include correlative words of the feminine and neuter genders and vice versa, and words of the singular number shall be construed to include correlative words of the plural number and vice versa. Any capitalized terms used in this

Agreement not herein defined shall have the meaning ascribed to such terms in the Resolution. This Agreement and all the terms and provisions hereof shall be construed to effectuate the purpose set forth herein and to sustain the validity hereof.

**Section 1.03. Titles and Headings.** The titles and headings of the Articles and Sections of this Agreement, which have been inserted for convenience of reference only and are not to be considered a part hereof, shall not in any way modify or restrict any of the terms and provisions hereof, and shall not be considered or given any effect in construing this Agreement or any provision hereof or in ascertaining intent, if any question of intent should arise.

## **ARTICLE II**

### **REPRESENTATIONS AND WARRANTIES OF THE PARTIES**

**Section 2.01. Representations and Warranties of City.** The City represents and warrants to the Bank as follows:

(a) Existence. The City is a municipal corporation of the State of Florida, duly created and validly existing under the laws of the State of Florida, with full power to enter into this Agreement, to perform its obligations hereunder and to issue and deliver the Note to the Bank. The making, execution and performance of this Agreement on the part of the City and the issuance and delivery of the Note have been duly authorized by all necessary action on the part of the City and will not violate or conflict with the Act, or any agreement, indenture or other instrument by which the City or any of its material properties is bound.

(b) Validity, Etc. This Agreement, the Note and the Resolution are valid and binding obligations of the City enforceable against the City in accordance with their respective terms, except to the extent that enforceability may be subject to valid bankruptcy, insolvency, financial emergency, reorganization, moratorium or similar laws relating to or from time to time affecting the enforcement of creditors' rights and except to the extent that the availability of certain remedies may be precluded by general principles of equity.

(c) No Financial Material Adverse Change. No material adverse change in the financial condition of the City or the Pledged Revenues has occurred since the audited financial statements of the City for its year ended September 30, 2008.

(d) Powers of City. The City has the legal power and authority to pledge the Pledged Revenues to the repayment of the Loan as described herein.

(e) Authorizations, etc. No authorization, consent, approval, license, exemption or registration or filing with any court or governmental department, commission, board, bureau, agency or instrumentality, domestic or foreign, has been or will be necessary for the valid execution, delivery and performance by the City of this Agreement, the Note and the related documents, except such as have been obtained, given or accomplished.

**Section 2.02. Covenants of the City.** The City covenants as follows:

The City will furnish to the Bank (i) within 210 days following the end of each Fiscal

Year, a comprehensive annual financial report of the City for such Fiscal Year, which shall include a balance sheet and income statement as of the end of such Fiscal Year, and an audit report of an independent CPA and (ii) by November 15 of each year the current annual budget of the City. Included as part of the annual financial report will be a schedule showing Communications Enterprise Revenues for such Fiscal Year and the debt service for such Fiscal Year on all debt secured by Communications Enterprise Revenues.

**Section 2.03. Representations and Warranties of Bank.** The Bank represents and warrants to the City as follows:

(a) Existence. The Bank is a North Carolina state banking corporation, authorized to do business in the State of Florida, with full power to enter into this Agreement, to perform its obligations hereunder and to make the Loan. The performance of this Agreement on the part of the Bank and the making of the Loan have been duly authorized by all necessary action on the part of the Bank and will not violate or conflict with applicable law or any material agreement, indenture or other instrument by which the Bank or any of its material properties is bound.

(b) Validity. This Agreement is a valid and binding obligation of the Bank enforceable against the Bank in accordance with its terms, except to the extent that enforceability may be subject to valid bankruptcy, insolvency, financial emergency, reorganization, moratorium or similar laws relating to or from time to time affecting the enforcement of creditors' rights (and specifically creditors' rights as the same relate to banks) and except to the extent that the availability of certain remedies may be precluded by general principles of equity.

(c) Knowledge and Experience. The Bank (i) has such knowledge and experience in financial and business matters that it is capable of evaluating the merits and risks of making the Loan and investing in the Note, (ii) has received and reviewed such financial information concerning the Pledged Revenues as it has needed in order to fairly evaluate the merits and risks of making the Loan and investing in the Note; and (iii) is purchasing the Note as an investment for its own account and not with a current view toward resale to the public.

## ARTICLE III

### THE NOTE

**Section 3.01. Purpose and Use.** On the date of this Agreement, the Bank shall make available to the City the Loan in the principal amount of One Million Five Thousand Dollars (\$1,005,000.00). The proceeds available under this Agreement shall be used solely to refinance the Refunded Note and to pay costs of issuing the Note.

**Section 3.02. The Note.** The Note shall be substantially in the form set forth as **Exhibit A** to this Agreement. The general terms of the Note shall be as follows:

(a) Amount of Note. The aggregate principal amount of the Note shall be One Million Five Thousand Dollars (\$1,005,000.00).

(b) Interest. The Note shall bear interest at the Note Rate payable on each Payment Date. Upon the occurrence of one or more of the events specified in Section 3.03 of this

Agreement, the Note Rate shall be adjusted as therein provided. Interest on the Note shall be computed on the basis of 12, 30-day months and a 360-day year.

(c) **Prepayments and Principal Payments.** The Note shall be subject to prepayment at the option of the City, in whole on any Payment Date, from any legally available monies at a prepayment price of 101% of the principal amount to be redeemed, plus accrued interest to the prepayment date. Any prepayment shall be made on such date as shall be specified by the City in a written notice delivered to the Noteholder not less than five (5) days prior to the specified prepayment date. Any prepayment shall be applied first to accrued interest, then to other amounts owed the Bank, and finally to principal.

Principal on the Note is payable on each November 1 commencing November 1, 2010 as set forth in the Note.

**Section 3.03. Adjustments to Note Rate.** The Note Rate shall be subject to adjustment by the Bank as hereinafter described and as provided in the Note.

In the event of a Determination of Taxability, the Note Rate shall be adjusted to cause the yield on the Note to equal what the yield on the Note would have been absent such Determination of Taxability (the "Taxable Rate") effective retroactively to the date on which such Determination of Taxability was made. Immediately upon a Determination of Taxability, the City agrees to pay to the Noteholder subject to such Determination of Taxability the Additional Amount (as defined herein). "Additional Amount" means (i) the difference between (a) interest on the Note for the period commencing on the date on which the interest on such Note (or portion thereof) loses its "tax-exempt" status and ending on the earlier of the date such Note ceased to be outstanding or such adjustment is no longer applicable to such Note (the "Taxable Period") at a rate equal to the Taxable Rate and (b) the aggregate amount of interest payable on such Note for the Taxable Period under the provisions of such Note without considering the Determination of Taxability, plus (ii) any penalties and interest paid or payable by such Noteholder to the Internal Revenue Service by reason of such Determination of Taxability.

If the tax laws or regulations are amended subsequent to the date hereof to cause the interest on the Note to become subject to a minimum tax or an alternative minimum tax or to otherwise decrease the yield on the Note to the Noteholder (directly or indirectly, other than a change as a result of a Determination of Taxability) or the Note ceases to be a "qualified Tax-Exempt obligation" then the Note Rate on the Note shall be adjusted to cause the yield on the Note to equal what the yield on the Note would have been in the absence of such change or amendment in the tax laws or regulations or other cause. If the tax laws or regulations are amended to increase yield on the Note to the Noteholder, then the Noteholder shall adjust the interest rate on the Note to cause the yield on the Note to equal what the yield on the Note would have been in the absence of such change or amendment in the tax laws or regulations.

The Noteholder shall promptly notify the City in writing of any adjustments pursuant hereto. Such adjustments shall become effective as of the effective date of the event causing such adjustment. Adjustments pursuant hereto may be retroactive. The Noteholder shall certify to the City in writing the additional amount, if any, due to the Noteholder as a result of an



adjustment pursuant hereto. Notwithstanding any provision hereto the contrary, in no event shall the interest rate on the Note exceed the maximum rate permitted by law.

**Section 3.04. Conditions Precedent to Issuance of Note.** Prior to or simultaneously with the delivery of the Note, there shall be filed with the Bank the following, each in form and substance reasonably acceptable to the Bank:

(a) an opinion of legal counsel to the City substantially to the effect that (i) the Resolution has been duly adopted and this Agreement and the Note has been duly authorized, executed and delivered by the City and each constitutes a valid, binding and enforceable agreement of the City in accordance with their respective terms, except to the extent that the enforceability of the rights and remedies set forth therein may be limited by bankruptcy, insolvency, financial emergency or other laws affecting creditors' rights generally or by usual equity principles; (ii) the City's execution, delivery and performance of this Agreement and execution and issuance of the Note are not subject to any authorization, consent, approval or review of any governmental body, public officer or regulatory authority not heretofore obtained or effected; (iii) the execution, issuance and delivery of the Note has been duly and validly authorized by the City, and the Note constitutes a valid and binding special obligation of the City enforceable in accordance with its terms; (iv) the City (A) is a municipal corporation duly organized and validly existing under the laws of the State of Florida, and (B) has power and authority to adopt the Resolution, to execute and deliver this Agreement, to execute and deliver the Note, and to consummate the transactions contemplated by such instruments; (v) the execution, delivery and performance of the Note and this Agreement, and compliance with the terms thereof and hereof, under the circumstances contemplated hereby, do not and will not in any material respect conflict with, or constitute on the part of the City a breach or default under, any indenture, mortgage, deed of trust, agreement or other instrument to which the City or to which its properties are subject or conflict with, violate or result in a breach of any existing law, administrative rule or regulation, judgment, court order or consent decree to which the City or its properties are subject; (vi) to the best of such counsel's knowledge, there is no claim, action, suit, proceeding, inquiry, investigation, litigation or other proceeding, at law or in equity, pending or threatened in any court or other tribunal, state or federal (W) restraining or enjoining, or seeking to restrain or enjoin, the issuance, sale, execution or delivery of the Note, (X) in any way questioning or affecting the validity or enforceability of any provision of this Agreement, the Note, or the Resolution, (Y) in any way questioning or affecting the validity of any of the proceedings or authority for the authorization, sale, execution or delivery of the Note, or of any provision made or authorized for the payment thereof, or (Z) questioning or affecting the organization or existence of the City or the right of any of its officers to their respective offices; (vii) the City has the legal authority to refinance the Refunded Note and to pay associated costs of issuance, to grant a lien on the Pledged Revenues as described herein and in the Resolution; and (viii) all conditions contained in the ordinances and resolutions of the City precedent to the issuance of the Note have been complied with;

(b) an opinion of Bond Counsel (who may rely on opinion of legal counsel to the City), substantially to such effect that such counsel is of the opinion that: (i) this Loan Agreement constitutes a valid and binding obligation of the City enforceable upon the City in accordance with its terms; (ii) the Note is a valid and binding special obligation of the City enforceable in accordance with its terms, payable solely from the sources provided therefor in

this Loan Agreement; (iii) assuming compliance by the City with certain covenants relating to requirements contained in the Code interest on the Note is excluded from gross income for purposes of federal income taxation; and (iv) the Note is a “qualified tax-exempt obligation” within the meaning of Section 265(b)(3) of the Code;

(c) a copy of a completed and executed Form 8038-G to be filed with the Internal Revenue Service by the City;

(d) the original executed Note and Agreement; and

(e) such other documents as the Bank reasonably may request (including, without limitation, appropriate executed Florida Division of Bond Finance forms).

When the documents and items mentioned in clauses (a) through (e), inclusive, of this Section shall have been filed with the Bank, and when the Note shall have been executed as required by this Agreement, and all conditions of the Resolution have been met, the City shall deliver the Note to or upon the order of the Bank upon receipt of the purchase price therefor.

**Section 3.05. Registration of Transfer; Assignment of Rights of Bank.** The City shall keep at the office of the City Clerk in the City’s records the registration of the Note and the registration of transfers of the Note as provided in this Agreement. The transfer of the Note may be registered only upon the books kept for the registration of the Note and registration of transfer thereof upon surrender thereof to the City together with an assignment duly executed by the Bank or its attorney or legal representative in the form of the assignment set forth on the form of the Note attached as **Exhibit A** to this Agreement; provided, however, that the Note may be transferred only in whole and not in part. In the case of any such registration of transfer, the City shall execute and deliver in exchange for the Note a new Note registered in the name of the transferee. In all cases in which the Note shall be transferred hereunder, the City shall execute and deliver at the earliest practicable time a new Note in accordance with the provisions of this Agreement. The City may make a charge for every such registration of transfer of a Note sufficient to reimburse it for any tax or other governmental charges required to be paid with respect to such registration of transfer, but no other charge shall be made for registering the transfer hereinabove granted. The Note shall be issued in fully registered form and shall be payable in any lawful coin or currency of the United States.

The registration of transfer of the Note on the registration books of the City shall be deemed to effect a transfer of the rights and obligations of the Bank under this Agreement to the transferee. Thereafter, such transferee shall be deemed to be the Bank under this Agreement and shall be bound by all provisions of this Agreement that are binding upon the Bank. The City and the transferor shall execute and record such instruments and take such other actions as the City and such transferee may reasonably request in order to confirm that such transferee has succeeded to the capacity of Bank under this Agreement and the Note.

The registered owner of the Note is hereby granted power to transfer absolute title thereof by assignment thereof to a bona fide purchaser for value (present or antecedent) without notice of prior defenses or equities or claims of ownership enforceable against such owner’s assignor or any person in the chain of title and before the maturity of the Note; provided, however, that the

Note may be transferred only in whole and not in part and provided further, that no transfer shall be permitted absent the City's (and the Bank's) receipt of a certificate in form and substance similar to the one included as part of **Exhibit A** hereto from such proposed transferee. Every prior registered owner of the Note shall be deemed to have waived and renounced all of such owner's equities or rights therein in favor of every such bona fide purchaser, and every such bona fide purchaser shall acquire absolute title thereto and to all rights represented thereby.

In the event any Note is mutilated, lost, stolen, or destroyed, the City shall execute a new Note of like date and denomination as that mutilated, lost, stolen or destroyed, provided that, in the case of any mutilated Note, such mutilated Note shall first be surrendered to the City, and in the case of any lost, stolen, or destroyed Note, there first shall be furnished to the City evidence of such loss, theft or destruction together with an indemnity satisfactory to it.

**Section 3.06. Ownership of the Note.** The person in whose name the Note is registered shall be deemed and regarded as the absolute owner thereof for all purposes, and payment of or on account of the Note shall be made only to the registered owner thereof or such owner's legal representative. All such payments shall be valid and effectual to satisfy and discharge the liability upon the Note, and interest thereon, to the extent of the sum or sums so paid.

**Section 3.07. Use of Proceeds of Note Permitted Under Applicable Law.** The City represents, warrants and covenants that the proceeds of the Note will be used solely to refinance the Refunded Note and costs of issuance of the Note, and that such use is permitted by applicable law.

**Section 3.08. Authentication.** Until the Note shall have endorsed thereon a certificate of authentication substantially in the form set forth in Exhibit A, duly executed by the manual signature of the registrar as authenticating agent, it shall not be entitled to any benefit or security under this Loan Agreement. The Note shall not be valid or obligatory for any purpose unless and until such certificate of authentication shall have been duly executed by the registrar, and such certificate of the registrar upon the Note shall be conclusive evidence that such Note has been duly authenticated and delivered under this Loan Agreement.

## ARTICLE IV

### COVENANTS OF THE CITY

**Section 4.01. Performance of Covenants.** The City covenants that it will perform faithfully at all times its covenants, undertakings and agreements contained in this Agreement and the Note or in any proceedings of the City relating to the Loan.

**Section 4.02. Payment of Note.**

(a) The City does hereby irrevocably pledge the Pledged Revenues as security for the repayment of the Note.

(b) The Note will be a special obligation of the City secured solely by the Pledged Revenues and is payable from the Pledged Revenues as provided in this Agreement. The Note will not constitute a general debt, liability or obligation of the City or the State of Florida or any

political subdivision thereof within the meaning of any constitutional or statutory limitation. Neither the faith and credit nor the taxing power of the City or of the State of Florida or any political subdivision thereof is pledged to the payment of the principal of or interest on the Note and the Noteholder shall never have the right to compel any exercise of any ad valorem taxing power of the City or of the State of Florida or any political subdivision thereof, directly or indirectly to enforce such payment. The Note shall not constitute a lien upon any property of the City except upon the Pledged Revenues.

**Section 4.03. Covenant to Budget and Appropriate.** Until the Note is paid or deemed paid pursuant to the provisions of this Agreement, subject to the next paragraph, the City covenants and agrees to appropriate in its annual budget, by amendment, if necessary, from Non Ad-Valorem Revenues in each Fiscal Year and which are lawfully available to pay debt service on the Note, amounts sufficient to pay principal of and interest on the Note and other costs and expenses due and payable to the Bank under this Agreement as the same shall become due but only to the extent Communications Enterprise Revenues are insufficient to make such payments. Such covenant and agreement on the part of the City to budget and appropriate such amounts of legally available Non-Ad Valorem Revenues shall be cumulative to the extent not paid, and shall continue until such Non-Ad Valorem Revenues or other legally available funds in amounts sufficient to make all such required payments shall have been budgeted, appropriated and actually paid. No lien upon or pledge of such Non-Ad Valorem Revenues shall be in effect until such moneys are budgeted and appropriated and set aside for such payments. The City shall promptly set aside for the payments due on the Note any Non-Ad Valorem Revenues so budgeted and appropriated. The City further acknowledges and agrees that the obligations of the City to include the amount of any deficiency in payments in each of its annual budgets and to pay such deficiencies from legally available Non-Ad Valorem Revenues may be enforced in a court of competent jurisdiction in accordance with the remedies set forth herein.

Such covenant to budget and appropriate does not create any lien upon or pledge of such Non-Ad Valorem Revenues, nor does it preclude the City from pledging in the future its Non-Ad Valorem Revenues nor does it require the City to levy and collect any particular Non- Ad Valorem Revenues, nor does it give the holders of the Note a prior claim on the Non-Ad Valorem Revenues as opposed to claims of general creditors of the City. Such covenant to budget and appropriate legally available Non-Ad Valorem Revenues is subject in all respects to the prior payment of obligations secured by a pledge of such Non-Ad Valorem Revenues heretofore or hereafter entered into (including the payment of debt service on notes and other debt instruments). Anything in this Agreement to the contrary notwithstanding, it is understood and agreed that the obligations of the City under this section shall be payable from the portion of legally available Non-Ad Valorem Revenues budgeted and appropriated as provided for hereunder and nothing herein shall be deemed to pledge ad valorem tax revenues or to permit or constitute a mortgage or lien upon any assets owned by the City and no holder of the Note nor any other person, may compel the levy of ad valorem taxes on real or personal property within the boundaries of the City. Notwithstanding any provisions of this Agreement or the Note to the contrary, the City shall never be obligated to maintain or continue any of the activities of the City which generate user service charges, regulatory fees or any Non-Ad Valorem Revenues. Neither this Agreement nor the obligations of the City under the Resolution shall be construed as a pledge of or a lien on all or any Non-Ad Valorem Revenues of the City other than the Pledged Revenues, but shall be payable solely as provided herein and is subject in all respects to the

provisions of Florida law which make it unlawful for any municipality to expend moneys not appropriated and in excess of such municipality's current budgeted revenues, and is subject, further, to the payment of services and programs which are for essential public purposes affecting the health, welfare and safety of the inhabitants of the City.

The covenant of the City to budget and appropriate Non-Ad Valorem Revenues contained in the first paragraph of this Section 4.03 shall be released from the provisions of this Agreement at such time as City audited financial statements for the City's two (2) most recent Fiscal Years (with the first Fiscal Year being no earlier than the Fiscal Year ended September 30, 2009) evidence that Communication Enterprise Revenues in each of such fiscal years equaled at least 150% of maximum amount of debt service on all debt secured by Communication Enterprise Revenues.

**Section 4.04. Tax Covenant.** The City covenants to the purchasers of the Note provided for in this Agreement that the City will not make any use of the proceeds of the Note at any time during the respective term of such Note which, if such use had been reasonably expected on the date the Note was issued, would have caused such Note to be an "arbitrage bond" within the meaning of the Code. The City will comply with the requirements of the Code and any valid and applicable rules and regulations promulgated thereunder necessary to insure the exclusion of interest on the Note from the gross income of the holders thereof for purposes of federal income taxation.

**Section 4.05. Financial Covenants.** The City will not while the Note is Outstanding issue any debt payable on a parity with the Note from the Communications Enterprise Revenues ("Additional Debt"), except upon the conditions and in the manner hereinafter provided:

(a) There shall have been obtained and filed with the City a certificate of the City's Finance Director stating: (i) that the City's audits for the two (2) most recent Fiscal Years have been reviewed by him; and (ii) the average amount of the Communications Enterprise Revenues for such Fiscal Years computed by dividing the total of Communication Enterprise Revenues for such fiscal years by two (2) is at least equal to one hundred fifty percent (150%) of the maximum annual debt service becoming due in any Fiscal Year thereafter on all obligations secured by the Communications Enterprise Revenues, if any, then outstanding and on the Additional Debt with respect to which such certificate is made. In computing maximum annual debt service, any interest shall not include interest to the extent it is to be paid from a direct subsidy payment expected to be received from the United States Treasury relating to "Build America Bonds" issued pursuant to Section 54AA of the Code or any other interest subsidy or similar payments made by the federal government, and in the case of any Additional Debt which is to bear a variable interest rate, interest shall be calculated to be the higher of (i) the initial interest rate (if established and binding) or (ii) if (1) interest on the Additional Debt is excludable from gross income under the applicable provisions of the Internal Revenue Code, the most recent Bond Buyer 25 Bond Revenue Index (or comparable index if no longer published) plus fifty (50) basis points, or (2) if interest is not so excludable, the interest rate of direct U.S. Treasury Obligations with comparable maturities plus fifty (50) basis points.

(b) The City shall not be in default in the carrying out of any of the obligations assumed under this Agreement and no Event of Default shall have occurred under this

Agreement and shall be continuing, and all payments required by this Agreement shall have been made to the full extent required.

**Section 4.06. Compliance with Laws and Regulations.** The City shall maintain compliance with all federal, state and local laws and regulations applicable to the refinancing of the Refunded Note.

**Section 4.07. Enforcement of Collections.** The City will diligently enforce and collect the rates, fees and other charges constituting the Communication Enterprise Revenues and will take all steps, actions and proceedings for the enforcement and collection of such rates, charges and fees as shall become delinquent to the full extent permitted or authorized by law..

## ARTICLE V

### EVENTS OF DEFAULT AND REMEDIES

**Section 5.01. Events of Default.** Each of the following is hereby declared an “Event of Default:”

(a) payment of the principal of the Note shall not be made when the same shall become due and payable; or

(b) payment of any installment of interest on the Note shall not be made when the same shall become due and payable; or

(c) the City shall default in the due and punctual performance of any other of the covenants, conditions, agreements and provisions contained in the Note or in this Agreement and such default shall continue for thirty (30) days after written notice shall have been given to the City by the Noteholder specifying such default and requiring the same to be remedied; provided, however, that if, in the reasonable judgment of the Noteholder, the City shall proceed to take such curative action which, if begun and prosecuted with due diligence, cannot be completed within a period of thirty (30) days, then such period shall be increased to such extent as shall be necessary to enable the City to diligently complete such curative action; or

(d) any representation or warranty of the City contained in this Agreement or in any certificate or other closing document executed and delivered by the City in connection with the closing of the Loan shall prove to have been untrue in any material respect when executed and delivered, thereby adversely impairing the security for the Note; or

(e) any proceedings are instituted with the consent or acquiescence of the City, for the purpose of effecting a compromise between the City and its creditors or for the purpose of adjusting the claims of such creditors, pursuant to any federal or state statute now or hereinafter enacted; or

(f) the City admits in writing its inability to pay its debts generally as they become due, or files a petition in bankruptcy or makes an assignment for the benefit of its creditors, declares a financial emergency or consents to the appointment of a receiver or trustee for itself or shall file a petition or answer seeking reorganization or any arrangement under the federal

bankruptcy laws or any other applicable law or statute of the United States of America or any state thereof; or

(g) the City is adjudged insolvent by a court of competent jurisdiction or is adjudged bankrupt on a petition of bankruptcy filed against the City, or an order, judgment or decree is entered by any court of competent jurisdiction appointing, without the consent of the City, a receiver or trustee of the City or of the whole or any part of its property and any of the aforesaid adjudications, orders, judgments or decrees shall not be vacated or set aside or stayed within 60 days from the date of entry thereof; or

(h) if, under the provisions of any law for the relief or aid of debtors, any court of competent jurisdiction shall assume custody or control of the City or of the whole or any substantial part of its property and such custody or control shall not be terminated within 90 days from the date of assumption of such custody or control.

**Section 5.02. Exercise of Remedies.** Upon the occurrence and during the continuance of an Event of Default, the Note shall bear interest at the Default Rate and all payments made on the Note during any such period shall be applied first to interest and then to principal. Upon the occurrence and during the continuance of an Event of Default, a Noteholder may proceed to protect and enforce its rights under the laws of the State of Florida or under this Agreement by such suits, actions or special proceedings in equity or at law, or by proceedings in the office of any board or officer having jurisdiction, either for the specific performance of any covenant or agreement contained herein or in aid or execution of any power herein granted or for the enforcement of any proper legal or equitable remedy, as a Noteholder shall deem most effective to protect and enforce such rights. Without limiting the generality of the foregoing, the Noteholder shall have the right to bring a mandamus action to require the City to perform its obligations under this Agreement, provided, the Holder shall never have the right to compel the exercise of the ad valorem taxing power of the City, or taxation on any form of any property therein to pay the Note or the interest thereon.

In the enforcement of an Event of Default other than an Event of Default pursuant to (c) or (d) of 5.01 hereof, to the extent permitted by law, a Noteholder shall be entitled to sue for, enforce payment of and receive any and all amounts then or thereafter becoming due from the City for principal, interest or otherwise under any of the provisions of this Agreement or of the Note then unpaid, with interest on overdue payments of principal and interest (to the extent permitted by law) at the Default Rate, together with any and all costs and expenses of collection and of all proceedings hereunder and under the Note (including, without limitation, reasonable legal fees in all proceedings, including administrative, appellate and bankruptcy proceedings), but payable solely from the Pledged Revenues, without prejudice to any other right or remedy of the Noteholder, and to recover and enforce any judgment or decree against the City, but solely as provided herein and in the Note, for any portion of such amounts remaining unpaid and interest, costs, and expenses as above provided, and to collect (but only from the Pledged Revenues) in any manner provided by law, the moneys adjudged or decreed to be payable.

**Section 5.03. Remedies Not Exclusive.** No remedy herein conferred upon or reserved to a Noteholder is intended to be exclusive of any other remedy or remedies herein provided, and

each and every such remedy shall be cumulative and shall be in addition to every other remedy given hereunder.

**Section 5.04. Waivers, Etc.** No delay or omission of a Noteholder to exercise any right or power accruing upon any default shall impair any such right or power or shall be construed to be a waiver of any such default or any acquiescence therein; and every power and remedy given by this Agreement to a Noteholder may be exercised from time to time and as often as may be deemed expedient.

A Noteholder may waive any default which in its opinion shall have been remedied before the entry of final judgment or decree in any suit, action or proceeding instituted by it under the provisions of this Agreement or before the completion of the enforcement of any other remedy under this Agreement, but no such waiver shall be effective unless in writing and no such waiver shall extend to or affect any other existing or any subsequent default or defaults or impair any rights or remedies consequent thereon.

## ARTICLE VI

### MISCELLANEOUS PROVISIONS

**Section 6.01. Covenants of City, Etc.; Successors.** All of the covenants, stipulations, obligations and agreements contained in this Agreement shall be deemed to be covenants, stipulations, obligations and agreements of the City to the full extent authorized or permitted by law, and all such covenants, stipulations, obligations and agreements shall be binding upon the successor or successors thereof from time to time, and upon any officer, board, commission, authority, agency or instrumentality to whom or to which any power or duty affecting such covenants, stipulations, obligations and agreements shall be transferred by or in accordance with law.

**Section 6.02. Term of Agreement.** This Agreement shall be in full force and effect from the date hereof until the Note and all other sums payable to the Bank hereunder have been paid in full.

**Section 6.03. Amendments and Supplements.** This Agreement may be amended or supplemented from time to time only by a writing duly executed by each of the City and the Noteholders.

**Section 6.04. Notices.** Any notice, demand, direction, request or other instrument authorized or required by this Agreement to be given to or filed with the City or the Bank, shall be deemed to have been sufficiently given or filed for all purposes of this Agreement if and when sent by certified mail, return receipt requested:



(a) As to the City:

City of Leesburg, Florida  
501 Meadow Street  
Leesburg, Florida 34749  
Attention: Finance Director

(b) As to the Bank:

Branch Banking and Trust Company  
5130 Parkway Plaza Boulevard, Building No. 9  
Charlotte, NC 28217  
Attention: Account Administration/Municipal

or at such other address as shall be furnished in writing by any such party to the other, and shall be deemed to have been given as of the date so delivered or deposited in the United States mail.

Either party may, by notice sent to the other, designate a different or additional address to which notices under this Agreement are to be sent.

**Section 6.05. Benefits Exclusive.** Except as herein otherwise provided, nothing in this Agreement, expressed or implied, is intended or shall be construed to confer upon any person, firm or corporation, other than the City and the Noteholder, any right, remedy or claim, legal or equitable, under or by reason of this Agreement or any provision hereof, this Agreement and all its provisions being intended to be and being for the sole and exclusive benefit of the City and the Noteholder.

**Section 6.06. Severability.** In case any one or more of the provisions of this Agreement, any amendment or supplement hereto or of the Note shall for any reason be held to be illegal or invalid, such illegality or invalidity shall not affect any other provision of this Agreement, any amendment or supplement hereto or the Note, but this Agreement, any amendment or supplement hereto and the Note shall be construed and enforced at the time as if such illegal or invalid provisions had not been contained therein, nor shall such illegality or invalidity or any application thereof affect any legal and valid application thereof from time to time. In case any covenant, stipulation, obligation or agreement contained in the Note or in this Agreement shall for any reason be held to be in violation of law, then such covenant, stipulation, obligation, or agreement shall be deemed to be the covenant, stipulation, obligation or agreement of the City to the full extent from time to time permitted by law.

**Section 6.07. Payments Due on Saturdays, Sundays and Holidays.** In any case where the date of maturity of interest on or principal of the Note or the date fixed for prepayment of the Note shall be a Saturday, Sunday or a day on which the Bank is required, or authorized or not prohibited, by law (including executive orders) to close and is closed, then payment of such interest or principal shall be made on the next succeeding day on which the Bank is open for business with the same force and effect as if paid on the date of maturity or the date fixed for prepayment, and no interest on any such principal amount shall accrue for the period after such date of maturity or such date fixed for prepayment.

**Section 6.08. Counterparts.** This Agreement may be executed in any number of counterparts, each of which when so executed and delivered, shall be an original; but such counterparts shall together constitute but one and the same Agreement, and, in making proof of this Agreement, it shall not be necessary to produce or account for more than one such counterpart.

**Section 6.09. Applicable Law.** This Agreement shall be governed exclusively by and construed in accordance with the applicable laws of the State of Florida.

**Section 6.10. No Personal Liability.** Notwithstanding anything to the contrary contained herein or in the Note, or in any other instrument or document executed by or on behalf of the City in connection herewith, no stipulation, covenant, agreement or obligation of any present or future member of the City Commission, officer, employee or agent of the City, officer, employee or agent of a successor to the City, in any such person's individual capacity, and no such person, in his or her individual capacity, shall be liable personally for any breach or non-observance of or for any failure to perform, fulfill or comply with any such stipulations, covenants, agreements or obligations, nor shall any recourse be had for the payment of the principal of or interest on the Note or for any claim based thereon or on any such stipulation, covenant, agreement or obligation, against any such person, in his or her individual capacity, either directly or through the City or any successor to the City, under any rule or law or equity, statute or constitution or by the enforcement of any assessment or penalty or otherwise and all such liability of any such person, in his or her individual capacity, is hereby expressly waived and released.

**Section 6.11. Incorporation by Reference.** All of the terms and obligations of the Resolution and the Exhibit hereto are hereby incorporated herein by reference as if all of the foregoing were fully set forth in this Agreement. All recitals appearing at the beginning of this Agreement are hereby incorporated herein by reference.

*[SIGNATURES ON FOLLOWING PAGE]*

[Signature Page for LOAN AGREEMENT  
dated as of October 2, 2009 between  
the City of Leesburg, FL and Branch Banking and Trust Company]

**IN WITNESS WHEREOF**, the parties hereto have caused this Agreement to be duly executed as of the date first set forth herein.

**CITY OF LEESBURG, FLORIDA**

[SEAL]

ATTEST:

By:   
Mayer

  
City Clerk

Approved as to form  
and correctness:

  
City Attorney

**BRANCH BANKING AND TRUST  
COMPANY**

By:   
Title: Authorized Officer

## EXHIBIT A

### FORM OF NOTE

PRIOR TO BECOMING A HOLDER, A PROPOSED PURCHASER SHALL EXECUTE A PURCHASER'S CERTIFICATE IN THE FORM ATTACHED HERETO CERTIFYING, AMONG OTHER THINGS, THAT SUCH HOLDER IS AN "ACCREDITED INVESTOR" AS SUCH TERM IS DEFINED IN THE SECURITIES ACT OF 1933, AS AMENDED, AND REGULATION D THEREUNDER.

**CITY OF LEESBURG, FLORIDA  
CAPITAL IMPROVEMENT REVENUE REFUNDING NOTE,  
SERIES 2009**

<u>Principal Sum</u>	<u>Maturity Date</u>	<u>Note Rate</u>	<u>Date of Issuance</u>
\$1,005,000.00	November 1, 2019	4.13%	October 2, 2009

The CITY OF LEESBURG, FLORIDA (the "City"), for value received, hereby promises to pay, solely from the sources described in the within mentioned Agreement, to the order of BRANCH BANKING AND TRUST COMPANY, a North Carolina state banking corporation, or its assigns (the "Holder"), at 5130 Parkway Plaza Boulevard, Building No. 9, Charlotte, NC 28217, Attention: Account Administration/Municipal, or at such other place as the Holder may from time to time designate in writing, the Principal Sum stated above on the Maturity Date stated above, together with any accrued and unpaid interest, and to pay interest on the outstanding principal amount hereof from the most recent date to which interest has been paid or provided for, or if no interest has been paid, from the Date of Issuance shown above, on May 1 and November 1 of each year (each, an "Interest Payment Date"), commencing on November 1, 2010, until payment of said principal sum has been made or provided for, at the Note Rate. Payments due hereunder shall be payable in any coin or currency of the United States of America which, at the time of payment, is legal tender for the payment of public and private debts, which payments shall be made to the Holder hereof by check mailed to the Holder at the address designated in writing by the Holder for purposes of payment or by bank wire or bank transfer as such Holder may specify in writing to the City or otherwise as the City and the Holder may agree.

The Note is subject to mandatory redemption in part prior to maturity, on November 1, 2010 and on each November 1 thereafter, at a redemption price equal to the principal amount thereof and accrued interest thereon to the redemption date, without premium as follows:

<u>Year</u>	<u>Principal Amount</u>
2010	\$80,000
2011	85,000
2012	90,000
2013	95,000
2014	100,000
2015	105,000
2016	105,000
2017	110,000
2018	115,000
2019	120,000

The Note Rate may be adjusted in accordance with Sections 3.03 of that certain Loan Agreement by and between the Holder and the City, dated as of October 2, 2009 (the "Agreement"). Such adjustments may be retroactive.

All capitalized terms not otherwise defined herein shall have the meanings ascribed to such terms in the Agreement.

The Note may be prepaid by the City in whole, but not in part, on any Payment Date as provided in the Agreement from any legally available monies at a prepayment price of 101% of the principal amount to be redeemed, plus accrued interest to the prepayment date. Prepayment shall be made on such date as shall be specified by the City in a written notice delivered to the Holder not less than five (5) days prior to the specified prepayment date. Any prepayments shall be applied as provided in Section 3.02(c) of the Agreement.

Notice having been given as aforesaid, the principal amount to be prepaid shall become due and payable on the prepayment date stated in such notice, together with interest accrued and unpaid to the prepayment date on such principal amount; and the amount of principal and interest then due and payable shall be paid upon presentation and surrender of this Note to the office of the City. If, on the prepayment date, funds for the payment of the principal amount, together with interest to the prepayment date on such principal amount, shall have been given to the Holder, as above provided, then from and after the prepayment date interest on such principal amount of this Note shall cease to accrue.

This Note is authorized to be issued under the authority of and in full compliance with the Constitution and statutes of the State of Florida, including, particularly, Chapter 166, Florida Statutes and other applicable provisions of law and the City's Resolution No. 8511 effective September 14, 2009 (the "Resolution"), and is subject to all terms and conditions of the Agreement and the Resolution.

Notwithstanding any provision in this Note to the contrary, in no event shall the interest contracted for, charged or received in connection with this Note (including any other costs or

considerations that constitute interest under the laws of the State of Florida which are contracted for, charged or received) exceed the maximum rate of nonusurious interest allowed under the State of Florida as presently in effect and to the extent an increase is allowable by such laws, but in no event shall any amount ever be paid or payable by the City greater than the amount contracted for herein. In the event the maturity of this Note is accelerated or prepaid in accordance with the provisions hereof, the Agreement or the Resolution, then such amounts that constitute payments of interest, together with any costs or considerations which constitute interest under the laws of the State of Florida, may never exceed an amount which would result in payment of interest at a rate in excess of that permitted by Section 215.84(3), Florida Statutes, as presently in effect and to the extent an increase is allowable by such laws; and excess interest, if any, shall be cancelled automatically as of the date of such acceleration, or, if theretofore paid, shall be credited on the principal amount of this Note unpaid, but such crediting shall not cure or waive any default under the Agreement or Resolution.

THIS NOTE, WHEN DELIVERED BY THE CITY PURSUANT TO THE TERMS OF THE AGREEMENT AND THE RESOLUTION, SHALL NOT BE OR CONSTITUTE AN INDEBTEDNESS OF THE CITY OR THE STATE OF FLORIDA (THE "STATE"), WITHIN THE MEANING OF ANY CONSTITUTIONAL, STATUTORY OR CHARTER LIMITATIONS OF INDEBTEDNESS, BUT SHALL BE PAYABLE SOLELY FROM THE PLEDGED REVENUES, AS PROVIDED IN THE AGREEMENT AND THE RESOLUTION. THE HOLDER SHALL NEVER HAVE THE RIGHT TO COMPEL THE EXERCISE OF THE AD VALOREM TAXING POWER OF THE CITY, OR TAXATION IN ANY FORM OF ANY PROPERTY THEREIN TO PAY THIS NOTE OR THE INTEREST HEREON.

Upon the occurrence of an Event of Default the principal of this Note may become or be declared due and payable before the Maturity Date in the manner, with the effect and subject to the conditions set forth in the Agreement and Resolution. The Holder shall also have such other remedies as described in the Agreement.

The City hereby waives presentment, demand, protest and notice of dishonor. This Note is governed and controlled by the Agreement and reference is hereby made thereto regarding interest rate adjustments, acceleration, and other matters.

[REMAINDER OF PAGE INTENTIONALLY LEFT BLANK]

IN WITNESS WHEREOF, the City has caused this Note to be signed by its Mayor, either manually or with facsimile signature, and the seal of the City to be affixed hereto or imprinted or reproduced hereon, and attested by a City Clerk of the City, either manually or with facsimile signature, and this Note to be dated the Date of Issuance set forth above.

**CITY OF LEESBURG, FLORIDA**

[SEAL]

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

ATTEST:

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

Approved as to form and content:

\_\_\_\_\_  
City Attorney

FORM OF CERTIFICATE OF AUTHENTICATION

Date of Authentication:

This Note is being delivered pursuant to the within mentioned Agreement.

**CITY OF LEESBURG, FLORIDA,**  
as Registrar

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



ASSIGNMENT

FOR VALUE RECEIVED the undersigned sells, assigns and transfers unto \_\_\_\_\_ (please print or typewrite name, address and tax identification number of assignee) \_\_\_\_\_ the within Note and all rights thereunder, and hereby irrevocably constitutes and appoints \_\_\_\_\_ Attorney to transfer the within Note on the books kept for registration thereof, with full power of substitution in the premises.

Name of Noteholder: \_\_\_\_\_

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

## PURCHASER'S CERTIFICATE

---

City of Leesburg, Florida (the "City")

Ladies and Gentlemen:

The undersigned, as a purchaser of the City of Leesburg, Florida Capital Improvement Revenue Refunding Note, Series 2009 (the "Note") dated October 2, 2009, consisting of one typewritten Note, hereby certifies that we have been provided (a) a copy of City of Leesburg Resolution No. \_\_\_\_\_, adopted by the City on September 14, 2009, authorizing the issuance of the Note (the "Resolution"), (b) the Loan Agreement dated as of October 2, 2009, between the City and us as assignee of Branch Banking and Trust Company (the "Agreement") and (c) such financial and general information respecting the Pledged Revenues (as such term is defined in the Agreement) and the City, and the Note described above as we deem necessary to enable us to make an informed investment judgment with respect to the purchase of said Note.

We hereby make the following representations, which representations may be relied upon by the City:

- A. We are aware:
  - (i) that investment in the Note involves various risks;
  - (ii) that the Note is not a general obligation of the City; and
  - (iii) that the principal or premium, if any, and interest on the Note is payable solely from the Pledged Revenues as specified in the Resolution and the Agreement.
- B. We understand that no official statement, offering memorandum or other form of offering document was prepared or is being used in connection with the offering or sale of the Note (collectively, "Disclosure Documents"), but we have been afforded access to all information we have requested in making our decision to purchase the Note and have had sufficient opportunity to discuss the business of the City with its officers, employees and others. We have not requested any Disclosure Documents in connection with the sale of the Note. We do not require any further information or data incident to our purchase of the Note.
- C. In purchasing the Note, we have relied solely upon our own investigation, examination, and evaluation of the City, and other relevant matters.

- D. We have knowledge and experience in financial and business matters and are capable of evaluating the merits and risks of our investment in the Note and have determined that we can bear the economic risk of our investment in the Note.
- E. We acknowledge the understanding that the Note is not being registered under the Securities Act of 1933, as amended (the "1933 Act") or Chapter 517, Florida Statutes, and that the Resolution and Agreement are not being qualified under the Trust Indenture Act of 1939, as amended, and that the City shall have no obligation to effect any such registration or qualification.
- F. We are not acting as a bond house, broker or other intermediary, in our purchase of the Note. Although we retain the right to transfer the Note in the future, we understand that the Note may not be readily tradable.
- G. We have received all documents requested by us incident to our purchase of the Note.
- H. We acknowledge that we are an "accredited investor" within the meaning of Chapter 517, Florida Statutes and Regulation D of the 1933 Act.

Signed as of the \_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_.

[ \_\_\_\_\_ ]

By: \_\_\_\_\_  
Authorized Officer

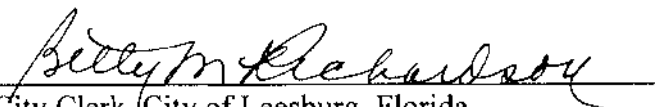
### INCUMBENCY CERTIFICATE

The undersigned, Betty M. Richardson, a duly appointed, qualified and acting City Clerk of the City of Leesburg, Florida (the "City") and the keeper of the records of the City, HEREBY CERTIFIES that:

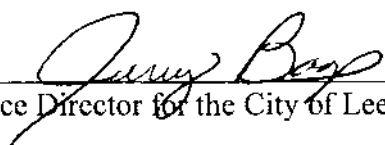
The following are now the duly appointed or elected, qualified and acting indicated officers of the City:

Lewis Puckett, Mayor  
Fred A. Morrison of McLin & Burnsed, P.A., City Attorney  
Jay Evans, City Manager  
Jerry Boop, Finance Director

IN WITNESS WHEREOF, I have hereunto set my hand as of this 2<sup>nd</sup> day of October, 2009.

  
City Clerk, City of Leesburg, Florida

I, Jerry Boop, Finance Director for the City of Leesburg, Florida, do hereby certify that Betty M. Richardson is a duly qualified City Clerk of the City of Leesburg, Florida.

  
Finance Director for the City of Leesburg, Florida

**\$1,005,000**  
**CITY OF LEESBURG, FLORIDA**  
**CAPITAL IMPROVEMENT REVENUE REFUNDING NOTE, SERIES 2009**

**FEDERAL TAX CERTIFICATE**

I, JERRY BOOP, Finance Director of the City of Leesburg, Florida (the “Issuer”), HEREBY CERTIFY with respect to the Issuer’s \$1,005,000 Capital Improvement Revenue Refunding Note, Series 2009 (the “2009 Note”), which is being issued and delivered on the date of this certificate, as follows:

1. The 2009 Note is being issued under and pursuant to Chapter 166, Florida Statutes, Resolution No. 8511 of the City of Leesburg, Florida adopted on September 14, 2009 (the “Resolution”), and a Loan Agreement dated as of the date hereof between the Issuer and Branch Banking and Trust Company (the “Agreement”). Unless defined herein, capitalized terms have the meanings given them in the Resolution or the Agreement.

2. I am one of the officers of the Issuer charged with the responsibility for issuing the 2009 Note.

3. This certificate is made for the purpose of establishing the reasonable expectations of the Issuer as to the amount and use of the proceeds of the 2009 Note. It is intended and may be relied upon for purposes of Sections 103 and 148 of the Internal Revenue Code of 1986, as amended (the “Code”), as a certification described in Section 1.148-2(b)(2) of the Treasury Regulations. This Federal Tax Certificate is being executed and delivered as part of the record of proceedings in connection with the issuance of the 2009 Note.

4. This certificate sets forth the facts, estimates and circumstances now in existence which are the basis for the Issuer’s expectation that the proceeds of the 2009 Note will not be used in a manner that would cause the interest on the 2009 Note to become includable in gross

income for federal income tax purposes within the meaning of the Code. The undersigned has investigated such facts, estimates and circumstances and has had the opportunity to discuss with Bond Counsel any of the matters set forth herein. To the best of my knowledge and belief, such expectation is reasonable and there are no further facts estimates or circumstances that would materially change that expectation.

5. The 2009 Note is being issued for the purpose of providing funds to (i) retire on the date hereof the Refunded Note and (ii) to pay costs of issuing and delivering the 2009 Note.

a. The proceeds of the Refunded Note were used to construct a portion of the City owned and operated fiber optic cable communication system (the “Refunded Project”). The Refunded Project has been continuously owned and operated by the City. The Refunded Note was issued by Florida Municipal Power Agency (“FMPA”) pursuant to a loan agreement dated November 1, 2004 between FMPA and the City. Because of adverse conditions in the credit and liquidity markets for obligations like the Refunded Note, FMPA has requested that the City refinance the Refunded Note.

b. No portion of the proceeds of the 2009 Note will be used directly or indirectly to make loans to persons other than a governmental unit.

6. The 2009 Note is being issued in the principal amount of \$1,005,000 and will mature on the date and bear interest at the rate, all as set forth in the Resolution and Agreement.

7. The proceeds of the 2009 Note, together with available earnings from the investment of such proceeds, do not exceed the amount necessary for the purposes for the 2009 Note.

8. The Issuer does not expect to sell or otherwise dispose of, other than in the ordinary course of business, any portion of the Refunded Project prior to the final maturity of the 2009 Note.

9. The Issuer has covenanted as provided in the Agreement to pay debt service due on the 2009 Note on May 1 and November 1 from Pledged Revenues.

Amounts which are set aside for the payment of the principal of and interest on the 2009 Note may be invested without regard to yield restrictions for a period not to exceed thirteen (13) months from the date such amounts are set aside. Any amounts not expended within the period set forth above shall be invested at a yield not in excess of the yield on the 2009 Note. Proceeds of the 2009 Note to be expended to pay costs of issuing the 2009 Note are expected to be so expended within sixty (60) days of the date hereof and may be invested at an unrestricted yield until so expended.

10. As of the date of issuance of the Refunded Note, the City reasonably expected that at least 85 percent of the spendable proceeds of the Refunded Note would be expended within 3 years of the date of issuance of such Refunded Note. In addition, not more than 50 percent of the proceeds of the Refunded Note were invested in obligations having a substantially guaranteed yield for a period of 4 years or more.

11. All proceeds of the Refunded Note have been expended and were expended solely to acquire and construct the Refunded Project and to pay costs of issuing the Refunded Note.

12. As of the date hereof, the yield on the 2009 Note is at least 4.1199% (the "Series 2009 Note Yield").

The purchase price of all obligations other than certain tax-exempt investments ("Taxable Obligations") to which restrictions as to yield or rebate of excess earnings under this Certificate

apply shall be calculated using (i) the price, taking into account discount, premium, and accrued interest, as applicable, actually paid or (ii) the fair market value if less than the price actually paid and if such Taxable Obligations were not purchased directly from the United States Treasury. The Issuer will acquire all such Taxable Obligations directly from the United States Treasury or in arms length transactions without regard to any amounts paid to reduce the yield on such Taxable Obligations. The Issuer will not pay or permit the payment of any amounts to reduce the yield on any Taxable Obligations.

Any amounts subject to yield restrictions may be subject to yield reduction payments pursuant to Treasury Regulations Section 1.148-5(c).

13. The Issuer will take no action which would cause the 2009 Note to become Private Activity Bonds (as such term is defined in the Code). None of the Gross Proceeds of the 2009 Note will be used directly or indirectly in any trade or business carried on by any person other than a governmental unit.

14. None of the proceeds of the 2009 Note will be used as a substitute for other funds (i) which were otherwise to be used to pay the costs of refinancing the Refunded Project; (ii) which will not be so used and (iii) which have been or will be used, directly or indirectly, to acquire investment property producing a yield in excess of the yield on the 2009 Note.

15. The Issuer does not presently expect to enter into any “hedging transaction” (i.e., transactions involving interest rate swaps, interest rate caps or collars or similar mechanisms to shift the interest rate risk of payment) in respect of the 2009 Note.

16. None of the proceeds of the 2009 Note will be invested in investments having a yield to the Issuer that is substantially guaranteed for four years or more.



17. No obligations of the Issuer are being sold less than 15 days apart from the date of sale of the 2009 Note, pursuant to the same plan of financing with the 2009 Note and which are reasonably expected to be paid from substantially the same source of funds as the 2009 Note.

18. The weighted average maturity of the 2009 Note of 5.9313 years does not exceed 120% of the weighted average reasonably expected economic life of the Refunded Project.

19. No portion of the proceeds of the 2009 Note will be invested, directly or indirectly, in federally insured deposits or accounts in violation of Section 149(b) of the Code.

20. The Issuer has covenanted in the Resolution to comply with the provisions of Section 148(f) of the Code (the “Rebate Requirement”) and remit as required by Section 148(f) any necessary amounts.

21. The Issuer agrees to (a) impose such limitations on the investment or use of moneys or investments related to the 2009 Note, (b) enter into such agreements, and (c) perform such other acts as may be necessary under the Code to preserve the exclusion from gross income for purposes of federal income taxation of interest on the 2009 Note.

22. The Issuer agrees to file all information statements as may be required by the Code.

23. No action that overburdens the tax-exempt market (within the meaning of Treas. Reg. §1.148-10(a)) has been or is expected to be taken in connection with the 2009 Note. In particular, no portion of the 2009 Note has been issued earlier or allowed to remain outstanding longer, than is otherwise reasonably necessary to accomplish the governmental purposes of the 2009 Note. Furthermore, each action taken or expected to be taken in connection with the 2009 Note would reasonably be taken if the interest on the 2009 Note were not excluded from gross

income for federal income tax purposes (assuming that the hypothetical taxable interest rates would be the same as the actual tax-exempt interest rates).

24. None of the proceeds of the 2009 Note will be used (directly or indirectly) to acquire any property which prior to its acquisition was used (or held for use) by a person other than a state or local governmental unit in connection with an output facility. For purposes of this Certificate, the term “output facility” means electric and gas generation, transmission, and related facilities (but not water facilities).


25. No portion of the proceeds of the 2009 Note will be used to finance output facilities (as that term is defined in Paragraph 24 above).

*[REMAINDER OF PAGE INTENTIONALLY LEFT BLANK]*

To the best of my knowledge and belief there are no facts, estimates or circumstances other than those expressed herein that materially affect the expectations herein expressed, and, to the best of my knowledge and belief, the Issuer's expectations are reasonable. I further represent that the Issuer has had the opportunity to discuss the certifications set forth above with Bond Counsel. I further represent that the Issuer expects and intends to be able to comply with the provisions and procedures set forth herein, including Section 148 of the Code.

IN WITNESS WHEREOF, I have hereunto set my hand as of this 2<sup>nd</sup> day of October, 2009.

**CITY OF LEESBURG, FLORIDA**

By:  \_\_\_\_\_  
Finance Director


**CERTIFICATE AS TO SPECIMEN NOTE**

The undersigned, duly appointed, qualified and acting City Clerk of the City of Leesburg, Florida, HEREBY CERTIFIES that attached hereto as an exhibit is a specimen of the City of Leesburg, Florida Capital Improvement Revenue Refunding Note, Series 2009 dated as of October 2, 2009 (the "Note"), in fully registered form, which specimen is identical in all respects, except as to execution and authentication, to the Note this day delivered for the account of Branch Banking and Trust Company.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the official seal of the City as of this 2<sup>nd</sup> day of October, 2009.

**CITY OF LEESBURG, FLORIDA**

[SEAL]

  
City Clerk

PRIOR TO BECOMING A HOLDER, A PROPOSED PURCHASER SHALL EXECUTE A PURCHASER'S CERTIFICATE IN THE FORM ATTACHED HERETO CERTIFYING, AMONG OTHER THINGS, THAT SUCH HOLDER IS AN "ACCREDITED INVESTOR" AS SUCH TERM IS DEFINED IN THE SECURITIES ACT OF 1933, AS AMENDED, AND REGULATION D THEREUNDER.

**CITY OF LEESBURG, FLORIDA  
CAPITAL IMPROVEMENT REVENUE REFUNDING NOTE,  
SERIES 2009**

<u>Principal Sum</u>	<u>Maturity Date</u>	<u>Note Rate</u>	<u>Date of Issuance</u>
\$1,005,000.00	November 1, 2019	4.13%	October 2, 2009

The CITY OF LEESBURG, FLORIDA (the "City"), for value received, hereby promises to pay, solely from the sources described in the within mentioned Agreement, to the order of BRANCH BANKING AND TRUST COMPANY, a North Carolina state banking corporation, or its assigns (the "Holder"), at 5130 Parkway Plaza Boulevard, Building No. 9, Charlotte, NC 28217, Attention: Account Administration/Municipal, or at such other place as the Holder may from time to time designate in writing, the Principal Sum stated above on the Maturity Date stated above, together with any accrued and unpaid interest, and to pay interest on the outstanding principal amount hereof from the most recent date to which interest has been paid or provided for, or if no interest has been paid, from the Date of Issuance shown above, on May 1 and November 1 of each year (each, an "Interest Payment Date"), commencing on November 1, 2010, until payment of said principal sum has been made or provided for, at the Note Rate. Payments due hereunder shall be payable in any coin or currency of the United States of America which, at the time of payment, is legal tender for the payment of public and private debts, which payments shall be made to the Holder hereof by check mailed to the Holder at the address designated in writing by the Holder for purposes of payment or by bank wire or bank transfer as such Holder may specify in writing to the City or otherwise as the City and the Holder may agree.

The Note is subject to mandatory redemption in part prior to maturity, on November 1, 2010 and on each November 1 thereafter, at a redemption price equal to the principal amount thereof and accrued interest thereon to the redemption date, without premium as follows:

<u>Year</u>	<u>Principal Amount</u>
2010	\$80,000
2011	85,000
2012	90,000
2013	95,000
2014	100,000
2015	105,000
2016	105,000
2017	110,000
2018	115,000
2019	120,000

The Note Rate may be adjusted in accordance with Sections 3.03 of that certain Loan Agreement by and between the Holder and the City, dated as of October 2, 2009 (the "Agreement"). Such adjustments may be retroactive.

All capitalized terms not otherwise defined herein shall have the meanings ascribed to such terms in the Agreement.

The Note may be prepaid by the City in whole, but not in part, on any Payment Date as provided in the Agreement from any legally available monies at a prepayment price of 101% of the principal amount to be redeemed, plus accrued interest to the prepayment date. Prepayment shall be made on such date as shall be specified by the City in a written notice delivered to the Holder not less than five (5) days prior to the specified prepayment date. Any prepayments shall be applied as provided in Section 3.02(c) of the Agreement.

Notice having been given as aforesaid, the principal amount to be prepaid shall become due and payable on the prepayment date stated in such notice, together with interest accrued and unpaid to the prepayment date on such principal amount; and the amount of principal and interest then due and payable shall be paid upon presentation and surrender of this Note to the office of the City. If, on the prepayment date, funds for the payment of the principal amount, together with interest to the prepayment date on such principal amount, shall have been given to the Holder, as above provided, then from and after the prepayment date interest on such principal amount of this Note shall cease to accrue.

This Note is authorized to be issued under the authority of and in full compliance with the Constitution and statutes of the State of Florida, including, particularly, Chapter 166, Florida Statutes and other applicable provisions of law and the City's Resolution No. 8511 effective September 14, 2009 (the "Resolution"), and is subject to all terms and conditions of the Agreement and the Resolution.

Notwithstanding any provision in this Note to the contrary, in no event shall the interest contracted for, charged or received in connection with this Note (including any other costs or considerations that constitute interest under the laws of the State of Florida which are contracted

for, charged or received) exceed the maximum rate of nonusurious interest allowed under the State of Florida as presently in effect and to the extent an increase is allowable by such laws, but in no event shall any amount ever be paid or payable by the City greater than the amount contracted for herein. In the event the maturity of this Note is accelerated or prepaid in accordance with the provisions hereof, the Agreement or the Resolution, then such amounts that constitute payments of interest, together with any costs or considerations which constitute interest under the laws of the State of Florida, may never exceed an amount which would result in payment of interest at a rate in excess of that permitted by Section 215.84(3), Florida Statutes, as presently in effect and to the extent an increase is allowable by such laws; and excess interest, if any, shall be cancelled automatically as of the date of such acceleration, or, if theretofore paid, shall be credited on the principal amount of this Note unpaid, but such crediting shall not cure or waive any default under the Agreement or Resolution.

THIS NOTE, WHEN DELIVERED BY THE CITY PURSUANT TO THE TERMS OF THE AGREEMENT AND THE RESOLUTION, SHALL NOT BE OR CONSTITUTE AN INDEBTEDNESS OF THE CITY OR THE STATE OF FLORIDA (THE "STATE"), WITHIN THE MEANING OF ANY CONSTITUTIONAL, STATUTORY OR CHARTER LIMITATIONS OF INDEBTEDNESS, BUT SHALL BE PAYABLE SOLELY FROM THE PLEDGED REVENUES, AS PROVIDED IN THE AGREEMENT AND THE RESOLUTION. THE HOLDER SHALL NEVER HAVE THE RIGHT TO COMPEL THE EXERCISE OF THE AD VALOREM TAXING POWER OF THE CITY, OR TAXATION IN ANY FORM OF ANY PROPERTY THEREIN TO PAY THIS NOTE OR THE INTEREST HEREON.

Upon the occurrence of an Event of Default the principal of this Note may become or be declared due and payable before the Maturity Date in the manner, with the effect and subject to the conditions set forth in the Agreement and Resolution. The Holder shall also have such other remedies as described in the Agreement.

The City hereby waives presentment, demand, protest and notice of dishonor. This Note is governed and controlled by the Agreement and reference is hereby made thereto regarding interest rate adjustments, acceleration, and other matters.

[REMAINDER OF PAGE INTENTIONALLY LEFT BLANK]

IN WITNESS WHEREOF, the City has caused this Note to be signed by its Mayor, either manually or with facsimile signature, and the seal of the City to be affixed hereto or imprinted or reproduced hereon, and attested by a City Clerk of the City, either manually or with facsimile signature, and this Note to be dated the Date of Issuance set forth above.

**CITY OF LEESBURG, FLORIDA**

[SEAL]

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

ATTEST:

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

Approved as to form and correctness:

\_\_\_\_\_  
City Attorney



FORM OF CERTIFICATE OF AUTHENTICATION

Date of Authentication:

This Note is being delivered pursuant to the within mentioned Agreement.

**CITY OF LEESBURG, FLORIDA,**  
as Registrar

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

ASSIGNMENT

FOR VALUE RECEIVED the undersigned sells, assigns and transfers unto \_\_\_\_\_ (please print or typewrite name, address and tax identification number of assignee) \_\_\_\_\_ the within Note and all rights thereunder, and hereby irrevocably constitutes and appoints \_\_\_\_\_ Attorney to transfer the within Note on the books kept for registration thereof, with full power of substitution in the premises.

Name of Noteholder: \_\_\_\_\_

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

**CROSS RECEIPT**

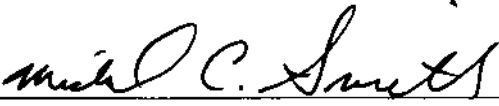
October 2, 2009

City Commission of the  
City of Leesburg, Florida

Dear Commissioners:

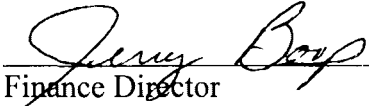
We have deposited for your account the amount of \$1,001,500.00 (the face amount of the Note as defined below less \$2,500 payable to our legal counsel and \$1,000 payable to us as an underwriting/credit review fee) for payment of your \$1,005,000 Capital Improvement Revenue Refunding Note, Series 2009 dated October 2, 2009 (the "Note"), received today from you by the undersigned.

**BRANCH BANKING AND TRUST COMPANY**

By:   
Michael C. Smith  
Banking Officer

Please acknowledge receipt of  
the foregoing deposit by signing  
and returning a copy of this letter.

**CITY OF LEESBURG, FLORIDA**

  
Finance Director

## CLOSING CERTIFICATE OF THE CITY

The undersigned Mayor, City Manager and Finance Director of the City of Leesburg, Florida (the "City") do hereby certify in connection with the issuance on the date hereof of the City's Capital Improvement Revenue Refunding Note, Series 2009 (the "Note"), to the best of our knowledge and belief, as follows:

1. There is no litigation of which we have notice, and to the best of our knowledge, no litigation is pending or threatened (a) to restrain or enjoin the issuance or delivery of the Note, (b) in any way contesting or affecting any authority for the issuance of the Note or the validity of the Note, the Resolution or the Agreement, (c) in any way contesting the existence or powers of the City or the City Commission, (d) to restrain or enjoin the ability of the City to perform under the Resolution or the Agreement, or (e) which may result in any material adverse change in the business, property, assets, or financial condition of the City specifically regarding the Pledged Revenues, or materially impair the ability of the City to perform its obligations under the Resolution, the Note or the Agreement.

2. The seal, an impression of which appears below, is the official seal of the City and is the only legally adopted, proper and official seal of the City.

3. The City has not been in default as to principal or interest on any debt obligation issued or guaranteed by the City since December 31, 1975, to which City revenues are pledged.

4. All representations of the City in the Agreement are true and correct as of the date hereof. The Communications Enterprise Revenues as defined in the Agreement are not pledged to any obligations of the City other than the Note. The City has not covenanted or otherwise agreed to budget and appropriate Non-Ad Valorem Revenues to any obligations of the City other than the Note. The City does, however, intend to covenant to budget and appropriate Non-Ad Valorem Revenues to support the issuance by the Community Redevelopment Agency for the U.S. 441 & 27 Highway Area of its Tax Increment Revenue Bonds, Series 2009 (the "2009 Bonds") and upon compliance with the applicable provisions of the Resolution and related documents associated with the 2009 Bonds, the City may issue additional debt supported by a covenant to budget and appropriate Non-Ad Valorem Revenues.

5. The information provided to Akerman Senterfitt, Bond Counsel to the City for preparation of Internal Revenue Service Form 8038-G is correct and Bond Counsel is hereby requested to prepare and submit said Form 8038-G.

6. Any written information, reports and other papers and data prepared by the City and furnished to the Bank in regard to the Note by the City were, at the time the same were so furnished, complete and correct in all material respects to the extent necessary to give the Bank a true and accurate knowledge of the subject matter thereof. There is no fact, circumstance or condition that has not been disclosed to the Bank in

writing by the City which materially and adversely affects or, as far as the City can now foresee, will materially and adversely affect, (i) the financial condition, revenues, properties or operations of the City or (ii) the validity or enforceability of, or the authority or ability of the City to perform its obligations under, the Resolution or the Note or the Agreement.

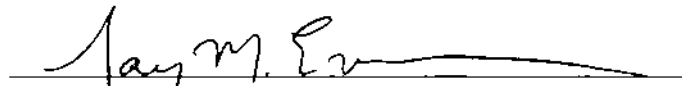
7. The City is presently in compliance with all agreements and has satisfied all conditions on its part to be observed or satisfied under the Resolution and the Agreement at or prior to the date hereof.

Any terms not otherwise defined herein shall have the meanings ascribed thereto in that certain Loan Agreement dated October 2, 2009 by and between the City and Branch Banking and Trust Company, ("the Agreement").

IN WITNESS WHEREOF, we have hereunto set our hands as of this 2<sup>nd</sup> day of October, 2009.

**CITY OF LEESBURG, FLORIDA**

  
\_\_\_\_\_  
Mayor

  
\_\_\_\_\_  
City Manager

  
\_\_\_\_\_  
Finance Director

[Track & Confirm](#)

## Track & Confirm

### Search Results

Label/Receipt Number: **7160 3901 9845 7093 3214**Service(s): **Certified Mail™**Status: **Delivered**[Track & Confirm](#)

Enter Label/Receipt Number.

Your item was delivered at 5:09 AM on October 6, 2009 in OGDEN, UT 84201.

#### Detailed Results:

- **Delivered, October 06, 2009, 5:09 am, OGDEN, UT 84201**
- **Arrival at Unit, October 06, 2009, 12:23 am, SALT LAKE CITY, UT 84199**

#### Notification Options

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Orlando, Florida 32801-4904

Post Office Box 231 *mail*  
Orlando, Florida 32802-0231

[www.akerman.com](http://www.akerman.com)

407 423 4000 *tel* 407 843 6610 *fax*

Nildo A. Harper  
407 237-8757  
[nildo.harper@akerman.com](mailto:nildo.harper@akerman.com)

October 2, 2009

**BY CERTIFIED MAIL**

Internal Revenue Service Center  
Ogden, Utah 84201

**Re: \$1,005,000 City of Leesburg, Florida  
Capital Improvement Revenue Refunding Note, Series 2009**

Ladies and Gentlemen:

On behalf of the City of Leesburg, Florida enclosed herewith for filing is Form 8038-G and an Acknowledgement Copy of same with respect to the above-referenced matter. A self-addressed, stamped envelope has also been enclosed for your convenience in return of the Acknowledgement Copy .

Very truly yours,

Nildo A. Harper  
Legal Administrative Assistant

Enclosures

**Certified Article Number**

**7160 3901 9845 7093 3214**

**SENDERS RECORD**

**Information Return for Tax-Exempt Governmental Obligations**

► Under Internal Revenue Code section 149(e)

► See separate instructions.

OMB No. 1545-0720

Caution: If the issue price is under \$100,000, use Form 8038-GC.

<b>Part I Reporting Authority</b>		If Amended Return, check here ► <input type="checkbox"/>	
1 Issuer's name <b>City of Leesburg, Florida</b>	2 Issuer's employer identification number <b>59 6000362</b>		
3 Number and street (or P.O. box if mail is not delivered to street address) <b>501 W. Meadow Street</b>	Room/suite	4 Report number <b>3 01</b>	6 Date of issue <b>10-2-09</b>
5 City, town, or post office, state, and ZIP code <b>Leesburg, Florida 34749</b>		8 CUSIP number <b>None</b>	
7 Name of issue <b>Capital Improvement Revenue Refunding Note, Series 2009</b>		10 Telephone number of officer or legal representative <b>( 407 ) 423-4000</b>	
9 Name and title of officer or legal representative whom the IRS may call for more information <b>Michael D. Williams, Bond Counsel</b>			

<b>Part II Type of Issue (check applicable box(es) and enter the issue price)</b> See instructions and attach schedule	
11 <input type="checkbox"/> Education	11
12 <input type="checkbox"/> Health and hospital	12
13 <input type="checkbox"/> Transportation	13
14 <input type="checkbox"/> Public safety	14
15 <input type="checkbox"/> Environment (including sewage bonds)	15
16 <input type="checkbox"/> Housing	16
17 <input checked="" type="checkbox"/> Utilities	17 <b>1,005,000</b>
18 <input type="checkbox"/> Other. Describe ►	18
19 If obligations are TANs or RANs, check box ► <input type="checkbox"/> If obligations are BANs, check box ► <input type="checkbox"/>	
20 If obligations are in the form of a lease or installment sale, check box ► <input type="checkbox"/>	

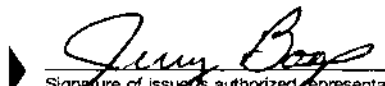
<b>Part III Description of Obligations.</b> Complete for the entire issue for which this form is being filed.				
(a) Final maturity date	(b) Issue price	(c) Stated redemption price at maturity	(d) Weighted average maturity	(e) Yield
21 <b>11-1-2019</b>	<b>\$ 1,005,000</b>	<b>\$ 1,005,000</b>	<b>5.9313</b> years	<b>4.1199 %</b>

<b>Part IV Uses of Proceeds of Bond Issue (including underwriters' discount)</b>				
22 Proceeds used for accrued interest	22	<b>0</b>		
23 Issue price of entire issue (enter amount from line 21, column (b))	23	<b>1,005,000</b>		
24 Proceeds used for bond issuance costs (including underwriters' discount)	24	<b>36,975.80</b>		
25 Proceeds used for credit enhancement	25	<b>0</b>		
26 Proceeds allocated to reasonably required reserve or replacement fund	26	<b>0</b>		
27 Proceeds used to currently refund prior issues	27	<b>968,024.20</b>		
28 Proceeds used to advance refund prior issues	28	<b>0</b>		
29 Total (add lines 24 through 28)	29	<b>1,005,000</b>		
30 Nonrefunding proceeds of the issue (subtract line 29 from line 23 and enter amount here)	30	<b>0</b>		

<b>Part V Description of Refunded Bonds (Complete this part only for refunding bonds.)</b>	
31 Enter the remaining weighted average maturity of the bonds to be currently refunded	<b>5.3949</b> years
32 Enter the remaining weighted average maturity of the bonds to be advance refunded	<b>N/A</b> years
33 Enter the last date on which the refunded bonds will be called	<b>10-2-09</b>
34 Enter the date(s) the refunded bonds were issued	<b>11-1-04</b>

<b>Part VI Miscellaneous</b>	
35 Enter the amount of the state volume cap allocated to the issue under section 141(b)(5)	35 <b>0</b>
36a Enter the amount of gross proceeds invested or to be invested in a guaranteed investment contract (see instructions)	36a <b>0</b>
b Enter the final maturity date of the guaranteed investment contract	
37 Pooled financings: a Proceeds of this issue that are to be used to make loans to other governmental units	37a <b>0</b>
b If this issue is a loan made from the proceeds of another tax-exempt issue, check box ► <input type="checkbox"/> and enter the name of the issuer ► and the date of the issue ►	
38 If the issuer has designated the issue under section 265(b)(3)(B)(i)(III) (small issuer exception), check box	<input checked="" type="checkbox"/>
39 If the issuer has elected to pay a penalty in lieu of arbitrage rebate, check box	<input type="checkbox"/>
40 If the issuer has identified a hedge, check box	<input type="checkbox"/>

Under penalties of perjury, I declare that I have examined this return and accompanying schedules and statements, and to the best of my knowledge and belief, they are true, correct, and complete.

<b>Sign Here</b>		<b>10/2/09</b>	<b>Jerry Boop, Finance Director</b>
	Signature of issuer's authorized representative	Date	





**STATE OF FLORIDA - DIVISION OF BOND FINANCE LOCAL BOND  
MONITORING**

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**NOTICE OF SALE STATUS**

Notice of Sale submission successful.

**SUBMIT DATE: 09/15/2009**

**BOND ISSUE NAME:** CITY OF LEESBURG, FLORIDA CAPITAL IMPROVEMENT  
REVENUE REFUNDING NOTE, SERIES 2009

**SALE DATE:** 10/1/2009

**CLOSING DATE:** 10/2/2009

[Print this page](#)

## Harper, Nildo (LAA-Orl)

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**From:** Williams\_Sharon [Sharon.Williams@sbafla.com]  
**Sent:** Friday, October 09, 2009 9:18 AM  
**To:** Harper, Nildo (LAA-Orl)  
**Subject:** RE: City of Leesburg Capital Improvement Revenue Refunding Note, Series 2009

Thank you.

*Sharon,*

*Sharon Williams  
Local Government Section/Bond Programs  
State of Florida/Division of Bond Finance  
Direct: (850) 413-1304  
Fax: (850) 413-1315  
Email: sharon.williams@sbafla.com*

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**From:** nildo.harper@akerman.com [mailto:nildo.harper@akerman.com]  
**Sent:** Thursday, October 08, 2009 3:37 PM  
**To:** Williams\_Sharon  
**Subject:** City of Leesburg Capital Improvement Revenue Refunding Note, Series 2009

Hi Sharon,

In addition to the Bond Information Form which was just filed online for the above referenced Refunding Note, please find attached a copy of the 8038-G, along with a copy of the Bond Debt Service for question #16.

The answer for question #17 is: In whole on any payment date at 101% of the principal amount to be prepaid plus accrued interest.

Please note that an offering statement was not prepared in this matter.

Please e-mail me or give me a call if you have any questions.

Thank you,

Nildo A. Harper  
*Legal Assistant to  
Robyn D. Neely, Esq.  
Michael D. Williams, Esq.  
and Jarrett D. Bingemann, Esq.*

**Akerman | Senterfitt**  
420 South Orange Avenue  
Suite 1200  
Orlando, Florida 32801

Office Direct Dial: (407) 237-8757  
Office Direct Fax: (407) 254-4254  
Office Main Number: (407) 423-4000  
Office Main Fax: (407) 843-6610

Office Email Address: nildo.harper@akerman.com

10/9/2009

STATE OF FLORIDA  
DIVISION OF BOND FINANCE  
LOCAL BOND MONITORING SECTION

**This form represents an update and compilation of the BF2003, BF2004-A and BF2004-B forms.**

- \* Bond Information forms (BF2003) are required to be completed by local governments pursuant to Chapter 19A-1.003, Florida Administrative Code (F.A.C.).
- \* Bond Disclosure forms BF2004-A (Competitive Sale) or BF2004-B (Negotiated Sale) are required to be filed with the Division within 120 days of the delivery of the issue pursuant to Sections 218.38(1)(b)1 and 218.38(1)(c)1, Florida Statutes (F.S.), respectively.
- \* Final Official Statements, if prepared, are required to be submitted pursuant to Section 218.38(1), F.S..
- \* Please complete **all items** applicable to the issuer as provided by the Florida Statutes.
- \* PURSUANT TO SECTION 218.369, F.S., ISSUERS OF BOND ANTICIPATION NOTES ARE **EXEMPT** FROM THESE FILING REQUIREMENTS.

**BF2003  
BOND INFORMATION FORM**

**PART I. ISSUER INFORMATION**

1. NAME OF GOVERNMENTAL UNIT: City of Leesburg
2. MAILING ADDRESS OF GOVERNMENTAL UNIT OR ITS MANAGER: 501 W. Meadow Street, Leesburg, FL 34749
3. COUNTY(IES) IN WHICH GOVERNMENTAL UNIT HAS JURISDICTION: Lake
4. TYPE OF ISSUER:    ☐ COUNTY    ☒ CITY    ☐ AUTHORITY    ☐ INDEPENDENT SPECIAL DISTRICT  
                                 ☐ DEPENDENT SPECIAL DISTRICT    ☐ OTHER (SPECIFY) \_\_\_\_\_

**PART II. BOND ISSUE INFORMATION**

1. NAME OF BOND ISSUE: Capital Improvement Revenue Refunding Note, Series 2009
2. AMOUNT ISSUED: \$ 1,005,000                      3. AMOUNT AUTHORIZED: \$ 1,005,000
4. DATED DATE: 10-2-09                      5. SALE DATE: 10-1-09                      6. DELIVERY DATE: 10-2-09
7. LEGAL AUTHORITY FOR ISSUANCE: FLORIDA STATUTES Ch. 166, F.S.  
   SPECIAL ACTS \_\_\_\_\_  
   OTHER \_\_\_\_\_
8. TYPE OF ISSUE:    ☐ GENERAL OBLIGATION    ☐ SPECIAL ASSESSMENT    ☐ SPECIAL OBLIGATION  
                                 ☒ REVENUE                      ☐ COP (CERTIFICATE OF PARTICIPATION)    ☐ LEASE-PURCHASE  
                                 ☐ BANK LOAN/LINE OF CREDIT
9. A. IS THIS A PRIVATE ACTIVITY BOND (PAB)?                      ☐ YES                      ☒ NO  
     B. (1) IF YES, DID THIS ISSUE RECEIVE A PAB ALLOCATION?    ☐ YES                      ☐ NO  
             (2) IF YES, AMOUNT OF ALLOCATION:                      \$ \_\_\_\_\_
10. SPECIFIC REVENUE(S) PLEDGED:  
     (1) PRIMARY    Fees imposed by City on various telecommunications services  
     (2) SECONDARY Covenant to budget and appropriate non-ad-valorem revenues  
     (3) OTHER(S)    \_\_\_\_\_

11 A. PURPOSE(S) OF THE ISSUE:

- (1) PRIMARY To retire outstanding debt  
(2) SECONDARY \_\_\_\_\_  
(3) OTHER(S) \_\_\_\_\_

B. IF PURPOSE IS REFUNDING, COMPLETE THE FOLLOWING:

(1) FOR EACH ISSUE REFUNDED LIST: NAME OF ISSUE, DATED DATE, ORIGINAL PAR VALUE (PRINCIPAL AMOUNT) OF ISSUE, AND AMOUNT OF PAR VALUE (PRINCIPAL AMOUNT) REFUNDED.

Promissory Note payable to Florida Municipal Power Agency;

November 1, 2004, \$1,300,000; \$968,000

(2) REFUNDED DEBT HAS BEEN: ☒ RETIRED OR ☐ DEFEASED

(3) A. DID THE REFUNDING ISSUE CONTAIN NEW MONEY? ☐ YES ☒ NO

B. IF YES, APPROXIMATELY WHAT PERCENTAGE OF PROCEEDS IS NEW MONEY? \_\_\_\_\_%

12. TYPE OF SALE: ☐ COMPETITIVE BID ☐ NEGOTIATED ☒ NEGOTIATED PRIVATE PLACEMENT

13. BASIS OF INTEREST RATE CALCULATION, I.E., INTEREST RATE USED TO STRUCTURE THE BOND ISSUE:

NET INTEREST COST RATE (NIC) \_\_\_\_\_ % TRUE INTEREST COST RATE (TIC) \_\_\_\_\_ %

CANADIAN INTEREST COST RATE (CIC) \_\_\_\_\_ % ARBITRAGE YIELD (ARBI) 4.1199 %

SPECIFY OTHER: \_\_\_\_\_

14. INSURANCE/ENHANCEMENTS: ☐ AGIC ☐ AMBAC ☐ CGIC ☐ CLIC ☐ FGIC ☐ FSA

☐ HUD ☐ MBIA ☐ NGM ☐ LOC(LETTER OF CREDIT) ☐ OTHER (SPECIFY) \_\_\_\_\_

☒ NOT INSURED

15. RATING(S): ☐ MOODY'S ☐ S & P ☐ FITCH ☐ DUFF&PHELPS ☐ OTHER (SPECIFY) \_\_\_\_\_

☒ NOT RATED

16. DEBT SERVICE SCHEDULE: ATTACH **COMPLETE** COPY OF SCHEDULE PROVIDING THE FOLLOWING INFORMATION:

MATURITY DATES (MO/DAY/YR)

COUPON/INTEREST RATES

ANNUAL INTEREST PAYMENTS

PRINCIPAL (PAR VALUE) PAYMENTS

MANDATORY TERM AMORTIZATION

17. LIST OR ATTACH OPTIONAL REDEMPTION PROVISIONS: In whole on any payment date at 101% of the  
principal amount to be prepaid plus accrued interest

18. PROVIDE THE NAME AND ADDRESS OF THE SENIOR MANAGING UNDERWRITER OR SOLE PURCHASER.  
Branch Banking and Trust Company

5130 Parkway Plaza Boulevard, Building No. 9

Charlotte, NC 28217

19. PROVIDE THE NAME(S) AND ADDRESS(ES) OF ANY ATTORNEY OR FINANCIAL CONSULTANT WHO ADVISED  
THE UNIT OF LOCAL GOVERNMENT WITH RESPECT TO THE BOND ISSUE.

☐ **NO BOND COUNSEL**      ☐ **NO FINANCIAL ADVISOR**      ☐ **NO OTHER PROFESSIONALS**

BOND COUNSEL(S):

Akerman Senterfitt

420 S. Orange Avenue, Suite 1200

Orlando, FL 32801

FINANCIAL ADVISOR(S)/CONSULTANT(S):

Larson Consulting Services, LLC

10151 University Boulevard, #117

Orlando, FL 32817

OTHER PROFESSIONALS:

20. PAYING AGENT Issuer ☐ **NO PAYING AGENT**

21. REGISTRAR Issuer ☐ **NO REGISTRAR**

22. COMMENTS: \_\_\_\_\_

**PART III. RESPONDENT INFORMATION**

FOR ADDITIONAL INFORMATION, THE DIVISION SHOULD CONTACT:

Name and Title Michael D. Williams, Bond Counsel Phone 407 423-4000

Company Akerman Senterfitt

INFORMATION RELATING TO PARTY COMPLETING THIS FORM (If different from above):

Name and Title \_\_\_\_\_ Phone \_\_\_\_\_

Company \_\_\_\_\_

Date Report Submitted \_\_\_\_\_

---

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**BF2004-A and BF2004-B**

**NOTE:** The following items are required to be completed in full for **all** bond issues **except** those sold pursuant to Section 154 Part III, Sections 159 Parts II, III or V; or Section 243 Part II, Florida Statutes.

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23. ANY FEE, BONUS, OR GRATUITY **PAID BY ANY UNDERWRITER OR FINANCIAL CONSULTANT**, IN CONNECTION WITH THE BOND ISSUE, TO ANY PERSON NOT REGULARLY EMPLOYED OR ENGAGED BY SUCH UNDERWRITER OR CONSULTANT:

☒ **NO FEE, BONUS OR GRATUITY PAID BY UNDERWRITER OR FINANCIAL CONSULTANT**

(1) COMPANY NAME Akerman Senterfitt

FEE PAID: \$ 13,000 SERVICE PROVIDED or FUNCTION SERVED: Bond Counsel

(2) COMPANY NAME McLin & Burnsed P.A.

FEE PAID: \$ 8,000 SERVICE PROVIDED or FUNCTION SERVED: Issuer's Counsel

(3) COMPANY NAME Larson Consulting Services, LLC

FEE PAID: \$ 8,000 SERVICE PROVIDED or FUNCTION SERVED: Financial Advisor

(4) COMPANY NAME Greenberg Traurig, P.A.

FEE PAID: \$ 2,500 SERVICE PROVIDED or FUNCTION SERVED: Purchaser's Counsel

(5) COMPANY NAME: Branch Banking and Trust Company

FEE PAID: \$ 1,000 SERVICE PROVIDED or FUNCTION SERVED: Credit Review

24. ANY OTHER FEES **PAID BY THE UNIT OF LOCAL GOVERNMENT** WITH RESPECT TO THE BOND ISSUE, INCLUDING ANY FEE PAID TO ATTORNEYS OR FINANCIAL CONSULTANTS:

       **NO FEES PAID BY ISSUER**

---

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(UNLESS YOU ARE EXEMPT FROM FILING A BF2004), PLEASE PROVIDE THE SIGNATURE OF EITHER THE CHIEF EXECUTIVE OFFICER OF THE GOVERNING BODY OF THE UNIT OF LOCAL GOVERNMENT OR THE GOVERNMENTAL OFFICER PRIMARILY RESPONSIBLE FOR COORDINATING THE ISSUANCE OF THE BONDS:

NAME (Typed/Printed): Jerry Boop

SIGNATURE: 

TITLE: Finance Director

DATE: 10-2-09

---

---

**BF2004-B**

**ITEMS 25 AND 26 MUST BE COMPLETED FOR ALL BONDS SOLD BY NEGOTIATED SALE**

25. MANAGEMENT FEE CHARGED BY UNDERWRITER: \$ \_\_\_\_\_ PER THOUSAND PAR VALUE.  
OR  
PRIVATE PLACEMENT FEE: \$ 0  
\_\_\_\_\_ **NO MANAGEMENT FEE OR PRIVATE PLACEMENT FEE**
26. UNDERWRITER'S EXPECTED GROSS SPREAD: \$ \_\_\_\_\_ PER THOUSAND PAR VALUE.  
\_\_\_\_\_ **NO GROSS SPREAD**
- 
- 

**PART IV. CONTINUING DISCLOSURE INFORMATION**

In order to better serve local governments, the Division of Bond Finance will remind issuers as their deadlines approach for filing continuing disclosure information required by SEC Rule 15c2-12, based on the following information:

27. Is the issuer required to provide continuing disclosure information in accordance with SEC Rule 15c2-12?

\_\_\_\_\_ Yes

☒ No

28. If yes, on what date is the continuing disclosure information required to be filed?

\_\_\_\_\_

29. Provide the following information regarding the person(s) responsible for filing continuing disclosure information required by SEC Rule 15c2-12 and the continuing disclosure agreement (including other obligated parties, if appropriate).

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

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

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

\_\_\_\_\_

Telephone Number: \_\_\_\_\_

FAX Number: \_\_\_\_\_

E-mail address (if e-mail notification is requested): \_\_\_\_\_

**PART V. RETURN THIS FORM AND THE FINAL OFFICIAL STATEMENT, IF ONE WAS PREPARED,**

---

---

**TO:**

**Courier Deliveries:** Division of Bond Finance  
State Board of Administration  
1801 Hermitage Blvd., Suite 200  
Tallahassee, FL 32308

**Mailing Address:** Division of Bond Finance  
State Board of Administration  
P. O. Drawer 13300  
Tallahassee, FL 32317-3300

**Phone:** 850/413-1304 or 413-1305

**FAX:** 850/413-1315

REVISED Dec. 9, 2002 / bfcombo

# BOND DEBT SERVICE

**CITY OF LEESBURG, FLORIDA**  
**CAPITAL IMPROVEMENT REVENUE REFUNDING NOTE, SERIES 2009**  
 (COMMUNICATIONS ENTERPRISE PROJECT)  
 BQ Rate of 4.13% (3)

Dated Date: 10/2/2009  
 Delivery Date: 10/2/2009

Date	Principal	Coupon	Interest	Debt Service	Annual Debt Service
10/2/2009					
11/1/2010	80,000	4.130%	44,850.08	124,850.08	124,850.08
5/1/2011			19,101.25	19,101.25	
11/1/2011	85,000	4.130%	19,101.25	104,101.25	123,202.50
5/1/2012			17,346.00	17,346.00	
11/1/2012	90,000	4.130%	17,346.00	107,346.00	124,692.00
5/1/2013			15,487.50	15,487.50	
11/1/2013	95,000	4.130%	15,487.50	110,487.50	125,975.00
5/1/2014			13,525.75	13,525.75	
11/1/2014	100,000	4.130%	13,525.75	113,525.75	127,051.50
5/1/2015			11,460.75	11,460.75	
11/1/2015	105,000	4.130%	11,460.75	116,460.75	127,921.50
5/1/2016			9,292.50	9,292.50	
11/1/2016	105,000	4.130%	9,292.50	114,292.50	123,585.00
5/1/2017			7,124.25	7,124.25	
11/1/2017	110,000	4.130%	7,124.25	117,124.25	124,248.50
5/1/2018			4,852.75	4,852.75	
11/1/2018	115,000	4.130%	4,852.75	119,852.75	124,705.50
5/1/2019			2,478.00	2,478.00	
11/1/2019	120,000	4.130%	2,478.00	122,478.00	124,956.00
	1,005,000		246,187.58	1,251,187.58	




**ACCEPTANCE OF DUTIES OF REGISTRAR  
AND PAYING AGENT**

The undersigned City Clerk of the City of Leesburg, Florida (the "City"), hereby accepts on behalf of the City the duties of the registrar and paying agent, in connection with the City's Capital Improvement Revenue Refunding Note, Series 2009, dated the date hereof.

Dated: October 2, 2009

**CITY OF LEESBURG, FLORIDA**

  
City Clerk

**SIGNATURE CERTIFICATE**

We, the undersigned, DO HEREBY CERTIFY as follows:

1. That we did heretofore cause to be officially executed the City of Leesburg, Florida Capital Improvement Revenue Refunding Note, Series 2009 (the "Series 2009 Note").

2. That Lewis Puckett, Mayor of the City of Leesburg, Florida (the "City"), has executed the Series 2009 Note by his manual signature, a correct specimen of which is set out below, and that said Mayor was on the date he executed the Series 2009 Note and is now the duly elected, qualified and acting Mayor.

3. That we have caused the official seal of the City to be impressed on the Series 2009 Note, said seal impressed hereon being the official seal of the City, and that Betty M. Richardson, the City Clerk, has caused such seal to be attested by her manual signature, a correct specimen of which is set out below, and that said Betty M. Richardson was on the date she signed the Series 2009 Note and is now the duly qualified and acting City Clerk.

4. That the seal which has been impressed on or otherwise reproduced on the Series 2009 Note and upon this certificate is the legally adopted, proper and only seal of the City.

IN WITNESS WHEREOF, we have hereunto set our hands and affixed the official seal of the City as of this 2<sup>nd</sup> day of October, 2009.

[SEAL]

Signature

Title of Office



\_\_\_\_\_

Mayor



\_\_\_\_\_

City Clerk



Dallas  
Denver  
Fort Lauderdale  
Jacksonville  
Los Angeles  
Madison  
Miami  
New York  
Orlando  
Tallahassee  
Tampa  
Tysons Corner  
Washington, DC  
West Palm Beach

420 South Orange Avenue  
Suite 1200  
Orlando, Florida 32801-4904

Post Office Box 231 *mail*  
Orlando, Florida 32802-0231

[www.akerman.com](http://www.akerman.com)

407 423 4000 *tel* 407 843 6610 *fax*

**No. 13**

October 2, 2009

City Commission  
City of Leesburg  
Leesburg, Florida

Branch Banking and Trust Company  
Charlotte, North Carolina

**\$1,005,000 CITY OF LEESBURG, FLORIDA  
CAPITAL IMPROVEMENT REVENUE REFUNDING NOTE, SERIES 2009**

Dear Ladies and Gentlemen:

We have acted as Bond Counsel in connection with the issuance by the City of Leesburg, Florida (the "Issuer") of its Capital Improvement Revenue Refunding Note, Series 2009 (the "Note" or the "Series 2009 Note"), pursuant to the Constitution and laws of the State of Florida, including particularly Chapter 166, Florida Statutes, and other applicable provisions of law (collectively, the "Act"), and Resolution No. 8511 of the Issuer (the "Resolution") and a Loan Agreement dated as of October 2, 2009, by and between the Issuer and Branch Banking and Trust Company (the "Agreement"). Any capitalized undefined term used herein shall have the same meaning as such term has under the Agreement.

As to questions of fact material to our opinion, we have relied upon representations of the Issuer contained in the Resolution and the Agreement and in the certified proceedings and other certifications of public officials furnished to us, without undertaking to verify the same by independent investigation.

Reference is made to the opinion of even date herewith of McLin & Burnsed, P.A., Counsel to the Issuer, on which we have solely relied, as to the due creation and valid existence

of the Issuer, the due adoption by the Issuer of the Resolution, the due execution and delivery by the Issuer of the Series 2009 Note and the Agreement and compliance by the Issuer with all conditions precedent to the issuance of the Note contained in the ordinances or resolutions of the Issuer.

In addition to the foregoing, we have examined and relied upon such other agreements, certificates, documents, representations and opinions submitted to us, including certifications and representations of public officials and other officers and representatives of the various parties participating in this transaction, as we have deemed relevant and necessary in connection with the opinions expressed below. We have not undertaken an independent audit, examination, investigation or inspection of the matters described or contained in such agreements, certificates, documents, representations and opinions submitted to us and have relied solely on the facts, estimates and circumstances described and set forth therein.

In our examination of the foregoing, we have assumed the genuineness of the signatures on all documents and instruments, the authenticity of documents submitted as originals, the conformity to originals of documents submitted as copies and the legal capacity of all natural persons.

The scope of our engagement in relation to the issuance of the Series 2009 Note has been limited solely to the examination of facts and laws incident to rendering the opinions expressed herein.

This opinion should not be construed as offering material or an offering circular, prospectus or official statement and is not intended in any way to be a disclosure statement used in connection with the sale or delivery of the Series 2009 Note. In addition, we have not been engaged to and, therefore, do not express any opinion as to compliance by the Issuer with any federal or state statute, regulation or ruling with respect to the sale and distribution of the Series 2009 Note.

Neither the Series 2009 Note nor the interest and premium, if any, payable thereon shall constitute a general obligation or general indebtedness of the Issuer within the meaning of the Constitution and laws of Florida. The Series 2009 Note and the interest and premium, if any, payable thereon do not constitute either a pledge of the full faith and credit of the Issuer or a lien upon any property of the Issuer other than the Pledged Revenues as provided in the Agreement. No owner of the Series 2009 Note or any other person shall ever have the right, directly or indirectly, to require or compel the exercise of any ad valorem taxing power of the Issuer or any other public authority or governmental body to pay the principal of or interest and premium, if any, on the Series 2009 Note or to pay any other amounts required to be paid pursuant to the Series 2009 Note.

The opinions set forth below are expressly limited to, and we opine only with respect to, the laws of the State of Florida and the federal income tax laws of the United States of America.

Based upon the foregoing, we are of the opinion that:

1. The Agreement has been duly authorized, executed and delivered by the Issuer and constitutes a valid and binding obligation of the Issuer enforceable in accordance with its terms.
2. The Series 2009 Note has been duly authorized, executed and delivered by the Issuer and is a valid and binding special obligation of the Issuer, payable solely from the Pledged Revenues as provided therefore in the Agreement.
3. The interest on the Series 2009 Note is excludable from gross income for federal income tax purposes and is not treated as an item of tax preference for purposes of the federal alternative minimum tax imposed on individuals and corporations and is not taken into account in determining adjusted current earnings for purposes of computing the alternative minimum tax on corporations. The opinions set forth in the immediately preceding sentence are subject to the condition that the Issuer comply with all requirements of the Internal Revenue Code of 1986, as amended, and the regulations thereunder (the "Code"), that must be met or satisfied in order that interest thereon be, or continue to be, excludable from gross income for federal income tax purposes. The Issuer has covenanted in the Agreement to comply with each such requirement. Failure of the Issuer to comply with any of such requirements may cause the inclusion of interest on the Series 2009 Note in gross income for federal income tax purposes retroactive to the date of issuance of the Series 2009 Note. Other provisions of the Code may give rise to adverse federal income tax consequences to particular holders of the Series 2009 Note. The scope of this opinion is limited to the matters addressed above and we express no opinion regarding other federal tax consequences arising with respect to the Series 2009 Note.
4. Based on representations of the Issuer contained in a Certificate included in the closing transcript for the Series 2009 Note, the Series 2009 Note is a "qualified tax-exempt obligation" within the meaning of Section 265(b)(3) of the Code.

We call your attention to the fact that our engagement as Bond Counsel was on the assumption that the Series 2009 Note would be marketed as a private placement with an institutional investor, i.e., Branch Banking and Trust Company. In accordance with our understanding with the parties participating in the closing on the date hereof, we have not passed upon and consequently express no opinion as to the accuracy, adequacy or completeness of any offering literature that may have been used in connection with the offering or placement of the Series 2009 Note. We have not passed upon any matters relating to the condition (financial or otherwise) of the Issuer and no inference should be drawn that we have expressed any opinion on matters relating to the financial ability of the Issuer to perform its obligations under the Agreement or the Series 2009 Note.

We express no opinions in connection with the issuance of the Series 2009 Note other than as expressed herein.

It is to be understood that the rights of the owners of the Series 2009 Note and the enforceability of the Series 2009 Note and the Agreement may be subject to bankruptcy, insolvency, reorganization, moratorium and other similar laws affecting creditors' rights and laws and equitable principles that may affect remedies or injunctive or other equitable relief, and to the exercise of judicial discretion in appropriate cases.

Our opinions expressed herein are predicated upon present law, (and interpretations thereof) facts and circumstances, and we assume no affirmative obligation to update the opinions expressed herein if such laws (and interpretations thereof), facts or circumstances change after the date hereof.

Very truly yours,

A handwritten signature in black ink, appearing to read "Akerman Senterfitt", with a stylized flourish extending from the end.

**AKERMAN SENTERFITT**

Walter S. McLin, III (1935-2007)  
R. Dewey Burnsed (1939-2007)  
Matthew D. Black  
Mark A. Brionez  
Gary Fuchs  
Frederick T. Goller, LL.M., E.P.  
Brian D. Hudson  
Stephen W. Johnson  
Erick Langenbrunner  
Stephanie J. McCulloch  
G. Michael Mahoney

# McLin & Burnsed

Professional Association

ATTORNEYS AT LAW

October 2, 2009

John D. Metcalf  
Fred A. Morrison  
Richard P. Newman  
Steven M. Roy  
Jeffrey P. Skates  
Phillip S. Smith  
Joseph S. Thomas

Of Counsel:  
Lynn E. Burnsed  
Board Certified, Healthcare Law

City of Leesburg  
Leesburg, Florida

Akerman Senterfitt  
Orlando, Florida

Branch Banking and Trust Company  
Charlotte, NC

RE: City of Leesburg, Florida Capital Improvement Revenue Refunding Note, Series 2009  
(hereafter referred to as the "Series 2009 Note")

Ladies and Gentlemen:

We have acted as counsel to The City of Leesburg, Florida (the "City"), in connection with the issuance by the City of its City of Leesburg, Florida Capital Improvement Revenue Refunding Note, Series 2009 in the amount of \$1,005,000.00 (the "Series 2009 Note"). All terms used herein in capitalized form and not otherwise defined herein shall have the meanings ascribed to them by the Loan Agreement between the City and Branch Banking and Trust Company (the "Bank") dated as of October 2, 2009 (the "Loan Agreement").

In rendering the opinions expressed below we have examined originals or certified copies of the following documents, along with such other documents, contracts and records as we deemed necessary to render the opinions herein:

- A. Resolution No. 8511 adopted by the City on September 14, 2009, authorizing the execution and issuance of the Series 2009 Note by the City (the "City Resolution");
- C. The Charter and Code of Ordinances of the City;
- D. The Series 2009 Note;
- E. The Loan Agreement.

Based on such review, we are of the opinion that:

1. The City Resolution has been duly adopted and the Loan Agreement, and the Series 2009 Note, have been duly authorized, executed and delivered by the City, and each constitutes a valid, binding and enforceable agreement of the City in accordance with their respective terms, except to the extent that the enforceability of the rights and remedies set forth herein may be limited by bankruptcy, insolvency, financial emergency or other laws affecting creditors' rights generally or by usual equity principles;

2. The City's execution, delivery and performance of the Loan Agreement, and execution and issuance of the Series 2009 Note, are not subject to any authorization, consent, approval or review of any governmental body, public officer or regulatory authority not heretofore obtained or effected;

3. The City (A) is a municipal corporation duly organized and validly existing under the laws of the State of Florida, and (B) has power and authority to adopt the City Resolution, to execute and deliver the Loan Agreement and to execute and deliver the Series 2009 Note, and to consummate the transactions contemplated by such instruments;

4. The execution, delivery and performance of the Series 2009 Note, and the Loan Agreement, and compliance with the terms thereof, under the circumstances contemplated in the Loan Agreement, do not and will not in any material respect conflict with, or constitute on the part of the City a breach or default under, any indenture, mortgage, deed of trust, agreement or other instrument to which the City or to which its properties are subject or conflict with, violate or result in a breach of any existing law, administrative rule or regulation, judgment, court order or consent decree to which the City or its properties are subject;

5. To the best of our knowledge, there is no claim, action, suit, proceeding, inquiry, investigation, litigation or other proceeding, at law or in equity, pending or threatened in any court or other tribunal, state or federal (A) restraining or enjoining, or seeking to restrain or enjoin, the issuance, sale, execution or delivery of the Series 2009 Note, (B) in any way questioning or affecting the validity or enforceability of any provision of the Loan Agreement, the Series 2009 Note, or the City Resolution, (C) in any way questioning or affecting the validity of any of the proceedings or authority for the authorization, sale, execution or delivery of the Series 2009 Note, or of any provision made or authorized for the payment thereof, or (D) questioning or affecting the organization or existence of the City or the right of any of its officers to their respective offices;

6. The City has the legal power to refinance the Refunded Note and to pay associated costs of issuance of the Series 2009 Note, to impose and collect the Pledged Revenues and to grant a lien on the Pledged Revenues as described in the Loan Agreement and the City Resolution;

7. All conditions contained in the charter, ordinances and resolutions of the City precedent to the issuance of the Series 2009 Note, and the Loan Agreement, have been complied with.

We have not undertaken an independent audit, examination, investigation or inspection of the matters described or contained in the documents so examined, nor as to any representations and opinions submitted to us and have relied solely on the facts, estimates and circumstances described and set forth therein.

The scope of our engagement in relation to the issuance of the Series 2009 Note has been limited solely to the examination of the facts and law incident to rendering the opinions express herein. We have not been engaged to confirm or verify and therefore express no opinion as to the accuracy, completeness, fairness or sufficiency of the financial information provided by the City relative to the Series 2009 Note. Further, we are giving no opinion concerning the compliance of the interest rate on the Series 2009 Note with any interest rate limitation or similar requirement of the State of Florida or federal law.

In addition, no opinion is rendered concerning any aspect of federal or state tax laws, rules or regulations, including but not limited to the tax exempt status of the Series 2009 Note, or the question of whether the Series 2009 Note or any modification or extension thereof is or is not exempt from any excise taxes imposed by the State of Florida.

This Opinion should not be construed as offering material or an offering circular, prospectus or official statement and is not intended in any way to be a disclosure statement used in connection with the sale or delivery of the Series 2009 Note. In addition, we have not been engaged to and, therefore, do not express any opinion as to compliance by the Issuer with any federal or state statute, regulation or ruling with respect to the sale and distribution of the Series 2009 Note.



This Opinion is rendered in connection with the issuance of the Series 2009 Note, for the benefit and reliance of only the following persons and entities: the addressees named above, and any other persons or entities who may at any time acquire any legal or beneficial interest in the Series 2009 Note. This Opinion may not be relied on for any purpose not related to the issuance of the Series 2009 Note, nor may it be relied on by any person or entity not listed in this paragraph, nor may it be referred to in any financial statement or other document not listed above as having been reviewed in connection with the issuance of this Opinion, without the prior, written consent of the undersigned.

In rendering the opinions set forth above, we have assumed the due authorization, execution and delivery of the Series 2009 Note, and the Loan Agreement, by any parties thereto other than the City; the legal capacity of all natural persons; the authenticity of any documents submitted as originals; and the conformity to originals of documents submitted as copies.

Yours truly,

A handwritten signature in black ink, appearing to read "Fred A. Morrison", written in a cursive style.

FRED A. MORRISON  
MCLIN & BURNSED P.A.

October 2, 2009

Akerman Senterfitt  
Orlando, Florida

McLin & Burnsed P.A.  
Leesburg, Florida

City of Leesburg, Florida (the "City")

Ladies and Gentlemen:

The undersigned, as a purchaser of the City of Leesburg, Florida Capital Improvement Revenue Refunding Note, Series 2009 (the "Note") dated October 2, 2009, consisting of one typewritten Note, hereby certifies that we have been provided (a) a copy of City of Leesburg Resolution No. 8511, adopted by the City on September 14, 2009, authorizing the issuance of the Note and awarding the sale of the Note to us (the "Resolution"), (b) the Loan Agreement dated as of October 2, 2009, between the City and Branch Banking and Trust Company (the "Agreement") and (c) such financial and general information respecting the Pledged Revenues (as such term is defined in the Agreement) and the City, and the Note described above as we deem necessary to enable us to make an informed investment judgment with respect to the purchase of said Note.

We hereby make the following representations, which representations may be relied upon by the addressees:

A. We are aware:

- (i) that investment in the Note involves various risks;
- (ii) that the Note is not a general obligation of the City; and
- (iii) that the principal or premium, if any, and interest on the Note is payable solely from the sources specified in the Resolution and the Agreement.

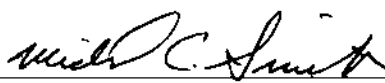
October 2, 2009

Page 2 of 2

- B. We understand that no official statement, offering memorandum or other form of offering document has been prepared or is being used in connection with the offering or sale of the Note (collectively, "Disclosure Documents"), but we have been afforded access to all information we have requested in making our decision to purchase the Note and have had sufficient opportunity to discuss the business of the City with its officers, employees and others. We have not requested any Disclosure Documents in connection with the sale of the Note. We do not require any further information or data incident to our purchase of the Note.
- C. In purchasing the Note, we have relied solely upon our own investigation, examination, and evaluation of the City, and other relevant matters.
- D. We have knowledge and experience in financial and business matters and are capable of evaluating the merits and risks of our investment in the Note and have determined that we can bear the economic risk of our investment in the Note.
- E. We acknowledge the understanding that the Note is not being registered under the Securities Act of 1933 (the "1933 Act"), as amended or Chapter 517, Florida Statutes, and that the Resolution and Agreement are not being qualified under the Trust Indenture Act of 1939, as amended, and that the City shall have no obligation to effect any such registration or qualification.
- F. We are not acting as a bond house, broker or other intermediary, in our purchase of the Note. Although we retain the right to transfer the Note in the future, we understand that the Note may not be readily tradable.
- G. We have received all documents requested by us incident to our purchase of the Note.
- H. We acknowledge that we are an "accredited investor" within the meaning of Chapter 517, Florida Statutes and Regulation D of the 1993 Act.

Signed as of the 2<sup>nd</sup> day of October, 2009.

**BRANCH BANKING AND TRUST COMPANY**


By:   
Michael C. Smith  
Banking Officer

**TRUTH-IN-BONDING STATEMENT**

City Commission  
City of Leesburg, Florida

The City of Leesburg, Florida (the "City") is proposing to issue \$1,005,000 of its Capital Improvement Revenue Refunding Note, Series 2009 to refinance the City's Promissory Note dated November 1, 2004 payable to Florida Municipal Power Agency and to pay related costs of issuance. The Note is expected to be paid over a period of approximately 10 years. At a fixed interest rate of 4.13%, total interest paid over the life of the Note will be \$246,187.58. The Note is payable from and secured solely by revenues derived by the City from its Communications Enterprise Revenues and the City's covenant to budget and appropriate legally available non-ad valorem revenues all as provided in the Loan Agreement. Authorizing this Note will result in a maximum annual amount of \$127,921.50 of such Pledged Revenues not being available to finance other services of the City each year for 10 years.

**BRANCH BANKING AND TRUST COMPANY**

By:   
Michael C. Smith  
Banking Officer

**FLORIDA STATUTES, SECTION 218.385(6)  
DISCLOSURE STATEMENT**

**RE: \$1,005,000  
City of Leesburg, Florida  
Capital Improvement Revenue Refunding Note, Series 2009**

Dear City Commissioners,

Branch Banking and Trust Company (the "Purchaser") is on the date hereof purchasing for its own account all of the \$1,005,000 initial aggregate principal amount of City of Leesburg, Florida (the "Issuer") Capital Improvement Revenue Refunding Note, Series 2009 (the "Note"). The purpose of this letter is to furnish, pursuant to the provisions of Section 218.385(6), Florida Statutes, certain information in connection with our purchase of the Note as follows:

(a) The Purchaser is not incurring any expenses in connection with its purchase of the Note.

(b) No person has entered into an understanding with the Purchaser, or to the knowledge of the Purchaser, with the Issuer, for any paid or promised compensation or valuable consideration, directly or indirectly, expressly or implied, to act solely as an intermediary between the Issuer and the Purchaser or to exercise or attempt to exercise any influence to effect any transaction in the purchase of the Note.

(c) The Note is being purchased by us for its face amount less the fees described in (d) below.

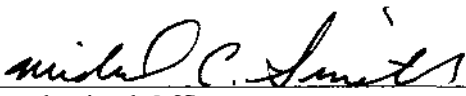
(d) Greenberg Traurig P.A., legal counsel to the Purchaser, is being paid a fee of \$2,500.00 and the Purchaser is being paid a \$1,000.00 credit review fee by the Issuer.

(e) We will not receive any management fee in connection with our purchase of the Note.

We understand that you do not require any further disclosure from the Purchaser, pursuant to Section 218.385(6), Florida Statutes.

October 2, 2009

**BRANCH BANKING AND TRUST COMPANY**  
5130 Parkway Plaza Blvd. Building No. 9  
Charlotte, NC 28217  
Attn: Account Administration/Municipal

By:   
Authorized Officer

**CERTIFICATE REGARDING RESOLUTIONS**

The undersigned City Clerk of the City of Leesburg, Florida (the "City"), HEREBY CERTIFIES that:

Attached hereto are true and correct copies of all ordinances and resolutions of the City imposing the fees and charges which generate the Communications Enterprise Revenues, as defined in that certain Loan Agreement dated as of October 2, 2009 between the City and Branch Banking and Trust Company. All said ordinances and resolutions, as reflected in the attachments hereto, are in full force and effect on and as of the date hereof in the form attached hereto.

IN WITNESS WHEREOF, I have hereunto set my hand as of this 2<sup>nd</sup> day of October, 2009.

**CITY OF LEESBURG, FLORIDA**

By: Betty M. Richardson  
City Clerk

**ORDINANCE NO. 02-74**

**AN ORDINANCE REPEALING EXISTING CHAPTER 22, ARTICLE V, DIVISION 7 OF THE CODE OF ORDINANCES OF THE CITY OF LEESBURG, FLORIDA; CREATING A NEW CHAPTER 22, ARTICLE V, DIVISION 7 OF THE CODE OF ORDINANCES OF THE CITY OF LEESBURG, FLORIDA ENTITLED "TELECOMMUNICATIONS SERVICES" TO PROVIDE FOR THE APPROVAL OF THE RATES TO BE CHARGED BY THE CITY FOR INTERNET SERVICES, FIBER OPTIC CABLE LEASES, AND DATA TRANSPORT SERVICES BY CITY COMMISSION RESOLUTION AND PROVIDING FOR THE APPROVAL OF STANDARD AGREEMENTS FOR T-1 INTERNET SERVICES, FRACTIONAL T-1 INTERNET SERVICES, DATA TRANSPORT SERVICES, AND FIBER LEASES BY CITY COMMISSION RESOLUTION; REPEALING CONFLICTING ORDINANCES; AND PROVIDING AN EFFECTIVE DATE.**

**BE IT ENACTED BY THE PEOPLE OF THE CITY OF LEESBURG, FLORIDA:**

**SECTION I.**

Existing Chapter 22, Article V, Division 7 of the Code of Ordinances of the City of Leesburg Florida, entitled "Internet Service" is hereby repealed in its entirety.

**SECTION II.**

Chapter 22, Article V, Division 7 of the Code of Ordinances of the City of Leesburg, Florida, is hereby created and is to be entitled "Telecommunications Service."

**SECTION III.**

Section 22-255 is hereby created and included in the Code of Ordinances of the City of Leesburg, Florida, in Chapter 22, Article V, Division 7, to read as follows:

**Sec. 22-255    Telecommunications Rate Schedules.**

The rates for leasing City owned fiber optic cables, and the rates for T-1 Internet service, fractional T-1 internet service, dial-up Internet service, and data transport service provided by the city shall be set and modified as desired by Resolution of the City Commission.

**SECTION IV.**

Section 22-256 is hereby created and included in the Code of Ordinances of the City of Leesburg, Florida, in Chapter 22, Article V, Division 7, to read as follows:

**Sec. 22-256 Standard Telecommunication Agreements.**

- (a) The City Commission shall review and approve by resolution standard agreements to be used by the city for the provision of T-1 Internet service, fractional T-1 Internet service, data transport service, and fiber optic cable leases.
- (b) If the city or any customer of the city makes any change to the City Commission approved form or content of any proposed fiber optic cable lease or to any agreement for T-1 Internet service, fractional T-1 Internet service, or data transport service, then such revised agreement shall require approval by the City Attorneys and the City Commission prior to execution.

**SECTION V.**

All ordinances or parts of ordinances which are in conflict with this ordinance are hereby repealed.

**SECTION VI.**

This ordinance shall become effective upon its passage and adoption according to law.

**PASSED AND ADOPTED** at the regular meeting of the City Commission of the City of Leesburg, Florida, held on the 28th day of October, 2002.

THE CITY OF LEESBURG, FLORIDA

BY:   
Mayor

Attest:   
City Clerk



A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF LEESBURG, FLORIDA, AUTHORIZING A CHANGE IN THE TELECOMMUNICATIONS RATE SCHEDULE FOR ETHERNET 100MBPS SERVICE TO \$400.00 PER MONTH, AND PROVIDING FOR A DISCOUNT FOR PRE-PAY OF SERVICE, AND PROVIDING AN EFFECTIVE DATE.

BE IT RESOLVED BY THE CITY COMMISSION OF THE CITY OF LEESBURG, FLORIDA:

Section 1.

THAT , pursuant to the provisions of Chapter 22, Article V, Division 7 of the Code of Ordinances of the City of Leesburg, the following rates and charges for Telecommunications Services shall apply, unless and until adjusted by subsequent Resolution.

<u>Description</u>	<u>Monthly Amount per Fiber Pair</u>
<ul style="list-style-type: none"> <li>100 Mbps Ethernet Data Transport Point-to-Point Service using Fiber or Wireless Transport or Video Service</li> </ul>	\$400.00
<ul style="list-style-type: none"> <li>Dark Fiber Service excluding Video Service (minimum 1 mile charge)                             <ul style="list-style-type: none"> <li>Extra Facilities Charge for Installation</li> </ul> </li> </ul>	\$102.00 per fiber mile 1.7% of Installation

INTERNET SERVICES

<ul style="list-style-type: none"> <li>Group 1 – Dial Up</li> </ul>	
Standard Plan	\$12.95 / month
<ul style="list-style-type: none"> <li>Unlimited dial-up access</li> <li>5 email accounts</li> <li>3MB storage for personal web site</li> </ul>	
<u>Extra email account</u>	\$2.50 / month

Group 2 – Dedicated Lines

All of the dedicated lines include unlimited access with no additional features.

<u>Description</u>	<u>Monthly Amount</u>
<ul style="list-style-type: none"> <li>256 Kbps dedicated line</li> <li>1.544Mbps dedicated line</li> <li>3Mbps dedicated line</li> </ul>	\$200.00 \$500.00 \$1,300.00

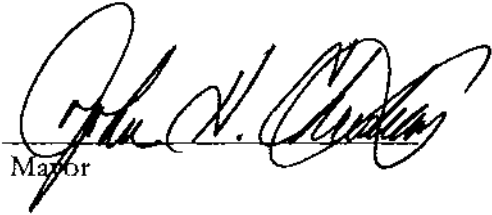
**Section 2.**

**THAT** the new rates established by this resolution shall become effective January 1, 2006.

**Section 3.**

**THAT** notice of the new rates shall be provided to all current customers. These customers shall have the option to lock in current rates by prepayment, prior to January 1, 2006. All prepayments must be for a minimum period of 6 months and may not exceed 3 years.

**PASSED AND ADOPTED** by the City Commission of the City of Leesburg, Florida, at a regular meeting held the 12th day of September 2005.

  
Mayor

ATTEST:

  
City Clerk

## DIVISION 7. TELECOMMUNICATIONS SERVICE

**Sec. 22-255. Telecommunications rate schedules.\***

The rates for leasing city owned fiber optic cables, and the rates for T-1 Internet service, fractional T-1 Internet service, dial-up Internet service, and data transport service provided by the city shall be set and modified as desired by resolution of the city commission.

(Ord. No. 02-74, §§ II, III, 10-28-02)

**Sec. 22-256. Standard telecommunication agreements.**

(a) The city commission shall review and approve by resolution standard agreements to be used by the city for the provision of T-1 Internet service, fractional T-1 Internet service, data transport service, and fiber optic cable leases.

(b) If the city or any customer of the city makes any change to the city commission approved form or content of any proposed fiber optic cable lease or to any agreement for T-1 Internet service, fractional T-1 Internet service, or data transport service, then such revised agreement shall require approval by the city attorneys and the city commission prior to execution.

(Ord. No. 02-74, § IV, 10-28-02)

**Secs. 22-257—22-260. Reserved.**

## DIVISION 8. BILLING†

**Sec. 22-261. Time due and payable.**

All bills and charges for electric current, whether furnished for lights, cooking power or other purposes, and all bills and charges for water, garbage, refuse, sewer, gas and Internet access directed to any person using such utilities of the city shall be due and payable twenty (20) days following date of billing.

(Code 1953, § 11-1; Ord. No. 98-59, § IV, 10-12-98)

**Sec. 22-262. Carrying charge for delinquent payment; arrangements for payments by public institutions.**

There shall be added to and collected on each and every charge or bill for electricity, gas and water, Internet access and pollution abatement furnished by the city, and not paid in accordance with the provisions of section 22-261, a carrying charge equal to five (5) percent of the total of such charge or bill, except as stated in this section which shall be paid and collected at the same time that the original bill is paid and collected, provided, that the city manager

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**\*Editor's note**—Ord. No. 02-74, § I, adopted Oct. 28, 2002, repealed the former Div. 7 § 22-255, and enacted a new Div. 7, § 22-255 as set out herein. The former division pertained to similar subject matter and derived from Ord. No. 98-59, § III, 10-12-98.

**†Editor's note**—Ord. No. 98-59, § I, adopted Oct. 12, 1998, renumbered former Div. 7 as Div. 8 in order to accommodate new provisions designated as Div. 7.

**ELECTION LETTER REGARDING COST OF CARRY ON BONDS**

Akerman Senterfitt  
Orlando, Florida

The undersigned Finance Director of the City of Leesburg, Florida (the "Issuer") does hereby certify on behalf of the Issuer in connection with the issuance by the Issuer of its \$1,005,000 City of Leesburg, Florida Capital Improvement Revenue Refunding Note, Series 2009 (the "Note"), as follows:

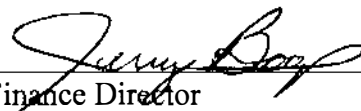
1. All of the proceeds of the Note are being used: (i) to retire on the date hereof the Issuer's promissory note payable to Florida Municipal Power Agency, the proceeds of which were used to finance a portion of the Issuer owned and operated fiber optic cable communication system, and (ii) to pay the cost of issuing the Note. No proceeds of the Note are being used for any private business use and no proceeds of the Note are being loaned directly or indirectly to any entity other than the Issuer.

2. The Issuer hereby designates the Note as a qualified tax-exempt obligation within the meaning of Section 265(b)(3) of the Internal Revenue Code of 1986, as amended (the "Code").

3. I have reviewed financial information of the Issuer and have determined that the aggregate face amount of all currently outstanding "tax-exempt" bonds or other "tax-exempt" obligations (other than private activity bonds as defined in Section 141(a) of the Code), issued by the Issuer (and any subordinate entities thereof and any issuer of "tax-exempt" debt that issues "on behalf of" the Issuer) during calendar year 2009 does not exceed \$30,000,000. Based upon reasonable investigation, it is not reasonably expected that the Issuer (and any subordinate entities thereof and any issuer of "tax-exempt" debt that issues "on behalf of" the Issuer) will issue in excess of \$30,000,000 of tax-exempt debt during calendar year 2009.

EXECUTED this 2<sup>nd</sup> day of October, 2009.

**CITY OF LEESBURG, FLORIDA**

By:   
Finance Director

**Williams, Michael (Sh-Orl)**

---

**From:** jlarson@larsonconsults.com  
**Sent:** Friday, October 02, 2009 2:17 PM  
**To:** Jay Evans  
**Cc:** Michael Smith; Williams, Michael (Sh-Orl); Fred Morrison; Jesy Acosta; Larry Aubrecht  
**Subject:** [FWD: RE: Leesburg Closing Statement October 2, 2009]  
**Importance:** High

Congratulations!!!

Per the above confirm with FMPA, we are nw Closed with the \$1,005,000 Communications Loan

Jeff

Jeffrey T. Larson  
President  
Larson Consulting Services,LLC  
10151 University Blvd., #117  
Orlando,Florida 32817  
Tel 407-496-1597  
Fax 407-542-3791  
Email: jlarson@larsonconsults.com

----- Original Message -----

Subject: RE: Leesburg Closing Statement October 2, 2009  
From: Michell Bosch <Michell.Bosch@fmpa.com>  
Date: Fri, October 02, 2009 1:05 pm  
To: jlarson@larsonconsults.com  
Cc: "Brian Kosson" <Brian.Kosson@fmpa.com>, "Janet Davis" <Janet.Davis@fmpa.com>, "Michell Bosch" <Michell.Bosch@fmpa.com>, rhonda.caraway@yesbank.com, "Paula Starr" <Paula.Starr@yesbank.com>

Hi Jeff,

According to our Trustee, TD Bank, the City of Leesburg has fulfilled their loan responsibility for the loan dated 11/01/2004.

Regards,  
Michell Bosch, CTP  
Assistant Treasurer / Investments

-----  
Florida Municipal Power Agency  
8553 Commodity Circle  
Orlando, FL 32819-9002  
Tel 407 355-7767  
Fax 407 355-5794  
Direct 321 239-1041

10/2/2009

**Williams, Michael (Sh-Orl)**

**From:** Rhonda N Caraway [Rhonda.Caraway@yesbank.com]  
**Sent:** Friday, October 02, 2009 10:26 AM  
**To:** Bisacquino, Martha  
**Cc:** bond-collinsr@gtlaw.com; colette.weber@leesburgflorida.gov; fredm@mclimburnsed.com; jacosta@larsonconsults.com; janet.davis@fmpa.com; jay.evans@leesburgflorida.gov; jerry.boop@leesburgflorida.gov; jlaron@larsonconsults.com; laubrecht@larsonconsults.com; lolsen@dacbond.com; Smith, Michael C - Government Finance; michell.ramos@fmpa.com; Williams, Michael (Sh-Orl); Paula J Starr  
**Subject:** Re: City of Leesburg, FL Wire Confirmations

All: We received the \$968,024.20.

Thanks!

Rhonda N. Caraway, CCTS  
 Vice President & Corporate Trust Officer  
 TD Bank, National Association  
 TD Wealth Management - Institutional Trust  
 7545 Centurion Parkway, Suite 402  
 Jacksonville, Florida 32256  
 Phone: (904) 641-1281  
 Mobile: (904) 226-8390  
 Fax: (904) 645-8447  
 rhonda.caraway@yesbank.com

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"Bisacquino, Martha" <MBisacquino@BBandT.com>

10/02/2009 08:47 AM

To mike.williams@akerman.com, "Smith, Michael C - Government Finance" <MCSmith@BBandT.com>, bond-collinsr@gtlaw.com, jlaron@larsonconsults.com, laubrecht@larsonconsults.com, jacosta@larsonconsults.com, janet.davis@fmpa.com, michell.ramos@fmpa.com, Rhonda.Caraway@yesbank.com, lolsen@dacbond.com, jay.evans@leesburgflorida.gov, jerry.boop@leesburgflorida.gov, colette.weber@leesburgflorida.gov, fredm@mclimburnsed.com

cc

Subject City of Leesburg, FL Wire Confirmations

Bank ID: 053101121 Account #: 0005214994315 Account Name: BB AND T GOVERNMENTAL FINANCE  
 Currency: USD

As of Date: 2009-10-02 00:00:00.0

Amount: 968,024.20

10/2/2009

**Williams, Michael (Sh-Orl)**

---

**From:** Jeff Larson [jlarson@larsonconsults.com]  
**Sent:** Friday, October 02, 2009 5:23 PM  
**To:** Williams, Michael (Sh-Orl); Williams, Michael (Sh-Orl)  
**Subject:** FW: Leesburg Closing Statement October 2, 2009

fyi

Jeffrey T. Larson  
President  
Larson Consulting Services, LLC  
10151 University Blvd, #117  
Orlando, FL 32817  
C: (407) 496-1597  
jlarson@larsonconsults.com

**From:** Michell Bosch [mailto:Michell.Bosch@fmpa.com]  
**Sent:** Friday, October 02, 2009 1:05 PM  
**To:** jlarson@larsonconsults.com  
**Cc:** Brian Kosson; Janet Davis; Michell Bosch; rhonda.caraway@yesbank.com; Paula Starr  
**Subject:** RE: Leesburg Closing Statement October 2, 2009

Hi Jeff,

According to our Trustee, TD Bank, the City of Leesburg has fulfilled their loan responsibility for the loan dated 11/01/2004.

Regards,  
Michell Bosch, CTP  
Assistant Treasurer / Investments

---

Florida Municipal Power Agency  
8553 Commodity Circle  
Orlando, FL 32819-9002  
Tel 407 355-7767  
Fax 407 355-5794  
Direct 321 239-1041  
michell.ramos@fmpa.com  
www.fmpa.com

Community Power. Statewide Strength. ®

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jlarson---10/02/2009 11:38:24 AM--- Thanks Brian FMPA's Trustee. TD Bank, has the payoff wire from the City's lender, BB&T. Pl email

10/4/2009



**CITY OF LEESBURG, FLORIDA**  
**\$1,005,000 Communications Enterprise**  
**Revenue Note, Series 2009**

## **CLOSING STATEMENT**

**October 2, 2009**

<b>Working Group</b>	<b>Title</b>	<b>Role</b>	<b>Telephone</b>	<b>Fax</b>
Jay Evans	City Manager	Issuer	352-728-9704	352-728-9706
Jerry Boop	Director of Finance	Issuer	352-728-9714	352-326-6632
Colette Weber	Finance Assistant	Issuer	352-728-3720	352-326-6632
Fred Morrison, Esq.	City Attorney	Issuer Attorney	352-787-1241	352-326-2608
Mike Williams, Esq.	Akerman Senterfitt	Bond Counsel	407-419-8439	407-843-6610
Michael Smith	Senior Vice President	BB&T	407-241-3570	877-320-4453
Rhonda D. Bond-Collins, Esq	Greenburg Traurig	Bank Counsel	407-418-2347	407-420-5909
Jeff Larson	President	Financial Advisor	407-496-1597	407-542-3791
Larry Aubrecht	Senior Vice President	Financial Advisor	303-962-3550	303-962-0307
Jesy Acosta	Admin. Assistant	Financial Advisor	407-529-5916	407-542-3791
Janet Davis	Vice President	FMPA	407-355-7767	407-355-5795
Michell Bosch	Assistant Treasurer	FMPA	407 355-7767	407 355-5794
Rhonda N. Caraway	TD Bank	FMPA Trustee	904-641-1281	904-645-8447
Ms. Lisa Olsen	Dissemination Agent	DAC	407-599-1191	407-599-5965

### **I. Pre-Closing**

Date: Thursday, October 1, 2009

Time: 11:00 AM, at City Hall, (Mike Williams to coordinate required Signatures and Conference Room at City).  
Noon: Lunch to Follow (Place TBD)

### **II. Closing**

Date: Friday, October 2, 2009

Time: 10:00 AM EST (Bond Counsel/Financial Advisor/Lender to coordinate timing).

### **III. Wire Transfers, Transfers and Flow of Funds**

The following wire and/or transfers will occur:

#### **1. BB&T Wire to FMPA Trustee, TD Bank**

On Friday morning, by 10:00 AM EDT, October 2, 2009, BB&T will wire \$968,024.20 representing \$968,000 in principal and \$24.20 in accrued interest by 10:00 AM EST, to TD Bank, for payoff of The City of Leesburg, Florida FMPA Pooled Loan, Series 2004.



**Wiring Instructions:**

Bank: TD Bank, N.A.  
Location: Cherry Hill, New Jersey  
ABA #: 0312-0136-0  
Credit Account: Trustee Clearing  
Account Number: 9000944  
Reference: Florida Municipal Power Agency Pooled Loan Project  
Attention: Rhonda Caraway, Tel: 904-641-1281

Fed Reference # 1002E3QP021C000085  
Sent By BB and T  
Date and Time 10/2/2009 at 8:31AM  
Receipt Confirmed Brian Kosson at 11:33AM via email

**2. BB&T Wire to City of Leesburg, Florida**

On Friday morning, 10:00 AM EDT, October 2, 2009, BB&T will wire balance of Note net proceeds in the amount of \$33,475.80 (\$36,975.80 less Lender Fee/ Lender Counsel Fee of \$3,500.00) to the City's main operating account at SunTrust Bank of Central Florida, Orlando for credit to the City of Leesburg.

**Wiring Instructions:**

Bank: SunTrust Bank of Central Florida  
ABA Number: 061000104  
Credit Account: City of Leesburg, Central Claims Account  
Account #: 0133026706959  
Reference: 2009 Communications Note COI  
Attention: Darlene Ricks, Orlando Branch,  
Tel: 407-237-6071

Fed Reference # 1002E3QP021C000090  
Sent By BB and T  
Date and Time 10/2/2009 at 8:33AM  
Receipt Confirmed Puggy Johnson at 8:33AM via email

**IV. Summary of Wires and Transfer by BB&T**

Note Proceeds to the 2004 FMPA Payoff	\$968,024.20
Cost of Issuance	36,975.80 <sup>(1)</sup>
<b>Total Note Proceeds</b>	<b>\$1,005,000.00</b>

<sup>(1)</sup> Includes netting of \$3,500.00 BB&T/ Lender's Counsel Fees.

**V. Procedures for Closing**

To close the transaction, the following will occur:

- Larson Consulting Services to verify wire transfers by receipt of Fed Wire Reference Numbers and Time Sent for Communications Note closing.
- Invoices provided to Mr. Jerry Boop, City of Leesburg, with copy to Jeff Larson, Larson Consulting Services, by end of day, Wednesday, September 30<sup>th</sup>, 5:00 pm, for Cost of Issuance, and review at pre-closing by City and Financial Advisor, for City payment by check or wire transfer post closing.

**Email**

*jay.evans@leesburgflorida.gov*

*jerry.boop@leesburgflorida.gov*

*colette.weber@leesburgflorida.gov*

*fredm@mclinburnsed.com*

*mike.williams@akerman.com*

*mcsmith@bbandt.com*

*bond-collinsr@gtlaw.com*

*jl Larson@larsonconsults.com*

*laubrecht@larsonconsults.com*

*jacosta@larsonconsults.com*

*janet.davis@fmpa.com*

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*rhonda.caraway@yesbank.com*

*lolsen@dacbond.com*