

**RESOLUTION NO. 2525-12**

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF OVIEDO, FLORIDA, AUTHORIZING A NEGOTIATED LOAN IN AN AGGREGATE PRINCIPAL AMOUNT NOT TO EXCEED \$10,000,000 FOR THE PURPOSE OF REFUNDING ALL OF THE CITY'S OUTSTANDING PUBLIC IMPROVEMENT REVENUE BONDS, SERIES 2002 AND PUBLIC IMPROVEMENT REFUNDING REVENUE BONDS, SERIES 2002-B; AUTHORIZING THE EXECUTION AND DELIVERY OF A LOAN AGREEMENT AND ACCEPTANCE OF THE BANK'S COMMITMENT; AUTHORIZING THE EXECUTION AND DELIVERY OF AN ESCROW DEPOSIT AGREEMENT AND APPOINTING AN ESCROW AGENT; AUTHORIZING THE EXECUTION AND DELIVERY OF A CITY OF OVIEDO, FLORIDA PUBLIC IMPROVEMENT REFUNDING REVENUE NOTE, SERIES 2012A AND PUBLIC IMPROVEMENT REFUNDING REVENUE NOTE, SERIES 2012B TO EVIDENCE THE CITY'S OBLIGATIONS UNDER THE LOAN AGREEMENT, SUCH NOTES TO BE LIMITED OBLIGATIONS OF THE CITY PAYABLE FROM THE PLEDGED REVENUES AS PROVIDED HEREIN AND IN THE LOAN AGREEMENT; DESIGNATING EACH NOTE AS A QUALIFIED TAX-EXEMPT OBLIGATION WITHIN THE MEANING OF SECTION 265(b)(3)(B) OF THE INTERNAL REVENUE CODE; PROVIDING FOR THE RIGHTS AND SECURITIES OF THE OWNER OF THE NOTES; MAKING CERTAIN OTHER COVENANTS AND AGREEMENTS IN CONNECTION THEREWITH; AND PROVIDING FOR AN EFFECTIVE DATE.**

**WHEREAS**, the City of Oviedo, Florida (the "City") previously issued its Public Improvement Revenue Bonds, Series 2002, currently outstanding in the aggregate principal amount of \$6,690,000 and its Public Improvement Refunding Revenue Bonds, Series 2002-B, currently outstanding in the aggregate principal amount of \$2,565,000 (together, the "Refunded Bonds"); and

**WHEREAS**, City Council of the City (the "City Council") has determined that it is necessary and desirable and in the best interest of the inhabitants of the City to refund all of the outstanding principal amount of the Refunded Bonds in order to achieve debt service savings; and

**WHEREAS**, the City Council determined that it is necessary and desirable to borrow funds (the "Loan") to refund the Refunded Bonds and received proposals on June 6, 2012, from a number of financial institutions in response to the City's request for proposals dated May 25, 2012; and

**WHEREAS**, the City Council hereby determines, based on recommendations from Larson Consulting Services, the City's financial advisor, and the City's Selection Committee, that the proposal from Hancock Bank (the "Bank") attached hereto as Exhibit D (the

“Commitment”) to finance the costs of refunding the Refunded Bonds contains the terms and provisions that are most favorable for the City; and

**WHEREAS**, amounts due under the Loan will be evidenced by the issuance by the City of its City of Oviedo, Florida Public Improvement Refunding Revenue Note, Series 2012A and City of Oviedo, Florida Public Improvement Refunding Revenue Note, Series 2012B (together, the “Notes”); and

**WHEREAS**, the debt service on the Notes shall be payable solely from and secured by the tax revenues received by the City (i) from the levy of taxes pursuant to Section 166.231, Florida Statutes, as amended, and Ordinance No. 1281 enacted by the City Council on September 27, 2004 on purchases of electricity, metered natural gas, liquefied petroleum gas either metered or bottled, manufactured gas either metered or bottled, and water service, and (ii) from the levy of taxes pursuant to Section 202.19, Florida Statutes, as amended, and Ordinance No. 1190 enacted by the City Council on March 4, 2002, on local communication services (the “Pledged Revenues”); and

**WHEREAS**, the City Council desires to designate each of the Notes as a “qualified tax-exempt obligation” for purposes of Section 265(b)(3)(B) of the Internal Revenue Code of 1986, as amended;

**NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF OVIEDO, FLORIDA:**

**SECTION 1. AUTHORITY FOR THIS RESOLUTION.** This Resolution is adopted pursuant to Article VIII, Section 2, of the Constitution of the State of Florida, Chapter 166, part II, Florida Statutes, as amended, the Charter of the City and other provisions of law.

**SECTION 2. RECITALS.** It is hereby found, ascertained, determined and declared that:

A. The WHEREAS clauses recited above are hereby incorporated herein as a part of this Resolution.

B. The City of Oviedo, Florida is a duly constituted and validly existing municipality within the State of Florida with requisite home rule powers derived from the Constitution and Laws of the State of Florida.

C. It is in the public interest and a valid and proper public purpose to refund the Refunded Bonds in order to achieve debt service savings.

D. The Bank’s Commitment to provide the Loan to the City in an amount not to exceed \$10,000,000 at the terms set forth therein is the best proposal to provide financing for refunding the Refunded Bonds.

E. The Pledged Revenues shall be used to pay principal of and interest on the Notes and any other amounts due under the Loan Agreement or the Notes.

F. Because of the characteristics of the security pledged to repay the Loan, prevailing conditions in the financial markets, reduced upfront costs of issuance and additional savings to be realized from an expeditious sale of the Notes, it is in the best interest of the City to accept the offer of the Bank to enter into the Loan Agreement and purchase the Notes at a private negotiated sale. Prior to the issuance of the Notes, the City shall receive from the Bank a Lender's Certificate, the form of which is attached hereto as Exhibit A and the Disclosure Letter containing the information required by Section 218.385, Florida Statutes, the form of which is attached hereto as Exhibit B.

G. The City does not reasonably expect to issue more than \$10,000,000 of tax-exempt obligations, including the Notes, during calendar year 2012.

H. In consideration of the purchase and acceptance by the Bank of the Notes authorized to be issued hereunder, this Resolution together with the terms and provisions of the Loan Agreement shall constitute a contract between the City and the Bank.

I. Since the refunding of the Refunded Bonds with proceeds of the Notes results in a lower net average interest cost rate, the not to exceed principal amount of approximately \$6,690,000 for the Series 2012A Note (defined below) and the not to exceed amount of approximately \$2,565,000 for the Series 2012B Note (defined below) does not require referendum approval and does not require voter approval under Section 4.08.11, Charter of the City of Oviedo, Florida.

**SECTION 3. AUTHORIZATION OF LOAN AGREEMENT AND COMMITMENT.** To provide for the security of the Notes and to express the contract between the City and the Bank, the City does hereby authorize the execution and delivery on behalf of the City by the Mayor and City Manager under the seal of the City, attested by the City Clerk, of the Loan Agreement by and between the City and the Bank (the "Loan Agreement"). The Loan Agreement shall be in substantially the form attached hereto and marked Exhibit C and is hereby approved, with such changes, amendments, modifications, omissions and additions as may be approved by the Mayor and the City Manager, delivery thereof to be conclusive evidence of such approval. Subject and pursuant to the provisions of this Resolution and the terms and provisions of the Loan Agreement, there is hereby authorized to be issued promissory notes to evidence the City's obligations under the Loan Agreement. The Notes are authorized to be issued in the aggregate principal amount not to exceed \$10,000,000 and subject to the provisions of Section 4 hereof.

The City Manager is hereby authorized to accept the Bank's Commitment which is attached hereto as Exhibit D.

**SECTION 4. AUTHORIZATION OF THE NOTES.** There is hereby authorized to be issued the "City of Oviedo, Florida Public Improvement Refunding Revenue Note, Series 2012A," (the "2012A Note") in an aggregate principal amount not to exceed six million six hundred ninety thousand dollars (\$6,690,000) and the "City of Oviedo, Florida Public Improvement Refunding Revenue Note, Series 2012B," (the "2012B Note") in an aggregate principal amount not to exceed two million five hundred sixty-five thousand dollars



(\$2,565,000), which Notes shall secure amounts outstanding under the Loan Agreement and will be repaid in accordance with the terms of the Commitment. The Notes shall be executed on behalf of the City with the manual signature of the Mayor and City Manager, attested by the manual signature of the City Clerk and the official seal of the City. In case any one or more of the officers who shall have signed or sealed the Notes shall cease to be such officer of the City before the Notes so signed and sealed have been actually sold and delivered, such Notes may nevertheless be sold and delivered as herein provided and may be issued as if the person who signed or sealed such Notes had not ceased to hold such office. The Notes may be signed and sealed on behalf of the City by such person who at the actual time of the execution of such Notes shall hold the proper office of the City, although, on the date of delivery of such Notes, such person may not have held such office or may not have been so authorized.

**SECTION 5. AUTHORIZATION OF ESCROW DEPOSIT AGREEMENT; APPOINTMENT OF ESCROW AGENT; AUTHORIZATION TO ENGAGE VERIFICATION AGENT.** The Escrow Deposit Agreement shall be in substantially the form attached hereto as Exhibit E, with such changes, amendments, modifications, omissions and additions as may be approved by the Mayor, delivery thereof to be conclusive evidence of such approval. The City Council hereby authorizes and directs the Mayor and the City Manager to execute the Escrow Deposit Agreement, the Clerk to attest the same under the seal of the City, and to deliver the Escrow Deposit Agreement to the Escrow Agent for its execution. The Bank of New York Mellon Trust Company, N.A., is hereby appointed as Escrow Agent under the Escrow Deposit Agreement. The City Manager is hereby authorized to engage such professionals as in her discretion are competent to provide a verification report (the "Verification Report") with respect to the Refunded Bonds.

**SECTION 6. REDEMPTION OF THE REFUNDED BONDS.** Subject to the execution and delivery of the Notes for the purpose of refunding the Refunded Bonds, the City hereby irrevocably calls the Refunded Bonds for early redemption on October 1, 2012, or such other date as determined by the Mayor and the City Manager, in the Escrow Deposit Agreement. Not less than thirty-five (35) days prior to such redemption date, the City hereby directs The Bank of New York Mellon Trust Company, N.A., in its capacity as Registrar for the Refunded Bonds (in such capacity, the "Refunded Bonds Registrar"), to mail a notice of the redemption of the Refunded Bonds to each holder thereof in accordance with the requirements of Resolution No. 692-02 authorizing the issuance of the Refunded Bonds. Furthermore, upon the funding of the Escrow Deposit Agreement in accordance with the Verification Report for the purposes of refunding the Refunded Bonds, the City hereby directs the Refunded Bonds Registrar to mail a notice of defeasance to each holder of the Refunded Bonds.

**SECTION 7. PAYMENT OF PRINCIPAL AND INTEREST; LIMITED OBLIGATION.** The City promises that it will promptly pay the principal of and interest on the Notes and all other amounts due under the Loan Agreement at the place, on the dates and in the manner provided in the Loan Agreement according to the true intent and meaning hereof and thereof. Amounts due under the Loan Agreement shall not be or constitute a general obligation or indebtedness of the City as a "bond" within the meaning of Article VII, Section 12 of the Constitution of Florida, but shall be payable solely from the Pledged Revenues in accordance

with the terms hereof and of the Loan Agreement. The holders of the Notes issued hereunder shall never have the right to compel the exercise of any ad valorem taxing power to pay the Notes, or be entitled to payment of such Notes from any funds of the City except from the Pledged Revenues as described herein and in the Loan Agreement.

**SECTION 8. BANK QUALIFIED.** The City hereby designates each of the Notes as a “qualified tax-exempt obligation” within the meaning of Section 265(b)(3)(B) of the Internal Revenue Code of 1986, as amended (the “Code”). The City and any subordinate entities of the City and any issuer of “tax-exempt” debt that issues “on behalf of” the City do not reasonably expect during calendar year 2012 to issue more than \$10,000,000 of “tax-exempt” obligations, including the Notes, exclusive of any private activity bonds as defined in Section 141(a) of the Code (other than qualified 501(c)(3) bonds as defined in Section 145 of the Code).

**SECTION 9. USE OF PROCEEDS.** The proceeds of the Notes shall be used, along with other legally available funds of the City, to (i) make a deposit to the Escrow Account under the Escrow Deposit Agreement to refund all of the outstanding Refunded Bonds and (ii) pay the costs and expenses associated with issuing the Notes.

**SECTION 10. GENERAL AUTHORIZATION.** The Mayor and any member of the City Council, the City Manager, the City’s Finance Director, the City Clerk and such other officials and employees of the City as may be designated by the City are each designated as agents of the City in connection with the issuance and delivery of the Notes and are authorized and empowered, collectively or individually, to take all actions and steps and to execute all instruments, documents, and contracts on behalf of the City that are necessary or desirable in connection with the execution and delivery of the Notes, and which are specifically authorized or are not inconsistent with the terms and provisions of this Resolution.

**SECTION 11. PREREQUISITES PERFORMED.** The City has performed all acts, conditions, and things relating to the passage of this Resolution as are required by the Constitution and Laws of the State of Florida, and the Charter and Ordinances of the City.

**SECTION 12. SEVERABILITY.** If any provision of this Resolution shall be held or deemed to be or shall, in fact, be illegal, inoperative or unenforceable in any context, the same shall not affect any other provision herein or render any other provision (or such provision in any other context) invalid, inoperative or unenforceable to any extent whatever.

**SECTION 13. APPLICABLE PROVISIONS OF LAW.** This Resolution shall be governed by and construed in accordance with the laws of the State of Florida.

**SECTION 14. RULES OF INTERPRETATION.** Unless expressly indicated otherwise, references to sections or articles are to be construed as references to sections or articles of this instrument as originally executed. Use of the words “herein,” “hereby,” “hereunder,” “hereof,” “hereinbefore,” “hereinafter” and other equivalent words refer to this Resolution and not solely to the particular portion in which any such word is used.

**SECTION 15. CAPTIONS.** The captions and headings in this Resolution are for convenience only and in no way define, limit or describe the scope or intent of any provisions or sections of this Resolution.

**SECTION 16. MEMBERS OF THE CITY COUNCIL EXEMPT FROM PERSONAL LIABILITY.** No recourse under or upon any obligation, covenant or agreement of this Resolution, the Loan Agreement or the Notes or for any claim based thereon or otherwise in respect thereof, shall be had against any member of the City Council, as such, of the City, past, present or future, either directly or through the City it being expressly understood (a) that no personal liability whatsoever shall attach to, or is or shall be incurred by, the members of the City Council, as such, under or by reason of the obligations, covenants or agreements contained in this Resolution, the Loan Agreement or the Notes or implied therefrom, and (b) that any and all such personal liability, either at common law or in equity or by constitution or statute, of, and any and all such rights and claims against, every such member of the City Council, as such, are waived and released as a condition of, and as a consideration for, the execution of this Resolution and the Loan Agreement and the issuance of the Notes, on the part of the City.

**SECTION 17. REPEALER.** All ordinances and/or resolutions or parts thereof in conflict herewith, if any, are hereby repealed.


**SECTION 18. NO THIRD PARTY BENEFICIARIES.** Except such other persons as may be expressly described in this Resolution, nothing in this Resolution, expressed or implied, is intended or shall be construed to confer upon any person, other than the City and the holders of the Notes, any right, remedy or claim, legal or equitable, under and by reason of this Resolution, or any provision thereof, all provisions thereof being intended to be and being for the sole and exclusive benefit of the City and the persons who shall from time to time be the holders of the Notes.

**SECTION 19. EFFECTIVE DATE.** The provisions of this Resolution shall take effect immediately upon its passage

The foregoing Resolution No. 2525-12 was passed and adopted by the City Council of the City of Oviedo, Florida on the 18<sup>th</sup> day of June, 2012, A.D.

  
\_\_\_\_\_  
**DOMINIC PERSAMPIERE**  
**MAYOR of the City of Oviedo, Florida**

**ATTEST:**

  
\_\_\_\_\_  
**Barbara J. Barbour**  
**City Clerk**



**EXHIBIT A**  
**FORM OF LENDER'S CERTIFICATE**

This is to certify that Hancock Bank (the "Bank") has not required the City of Oviedo, Florida (the "City") to deliver any offering document and has conducted its own investigation, to the extent it deems satisfactory or sufficient, into matters relating to business affairs or conditions (either financial or otherwise) of the City in connection with the issuance by the City of its Public Improvement Refunding Revenue Note, Series 2012A and Public Improvement Refunding Revenue Note, Series 2012B (together, the "Notes") securing amounts due under the Loan Agreement dated as of \_\_\_\_\_, 2012 by and between the City and the Bank (the "Loan Agreement"), in an amount not to exceed \$10,000,000, and no inference should be drawn that the Bank, in the acceptance of said Notes, is relying on Bryant Miller Olive P.A. ("Note Counsel"), Stenstrom, McIntosh, Colbert, Whigham & Partlow, P.A. ("City Attorney") or Larson Consulting Services (the "Financial Advisor") as to any such matters other than the legal opinions rendered by Note Counsel and by the City Attorney. Any capitalized undefined terms used herein not otherwise defined shall have the meaning set forth in the Loan Agreement.

We acknowledge and understand that Resolution No. \_\_\_\_\_ adopted by the City Council of the City on June \_\_\_\_, 2012 is not being qualified under the Trust Indenture Act of 1939, as amended (the "1939 Act"), and is not being registered in reliance upon the exemption from registration under Section 3(a)(2) of the Securities Act of 1933, Section 517.051(1), Florida Statutes, and/or Section 517.061(7), Florida Statutes, and that neither the City, Note Counsel, the City Attorney nor the Financial Advisor shall have any obligation to effect any such registration or qualification.

We are not acting as a broker or other intermediary, and are purchasing the Notes as an investment for our own account and not with a present view to a resale or other distribution to the public. We understand that the Notes may not be transferred except to an "accredited investor" as described below in accordance with the restrictions set forth in the Notes.

We are a bank as contemplated by Section 517.061(7), Florida Statutes. We are not purchasing the Notes for the direct or indirect promotion of any scheme or enterprise with the intent of violating or evading any provision of Chapter 517, Florida Statutes.

We are an "accredited investor" as such term is defined in the Securities Act of 1933, as amended, and Regulation D thereunder.

DATED this \_\_\_\_ day of \_\_\_\_\_, 2012.

HANCOCK BANK

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



**EXHIBIT B**  
**FORM OF DISCLOSURE LETTER**

The undersigned, as purchaser, proposes to negotiate with the City of Oviedo, Florida (the "City") for the private purchase of the City's Public Improvement Refunding Revenue Note, Series 2012A (the "2012A Note") and Public Improvement Refunding Revenue Note, Series 2012B (the "2012B Note" and, together with the 2012A Note, the "Notes") securing amounts due under a Loan Agreement by and between Hancock Bank (the "Bank") and the City in an amount not to exceed \$10,000,000 (the "Loan Agreement"). Prior to the award of the Notes, the following information is hereby furnished to the City:

1. Set forth is an itemized list of the nature and estimated amounts of expenses to be incurred for services rendered to the Bank in connection with the issuance of the Notes (such fees and expenses to be paid by the City):

[name of Bank's Counsel]  
Bank's Counsel -- \$4,300

2. (a) No fee, bonus or other compensation is estimated to be paid by the Bank in connection with the issuance of the Notes to any person not regularly employed or retained by the Bank (including any "finder" as defined in Section 218.386(1)(a), Florida Statutes).

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

3. The amount of the underwriting spread expected to be realized by the Bank is \$0.

4. The management fee to be charged by the Bank is \$0.

5. Truth-in-Bonding Statement:

The Notes are being issued primarily to finance the refunding of the City's outstanding Public Improvement Revenue Bonds, Series 2002 and Public Improvement Refunding Revenue Bonds, Series 2002-B.

Unless earlier redeemed, the 2012A Note is expected to be repaid by October 1, 2022. At a fixed rate of interest, calculated at 1.94%, total interest paid over the life of the 2012A Note is estimated to equal \$\_\_\_\_\_.

Unless earlier redeemed, the 2012B Note is expected to be repaid by October 1, 2018. At a fixed rate of interest, calculated at 1.46%, total interest paid over the life of the 2012B Note is estimated to equal \$\_\_\_\_\_.



The Notes will be payable solely from the Pledged Revenues, as defined in the Loan Agreement in a manner sufficient to pay the principal of and interest due on the Notes, as described in Resolution No. \_\_\_\_\_ of the City adopted on June \_\_, 2012 and the Loan Agreement. Issuance of the 2012A Note is estimated to result in a maximum of approximately \$\_\_\_\_\_ of Pledged Revenues of the City not being available to finance the services of the City in any one year during the life of the 2012A Note. Issuance of the 2012B Note is estimated to result in a maximum of approximately \$\_\_\_\_\_ of Pledged Revenues of the City not being available to finance the services of the City in any one year during the life of the 2012B Note.

6. The name and address of the Bank is as follows:

Hancock Bank  
113 Designer Circle  
Dothan, Alabama 36303

**IN WITNESS WHEREOF**, the undersigned has executed this Disclosure Letter on behalf of the Bank this \_\_\_\_\_ day of \_\_\_\_\_, 2012.

HANCOCK BANK

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

**EXHIBIT C**  
**FORM OF LOAN AGREEMENT**

**LOAN AGREEMENT**

**dated \_\_\_\_\_, 2012**

**by and between**

**THE CITY OF OVIEDO, FLORIDA**  
**(the "City")**

**and**

**HANCOCK BANK**  
**(the "Bank")**

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## LOAN AGREEMENT

**THIS LOAN AGREEMENT** (the "Agreement"), made and entered as of the \_\_\_\_ day of \_\_\_\_\_, 2012, by and between the **CITY OF OVIEDO, FLORIDA** (the "City"), a municipal corporation and public body corporate and politic of the State of Florida duly organized and existing under the laws of the State of Florida and its successors and assigns, and **HANCOCK BANK**, a banking corporation chartered under the laws of the State of Mississippi and authorized to do business in the State of Florida, and its successors (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; and

**WHEREAS**, the City, pursuant to the provisions of the Constitution and the laws of the State of Florida, Chapter 166, Florida Statutes, as amended, the City Charter of the City, and other applicable provisions of law (collectively, the "Act") and Resolution No. \_\_\_\_ adopted by the City Council of the City (the "City Council") on \_\_\_\_\_, 2012 (the "Note Resolution"), is authorized to borrow money to finance the refunding of the City's outstanding Public Improvement Revenue Bonds, Series 2002 and Public Improvement Refunding Revenue Bonds, Series 2002-B (together, the "Refunded Bonds"); and

**WHEREAS**, the City desires to borrow \$\_\_\_\_\_ to finance the refunding of the Refunded Bonds (the "Loan") and to secure the repayment of the Loan with a pledge of and lien on the Pledged Revenues (as defined herein); and

**WHEREAS**, the City issued a request for proposal and received proposals from various financial institutions to provide for the Loan; and

**WHEREAS**, the Bank is willing to provide the Loan to the City as provided herein, 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:

"2012A Note" shall mean the City of Oviedo, Florida Public Improvement Refunding Revenue Note, Series 2012A issued by the City under the Note Resolution and this Agreement to evidence amounts due under this Agreement, the form of which is attached hereto as Exhibit A.

"2012A Note Rate" shall mean the rate of interest to be borne by the 2012A Note, which shall be 1.94%, calculated on the basis of a 360-day year consisting of twelve (12) thirty (30) day months.

"2012B Note" shall mean the City of Oviedo, Florida Public Improvement Refunding Revenue Note, Series 2012B issued by the City under the Note Resolution and this Agreement to evidence amounts due under this Agreement, the form of which is attached hereto as Exhibit A.

"2012B Note Rate" shall mean the rate of interest to be borne by the 2012B Note, which shall be 1.46%, calculated on the basis of a 360-day year consisting of twelve (12) thirty (30) day months.

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

"Additional Debt" means additional obligations issued in compliance with the terms, conditions and limitations contained in Section 4.05 hereof which will have an equal lien on the Pledged Revenues, to the extent herein provided and rank equally in all other respects with the Notes and any other Additional Debt hereafter issued.

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

"Bank" shall mean Hancock Bank, a banking corporation chartered under the laws of the State of Mississippi, and its successors or affiliates.

"Business Day" shall mean any day other than a Saturday, a Sunday, or a day on which banks in the City are authorized or required to be closed.

"City" shall mean the City of Oviedo, Florida, a municipal corporation and public body corporate and politic of the State of Florida.

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

"Date of Delivery" shall mean \_\_\_\_\_, 2012.

"Debt Service" means principal of and interest on the Notes, and other debt related costs, due in connection with the Notes and this Agreement.

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

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

"Loan" shall refer to the loan in a principal amount of \_\_\_\_\_ Dollars (\$\_\_\_\_), together with the interest accrued thereon pursuant to and in accordance with this Agreement.

"Maturity Date" shall mean October 1, 2022 with respect to the 2012A Note and October 1, 2018 with respect to the 2012B Note.

"Noteholder," "Owner" or "Holder" shall mean the Bank, as the purchaser and initial holder of the Notes and any subsequent registered owner or owners of the Notes.

"Note Resolution" shall mean Resolution No. \_\_\_\_ adopted by the City Council on \_\_\_\_\_, 2012, which, among other things, authorized and confirmed the borrowing of the Loan and execution and delivery of this Agreement and the issuance of the Notes.

"Notes" shall mean, collectively, the 2012A Note and the 2012B Note.

"Pledged Revenues" shall mean the tax revenues received by the City (i) from the levy of taxes pursuant to Section 166.231, Florida Statutes, as amended, and Ordinance No. 1281 enacted by the City Council on September 27, 2004 on purchases of electricity, metered natural gas, liquefied petroleum gas either metered or bottled, manufactured gas either metered or bottled, and water service, and (ii) from the levy of taxes pursuant to Section 202.19, Florida Statutes, as amended, and Ordinance No. 1190 enacted by the City Council on March 4, 2002, on local communication services.

"Refunded Bonds" shall mean, collectively, the City's outstanding Public Improvement Revenue Bonds, Series 2002 and Public Improvement Refunding Revenue Bonds, Series 2002-B.

**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 Note 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 and a public body corporate and politic of the State of Florida, duly created and validly existing under the laws of the State of Florida, with full legal right, power and authority to adopt the Note Resolution, to enter into this Agreement, to perform its obligations hereunder and to issue and deliver the Notes to the Bank. The making, execution and performance of this Agreement on the part of the City and the issuance and delivery of the Notes 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 Notes and the Note 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. There are no actions, proceedings or investigations pending against the City or affecting the City (or any basis therefor known to the City) which, either in any case or in the aggregate, might result in any material adverse change in the financial condition, business, prospects, affairs or operations of the City or in any of its properties or assets, or in any material impairment of the right or ability of the City to carry on its operations as now conducted or proposed to be conducted, or in the levy, receipt and collection of the Pledged Revenues or in any material liability on the part of the City and none which questions the validity of this Agreement, the Notes or the Note Resolution or of any action taken or to be taken in connection with the transactions contemplated hereby or thereby.

(d) Liens and Encumbrances. Upon the issuance of the Notes and the refunding of the Refunded Bonds, there are no pledges of, or liens or encumbrances on, the Pledged Revenues, other than the lien of the Notes.

(e) No Litigation. There are no suits or proceedings pending or to the knowledge of the City, threatened, in any court or before any regulatory commission, board or other administrative governmental agency against or affecting the City, concerning or affecting the Pledged Revenues or which would have a material adverse affect on the ability of City to fulfill its obligations under this Agreement.

(f) Confirmation. The representations and warranties of the City contained in the Note Resolution are hereby confirmed to be true and accurate and are incorporated as a part of this Agreement.

**Section 2.02. Representations and Warranties of Bank.** The Bank represents and warrants to the City as follows:

(a) Existence. The Bank is a banking corporation chartered under the laws of the State of Mississippi and 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 Notes, (ii) has received and reviewed such financial information concerning the City as it has requested in order to fairly evaluate the merits and risks of making the Loan and investing in the Notes; (iii) is an "accredited investor" as such term is defined in Regulation D to the Securities Act of 1933; and (iv) is purchasing the Notes as an investment for its own account and not with a view toward resale to the public. The Bank will not transfer the Notes except to another accredited investor.

### ARTICLE III THE NOTES

**Section 3.01. The Loan; Purpose and Use.** On the date of this Agreement, the Bank shall provide the Loan to the City in the aggregate principal amount of \_\_\_\_\_ Dollars (\$\_\_\_\_\_).

The proceeds of the Loan shall be used to finance the refunding of the Refunded Bonds and to pay the costs of issuance of the Notes.

**Section 3.02. The Notes.** The City shall issue the Notes to the Bank to evidence and secure its obligation to repay the Loan. The Notes shall be substantially in the form set forth as Exhibit "A" to this Agreement. The general terms of the Notes shall be as follows; provided,

however, that in the event of a conflict between the terms of this Agreement and the terms of the executed Notes, the terms of the Notes shall prevail:

(a) Principal Amount of Notes. The principal amount of the 2012A Note shall be \_\_\_\_\_ Dollars (\$\_\_\_\_\_). The principal amount of the 2012B Note shall be \_\_\_\_\_ Dollars (\$\_\_\_\_\_).

(b) Interest. The 2012A Note shall bear interest on the outstanding principal amount thereof at the 2012A Note Rate from the Date of Delivery until paid in full. The 2012B Note shall bear interest on the outstanding principal amount thereof at the 2012B Note Rate from the Date of Delivery until paid in full. Interest on the Notes shall be computed on the basis of twelve (12) thirty (30) day months and a 360-day year.

(c) Payments. Interest on the Notes shall be paid semi-annually on every April 1 and October 1, commencing April 1, 2013 until the Notes are paid in full. Principal on the Notes shall be paid in annual installments beginning October 1, 2013, and thereafter on each October 1. Debt Service on the Notes shall be paid as set forth on Schedule I attached to the respective Notes, subject to prepayment by the City prior to the respective Note's maturity as provided in subsection 3.02(d) below.

(d) Prepayment. The City may prepay the Notes in whole on any date with fifteen (15) days prior written notice to the Holder without a premium or prepayment penalty. The City may prepay the Notes in part on any principal payment date (October 1) with fifteen (15) days prior written notice to the Holder without a premium or prepayment penalty. Any partial prepayments shall be in multiples of \$1,000. Any prepayment shall be applied first to accrued and unpaid interest to the date of prepayment and then to the unpaid principal installments with the latest maturities in inverse order.

**Section 3.03. Compliance with Section 215.84.** The City represents, warrants, and covenants that the 2012A Note Rate and the 2012B Note Rate, as currently calculated in accordance with Section 215.84, Florida Statutes, is in compliance with Section 215.84, Florida Statutes.

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

(a) an opinion of counsel to the City to the effect that (i) the City is a municipal corporation duly created and validly existing under the Constitution and laws of the State of Florida, with full legal right, power and authority to enact Ordinance Nos. 1190 and 1281, to adopt the Note Resolution, to issue the Notes, to authorize, execute and delivery this Agreement, to perform its obligations under the Notes, the Note Resolution and this Agreement and to consummate the transactions contemplated by such instruments; (ii) the Note Resolution has been duly adopted by the City Council at a duly convened public meeting following proper public notice, has not been amended or repealed and is in full force and effect, and constitute

the legal, valid and binding obligation of the City enforceable in accordance with its terms; (iii) Ordinance Nos. 1190 and 1281 were duly enacted by the City Council of the City at duly called public meetings following proper public notice, and have not otherwise been amended or repealed and are in full force and effect as of the date hereof; (iv) the Notes and this Agreement have been duly authorized, executed and delivered by the City and constitute valid and binding obligations of the City enforceable in accordance with their respective terms (subject as to enforceability of any remedies to any applicable bankruptcy or insolvency laws or other laws affecting creditors' rights generally, from time to time in effect); (v) to the best of his knowledge, the adoption of the Note Resolution, and the authorization, execution and delivery of the Notes and this Agreement, and compliance with the provisions thereof, will not conflict with, or constitute a breach of or default under, any law, administrative regulation, consent decree, resolution or any agreement or other instrument to which the City was or is subject, as the case may be, nor will such enactment, adoption, execution, delivery, authorization or compliance result in the creation or imposition of any lien, charge or other security interest or encumbrance of any nature whatsoever upon any of the property or assets of the City, or under the terms of any law, administrative regulation, ordinance, resolution or instrument, except as expressly provided by the Note Resolution; (vi) to the best of his knowledge, all approvals, consents, authorizations and orders of any governmental authority or agency having jurisdiction in any matter which would constitute a condition precedent to the performance by the City of its obligations under the Note Resolution and this Agreement have been obtained and are in full force and effect; (vii) to the best of his knowledge, after reasonable inquiries, there is no litigation pending or threatened, to restrain or enjoin the issuance or sale of the Notes or in any way affecting any authority for or the validity of the Notes, the Note Resolution, this Agreement or the pledge of the Pledged Revenues; (viii) neither the corporate existence nor the title of any of the present City Council Members and officials thereof to their respective offices is being contested; and (ix) the City has complied with all conditions precedent to the issuance of the Notes.

(b) an opinion of Note Counsel (who may rely on the opinion of Counsel to the City), stating that such counsel is of the opinion that: (i) the Note Resolution and this Agreement constitute valid and binding obligations of the City, enforceable upon the City in accordance with their respective terms; (ii) the Notes are valid and binding special obligations of the City, enforceable in accordance with its terms, payable solely from the sources provided therefor in the Note Resolution and this Agreement; (iii) assuming compliance by the City with certain covenants in this Agreement relating to requirements contained in the Code, interest on the Notes is excluded from gross income for purposes of federal income taxation, and interest on the Notes is not an item of tax preference for purposes of the federal alternative minimum tax imposed on individuals and corporations; however, with respect to corporations (as defined for federal income tax purposes), such interest is taken into account in determining adjusted current earnings for the purpose of computing the alternative minimum tax imposed on such corporations; and (iv) the Notes are "qualified tax-exempt obligations" under Section 265(b)(3)(B) 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; and

(d) a certificate of the City indicating that since September 30, 2011, there has been no material adverse change in the financial condition, operations or prospects of the City or laws, rules or regulations (or their interpretation or administration) that, in any case, may adversely affect the City's ability to comply with its obligations hereunder and under the Notes.

(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 Notes shall have been executed as required by this Agreement, and all conditions of the Note Resolution have been met, the City shall deliver the Notes to or upon the order of the Bank, but only against the City's receipt of the proceeds of the Loan.

**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 Notes and the registration of transfers of the Notes as provided in this Agreement. The transfer of the Notes may be registered only upon the books kept for the registration of the Notes 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 Notes attached as Exhibit "A" to this Agreement; provided, however, the Notes may not be transferred in a denomination less than \$100,000 under any circumstances. In the case of any such registration of transfer, the City shall execute and deliver in exchange for the applicable Notes a new Note registered in the name of the transferee. In all cases in which the Notes 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 the Notes sufficient to reimburse it for any tax or other governmental charges required to be paid (other than a tax or other governmental charge imposed by the City) with respect to such registration of transfer, but no other charge shall be made for registering the transfer hereinabove granted. The Notes shall be issued in fully registered form and shall be payable in any coin or currency of the United States.

The registration of transfer of the Notes on the registration books of the City shall be deemed to affect 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 applicable Note.

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 such a mutilated Note, such mutilated Note shall first be surrendered to the City, and in the case of a 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 Notes.** The person in whose name a 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.

The registered owner of a 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, the Note may not be transferred in a denomination less than \$100,000 under any circumstances. Every prior registered owner of a 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.

#### 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 Notes or in any proceedings of the City relating to the Loan.

**Section 4.02. Use of Proceeds.** The proceeds of the Notes shall be wired by the Bank to the City, no later than 1:00 p.m. on the Date of Delivery of the Notes, or such later time as may be mutually agreed upon by the City and the Bank, and shall be applied by the City to finance the refunding of the Refunded Bonds and to pay the costs of issuance of the Notes.

**Section 4.03. Payment of the Notes.** The City promises that it will promptly pay the Debt Service on the Notes and all other amounts due under this Agreement at the place, on the dates and in the manner provided in Section 3.02 hereof and in the Notes according to the true intent and meaning hereof and thereof. Debt Service on the Notes and all other amounts due under this Agreement shall not be or constitute a general obligation or indebtedness of the City as a "bond" within the meaning of Article VII, Section 12 of the Constitution of Florida, but shall be payable solely from the Pledged Revenues in accordance with the terms hereof and of the Notes. The holder of a Note shall never have the right to compel the exercise of any ad valorem taxing power to pay Debt Service on the Notes, or be entitled to payment of such from any funds of the City except from the Pledged Revenues, as described herein and in the Notes.

**Section 4.04. Security for Notes.** The payment of the principal of and interest on the Note and all other amounts payable under this Agreement or the Notes or in connection therewith shall be secured by a first priority pledge of and lien on the Pledged Revenues. The City does hereby create and grant to the Owners of the Notes a first priority pledge of and lien on the Pledged Revenues to provide for and secure the payment of principal of and interest on the Notes and all other obligations of the City under the Notes and this Agreement.

**Section 4.05. Additional Debt.**

(a) The City will not issue any obligations payable from the Pledged Revenues or voluntarily create or cause to be created any debt, lien, pledge, assignment, encumbrance or other charge having priority to or being on a parity with the lien of the Notes upon the Pledged Revenues except under the terms and conditions and in the manner provided herein. Any obligations issued by the City other than in accordance with this Section and payable from the Pledged Revenues shall contain an express statement that such obligations are junior and subordinate in all respects to the Notes as to lien on, and source of and security for payment from, the Pledged Revenues.

(b) No Additional Debt may be issued unless the City's Finance Director shall sign and issue a certificate that shall state and certify that the Pledged Revenues for the most recently audited fiscal year of the City preceding the issuance of Additional Debt equaled at least one and twenty-five hundredths (1.25) times the maximum annual requirements for principal and interest on obligations then outstanding and payable from such Pledged Revenues and on the Additional Debt proposed to be issued. The City may not issue any Additional Debt if more than six months has passed since the end of its last fiscal year without an audit having been released by the City.

**Section 4.06. Annual Audit, Budget and Other Financial Information.** The City shall, within a reasonable amount of time after the close of each Fiscal Year, cause the financial statements of the City to be properly audited by a recognized independent certified public accountant or recognized independent firm of certified public accountants, and shall require such accountants to complete their report on the annual financial statements in accordance with applicable law. Such annual financial statements shall contain, but not be limited to, a balance sheet, a statement of revenues, expenditures and changes in fund balance, and any other statements as required by law or accounting convention. The annual financial statements shall be prepared in conformity with generally accepted accounting principles and shall include a separate line item showing the annual amount of the Pledged Revenues received during the subject fiscal year. A copy of the audited financial statements for each Fiscal Year shall be furnished to the Owners of the Notes within 270 days following the close of each Fiscal Year. The City will annually provide to the Owners of the Notes the City's annual budget within 30 days after the City Council's approval thereof. The City shall provide the Owners of the Notes with such other financial information regard the City and the Pledged Revenues as the Owners may reasonably request.

**Section 4.07. Federal Income Tax Covenants.**

(A) The City covenants with the Owners from time to time of the Notes that it shall not use the proceeds of the Notes in any manner which would cause the interest on the Notes to be or become includable in the gross income of the Owners thereof for federal income tax purposes.

(B) The City covenants with the Owners from time to time of the Notes that neither the City nor any Person under its control or direction will make any use of the proceeds of the Notes (or amounts deemed to be proceeds under the Code) in any manner which would cause the Note to be an "arbitrage bond" within the meaning of Section 148 of the Code and neither the City nor any other Person shall do any act or fail to do any act which would cause the interest on the Notes to become includable in the gross income of the Owners thereof for federal income tax purposes.

(C) The City hereby covenants with the Owners from time to time of the Notes that it will comply with all provisions of the Code necessary to maintain the exclusion of interest on the Notes from the gross income of the Owners thereof for federal income tax purposes, including, in particular, the payment of any amount required to be rebated to the U.S. Treasury pursuant to the Code.

**ARTICLE V  
EVENTS OF DEFAULT AND REMEDIES**

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



1. payment of the principal of or interest on the Notes or other fees or amounts due thereunder or hereunder shall not be made when such amounts are due and payable and such amounts shall remain unpaid for a period of ten (10) days;

2. the City shall default in the due and punctual performance of any other of the material covenants, conditions, agreements and provisions contained in the Notes or in this Agreement and such default shall continue for thirty (30) consecutive 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;

3. 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 this Loan shall prove to have been untrue in any material respect when executed and delivered, thereby adversely impairing the security for the Notes;

4. 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;

5. 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;

6. 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 sixty (60) days from the date of entry thereof; or

7. 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 ninety (90) consecutive 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 Noteholder may proceed to protect and enforce its rights under the {25007/005/00664943.DOCv4}

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 the 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 Article IV of this Agreement.

In the enforcement of any remedy under this Agreement, to the extent permitted by law, the Noteholder shall be entitled to sue for, enforce payment of and receive any and all amounts then or during any default becoming, and at any time remaining, due from the City for principal, interest or otherwise under any of the provisions of this Agreement or of the Notes then unpaid, together with any and all costs and expenses of collection and of all proceedings hereunder and under the Notes (including, without limitation, reasonable legal fees in all proceedings, including administrative, appellate and bankruptcy proceedings), without prejudice to any other right or remedy of the Noteholders, and to recover and enforce any judgment or decree against the City, but solely as provided herein and in the Notes, for any portion of such amounts remaining unpaid and interest, costs, and expenses as above provided, and to collect in any manner provided by law, the monies adjudged or decreed to be payable.

**Section 5.03. Remedies Not Exclusive.** No remedy herein conferred upon or reserved to the Noteholders 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 the 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 the Noteholders may be exercised from time to time and as often as may be deemed expedient.

The Noteholders 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 Notes and all other sums payable to the Bank hereunder have been paid in full.

**Section 6.03. Notice of Changes in Fact.** Promptly after the City becomes aware of the same, the City will notify the Bank of (a) any changes in any material fact or circumstance represented or warranted by the City in this Agreement or in connection with the issuance of the Notes, and (b) any default under this Agreement, specifying in each case the nature thereof and what action the City has taken, is taking and/or proposes to take with respect thereto.

**Section 6.04. Amendments and Supplements.** This Agreement may be amended or supplemented from time to time only by a writing duly executed by the City and the Noteholder.

**Section 6.05. 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:

As to the City:

City of Oviedo, Florida  
400 Alexandria Boulevard  
Oviedo, Florida 32765  
Attention: Finance Director

As to the Bank:

Hancock Bank  
Public Finance Department  
113 Designer Circle  
Dothan, Alabama 36303  
Attention: Steven E. Cole

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 6.06. Waiver of Jury Trial.** To the extent permitted by applicable law, each of the City and the Bank, knowingly, voluntarily and intentionally waives any right each may have to a trial by jury in respect of any litigation based on, or arising out of, under or in connection with the Note Resolution, this Agreement, the Notes or any agreement contemplated to be executed in connection with this Agreement, or any course of conduct, course of dealing, statements (whether verbal or written) or actions of any party with respect hereto. This provision is a material inducement to the Bank to enter into this Agreement.

**Section 6.07. 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 6.08. Severability.** In case any one or more of the provisions of this Agreement, any amendment or supplement hereto or of the Notes 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 Notes, but this Agreement, any amendment or supplement hereto and the Notes 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 Notes 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 6.09. Business Days.** In any case where the date of maturity of interest on or principal of the Notes or the date fixed for prepayment of the Notes shall not be a Business Day, then payment of such interest or principal shall be made on the next succeeding Business Day with the same force and effect as if paid on the date of maturity or the date fixed for prepayment, but interest on any such principal amount shall accrue through the date payment is received.

**Section 6.10. 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 6.11. Applicable Law.** This Agreement shall be governed exclusively by and construed in accordance with the applicable laws of the State of Florida.

**Section 6.12. No Personal Liability.** Notwithstanding anything to the contrary contained herein or in the Notes, 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 Council, 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 Notes 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 6.13. Incorporation by Reference.** All of the terms and obligations of the Note 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.

[Remainder of page intentionally left blank – Signatures follow]

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

CITY OF OVIEDO, FLORIDA

(SEAL)

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

By: \_\_\_\_\_  
City Manager

ATTEST:

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

HANCOCK BANK

By: \_\_\_\_\_  
Name: Steven E. Cole  
Title: Senior Vice President

**EXHIBIT A**

**FORM OF NOTE**

ANY HOLDER SHALL, PRIOR TO BECOMING A HOLDER, EXECUTE A LENDER'S CERTIFICATE IN THE FORM ATTACHED TO THE NOTE RESOLUTION (HEREIN DEFINED) 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 OVIEDO, FLORIDA  
PUBLIC IMPROVEMENT REFUNDING REVENUE NOTE,  
SERIES 2012[A][B]**

Principal Sum	Note Rate	Maturity Date	Date of Issuance
\$ _____	_____ %		

The **CITY OF OVIEDO, FLORIDA** (the "City"), for value received, hereby promises to pay to the order of HANCOCK BANK, a banking corporation chartered under the laws of the State of Mississippi, or its registered assigns (the "Holder"), at 113 Designer Circle, Dothan, Alabama 36303, or at such other place as the Holder may from time to time designate in writing, solely from the Pledged Revenues as defined in and in the manner and to the extent described in that certain Loan Agreement by and between the Holder and the City, dated \_\_\_\_\_, 2012 (the "Agreement"), the Principal Sum stated above loaned to the City by the Holder pursuant to the Agreement, together with interest thereon at the Note Rate, until the Maturity Date or the date the principal amount of this Note is paid in the manner hereinafter set forth 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.

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

This Note shall bear interest at the Note Rate indicated above, which Note Rate shall be calculated on the basis of a 360-day year consisting of twelve (12) thirty (30) day months.

Interest on this Note shall be paid semi-annually on April 1 and October 1, commencing April 1, 2013 until this Note is paid in full. Principal on this Note shall be paid in annual installments beginning October 1, 2013, and on every October 1 thereafter until the Maturity Date in accordance with the amortization schedule as set forth on Schedule I attached hereto



and made a part hereof, subject to prepayment by the City prior to the Note's maturity as provided below.

The City may prepay this Note in whole on any date with fifteen (15) days prior written notice to the Holder without a premium or prepayment penalty. The City may prepay this Note in part on any principal payment date (October 1) with fifteen (15) days prior written notice to the Holder without a premium or prepayment penalty. Any partial prepayments shall be in multiples of \$1,000. Any prepayment shall be applied first to accrued and unpaid interest to the date of prepayment and then to the unpaid principal installments with the latest maturities in inverse order.

This Note is authorized to be issued in the outstanding aggregate principal amount equal to the Principal Sum under the authority of and in full compliance with the provisions of the Constitution and the laws of the State of Florida, Chapter 166, Florida Statutes, as amended, the City Charter of the City, and other applicable provisions of law and Resolution No. \_\_\_\_ adopted by the City Council of the City on \_\_\_\_\_, 2012 (the "Note Resolution"), and is subject to all terms and conditions of said Note Resolution and the Agreement.

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 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.

THIS NOTE, WHEN DELIVERED BY THE CITY PURSUANT TO THE TERMS OF THE AGREEMENT AND THE NOTE 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 OTHER LIMITATIONS OF INDEBTEDNESS, BUT SHALL BE PAYABLE SOLELY FROM THE PLEDGED REVENUES AS PROVIDED IN THE AGREEMENT. THE HOLDER SHALL NEVER HAVE THE RIGHT TO COMPEL THE EXERCISE OF THE AD VALOREM TAXING POWER OF THE CITY OR THE STATE, OR TAXATION IN ANY FORM OF ANY PROPERTY THEREIN TO PAY THIS NOTE OR THE INTEREST THEREON.

Payment of the principal of and interest on this Note and all other amounts payable hereunder and under the Agreement are secured by a first priority pledge of and lien upon the Pledged Revenues in accordance with the terms of the Agreement.

Upon the occurrence of an Event of Default the Holder shall have such 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 Note Resolution and the Agreement and reference is hereby made thereto other matters.



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

**CITY OF OVIEDO, FLORIDA**

(SEAL)

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

By: \_\_\_\_\_  
City Manager

ATTEST:

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: \_\_\_\_\_

**SCHEDULE I**

**Principal Amortization Schedule**

**EXHIBIT D**  
**COMMITMENT LETTER FROM BANK**



VIA OVERNIGHT MAIL AND E-MAIL

June 5, 2012

Honorable Mayor and City Council  
City of Oviedo, Florida

C/o Mr. Jerry Boop, CPA (via Fed Ex)  
Finance Director  
City of Oviedo  
400 Alexandria Blvd.  
Oviedo, Florida 32765

C/o Mr. Jeffrey T. Larson (via E-Mail)  
Larson Consulting Services, LLC

Re: Public Improvement Refunding Revenue Notes Series 2012 A & B  
Capital Improvement Refunding Revenue Notes Series 2012 A & C  
City of Oviedo, Florida, RFP dated May 25, 2012

**Summary of Interest Rates Offered:**

Public Improvement Refunding Revenue Notes, Series 2012 A & B

Series 2012 A: BQ: <u>1.94%</u>	Non BQ: <u>2.07%</u>
Series 2012 B: BQ: <u>1.46%</u>	Non BQ: <u>1.59%</u>

Capital Improvement Refunding Revenue Notes, Series 2012 A, B, C & D

Series 2012 A: BQ: <u>1.68%</u>	Non BQ: <u>1.81%</u>
Series 2012 B: BQ: <u>No Bid</u>	Non BQ: <u>No Bid</u>
Series 2012 C: BQ: <u>2.11%</u>	Non BQ: <u>2.24%</u>
Series 2012 D: BQ: <u>No Bid</u>	Non BQ: <u>No Bid</u>

Please accept this letter as a commitment of Hancock Bank to purchase certain of the above captioned refunding revenue notes upon the terms and conditions outlined in this proposal as follows:



**Issue: Public Improvement Refunding Revenue Notes Series 2012 A & B**

Issuer: City of Oviedo, Florida.

Amount: \$10,000,000 maximum principal amount in the form of refunding revenue note(s) Series 2012A & 2012B of the Issuer.

Purpose of Issue: Proceeds of the Notes will be used to (1) current refund the City's Series 2002A and Series 2002 Public Improvement Revenue Bonds (2) provide for any City reimbursement of prior fees or costs (as approved by Bond Counsel) and (3) pay the costs of issuance of the Notes (collectively the "Project").

Authority for Issue: Provisions of the Florida Constitution, the Charter of the City of Oviedo, Florida, as amended; Chapter 166, Part II of the Florida Statutes and any other valid constitutional and statutory authority.

Note Structure, Interest Rate & Terms: The City has requested two (2) Public Improvement refunding revenue notes (Series 2012A & Series 2012B), each to be quoted with Bank Qualified (BQ) and Non Bank Qualified tax exempt (Non BQ) interest rates. The terms of our offering for these notes are as follows:

**Fixed Rate Options:**

	<u>Term</u>	<u>BQ Annual Interest Rate #</u>	<u>Non BQ Annual Interest Rate #</u>
Series 2012 A	10/01/2022 final	1.94%	2.07%
Series 2012 B	10/01/2018 final	1.46%	1.59%

*# The quoted fixed interest rates are offered contingent upon the City accepting our proposal by no later than 15 days from the date of this letter. If the City accepts our proposal by the stipulated time, we will **hold** the above referenced fixed interest rates **firm**, provided that the Notes are closed no later than 60 days from the date of this proposal. If the proposal is accepted within 15 days but closed after 60 days, the interest rates could be higher than the quoted rates, depending on market conditions at the time that we close the loans.*

Our pricing is based on the Notes being amortized in similar fashion to that proposed in the City's RFP. The Bank would agree to adjust the proposed amortization schedule if necessary to better meet the City's needs. However, in order for us to hold our pricing at the indicated interest rates, the average life of the "final" amortization schedule would not exceed 6 years for the **Series 2012A Note** and **4 years** for the **Series 2012B Note**. If the average life were to exceed the stated average life parameters for each of the notes a different interest rate would apply to each note.

## Public Improvement Refunding Revenue Notes Series 2012 A & B

### Interest and Principal Payments:

**Interest** on both Public Improvement notes would be calculated on a 30 over 360 day basis. Interest would be payable semi-annually on April 1 and October 1 of each year commencing April 1, 2013.

**Principal** on both Public Improvement notes would be payable annually on October 1 of each year beginning October 1, 2013. The last principal payment for the notes would be due on October 1, 2022 (Series 2012A) and October 1, 2018 (Series 2012B). Both amortization schedules would be similar to those presented in the City's RFP.

Prepayment Provisions: The principal may be prepaid in whole on any date with 15 days advance written notice to the Bank *without prepayment penalty*. Principal may be prepaid in part on any principal payment day (each October 1st) with 15 days advance written notice to the Bank *without prepayment penalty*, provided that the City pays all accrued interest which shall have accrued to the date of prepayment and provided further that any partial principal prepayments shall be in multiples of one thousand (\$1,000.00). Prepayments shall be applied to those principal installments with the latest maturities of the Notes, in inverse order.

Credit Approval: Already approved.

Security: The Series 2012 Public Improvement refunding revenue notes would be secured by an irrevocable dedication and first lien pledge of the City's Public Service Tax Revenues (PST) authorized under Section 166.231, Florida Statutes. The pledge of the PST would be continuing and cumulative until all amounts under the Series 2012 A & B Notes shall have been paid.

Additional Debt: While the Series 2012 Notes are outstanding the City could issue additional "parity" debt secured by the PST provided that it meets an Additional Bond Test of 1.25 times debt service as outlined in the City's RFP.

Required Accounts: We would not require a reserve fund. However, the City would set up a Revenue Fund into which it would deposit its PST tax revenues upon receipt and would set up a Debt Service Fund into which it would set aside (monthly) sufficient amounts of revenues to make its upcoming payments as to principal and interest on the Series 2012 A & B Notes. We would not require that these accounts be set up at Hancock Bank; however, we will be glad to work with the City should it desire to set up any accounts related to the loan with Hancock Bank.

## Public Improvement Refunding Revenue Notes Series 2012 A & B

Documentation: We understand that the Series 2012 A & B Notes would be documented in a manner typical of similar senior lien bonds pursuant to a Master Resolution and supplemented by a Series Resolution or loan agreement. In addition the refunding revenue notes would be governed by "typical reporting and other covenants" for comparable revenue financings for an "AA" rated Florida municipality as outlined more fully in the City's RFP. All documentation would need to be acceptable to the Bank and "Bank Counsel". The documentation would define standard events of default as are customary for this type of transaction and would provide reasonable remedies to the Bank in the event of default under the loan documents. The Bank and Bank Counsel would need to review and approve all documentation prior to adoption and/or acceptance by the City Council.

All opinion letters from the City's legal counsel would also have to be acceptable to the Bank and Bank Counsel. We understand that the City desires to use the law firm of *Bryant Miller Olive P.A.* to perform the duties of "Bond Counsel". Bond Counsel would draft the Note documents and issue the customary legal and tax opinions. Based on this, the role of "Bank Counsel" would be limited to that of a "review function" only. We have outlined the cost of Bank Counsel in the paragraph captioned "Closing costs, fees and expenses" presented below.

Closing costs, fees and expenses: The Bank would charge **no fees** and assess **no closing costs** for its own benefit. However, we would require the City to *reimburse* the Bank for "Bank Counsel" expense. Bank Counsel expense would not exceed \$3,500.00 for either the Series 2012A or 2012B Notes done individually with the Bank or an additional \$800.00 for the second note if the City elects to finance both the Series 2012A & 2012B Notes with Hancock Bank. In other words, if the City financed just one of the above referenced notes with Hancock Bank, the cost for Bank Counsel expense would not exceed \$3,500.00. If however, the City elects to do both Notes with Hancock Bank the cost for Bank Counsel would not exceed \$4,300.00. Bank Counsel would perform the role outlined in the paragraph presented above titled "Documentation". Any cost incurred for Bond Counsel, the City's Local Counsel, and the City's Financial Advisor would be paid directly by the City.

### Accepted and Approved:

The Governing Body of the City of Oviedo has accepted this Financing Proposal from Hancock Bank for the Public Improvement Refunding Revenue Notes Series 2012A (bank qualified rate of 1.94%) and Series 2012B (bank qualified rate of 1.46%) and hereby selects Hancock Bank to finance the above referenced Notes.

Approved and accepted: As of this the \_\_\_\_\_ day of \_\_\_\_\_ 2011.

\_\_\_\_\_  
Chair

Attest:

\_\_\_\_\_  
Clerk

## Issue: Capital Improvement Refunding Revenue Notes Series 2012 A & C

Issuer: City of Oviedo, Florida.

Amount: \$1,437,000.00 approximate principal amount in the form of refunding revenue note Series 2012A and \$607,000 approximate principal amount in the form of a refunding revenue note Series 2012C of the Issuer.

Purpose of Issue: Proceeds of the Series 2012A & 2012C Notes will be used to current refund the City's Capital Improvement Revenue Note Series 2006 and Capital Improvement Revenue Note Series 2009 respectively and (2) provide for any City reimbursement of prior fees or costs (as approved by Bond Counsel) and (3) pay the costs of issuance of the Notes (collectively the "Project").

Authority for Issue: Provisions of the Florida Constitution, the Charter of the City of Oviedo, Florida, as amended; Chapter 166, Part II of the Florida Statutes and any other valid constitutional and statutory authority.

Note Structure, Interest Rate & Terms: The City has requested financing for four (4) Capital Improvement refunding revenue notes Series 2012A, B, C & D - each to be quoted with Bank Qualified (BQ) and Non Bank Qualified tax exempt (Non BQ) interest rates. Given current market conditions, we are only offering a proposal for two of the notes i.e., the Series 2012A and 2012C notes. The terms of our offering for these two notes are as follows:

### Fixed Rate Options:

	<u>Term</u>	<u>BQ</u> <u>Annual</u> <u>Interest Rate #</u>	<u>Non BQ</u> <u>Annual</u> <u>Interest Rate #</u>
Series 2012 A	10/01/2020 final	1.68%	1.81%
Series 2012 C	10/01/2023 final	2.11%	2.24%

# The quoted fixed interest rates are offered contingent upon the City accepting our proposal by no later than 15 days from the date of this letter. If the City accepts our proposal by the stipulated time, we will **hold** the above referenced fixed interest rates **firm**, provided that the Notes are closed no later than 60 days from the date of this proposal. If the proposal is accepted within 15 days but closed after 60 days, the interest rates could be higher than the quoted rates, depending on market conditions at the time that we close the loans.

Our pricing is based on the Notes being amortized in similar fashion to that proposed in the City's RFP. The Bank would agree to adjust the proposed amortization schedule if necessary to better meet the City's needs. However, in order for us to hold our pricing at the indicated interest rates, the average life of the "final" amortization schedule would not exceed 5 years for the **Series 2012A Note** and **6.70 years** for the **Series 2012C Note**. If the average life were to exceed the stated average life parameters for each of the notes a different interest rate would apply to each note.

## Capital Improvement Refunding Revenue Notes Series 2012 A & C

### Interest and Principal Payments:

**Interest** on both Capital Improvement notes would be calculated on a 30 over 360 day basis. Interest would be payable semi-annually on April 1 and October 1 of each year commencing April 1, 2013.

**Principal** on both Capital Improvement notes would be payable annually on October 1 of each year beginning October 1, 2013. The last principal payment for the notes would be due on October 1, 2020 (Series 2012A) and October 1, 2023 (Series 2012C). Both amortization schedules would be similar to those presented in the City's RFP.

Prepayment Provisions: The principal may be prepaid in whole on any date with 15 days advance written notice to the Bank *without prepayment penalty*. Principal may be prepaid in part on any principal payment day (each October 1st) with 15 days advance written notice to the Bank *without prepayment penalty*, provided that the City pays all accrued interest which shall have accrued to the date of prepayment and provided further that any partial principal prepayments shall be in multiples of one thousand (\$1,000.00). Prepayments shall be applied to those principal installments with the latest maturities of the Notes, in inverse order.

Credit Approval: Already approved.

Security: The Series 2012 Notes would be secured by an irrevocable dedication and first lien pledge of the "Pledged Revenues", which would consist of a first lien on the City's "constitutional" Half-Cent Sales Tax (Chapter 218, Part VI, Florida Statutes) and first lien on the City's Franchise Fees. The pledge of the aforementioned tax and fees would be continuing and cumulative until all amounts under the Series 2012 A & C Notes shall have been paid.

Additional Debt: While the Series 2012 Notes are outstanding the City could issue additional "parity" debt secured by the Pledged Revenues provided that it meets an Additional Bond Test of 1.25 times debt service as outlined in the City's RFP.

Required Accounts: We would not require a reserve fund. However, the City would set up a Revenue Fund into which it would deposit its Pledge Revenues upon receipt and would set up a Debt Service Fund into which it would set aside (monthly) sufficient amounts of revenues to make its upcoming payments as to principal and interest on the Series 2012 A & C Notes. We would not require that these accounts be set up at Hancock Bank; however, we will be glad to work with the City should it desire to set up any accounts related to the loan with Hancock Bank.

## Capital Improvement Refunding Revenue Notes Series 2012 A & C

Documentation: We understand that the Series 2012 A & C Notes would be documented in a manner typical of similar senior lien bonds pursuant to a Master Resolution and supplemented by a Series Resolution or loan agreement. In addition the refunding revenue notes would be governed by "typical reporting and other covenants" for comparable revenue financings for an "AA" rated Florida municipality as outlined more fully in the City's RFP. All documentation would need to be acceptable to the Bank and "Bank Counsel". The documentation would define standard events of default as are customary for this type of transaction and would provide reasonable remedies to the Bank in the event of default under the loan documents. The Bank and Bank Counsel would need to review and approve all documentation prior to adoption and/or acceptance by the City Council.

All opinion letters from the City's legal counsel would also have to be acceptable to the Bank and Bank Counsel. We understand that the City desires to use the law firm of *Bryant Miller Olive P.A.* to perform the duties of "Bond Counsel". Bond Counsel would draft the Note documents and issue the customary legal and tax opinions. Based on this, the role of "Bank Counsel" would be limited to that of a "review function" only. We have outlined the cost of Bank Counsel in the paragraph captioned "Closing costs, fees and expenses" presented below.

Closing costs, fees and expenses: The Bank would charge **no fees** and assess **no closing costs** for its own benefit. However, we would require the City to *reimburse* the Bank for "Bank Counsel" expense. Bank Counsel expense would not exceed \$3,500.00 for either the Series 2012A or 2012C Notes done individually with the Bank or an additional \$800.00 for the second note if the City elects to finance both the Series 2012A & 2012C Notes with Hancock Bank. In other words, if the City financed just one of the above referenced notes with Hancock Bank, the cost for Bank Counsel expense would not exceed \$3,500.00. If however, the City elects to do both Notes with Hancock Bank the cost for Bank Counsel would not exceed \$4,300.00. Bank Counsel would perform the role outlined in the paragraph presented above titled "Documentation". Any cost incurred for Bond Counsel, the City's Local Counsel, and the City's Financial Advisor would be paid directly by the City.

### Accepted and Approved:

The Governing Body of the City of Oviedo has accepted this Financing Proposal from Hancock Bank for the Capital Improvement Refunding Revenue Notes Series 2012A (bank qualified rate of 1.68%) and Series 2012C (bank qualified rate of 2.11%) and hereby selects Hancock Bank to finance the above referenced Notes.

Approved and accepted: As of this the \_\_\_\_\_ day of \_\_\_\_\_ 2011.

\_\_\_\_\_  
Chair

Attest:

\_\_\_\_\_  
Clerk

**Terms pertaining to both the Public Improvement Notes & the Capital Improvement Notes**

Delivery: For both the Public Improvement Refunding Notes Series 2012 A & B and the Capital Improvement Refunding Revenue Notes Series 2012A & C the delivery would be as soon as possible after all approvals, but in any event the loan would be closed no later than 60 days from the date of this proposal in order for us to hold firm the quoted fixed rates of interest.

This proposal (both the Public Improvement Notes and Capital Improvement notes) shall remain valid for a period of 60 days provided the City accepts this proposal within 15 days from the date of this letter.

Yours very truly,

**HANCOCK BANK**

By:



Steven E. Cole  
Senior Vice President  
Public Finance Department



**Steven E. Cole**  
**Public Finance - Hancock Bank**

Steve is a Senior Vice President of Hancock Bank. He joined Hancock Bank in the late fall of 1998 and was instrumental in forming the Public Finance Department (governmental lending) at the Bank. In March 2005 Steve began to concentrate on developing the Florida market for Hancock Bank's governmental lending department. In 2006 he began to develop the Alabama governmental lending market for the Bank. Currently, Steve services numerous governmental loan customers throughout the states of Florida and Alabama markets. He is also active in the credit approval process for Hancock Bank and Whitney Bank (a wholly owned subsidiary of Hancock Holding Company) with regard to approving municipal loans in other states where the Bank has a footprint.

Steve has over 32 years of experience in business and industry, with 27 of those years being in the financial services sector. Prior to joining Hancock, Steve was with Deposit Guaranty National Bank (DGNB) for ten years. He founded the Public Finance Department at Deposit Guaranty in 1993. Under his direction, DGNB public finance grew a significant portfolio of new municipal loans and leases, which resulted in many new governmental customers for Deposit Guaranty.

Steve has helped numerous political subdivisions with their borrowing needs. He is experienced in lending directly to diverse types of governmental entities, including state agencies, cities, counties, parishes, school districts, and various other types of governmental authorities. He is familiar with various governmental debt types and structures as well, having been involved with general obligation, revenue, limited tax, certificates of participation, excess revenue, lease/lease back, and lease purchase debt obligations. Steve has experience in lending to governments within the states of Florida, Mississippi, Louisiana, and Alabama.

Having developed a credit analysis methodology for analyzing non-rated governments (which Hancock Bank and Whitney Bank uses), Steve is familiar with assessing the risks of various municipal loan transactions.

Steve holds Master and Bachelor of Science degrees from Mississippi College and Mississippi State University, respectively. In the past he has also held various licenses relating to the securities industry including Series 7 & 63 (Registered Representative - NASD), Series 53 (Municipal Principal - MSRB), and 65 (Registered Investment Advisor - NASD).

## HANCOCK BANK – LOCAL GOVERNMENT LOAN CUSTOMER REFERENCES

It should be noted that the City is already a loan customer of Hancock Bank. We have successfully financed two (2) loans for the City as follow:

- \* \$343,839 lease purchase financing Series 2006 (Pierce Fire Engine)
- \* \$2,190,000 Refunding Revenue Note, Series 2006 (Half Cent Sales Tax)

### Other local government references are as follows:

1. Ms. Deborah Smith  
Director of Business and  
Institutional Services  
Sumter County School District  
2680 West County Road 476  
Bushnell, Florida 33513  
Phone: 352-793-2315  
E-Mail: [smithd@sumter.k12.fl.us](mailto:smithd@sumter.k12.fl.us)
2. Ms. Barbara F. Lehman, CPA  
Chief Deputy  
County Finance Department  
Lake County, Florida  
P. O. Box 7800  
Tavares, Florida 32778-7800  
Phone: 352-343-9824  
E-Mail: [blehman@lakecountyclerk.org](mailto:blehman@lakecountyclerk.org)
3. Mr. Randy Newlon  
Finance Director  
City of Casselberry  
95 Triplet Lake Drive  
Casselberry, Florida 32707  
Phone: 407-262-7700  
E-Mail: [rnewlon@casselberry.org](mailto:rnewlon@casselberry.org)

## HANCOCK BANK - PUBLIC FINANCE

Here are *just some* of the issues that Hancock Bank has financed for "local" governments in recent years:

### Florida

<u>Customer Name</u>	<u>Principal Amount</u>	<u>Type of Issue</u>	<u>Series</u>
Alachua County Library District	\$ 5,960,000.00	GO Refunding Bonds	2011
Bay County School Board	\$ 10,000,000.00	Tax Anticipation Note	2006
Bay County School Board	\$ 5,000,000.00	Tax Anticipation Note	2007
Bay County School Board	\$ 8,768,000.00	Certificate of Participation	2008
Bay County School Board	\$ 13,000,000.00	Tax Anticipation Note	2010
City of Blountstown	\$ 148,932.00	Lease Purchase	2012
City of Brooksville	\$ 148,000.00	Lease Purchase	2007
City of Brooksville	\$ 1,558,655.50	Revenue Note	2008
City of Callaway	\$ 2,000,000.00	Capital Improvement Bond Anticipation Note	2008
City of Callaway	\$ 444,500.00	Revenue Note	2008
City of Casselberry	\$ 2,277,000.00	Taxable Land Acquisition Note	2008
City of Chattahoochee	\$ 73,730.00	Lease Purchase	2006
Citrus County	\$ 14,000,000.00	Capital Improvement Revenue Note	2007
Citrus County	\$ 3,020,000.00	Capital Improvement Revenue Refunding Bond	2008
Citrus County	\$ 2,000,000.00	Guaranteed Entitlement Revenue Bonds	2011
City of DeLand	\$ 621,174.00	Lease Purchase	2006
DeSoto County	\$ 2,280,000.00	Sales Tax Revenue Refunding Note	2012
City of Destin	\$ 1,992,000.00	Land Acquisition Revenue Note	2006
City of Destin	\$ 1,458,000.00	Taxable Land Acquisition Revenue Note	2006
Duval County School Board	\$ 4,910,000.00	RAN	2011
City of Fernandina Beach	\$ 292,631.10	Golf Course Revenue Note	2008
Flagler County School District	\$ 8,000,000.00	TAN	2007
Flagler County School District	\$ 9,000,000.00	TAN	2011
FL Community Services Corp. of Walton County	\$ 4,868,000.00	W&S Revenue Refunding Note	2012
City of Fort Walton Beach	\$ 819,000.00	Non-Ad Valorem Revenue Note	2011
Gadsden County	\$ 507,000.00	Revenue Note	2006
Gadsden County	\$ 900,000.00	Lease Purchase	2006
City of Green Cove Springs	\$ 1,650,000.00	Water Revenue Note	2008
Gulf County	\$ 249,000.00	Revenue Note	2005
Gulf County	\$ 43,376.00	Revenue Note	2006
Hardee County School District	\$ 6,000,000.00	Line of Credit	2006
Holmes County	\$ 102,544.00	Lease Purchase	2007
Jackson County	\$ 500,000.00	Revenue Note	2012
City of Jasper	\$ 216,352.40	Capital Revenue Note	2009
Lake County	\$ 10,000,000.00	Sales Tax Revenue Note	2008
Leon County School District	\$ 5,000,000.00	QZAB (COP)	2008

Florida

<u>Customer Name</u>	<u>Principal Amount</u>	<u>Type of Issue</u>	<u>Series</u>
Leon County School District	\$ 15,000,000.00	QZAB (COP)	2008
City of Marianna	\$ 51,120.00	Lease Purchase	2011
City of Naples	\$ 6,860,000.00	Capital Improvement Revenue Note	2008
City of Neptune Beach	\$ 1,700,000.00	Infrastructure Surtax Revenue Bonds	2010
City of Neptune Beach	\$ 700,000.00	Infrastructure Surtax Revenue Bonds	2010
City of Newberry	\$ 900,000.00	Revenue Note	2008
City of Niceville	\$ 1,459,829.00	Gas Tax Refunding Bonds	2011
City of Niceville	\$ 1,009,101.00	Sales Tax Refunding Bonds	2011
Okaloosa Gas District	\$ 1,919,000.00	Revenue Note	2012
Town of Orange Park	\$ 1,888,000.00	W & S Revenue Refunding Bonds	2011
City of Ormond Beach	\$ 518,831.00	Lease Purchase	2006
City of Ormond Beach	\$ 188,785.00	Lease Purchase	2007
City of Oviedo	\$ 2,190,000.00	Refunding Revenue Note	2006
City of Oviedo	\$ 343,839.00	Lease Purchase	2006
City of Palatka	\$ 3,200,000.00	Revenue Bonds	2008
City of Palatka	\$ 43,801.99	Revenue Note	2008
City of Palatka	\$ 1,393,000.00	½ Cent Sales Tax Revenue Note	2008
City of Panama City	\$ 1,922,000.00	Revenue Note	2008
City of Panama City	\$ 1,392,000.00	Cap Imp Rev Rfndng (CBA) Note	2012
Pasco County School District	\$ 785,612.00	QZAB (COP)	2005
Pasco County School District	\$ 1,170,010.00	QZAB (COP)	2008
City of Pensacola	\$ 792,705.56	Gas Utility Subordinate Revenue Note	2007
City of Pensacola	\$ 5,000,000.00	Gas System Revenue Bond	2011
City of Port Orange	\$ 4,610,000.00	Stormwater Refunding Revenue Note	2008
City of Rockledge	\$ 3,670,000.00	Sewer Revenue Refunding Bonds	2011
Santa Rosa County	\$ 3,057,579.00	Sales Tax Refunding Bonds	2010
Santa Rosa County	\$ 395,000.00	MSBU/CBA Revenue Note	2011
Sumter County School District	\$ 3,000,000.00	Tax Anticipation Note	2005
Sumter County School District	\$ 2,900,000.00	Tax Anticipation Note	2006
Wakulla County	\$ 1,500,000.00	1% Sales Tax Note	2010
Wakulla County	\$ 1,000,000.00	Court Surcharge Note	2010
City of Wewahitchka	\$ 350,000.00	W & S Revenue Note	2005
City of Wewahitchka	\$ 1,323,980.00	Revenue Bond Anticipation Note	2006
City of Wewahitchka	\$ 100,000.00	Revenue Note	2007

**EXHIBIT E**  
**FORM OF ESCROW DEPOSIT AGREEMENT**

## ESCROW DEPOSIT AGREEMENT

This ESCROW DEPOSIT AGREEMENT, dated as of \_\_\_\_\_, 2012, by and between the CITY OF OVIEDO, FLORIDA (the "Issuer") and THE BANK OF NEW YORK MELLON TRUST COMPANY, N.A., a national banking association organized under the laws of the United States of America, as Escrow Agent and its successors and assigns (the "Escrow Agent");

### WITNESSETH:

WHEREAS, the Issuer has previously authorized and issued the Refunded Bonds (as hereinafter defined), as to which the Total Debt Service for the Refunded Bonds (as hereinafter defined) is set forth on Schedule A; and

WHEREAS, the Issuer has determined to provide for payment of the Total Debt Service for the Refunded Bonds by depositing with the Escrow Agent an amount which is at least equal to such Total Debt Service for the Refunded Bonds; and

WHEREAS, in order to obtain the funds needed for such purpose, the Issuer has authorized, and is, concurrently with the delivery of this Agreement, issuing its Public Improvement Refunding Revenue Note, Series 2012A and Public Improvement Refunding Revenue Note, Series 2012B; and

WHEREAS, the execution of this Escrow Deposit Agreement and full performance of the provisions hereof shall defease and discharge the Issuer's obligations relating to the Refunded Bonds;

NOW, THEREFORE, in consideration of the mutual covenants and agreements herein contained, the Issuer and the Escrow Agent agree as follows:

SECTION 1. Definitions. As used herein, the following terms mean:

(a) "Agreement" means this Escrow Deposit Agreement.

(b) "Annual Debt Service" means the principal, interest, and redemption premium, if any, on the Refunded Bonds coming due in a particular year as shown on Schedule A attached hereto and made a part hereof.

(c) "Escrow Account" means the account hereby created and entitled Escrow Account established and held by the Escrow Agent pursuant to this Agreement in which cash and investments will be held for payment of the principal, interest, and redemption premium, if any, on the Refunded Bonds as they become due and payable.

(d) "Escrow Agent" means The Bank of New York Mellon Trust Company, N.A., having its designated corporate trust office in Jacksonville, Florida, and its successors and assigns.

(e) "Federal Securities" shall have the meaning provided thereto in the Resolution.

(f) "Issuer" means the City of Oviedo, Florida, and its successors and assigns.

(g) "Notes" means the \$\_\_\_\_\_ City of Oviedo, Florida Public Improvement Refunding Revenue Note, Series 2012A and \$\_\_\_\_\_ City of Oviedo, Florida Public Improvement Refunding Revenue Note, Series 2012B.

(h) "Refunded Bonds" means all of the City of Oviedo, Florida Public Improvement Revenue Bonds, Series 2002 and City of Oviedo, Florida Public Improvement Refunding Revenue Bonds, Series 2002-B which were outstanding under the Resolution immediately prior to the issuance of the Notes.

(i) "Resolution" means Resolution No. 685-01 by the governing body of the Issuer on December 17, 2001, as amended and supplemented, and particularly as amended and supplemented by Resolution No. 692-02 adopted by the governing body of the Issuer on June 3, 2002, authorizing issuance of the Refunded Bonds.

(j) "Total Debt Service for the Refunded Bonds" means, as of any date, the sum of the principal and interest remaining unpaid with respect to the Refunded Bonds in accordance with Schedule A attached hereto assuming the Refunded Bonds are called for redemption on the date set forth in Section 6 hereof.

SECTION 2. Deposit of Funds. The Issuer hereby deposits with the Escrow Agent \$\_\_\_\_\_, derived from the proceeds of the Notes, and \$\_\_\_\_\_, derived from the monies on deposit in funds and accounts held under the Resolution for the payment of debt service on the Refunded Bonds, in immediately available funds, which funds the Escrow Agent acknowledges receipt of, to be held in irrevocable escrow by the Escrow Agent separate and apart from other funds of the Escrow Agent and applied solely as provided in this Agreement. All of such funds are being derived from proceeds of the Notes. The Issuer represents that the Federal Securities and the cash therein (i) are at least equal to the Total Debt Service for the Refunded Bonds as of the date of such deposit, and (ii) are sufficient to pay principal and interest on the Refunded Bonds as they become due and payable in accordance with Schedule A attached hereto.

SECTION 3. Use and Investment of Funds. The Escrow Agent acknowledges receipt of the sum described in Section 2 and agrees:

(a) to hold the funds and investments purchased pursuant to this Agreement in irrevocable escrow during the term of this Agreement for the sole benefit of the holders of the Refunded Bonds;

(b) to immediately invest \$\_\_\_\_\_ of such funds derived from the proceeds of the Notes and \$\_\_\_\_\_ derived from the sinking funds related to the Refunded Bonds in the Federal Securities set forth on Schedule B attached hereto and to hold such securities and \$\_\_\_\_\_ of such funds derived from the proceeds of the Bonds in cash in accordance with the terms of this Agreement;

(c) in the event the securities described on Schedule B cannot be purchased, substitute securities may be purchased with the consent of the Issuer but only upon receipt of verification from an independent certified public accountant that the Federal Securities, the interest thereon, and the cash deposited will not be less than the Total Debt Service for the Refunded Bonds, and only upon receipt of an opinion of Bryant Miller Olive P.A. that such securities constitute Federal Securities for purposes of this Agreement; and

(d) there will be no investment of funds except as set forth in this Section 3.

#### SECTION 4. Payment of Bonds and Expenses.

(a) Refunded Bonds. On the dates and in the amounts set forth on Schedule A, the Escrow Agent shall transfer to The Bank of New York Trust Company, N.A., as successor in interest to Bank One Trust Company, N.A., the Paying Agent for the Refunded Bonds (the "Paying Agent"), in immediately available funds solely from amounts available in the Escrow Account, a sum sufficient to pay that portion of the Annual Debt Service for the Refunded Bonds coming due on such dates, as shown on Schedule A.

(b) Expenses. On the date hereof the Issuer shall pay the Escrow Agent \$\_\_\_\_\_.

(c) Surplus. After making the payments from the Escrow Account described in Subsection 4(a) above, the Escrow Agent shall retain in the Escrow Account any remaining cash in the Escrow Account in excess of the Total Debt Service for the Refunded Bonds until the termination of this Agreement pursuant to the terms of Section 13 hereof, and shall then pay any remaining funds to the Issuer to be used to pay debt service on the Note.

(d) Priority of Payments. The holders of the Refunded Bonds shall have an express first priority security interest in the funds and Federal Securities in the Escrow Account until such funds and Federal Securities are used and applied as provided in this Agreement as shown on Schedule A.



SECTION 5. Notice of Redemption. The Escrow Agent, as Paying Agent and Registrar for the Refunded Bonds, hereby acknowledges its responsibility to give notice of redemption to the holders of Refunded Bonds in accordance with Section 3.03 of the Resolution.

SECTION 6. Redemption or Acceleration of Maturity. The redemption date for the Refunded Bonds is October 1, 2012. The Issuer will not accelerate the maturity of, or exercise any option to redeem before maturity, any Refunded Bonds, except as set forth in the Resolution and herein.

SECTION 7. Indemnity. To the extent permitted by law, the Issuer hereby assumes liability for, and hereby agrees to indemnify, protect, save and keep harmless, the Escrow Agent and its respective successors, assigns, agents and servants, from and against any and all liabilities, obligations, losses, damages, penalties, claims, actions, suits, costs, expenses and disbursements (including reasonable legal fees and disbursements) of whatsoever kind and nature which may be imposed on, incurred by, or asserted against at any time, the Escrow Agent (whether or not also indemnified against the same by the Issuer or any other person under any other agreement or instrument) and in any way relating to or arising out of the execution and delivery of this Agreement, the establishment of the Escrow Account established hereunder, the acceptance of the funds and securities deposited therein, the purchase of the Federal Securities, the retention of the Federal Securities or the proceeds thereof and any payment, transfer or other application of funds or securities by the Escrow Agent in accordance with the provisions of this Agreement; provided, however, that the Issuer shall not be required to indemnify the Escrow Agent against its gross negligence or willful misconduct. In no event shall the Issuer be liable to any person by reason of the transactions contemplated hereby other than to the Escrow Agent as set forth in this Section. The indemnities contained in this Section shall survive the termination of this Agreement.

SECTION 8. Responsibilities of Escrow Agent. The Escrow Agent and its respective successors, assigns, agents and servants shall not be held to any personal liability whatsoever, in tort, contract, or otherwise, in connection with the execution and delivery of this Agreement, the establishment of the Escrow Account, the acceptance of the funds deposited therein, the purchase of the Federal Securities, the retention of the Federal Securities or the proceeds thereof or for any payment, transfer or other application of moneys or securities by the Escrow Agent in accordance with the provisions of this Agreement or by reason of any non-negligent or non-willful act, omission or error of the Escrow Agent made in good faith in the conduct of its duties. The Escrow Agent shall, however, be responsible for its negligent or willful failure to comply with its duties required hereunder, and its negligent or willful acts, omissions or errors hereunder. The duties and obligations of the Escrow Agent may be determined by the express provisions of this Agreement. The Escrow Agent may consult with counsel, who may or may not be counsel to the Issuer, at the Issuer's expense, and in reliance upon the opinion of such counsel, shall have full and complete authorization and protection in respect of any action taken, suffered or omitted by it in good faith in accordance therewith. Whenever the Escrow Agent shall deem it necessary or desirable that a matter be proved or established prior to

taking, suffering or omitting any action under this Agreement, such matter may be deemed to be conclusively established by a certificate signed by an authorized officer of the Issuer.

SECTION 9. Reserved.

SECTION 10. Removal of Escrow Agent.

(a) The Escrow Agent may be removed at any time by an instrument or concurrent instruments in writing, executed by the holders of not less than fifty-one percentum (51%) in aggregate principal amount of the Refunded Bonds then outstanding, such instruments to be filed with the Issuer, and notice in writing given by such holders to the original purchaser or purchasers of the Note and published by the Issuer once in a newspaper of general circulation in the territorial limits of the Issuer, and in a daily newspaper or financial journal of general circulation in the City of New York, New York, not less than sixty (60) days before such removal is to take effect as stated in said instrument or instruments. A photographic copy of any instrument filed with the Issuer under the provisions of this paragraph shall be delivered by the Issuer to the Escrow Agent.

(b) The Escrow Agent may also be removed at any time for any breach of trust or for acting or proceeding in violation of, or for failing to act or proceed in accordance with, any provisions of this Agreement with respect to the duties and obligations of the Escrow Agent by any court of competent jurisdiction upon the application of the Issuer or the holders of not less than five percentum (5%) in aggregate principal amount of the Note then outstanding, or the holders of not less than five percentum (5%) in aggregate principal amount of the Refunded Bonds then outstanding.

(c) The Escrow Agent may not be removed until a successor Escrow Agent has been appointed in the manner set forth herein.

SECTION 11. Successor Escrow Agent.

(a) If, at any time hereafter, the Escrow Agent shall resign, be removed, be dissolved or otherwise become incapable of acting, or shall be taken over by any governmental official, agency, department or board, the position of Escrow Agent shall thereupon become vacant. If the position of Escrow Agent shall become vacant for any of the foregoing reasons or for any other reason, the Issuer shall immediately appoint an Escrow Agent to fill such vacancy and, upon such appointment, all assets held hereunder shall be transferred to such successor. The Issuer shall either (i) publish notice of any such appointment made by it once in each week for four (4) successive weeks in a newspaper of general circulation published in the territorial limits of the Issuer and in a daily newspaper or financial journal of general circulation in the City of New York, New York, or (ii) mail a notice of any such appointment made by it to the holders of the Refunded Bonds within thirty (30) days after such appointment.

(b) At any time within one year after such vacancy shall have occurred, the holders of a majority in principal amount of the Bonds then outstanding or a majority in principal amount of the Refunded Bonds then outstanding, by an instrument or concurrent instruments in writing, executed by either group of such Refunded Bondholders and filed with the governing body of the Issuer, may appoint a successor Escrow Agent, which shall supersede any Escrow Agent theretofore appointed by the Issuer. Photographic copies of each such instrument shall be delivered promptly by the Issuer, to the predecessor Escrow Agent and to the Escrow Agent so appointed by the bondholders. In the case of conflicting appointments made by the Refunded Bondholders under this paragraph, the first effective appointment made during the one year period shall govern.

(c) If no appointment of a successor Escrow Agent shall be made pursuant to the foregoing provisions of this Section, the holder of any Refunded Bonds then outstanding, or any retiring Escrow Agent, may apply to any court of competent jurisdiction to appoint a successor Escrow Agent. Such court may thereupon, after such notice, if any, as such court may deem proper and prescribe, appoint a successor Escrow Agent.

(d) Any corporation or association into which the Escrow Agent may be converted or merged, or with which it may be consolidated, or to which it may sell or transfer its corporate trust business and assets as a whole or substantially as a whole, or any corporation or association resulting from any such conversion, sale, merger, consolidation or transfer to which it is a party, ipso facto, shall be and become successor Escrow Agent hereunder and vested with all the trust, powers, discretions, immunities, privileges and all other matters as was its predecessor, without the execution or filing of any instrument or any further act, deed or conveyance on the part of any parties hereto, anything herein to the contrary notwithstanding, provided such successor shall have reported total capital and surplus in excess of \$15,000,000, provided that such successor Escrow Agent assumes in writing all the trust, duties and responsibilities of the Escrow Agent hereunder.

SECTION 12. Payment to Escrow Agent. The Escrow Agent hereby acknowledges that it has agreed to accept compensation under the Agreement payable as provided in Section 4 hereof, for services to be performed by the Escrow Agent pursuant to this Agreement. Such compensation shall not be paid out of amounts on deposit in the Escrow Account. Rather, such compensation shall be paid from other available moneys of the Issuer. The Escrow Agent shall have no lien or claim against funds in the Escrow Account for payment of obligations due it under this Section.

SECTION 13. Term. This Agreement shall commence upon its execution and delivery and shall terminate when the Refunded Bonds have been paid and discharged in accordance with the proceedings authorizing the Refunded Bonds, except as provided in Section 7.

SECTION 14. Severability. If any one or more of the covenants or agreements provided in this Agreement on the part of the Issuer or the Escrow Agent to be performed should be

determined by a court of competent jurisdiction to be contrary to law, notice of such event shall be sent to Moody's Investors Service, Inc., Fitch Ratings and Standard & Poor's Ratings Services (but only to the extent such agencies have a rating outstanding on any of the Refunded Bonds), and while such covenant or agreements herein contained shall be null and void, they shall in no way affect the validity of the remaining provisions of this Agreement.

SECTION 15. Amendments to this Agreement. This Agreement is made for the benefit of the Issuer and the holders from time to time of the Refunded Bonds and the Bonds and it shall not be repealed, revoked, altered or amended in whole or in part without the written consent of all affected holders, the Escrow Agent and the Issuer; provided, however, that the Issuer and the Escrow Agent may, without the consent of, or notice to, such holders, enter into such agreements supplemental to this Agreement as shall not adversely affect the rights of such holders and as shall not be inconsistent with the terms and provisions of this Agreement, for any one or more of the following purposes:

- (a) to cure any ambiguity or formal defect or omission in this Agreement;
- (b) to grant to, or confer upon, the Escrow Agent, for the benefit of the holders of the Bonds and the Refunded Bonds any additional rights, remedies, powers or authority that may lawfully be granted to, or conferred upon, such holders or the Escrow Agent; and
- (c) to subject to this Agreement additional funds, securities or properties.

The Escrow Agent shall, at its option, be entitled to request, at the Issuer's expense, and rely exclusively upon an opinion of nationally recognized attorneys on the subject of municipal bonds acceptable to the Issuer with respect to compliance with this Section, including the extent, if any, to which any change, modification, addition or elimination affects the rights of the holders of the Refunded Bonds, or that any instrument executed hereunder complies with the conditions and provisions of this Section. Prior written notice of such amendments, together with proposed copies of such amendments, shall be provided to Moody's Investors Service, Inc., Fitch Ratings and Standard & Poor's Ratings Services (but only to the extent such agencies have a rating outstanding on any of the Refunded Bonds).

SECTION 16. Counterparts. This Agreement may be executed in several counterparts, all or any of which shall be regarded for all purposes as one original and shall constitute and be but one and the same instrument.

[Remainder of page intentionally left blank]

SECTION 17. Governing Law. This Agreement shall be governed by and construed under the laws of the State of Florida.

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed by their duly authorized officers and their corporate seals to be hereunto affixed and attested as of the date first above written.

(SEAL)

CITY OF OVIEDO, FLORIDA

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

Its: Mayor

Attested and countersigned:

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

Its: City Clerk

(SEAL)

THE BANK OF NEW YORK MELLON  
TRUST COMPANY, N.A., as Escrow Agent

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

Name:

Title:

SCHEDULE A

TOTAL DEBT SERVICE  
FOR REFUNDED BONDS

<u>Date</u>	<u>Principal</u>	Redemption <u>Premium</u>	<u>Interest</u>	Total Debt <u>Service</u>
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SCHEDULE B

SCHEDULE OF FEDERAL SECURITIES

<u>Type</u>	<u>Maturity Date</u>	<u>Par Amount</u>	<u>Coupon</u>
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