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**LOAN AGREEMENT**

**Dated as of June 16, 2016**

**By and Between**

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

**and**

**AMERIS BANK  
("AMERIS")**

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## **LOAN AGREEMENT**

**THIS LOAN AGREEMENT** (the "Agreement"), made and entered into this 16<sup>th</sup> day of June, 2016, by and between **THE CITY OF LEESBURG, FLORIDA** (the "City"), a municipal corporation of the State of Florida and its successors and assigns, and **AMERIS BANK**, a Georgia banking corporation, and its successors and assigns (together with its successors or assigns as registered owner of the Note, "Ameris").

### **WITNESSETH:**

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

WHEREAS, the City, pursuant to the provisions of the Florida Constitution, Chapter 166, Florida Statutes and other applicable provisions of law (all of the foregoing, collectively, the "Act"), City Resolution No. 7141 adopted by the City Commission of the City on June 14, 2004, as amended (the "Original Instrument") and Resolution No. 9816, adopted by the City Commission of the City on June 13, 2016 (the "Resolution"), is authorized to borrow money, and more particularly issue the Note described below the proceeds of which, together with other legally available City funds, will be used for the City's public purpose of refunding all of the City's Outstanding Electric System Refunding Revenue Note, Series 2013 (the "Refunded Note"); and

WHEREAS, in response to a request for proposal by the City regarding an intended borrowing to refund all of the Refunded Note, and to pay related costs of issuance, Ameris submitted its commitment, dated May 12, 2016, to the City (the "Commitment"); and

WHEREAS, the City has pursuant to the Resolution accepted the Commitment, and Ameris is willing to purchase the Note (as hereinafter defined), but only upon the terms and conditions of this Agreement;

NOW, THEREFORE, the parties hereto agree as follows:

## **ARTICLE I**

### **DEFINITION OF TERMS**

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

"Bond Counsel" shall mean, Akerman LLP, Orlando, Florida, or any other attorney at law or firm of attorneys of nationally recognized standing in matters pertaining to the federal tax exemption of interest on obligations issued by states and political subdivisions hired by the City to render an opinion on such matters with regard to the Note.

"Business Day" shall mean any day other than a Saturday, Sunday or day on which banking institutions within the State of Florida are authorized or required by law to remain closed.

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

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

"Determination of Taxability" means a final decree or judgment of any Federal court or a final action of the Internal Revenue Service determining that interest paid or payable on all or a portion of any Note is or was includable in the gross income of the Noteholder for Federal income tax purposes; provided, that no such decree, judgment, or action will be considered final for this purpose, however, unless the City has been given written notice and, if it is so desired and is legally allowed, has been afforded the opportunity to contest the same, either directly or in the name of any Noteholder, and until the conclusion of any appellate review, if sought.

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

"Finance Director" shall mean the Finance Director of the City.

"Financial Advisor" shall mean Public Financial Management, Inc. or any other person or firm hired by the City to provide it with advice on financial issues, including borrowings.

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

"Governmental Authority" shall mean the government of the United States of America, and any agency, authority, instrumentality, regulatory body, court, central bank or other entity exercising executive, legislative, judicial, taxing, regulatory or administrative powers or functions of or pertaining to government.

"Loan" shall refer to an amount equal to the outstanding principal of the Note, together with unpaid interest and penalties, if any, which have accrued.

"Maturity Date" shall mean the date on which all principal and all unpaid interest accrued on the Note shall be due and payable in full, which date shall be, if not sooner due to prepayment, October 1, 2032.

"Note" shall mean the City of Leesburg, Florida Electric System Refunding Revenue Note, Series 2016 issued by the City under the Original Instrument, the Agreement and the Resolution.

"Note Rate" shall mean a per annum rate equal to 2.35%. The Note Rate is subject to additional adjustment as provided in Section 3.03 hereof.

"Noteholder" or "Holder" shall mean Ameris as the registered owner of the Note and any subsequent registered owner of the Note.

"Original Purchaser" shall mean Ameris.

"Parity Obligations" shall mean collectively the City's outstanding Electric System Revenue Bonds, Series 2007A and Taxable Electric System Revenue Bonds, Series 2007B, the City's Electrical System Refunding Revenue Note, Series 2014 and any Additional Bonds or Hedge Obligations payable on parity therewith pursuant to the Original Instrument.

"Payment Date" shall mean each April 1 and October 1, commencing October 1, 2016 until the Note has been paid in full.

"Pledged Revenues" shall mean the Net Revenues as defined in the Original Instrument and until applied in accordance with the provisions of the Original Instrument, all other amounts, including investments thereof, held in the funds and accounts established thereunder, except that no amounts held in the Reserve Fund or any account therein are pledged to payments on the Note.

"Taxable Period" shall mean the period of time between (a) the date that interest on the Note is deemed to be includable in the gross income of the owner thereof for federal income tax purposes as a result of a Determination of Taxability, and (b) the date of the Determination of Taxability and after which the Note bears interest at the Taxable Rate.

"Taxable Rate" shall mean, upon a Determination of Taxability, the interest rate per annum that shall provide the Holder with the same after tax yield that the Holder would have otherwise received had the Determination of Taxability not occurred, taking into account the increased taxable income of the Holder as a result of such Determination of Taxability. The Holder shall provide the City with a written statement explaining the calculation of the Taxable Rate, which statement shall, in the absence of manifest error, be conclusive and binding on the City.

**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. 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 AMERIS in addition to the City representations and warranties set forth in the

Original Instrument and hereby deemed incorporated herein by reference thereto as if made on the date hereof, as follows:

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

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

(c) No Financial Material Adverse Change. No material adverse change in the financial condition of the City or the Pledged Revenues has occurred since the audited financial statements of the City for its year ended September 30, 2015.

(d) Powers of City. The City has the legal power and authority to pledge on a first lien basis, on parity with the lien thereon of the Parity Obligations, the Pledged Revenues to the repayment of the Note as described herein.

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

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

The City will furnish to Ameris (i) within 270 days following the end of each Fiscal Year, a comprehensive annual financial report of the City for such Fiscal Year, which shall include a balance sheet and income statement as of the end of such Fiscal Year, and an audit report of an independent CPA, (ii) within 30 days of adoption for each year the current annual budget of the City, and (iii) any other information which Ameris may reasonably request.

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

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

### **ARTICLE III**

#### **THE NOTE**

**Section 3.01. Purpose and Use.** On the date of this Agreement, Ameris shall make available to the City the Loan in the principal amount of Eight Million Three Hundred Eighteen Thousand and No Hundred Dollars (\$8,318,000). The Loan will be evidenced by the Note. The proceeds available under this Agreement shall be used solely, together with other City funds, to refund the Refunded Note and to pay costs of issuing the Note, (that includes the partial termination fee for the Debt Service Forward Delivery Agreement), provided that any amount not so applied shall be deposited to the Revenue and Operating Fund created under the Original Instrument to pay debt service on the Note.

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

(a) Amount of Note. The aggregate principal amount of the Note shall be Eight Million Three Hundred Eighteen Thousand and No Hundred Dollars (\$8,318,000). The Note shall be issued in a single denomination in an amount equal to the principal amount thereof.

(b) Interest. The Note shall bear interest at the Note Rate payable on each Payment Date. Upon the occurrence of the event specified in Section 3.03 and 5.01 of this Agreement, the Note Rate shall be adjusted as therein provided. The Noteholder shall promptly notify the City in writing of any adjustments in the Note Rate. Notwithstanding any provision hereof to the contrary, in no event shall the interest rate on the Note exceed the maximum rate permitted by law. Interest shall be calculated on the basis of a 360-day year of 12 30-day months.

(c) Registrar and Paying Agent. The City hereby designates itself as Registrar and Paying Agent for the Note.

(d) Prepayments. The Note shall be subject to prepayment at the option of the City, in whole or in part on any Business Day, from any legally available monies at a prepayment price of 100% of the principal amount to be redeemed, plus accrued interest to the prepayment date. Any prepayment shall be made on such date as shall be specified by the City in a written notice delivered to the Noteholder not less than five (5) Business Days prior to the specified prepayment date. Any prepayment shall be applied first to accrued interest, then to other amounts owed Ameris, and finally to principal as directed by the City.



If at the time of mailing the notice of any redemption or prepayment, the City shall not have deposited with the Paying Agent (or have on deposit, if the City shall be the Paying Agent) moneys sufficient to redeem the Note, such notice shall state that it is subject to the deposit of moneys sufficient for such redemption with the Paying Agent not later than on the redemption date, and such notice shall be of no effect unless such moneys are so deposited.

Notwithstanding the provisions of Section 6.06 of the Original Instrument publication of notice of redemption in the Bond Buyer or other financial journal shall not be required.

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

Determination of Taxability. Upon the occurrence of a Determination of Taxability and for as long as such Determination of Taxability shall be effective, the Note Rate on the Note shall be converted to the Taxable Rate and this adjustment shall survive payment of the Note until such time as the federal statute of limitations under which the interest on the Note could be declared taxable under the Code shall have expired. In addition, upon a Determination of Taxability, the City shall, immediately upon demand, pay to the Holder (or prior Holder, if applicable) (i) an additional amount equal to the difference between (A) the amount of interest actually paid on the Note during the Taxable Period and (B) the amount of interest that would have been paid during the Taxable Period had the Note borne interest at the Taxable Rate, and (ii) an amount equal to any interest, penalties and additions to tax (as referred to in Subchapter A of Chapter 68 of the Code) owed by the Holder (or prior Holders, if applicable) as a result of the Determination of Taxability.

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

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

(a) an opinion of counsel to the City, addressed to Ameris, substantially to the effect that (i) the Original Instrument and the Resolution have been duly adopted and remain in full force and effect and this Agreement and the Note have been duly authorized, executed and delivered by the City and each constitutes a valid, binding and enforceable agreement of the City in accordance with their respective terms, except to the extent that the enforceability of the rights and remedies set forth herein may be limited by bankruptcy, insolvency, financial emergency or other laws affecting creditors' rights generally or by usual equity principles; (ii) the City's execution, delivery and performance of this Agreement and execution and issuance of the Note are not subject to any authorization, consent, approval or review of any governmental body, public officer or regulatory authority not heretofore obtained or effected; (iii) the execution, issuance and delivery of the Note has been duly and validly authorized by the City, and the Note constitutes a valid and binding special obligation of the City enforceable in accordance with its terms and payable on a parity with the Parity Obligations; (iv) the City (A) is a municipal corporation duly organized and validly existing under the laws of the State of Florida, and (B) has power and authority to adopt the Original Instrument and the Resolution, to execute and

deliver this Agreement, to execute and deliver the Note, and to consummate the transactions contemplated by such instruments; (v) the execution, delivery and performance of the Note and this Agreement, and compliance with the terms thereof and hereof, under the circumstances contemplated hereby, do not and will not in any material respect conflict with, or constitute on the part of the City a breach or default under, the Original Instrument, any indenture, mortgage, deed of trust, agreement or other instrument to which the City or to which its properties are subject or conflict with, violate or result in a breach of any existing law, administrative rule or regulation, judgment, court order or consent decree to which the City or its properties are subject; (vi) there is no claim, action, suit, proceeding, inquiry, investigation, litigation or other proceeding, at law or in equity, pending or to the best of such counsel's knowledge, threatened in any court or other tribunal, state or federal (W) restraining or enjoining, or seeking to restrain or enjoin, the issuance, sale, execution or delivery of the Note, (X) in any way questioning or affecting the validity or enforceability of any provision of the Original Instrument, this Agreement, the Note, or the Resolution, (Y) in any way questioning or affecting the validity of any of the proceedings or authority for the authorization, sale, execution or delivery of the Note, or of any provision made or authorized for the payment thereof, or (Z) questioning or affecting the organization or existence of the City or the right of any of its officers to their respective offices; (vii) the City has the legal authority to refund the Refunded Note and to pay associated costs of issuance and to grant a first lien on the Pledged Revenues on parity with the lien thereon of the Parity Obligations as described herein and in the Resolution; and (viii) all conditions contained in the Original Instrument and all other ordinances and resolutions of the City precedent to the issuance of the Note have been complied with;

(b) an opinion of Bond Counsel addressed to the City and Ameris (who may rely on opinion of counsel to the City for matters not covered by such counsel's opinion), substantially to such effect that such counsel is of the opinion that: (i) this Loan Agreement constitutes a valid and binding obligation of the City enforceable upon the City in accordance with its terms; (ii) the Note is a valid and binding special obligation of the City enforceable in accordance with its terms, payable solely from the sources provided therefor in this Loan Agreement; (iii) assuming compliance by the City with certain covenants relating to requirements contained in the Code interest on the Note is excluded from gross income for purposes of federal income taxation, (iv) the lien of the Refunded Note on the Pledged Revenues has been discharged; and (v) the opinion required by Section 12.02(c) of the Original Instrument;

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

(d) the original executed Note and Agreement; and

(e) such other documents as Ameris reasonably may request.

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

**Section 3.05. Registration of Transfer; Assignment of Rights of Ameris.** The City shall keep at the office of the City Clerk in the City's records the registration of the Note and the registration of transfers of the Note as provided in this Agreement. The transfer of the Note may be registered only upon the books kept for the registration of the Note and registration of transfer thereof upon surrender thereof to the City together with an assignment duly executed by the transferor or its attorney or legal representative in the form of the assignment set forth on the form of the Note attached as **Exhibit A** to this Agreement. In all cases in which the Note shall be transferred hereunder, the City shall execute and deliver at the earliest practicable time a new Note in accordance with the provisions of this Agreement. The City may make a charge for every such registration of transfer of a Note sufficient to reimburse it for any tax or other governmental charges (other than those of the City) required to be paid with respect to such registration of transfer, but no other charge shall be made for registering the transfer hereinabove granted. The Note shall be issued in fully registered form and shall be payable in any lawful coin or currency of the United States.

The registration of transfer of the Note on the registration books of the City shall be deemed to effect a transfer of the rights and obligations of the transferor under this Agreement to the transferee. Thereafter, such transferee shall be deemed to be Ameris under this Agreement and shall be bound by all provisions of this Agreement that are binding upon Ameris. 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 Ameris under this Agreement and the Note.

The registered owner of the Note is hereby granted power to transfer absolute title thereof by assignment thereof to a bona fide purchaser for value (present or antecedent) without notice of prior defenses or equities or claims of ownership enforceable against such owner's assignor or any person in the chain of title and before the maturity of the Note; provided, however, that the Note may be transferred only in whole and provided further, that no transfer (except as provided in the immediately following paragraph) shall be permitted to anyone other than a transferee that is an "accredited investor" within the meaning of Regulation D of the Securities Act of 1933. Every prior registered owner of the Note shall be deemed to have waived and renounced all of such owner's equities or rights therein in favor of every such bona fide purchaser, and every such bona fide purchaser shall acquire absolute title thereto and to all rights represented thereby.

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

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

**Section 3.07. Use of Proceeds of Note Permitted Under Applicable Law.** The City represents, warrants and covenants that the proceeds of the Note will be used solely as provided in Section 3.01 hereof, and that such use is permitted by applicable law.

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

## **ARTICLE IV**

### **COVENANTS OF THE CITY**

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

**Section 4.02. Payment of Note.**

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

(b) The Note will be a special obligation of the City secured solely by the Pledged Revenues and is payable from the Pledged Revenues (except as otherwise provided in the definition of Pledged Revenues in this Agreement) on parity with the Parity Obligations as provided in this Agreement. The Note will not constitute a general debt, liability or obligation of the City or the State of Florida or any political subdivision thereof within the meaning of any constitutional or statutory limitation. Neither the faith and credit nor the taxing power of the City or of the State of Florida or any political subdivision thereof is pledged to the payment of the principal of or interest on the Note and the Noteholder shall never have the right to compel any exercise of any ad valorem taxing power of the City or of the State of Florida or any political subdivision thereof, directly or indirectly to enforce such payment. The Note shall not constitute a lien upon any property of the City except upon the Pledged Revenues.

**Section 4.03. Tax Covenant.** The City covenants to the Noteholders that the City will not make any use of the proceeds of the Note at any time during the respective terms of such Note which, if such use had been reasonably expected on the date the Note was issued, would have caused such Note to be an "arbitrage bond" within the meaning of the Code. The City will comply with the requirements of the Code and any valid and applicable rules and regulations promulgated thereunder necessary to insure the exclusion of interest on the Note from the gross income of the holders thereof for purposes of federal income taxation.

**Section 4.04. Application of Provisions of Original Instrument.** The Note shall for all purposes be considered to be an Additional Bond issued under the authority of Section 12.02 of the Original Instrument and shall be entitled to all the protection and security provided in and

by the Original Instrument for Additional Bonds, and the Note shall be in all respects entitled to the same security, rights and privileges enjoyed by the Parity Obligations except as otherwise provided herein. The debt service on the Note shall be payable on a parity with the Parity Obligations. The terms and provisions and all City covenants of the Original Instrument as supplemented hereby shall remain in full force and effect and be applicable with respect to the Note and are incorporated herein by reference in their entirety. The Reserve Requirement for the Note is \$0.

**Section 4.05. Compliance with Laws and Regulations.** The City shall maintain compliance with all federal, state and local laws and regulations regarding the levy and collection of the Pledged Revenues.

**Section 4.06. No Impairment.** As long as the Note is outstanding, the pledging of the Pledged Revenues in the manner provided herein shall not be subject to repeal, modification or impairment by any subsequent ordinance, resolution or other proceedings of the City Council.

## **ARTICLE V**

### **EVENTS OF DEFAULT AND REMEDIES**

**Section 5.01. Events of Default; Remedies.** The provisions of Article XIII of the Original Instrument shall apply for purposes of this Loan Agreement and shall be applied to the Note as though fully restated herein. Upon an Event of Default, the Holder may recover from the City all expenses incurred including without limitation reasonable attorney's fees, at all levels of the proceedings, whether incurred in connection with collection, bankruptcy, proceedings, trial, appeal or otherwise. Ameris may at its option charge City a late charge of five percent (5.00%) of the amount of any payment on the Note not received by Ameris within ten (10) days after the payment is due.

**Section 5.02. Notice of Defaults.** The City shall within five days after it acquires knowledge thereof, notify Ameris in writing; (a) upon the happening, occurrence, or existence of any Event of Default, and (b) any event or condition which with the passage of time or giving of notice, or both, would constitute an Event of Default, and shall provide Ameris with such written notice, a detailed statement by a responsible officer of the City of all relevant facts and the action being taken or proposed to be taken by the City with respect thereto. Regardless of the date of receipt of such notice by Ameris, such date shall not in any way modify the date of occurrence of the actual Event of Default.

## **ARTICLE VI**

### **MISCELLANEOUS PROVISIONS**

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

authority, agency or instrumentality to whom or to which any power or duty affecting such covenants, stipulations, obligations and agreements shall be transferred by or in accordance with law.

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

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

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

(a) As to the City:

City of Leesburg, Florida  
501 Meadow Street  
Leesburg, FL 34748  
Attention: City Manager

With a copy to:

City of Leesburg, Florida  
501 Meadow Street  
Leesburg, FL 34748  
Attention: Finance Director

With a copy to:

Fred Morrison, Esquire  
City Attorney  
McLin Burnsed  
1000 West Main Street  
Leesburg, Florida 34748

As to Ameris Bank:

Ameris Bank  
181 Cypress Point Parkway  
Palm Coast, Florida 32164  
Attention: Garry R. Lubi

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

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

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

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

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

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

**Section 6.09. Applicable Law and Venue.** The substantive laws of the State of Florida shall govern this Agreement. The parties hereto submit to the jurisdiction of Florida courts and federal courts and agree that venue for any suit concerning this Agreement shall lie in Flagler or Lake County, Florida or in the Middle District of Florida, as determined by Ameris in its sole discretion.

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

**Section 6.11. Waiver of Jury Trial.** EACH OF THE PARTIES HERETO HEREBY KNOWINGLY, VOLUNTARILY AND INTENTIONALLY WAIVES THE RIGHT IT MAY HAVE TO A TRIAL BY JURY IN RESPECT OF ANY LITIGATION BASED HEREON, OR ARISING OUT OF, UNDER OR IN CONNECTION WITH THIS AGREEMENT OR THE NOTE AND ANY DOCUMENT CONTEMPLATED TO BE EXECUTED IN CONJUNCTION HEREWITH, OR ANY COURSE OF CONDUCT, COURSE OF DEALING, STATEMENTS (WHETHER VERBAL OR WRITTEN) OR ACTIONS OF EITHER PARTY. THIS PROVISION IS A MATERIAL INDUCEMENT FOR THE PARTIES TO ENTER INTO THIS AGREEMENT.

**Section 6.12. Documentary and Intangible Taxes.** In the event that any intangible tax or documentary stamp tax is due from the Holder to any state or other governmental agency or authority because of the execution or holding of the Note, the City shall, upon demand, reimburse the Holder for any such tax paid.

*[SIGNATURES ON FOLLOWING PAGE]*




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

ATTEST:


CITY OF LEESBURG, FLORIDA


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

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

APPROVED AS TO FORM AND  
CORRECTNESS

AMERIS BANK

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

By:   
\_\_\_\_\_  
Senior Vice President/Commercial  
Banker

## EXHIBIT A

### FORM OF NOTE

THIS NOTE MAY BE TRANSFERRED ONLY IN WHOLE TO A HOLDER WHO BY BECOMING A HOLDER HEREOF REPRESENTS THAT IT IS AN "ACCREDITED INVESTOR" AS SUCH TERM IS DEFINED IN THE SECURITIES ACT OF 1933, AS AMENDED, AND REGULATION D THEREUNDER.

**CITY OF LEESBURG, FLORIDA  
ELECTRIC SYSTEM REFUNDING REVENUE NOTE, SERIES 2016**

<u>Principal Sum</u>	<u>Maturity Date</u>	<u>Note Rate</u>	<u>Date of Issuance</u>
\$8,318,000	October 1, 2032	2.35%	June 16, 2016

(subject to  
adjustment  
as  
provided  
herein)

THE CITY OF LEESBURG, FLORIDA (the "City"), for value received, hereby promises to pay, solely from the sources described in the within mentioned Agreement, to the order of AMERIS BANK, a Georgia banking corporation or its assigns (the "Holder"), the Principal Sum stated above on the Maturity Date stated above except as the provisions for mandatory redemption hereinafter on each October 1 as set forth on Schedule I hereto are required to be made, together with any accrued and unpaid interest, and to pay (but only out of the sources hereinafter mentioned) interest on the outstanding principal amount hereof from the most recent date to which interest has been paid or provided for, or if no interest has been paid, from the Date of Issuance shown above, on April 1 and October 1 of each year (each, an "Interest Payment Date"), commencing on October 1, 2016, until payment of said principal sum has been made or provided for, at the Note Rate. Payments due hereunder shall be payable in any coin or currency of the United States of America which, at the time of payment, is legal tender for the payment of public and private debts, which payments shall be made to the Holder hereof by wire transfer or otherwise as the City and the Holder may agree. The City agrees to pay the principal of and interest due on this Note without presentment or surrender.

The Note Rate may be adjusted in accordance with the terms of that certain Loan Agreement by and between the Holder and the City, dated as of June 16, 2016 (the "Agreement"). Such adjustments may be retroactive. Additional payments are also due in regard to the Note as provided for in Section 5.01 of the Agreement.

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

The Note may be prepaid by the City in whole on any Business Day from any legally available monies at a prepayment price of 100% of the principal amount to be redeemed, plus

accrued interest to the prepayment date. Prepayment shall be made on such date as shall be specified by the City in a written notice delivered to the Holder not less than five (5) days prior to the specified prepayment date. Any prepayments shall be applied as provided in Section 3.02(d) of the Agreement.

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

This Note is authorized to be issued in the outstanding aggregate principal amount equal to the Principal Sum under the authority of and in full compliance with the Constitution and statutes of the State of Florida, including, particularly, Chapter 166, Florida Statutes and other applicable provisions of law, City Resolution No. 7141 (the "Original Instrument") and the City's Resolution No. 9816 adopted by the City Commission on June 13, 2016 (the "Resolution"), and is subject to all terms and conditions of the Agreement and the Resolution. The Note is being issued as an Additional Bond under the provisions of the Original Instrument. Any term used in this Note and not otherwise defined shall have the meaning ascribed to such term in the Resolution or the Agreement, as the case may be.

This Note is a limited, special obligation of the City, payable from and secured solely by a lien upon and pledge of the Pledged Revenues, as defined and described and in the manner provided in the Agreement. The lien of this Note on the Pledged Revenues is on parity with the lien thereon of the Parity Obligations.

Notwithstanding any provision in this Note to the contrary, in no event shall the interest contracted for, charged or received in connection with this Note (including any other costs or considerations that constitute interest under the laws of the State of Florida which are contracted for, charged or received) exceed the maximum rate of nonusurious interest allowed under the State of Florida as presently in effect and to the extent an increase is allowable by such laws, but in no event shall any amount ever be paid or payable by the City greater than the amount contracted for herein.

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

Upon the occurrence of an Event of Default, the Holder shall also 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 Agreement and reference is hereby made thereto regarding interest rate adjustments and other matters.

*[REMAINDER OF PAGE INTENTIONALLY LEFT BLANK]*

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

**CITY OF LEESBURG, FLORIDA**

[SEAL]

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

ATTEST:

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

Approved As To Form and Correctness:

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

FORM OF CERTIFICATE OF AUTHENTICATION

Date of Authentication:

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

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

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

ASSIGNMENT

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

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

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

### Schedule I

Principal on this Note shall be payable on October 1 of the following years and in the following amounts:

<u>Year</u>	<u>Principal Amortization</u>
2016	\$387,000
2017	415,000
2018	423,000
2019	434,000
2020	444,000
2021	454,000
2022	465,000
2023	476,000
2024	488,000
2025	498,000
2026	510,000
2027	522,000
2028	535,000
2029	547,000
2030	560,000
2031	573,000
2032	587,000