

LOAN AGREEMENT

This LOAN AGREEMENT (the "Agreement") is made and entered into as of November 3, 2009, and is by and between the City of Leesburg, Florida, a municipal corporation of the State of Florida, and its successors and assigns (the "City"), and Bank of America, N.A., a national banking association, and its successors and assigns, as holder(s) of the hereinafter defined Note (the "Bank").

The parties hereto, intending to be legally bound hereby and in consideration of the mutual covenants hereinafter contained, DO HEREBY AGREE as follows:

ARTICLE I

DEFINITION OF TERMS

Section 1.01 Definitions. The words and terms used in this Agreement shall have the meanings as set forth in the recitals above and the following words and terms as used in this Agreement shall have the following meanings:

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

"Available Non-Ad Valorem Revenues" shall mean all legally available non-ad valorem revenues inclusive of any non-ad valorem revenues pledged to pay debt service on any debt or obligations of the City except for revenues of any enterprise fund of the City but inclusive of any enterprise fund revenues transferred to the City's general fund which are legally available to make the payments required herein.

"Bond Counsel" means Akerman Senterfitt or any other attorney-at-law or firm of such attorneys having expertise in the legal aspects of the issuance of indebtedness by states and political subdivisions thereof.

"Budgeted Revenues" means the Non Ad Valorem Revenues budgeted to pay amounts due hereunder as provided in Section 3.06 hereof.

"Business Day" means any day except any Saturday or Sunday or day on which the Principal Office of the Bank is lawfully closed.

"Closing Date" means the date of the Note.

"Code" means the Internal Revenue Code of 1986, as amended, and any Treasury Regulations, whether temporary, proposed or final, promulgated thereunder or applicable thereto.

"Costs" means, with respect to the Project, any lawful expenditure of the City which meets the further requirements of this Agreement.

"Costs of Essential Services" shall mean the cost of services and programs which are for essential public purposes affecting the health, welfare and safety of the inhabitants of the City or

which are legally mandated by applicable law as more specifically described on Schedule 1 hereto.

“Event of Default” shall mean an event of default specified in Article VI of this Agreement.

“Financial Advisor” means Larson Consulting Services, LLC.

“Loan” shall mean the loan by the Bank to the City contemplated hereby.

“Loan Amount” means \$4,500,000.00.

“Loan Documents” means this Agreement and the Note.

“Maximum Annual Covenant Debt Service” shall mean the maximum annual debt service on debt and obligations secured by a covenant to budget and appropriate Available Non-Ad Valorem Revenues for the payment thereof, or that are unsecured and expected by the City to be paid from Available Non-Ad Valorem Revenues. For such purposes and for purposes of clause (i) above, maximum annual debt service shall not be reduced by any payments thereof made or expected to be made from sources other than Available Non-Ad Valorem Revenues.

For the purpose of calculating maximum annual debt service on any indebtedness which bears interest at a variable rate, such indebtedness shall be deemed to bear interest at the greater of (i) 1.25 times the most recently published Bond Buyer Revenue Bond 30 Year Index or (ii) 1.25 times actual average interest rate during the prior Fiscal Year of the City.

“Non-Ad Valorem Revenues” means all non-ad valorem revenues of the City that are legally available to make the payments required herein, except for (i) revenues of any enterprise fund of the City, unless and until such revenues are transferred from such enterprise fund to the City’s general fund, and (ii) non-ad valorem revenues required to pay or make provision for the payment of the Costs of Essential Services.

“Non-Enterprise Fund Revenues” shall mean all available revenues and receipts of the City (excluding revenues of any enterprise fund of the City, but including any enterprise fund revenues transferred to the City’s general fund), which are legally available for the payment of Costs of Essential Services.

“Note” means the City’s Capital Improvement Promissory Note (Magnolia Townhomes) in the form attached hereto as Attachment “A.”

“Notice Address” means,

As to the City: City Manager and City Attorney
City of Leesburg, Florida
501 W. Meadow Street
Leesburg, FL 34749

As to the Bank: Bank of America, N.A.
9000 Southside Boulevard
Building 100
Jacksonville, Florida 32256

or to such other address as either party may have specified in writing to the other using the procedures specified in Section 7.06.

“Principal Office” means, with respect to the Bank, the office located at 9000 Southside Boulevard, Building 100, Jacksonville, Florida, 32256, or such other office as the Bank may designate to the City in writing.

“Prior Note” means the City’s Capital Improvement Bond Anticipation Note, Series 2006 (Taxable).

“Project” means the construction of improvements to and equipping of the City owned housing project known as Magnolia Townhomes (formerly known as Kristen Court Subdivision) located on County Road 468 South of Schoolview Street as may be authorized by the City Commission from time to time.

“Resolution” means Resolution No. 8556 of the City adopted October 26, 2009.

“State” means the State of Florida.

Section 1.02 Titles and Headings. The titles and headings of the articles and sections of this Agreement 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 OF CITY

The City represents and warrants to the Bank that:

Section 2.01 Powers of City. The City is a municipal corporation, duly organized and validly existing under the laws of the State. The City has the power to borrow the amount provided for in this Agreement, to execute and deliver the Loan Documents, to secure the Note in the manner contemplated hereby and to perform and observe all the terms and conditions of the Loan Documents on its part to be performed and observed.

Section 2.02 Authorization of Loan. The City had, has, or will have, as the case may be, at all relevant times, full legal right, power, and authority to execute the Loan Documents, to make the Note, and to carry out and consummate all other transactions contemplated hereby, and the City has complied and will comply with all provisions of applicable law in all material matters relating to such transactions. The City has duly authorized the borrowing of the amount provided for in this Agreement, the execution and delivery of this Agreement, and the making

and delivery of the Note to the Bank and to that end the City warrants that it will take all action and will do all things which it is authorized by law to take and to do in order to fulfill all covenants on its part to be performed and to provide for and to assure payment of the Note. The Note has been duly authorized, executed, issued and delivered to the Bank and constitutes the legal, valid and binding obligation of the City enforceable in accordance with the terms thereof and the terms hereof, and is entitled to the benefits and security of this Agreement, subject to the provisions of the bankruptcy laws of the United States of America and to other applicable bankruptcy, insolvency, reorganization, moratorium or similar laws relating to or affecting creditors' rights, heretofore or hereinafter enacted, to the extent constitutionally applicable, and provided that its enforcement may also be subject to equitable principles that may affect remedies or other equitable relief, or to the exercise of judicial discretion in appropriate cases. All approvals, consents, and orders of and filings with any governmental authority or agency which would constitute a condition precedent to the issuance of the Note or the execution and delivery of or the performance by the City of its obligations under this Agreement and the Note have been obtained or made and any consents, approvals, and orders to be received or filings so made are in full force and effect.

Section 2.03 No Violation of Law or Contract. The City is not in default in any material respect under any agreement or other instrument to which it is a party or by which it may be bound, the breach of which could result in a material and adverse impact on the financial condition of the City or the ability of the City to perform its obligations hereunder and under the Note. The making and performing by the City of this Agreement and the Note will not violate any applicable provision of law, and will not result in a material breach of any of the terms of any agreement or instrument to which the City is a party or by which the City is bound, the breach of which could result in a material and adverse impact on the financial condition of the City or the ability of the City to perform its obligations hereunder and under the Note.

Section 2.04 Pending or Threatened Litigation. There are no actions or proceedings pending against the City or affecting the City or, to the knowledge of the City, threatened, which, either in any case or in the aggregate, might result in any material adverse change in the financial condition of the City, or which question the validity of this Agreement or the Note or of any action taken or to be taken in connection with the transactions contemplated hereby or thereby.

Section 2.05 Financial Information. The financial information regarding the City furnished to the Bank by the City in connection with the Loan is complete and accurate, and there has been no material and adverse change in the financial condition of the City from that presented in such information.

ARTICLE III

COVENANTS OF THE CITY

Section 3.01 Affirmative Covenants. For so long as any of the principal amount of or interest on the Note is outstanding or any duty or obligation of the City hereunder or under the Note remains unpaid or unperformed, the City covenants to the Bank as follows:

(a) Payment. The City shall pay the principal of and the interest on the Note as provided herein at the time and place and in the manner provided herein and in the Note.

(b) Use of Proceeds. Proceeds from the Note will be used only to refinance the Prior Note, finance the cost of capital improvements to the Project and to pay closing costs of the Loan.

(c) Notice of Defaults. The City shall within ten (10) days after it acquires knowledge thereof, notify the Bank in writing at its Notice Address upon the happening, occurrence, or existence of any Event of Default, and 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 the Bank 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.

(d) Maintenance of Existence. The City will take all legal action within its control in order to maintain its existence until all amounts due and owing from the City to the Bank under this Agreement and the Note have been paid in full.

(e) Records. The City agrees that any and all records of the City with respect to the Loan shall be open to inspection by the Bank or its representatives at all reasonable times at the offices the City.

(f) Financial Statements. The City will cause an audit to be completed of its books and accounts and shall furnish to the Bank audited year-end financial statements of the City certified by an independent certified public accountant to the effect that such audit has been conducted in accordance with generally accepted auditing standards and stating whether such financial statements present fairly in all material respects the financial position of the City and the results of its operations and cash flows for the periods covered by the audit report, all in conformity with generally accepted accounting principles applied on a consistent basis. The City shall provide the Bank with the City's audited financial statements for each fiscal year ending on or after September 30, 2009 within 270 days after the end thereof.

(g) Notice of Liabilities. The City shall promptly inform the Bank in writing of any actual or potential contingent liabilities or pending or threatened litigation of any amount that could reasonably be expected to have a material and adverse effect upon the financial condition of the City or upon the ability of the City to perform its obligation hereunder and under the Note.

(h) Insurance. The City shall maintain such liability, casualty and other insurance as is reasonable and prudent for similarly situated governmental entities of the State of Florida.

(i) Compliance with Laws. The City shall comply with all applicable federal, state and local laws and regulatory requirements, the violation of which could reasonably be expected to have a material and adverse effect upon the financial condition of the City or upon the ability of the City to perform its obligation hereunder and under the Note.

(j) Payment of Document Taxes. In the event the Note or this Agreement should be subject to the excise tax on documents or the intangible personal property tax of the State, the City shall pay such taxes or reimburse the Bank for any such taxes paid by it.

(k) Delivery of Certificate. The City will, in connection with the delivery to the Bank of the audit referenced in (f) above, deliver to the Bank a certificate in substantially the form of Schedule II hereto prepared by the City's finance director or his designee.

Section 3.02 Negative Covenants. For so long as any of the principal amount of or interest on the Note is outstanding or any duty or obligation of the City hereunder or under the Note remains unpaid or unperformed, the City covenants to the Bank as follows:

Anti-Dilution Covenant. As a condition precedent to the issuance of any debt or the incurrence of any other obligations for borrowed money which are secured by and/or payable solely from the City's covenant to budget and appropriate Non Ad-Valorem Revenues, the City agrees to deliver to the Bank a certificate executed by the City Manager and City Finance Director setting forth the calculations of the financial ratios provided below and certifying that it is in compliance with the following:

(i) the average of the Available Non-Ad Valorem Revenues for the two most recent Fiscal Years for which audited financial statements of the City are available is equal to or greater than 2.00x the projected maximum annual debt service on the proposed debt or obligations and the other debt and obligations secured by and/or payable from all or a portion of Available Non-Ad Valorem Revenues to be outstanding following the issuance of the proposed debt or obligations; and

(ii) (A) the Available Non Ad Valorem Revenues for the most recent Fiscal Year for which audited financial statements of the City are available, less (B) the product of (I) the quotient of such Available Non-Ad Valorem Revenues divided by the Non-Enterprise Fund Revenues for such Fiscal Year, multiplied by (II) the Costs of Essential Services for such Fiscal Year, and less (C) the maximum annual debt service on debt and obligations secured by an express lien on all or a portion of the Available Non Ad Valorem Revenues to be outstanding following the issuance of the proposed debt or obligations is equal to or greater than 1.1x the Maximum Annual Covenant Debt Service with respect to debt and obligations to be outstanding following the issuance of the proposed debt or obligations. [Available Non Ad Valorem Revenues – ((Available Non Ad Valorem Revenues ÷ Non Enterprise Fund Revenues) x (Costs of Essential Services)) – maximum annual debt service secured by lien on Available Non Ad Valorem Revenues > 1.1x Maximum Annual Covenant Debt Service]..

Section 3.03 Payment Procedure. 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 Bank by check mailed to the Bank at the address designated in writing by the Bank for purposes of payment or by bank wire or bank transfer as such Bank may specify in writing to the City or otherwise as the City and the Bank may agree.

Section 3.04 Registration and Exchange of Note. The Note is owned by Bank of America, N.A. The ownership of the Note may only be transferred, and the City will transfer the ownership of the Note, upon written request of the Bank and delivery to the City of a certificate substantially in the same form as the purchaser's letter delivered by the Bank in connection with its purchase of the Note specifying the name, address and taxpayer identification number of the transferee, and the City will keep a record setting forth the identification of the owner of the Note.

Section 3.05 Note Mutilated, Destroyed, Stolen or Lost. In case the Note shall become mutilated, or be destroyed, stolen or lost, the City shall issue and deliver a new Note, in exchange and in substitution for such mutilated Note, or in lieu of and in substitution for the Note destroyed, stolen or lost and upon the Bank furnishing the City proof of ownership thereof and indemnity reasonably satisfactory to the City and paying such expenses as the City may incur.

Section 3.06 Payment of Principal and Interest; Limited Obligation. The City promises that it will promptly pay the principal of and interest on the Note at the place, on the dates and in the manner provided therein, provided that the City may be compelled to pay the principal of and interest on the Note solely from the Budgeted Revenues as described in this Section 3.06, and nothing in the Note or this Loan Agreement shall be construed as pledging any other funds or assets of the City to such payment or as authorizing such payment to be made from any other source. Nothing herein shall, however, prevent the City from using any lawfully available funds to pay its obligations hereunder and under the Note. The City is not and shall not be liable for the payment of the principal of and interest on the Note or for the performance of any pledge, obligation or agreement for payment undertaken by the City hereunder or under the Note from any property other than the Budgeted Revenues. The Bank shall not have any right to resort to legal or equitable action to require or compel the City to make any payment required by the Note or this Loan Agreement from any source other than the Budgeted Revenues.

The City covenants that, so long as the Note shall remain unpaid or any other amounts are owed by the City under this Agreement or the Note, it will appropriate in its annual budget, by amendment, if required, from the Non Ad Valorem Revenues, amounts sufficient to pay the principal of and interest on the Note and other amounts owed under this Agreement as the same shall become due. In the event that the amount previously budgeted for such purpose is ever insufficient to pay such principal and interest on the Note and other amounts owed under this Agreement, the City covenants to take action to amend its budget as soon as reasonably practicable so as to budget and appropriate an amount from the Non Ad Valorem Revenues sufficient to pay such debt service on the Note and such other amounts. The covenant to budget and appropriate does not create a lien upon or pledge of the Non Ad Valorem Revenues. Such covenants to budget and appropriate from Non Ad Valorem Revenues shall be cumulative to the extent not paid and shall continue until Non Ad Valorem Revenues sufficient to make all required payments have been budgeted, appropriated and used to pay such debt service on the Note and such other amounts.

Notwithstanding the foregoing covenant, the City does not covenant to maintain any service or programs now provided or maintained by the City which generate Non Ad Valorem Revenues.

Section 3.07 Officers and Employees of the City Exempt from Personal Liability. No recourse under or upon any obligation, covenant or agreement of this Loan Agreement or the Note or for any claim based hereon or thereon or otherwise in respect thereof, shall be had against any officer, agent or employee, as such, of the City past, present or future, it being expressly understood (a) that the obligation of the City under this Agreement and under the Note is solely a corporate one, limited as provided in the preceding Section 3.06, (b) that no personal liability whatsoever shall attach to, or is or shall be incurred by, the officers, agents, or employees, as such, of the City, or any of them, under or by reason of the obligations, covenants or agreements contained in this Agreement or implied therefrom, and (c) that any and all such personal liability of, and any and all such rights and claims against, every such officer, agent, or employee, as such, of the City under or by reason of the obligations, covenants or agreements contained in this Agreement and under the Note, or implied therefrom, are waived and released as a condition of, and as a consideration for, the execution of this Agreement and the issuance of the Note on the part of the City.

Section 3.08 Business Days. In any case where the due date of interest on or principal of the Note is not a Business Day, then payment of such principal or interest need not be made on such date but may be made on the next succeeding Business Day, provided that credit for payments made shall not be given until the payment is actually received by the Bank.

Section 3.09 Tax Representations, Warranties and Covenants of the City.

(a) The City hereby covenants and represents that it has taken and caused to be taken and shall make and take and cause to be made and taken all actions that may be required of it for the interest on the Note to be and remain excluded from the gross income of the Bank for federal income tax purposes to the extent set forth in the Code, and that to the best of its knowledge it has not taken or permitted to be taken on its behalf, and covenants that to the best of its ability and within its control, it shall not make or take, or permit to be made or taken on its behalf, any action which, if made or taken, would adversely affect such exclusion under the provisions of the Code.

The City acknowledges that the continued exclusion of interest on the Note from gross income for federal income tax purposes depends, in part, upon compliance with the arbitrage limitations imposed by Sections 103(b)(2) and 148 of the Code. The City hereby acknowledges responsibility to take all reasonable actions necessary to comply with these requirements. The City hereby agrees and covenants that it shall not permit at any time or times any of the proceeds of the Note or other funds of the City to be intentionally used, directly or indirectly, to acquire or to replace funds which were used directly or indirectly to acquire any higher yielding investments (as defined in Section 148 of the Code), the acquisition of which would cause the Note to be an arbitrage bond for purposes of Sections 103(b)(2) and 148 of the Code. The City further agrees and covenants that it shall do and perform all acts and things necessary in order to assure that the requirements of Sections 103(b)(2) and 148 of the Code are met.

Specifically, without intending to limit in any way the generality of the foregoing, the City covenants and agrees:

(1) to pay to the United States of America at the times required pursuant to Section 148(f) of the Code, the excess of the amount earned on all non-purpose investments (as defined in Section 148(f)(6) of the Code) (other than investments attributed to an excess described in this sentence) over the amount which would have been earned if such non-purpose investments were invested at a rate equal to the yield on the Note, plus any income attributable to such excess (the "Rebate Amount");

(2) to maintain and retain all records pertaining to and to be responsible for making or causing to be made all determinations and calculations of the Rebate Amount and required payments of the Rebate Amount as shall be necessary to comply with the Code; and

(3) to comply with all representations and restrictions contained in any Certificate as to Arbitrage and Other Tax Matters executed by the City in connection with the Note.

The City understands that the foregoing covenants impose continuing obligations on it to comply with the requirements of Section 103 and Part IV of Subchapter B of Chapter 1 of the Code so long as such requirements are applicable.

(b) The City will comply with, and timely make or cause to be made all filings required by, all effective rules, rulings or regulations promulgated by the Department of the Treasury or the Internal Revenue Service.

(c) The City will not use, invest, direct or permit the investment of the proceeds of the Note or any investment earnings thereon in a manner that will result in the Note becoming a "private activity bond" within the meaning of Sections 141 and 145 of the Code.

(d) The City will not use or permit to be used more than ten percent (10%) of the proceeds of the Note (including any amounts used to pay costs associated with issuing the Note), including all investment income earned on such proceeds directly or indirectly, in any trade or business carried on by any person who is not the City or a state or political subdivision or instrumentality thereof as those terms are used in Section 103 of the Code (an "Exempt Person").

(e) The City will not use or permit the use of any portion of the proceeds of the Note, including all investment income earned on such proceeds, directly or indirectly, to make or finance loans to persons who are not Exempt Persons.

(f) The City has not entered into, and will not enter into, any arrangement with any person or organization (other than an Exempt Person) which provides for such person or organization to manage more than 10% of the property financed or refinanced with the proceeds of the Note (a "Service Contract"), unless the guidelines set forth in Revenue Procedure 97-13 (or the guidelines set forth in Revenue Procedure 93-19, to the extent applicable, or any new, revised or additional guidelines applicable to Service Contracts) (the "Guidelines"), are satisfied, except to the extent it obtains a private letter ruling from the Internal

Revenue Service or an opinion of nationally recognized Bond Counsel which allows for a variation from the Guidelines.

(g) The City will not cause the Note to be treated as “federally guaranteed” for purposes of Section 149 of the Code, as may be modified in any applicable rules, rulings, policies, procedures, regulations or other official statements promulgated or proposed by the Department of the Treasury or the Internal Revenue Service with respect to “federally guaranteed” obligations described in Section 149 of the Code. For purposes of this paragraph, the Note shall be treated as “federally guaranteed” if (i) all or any portion of the principal or interest is or will be guaranteed directly or indirectly by the United States of America or any agency or instrumentality thereof, or (ii) 5% or more of the proceeds of the Note will be (A) used in making loans the payment of principal or interest with respect to which is to be guaranteed in whole or in part by the United States of America or any agency or instrumentality thereof, or (B) invested directly or indirectly in federally insured deposits or accounts, and (iii) such guarantee is not described in Section 149(b)(3) of the Code.

The terms “debt service,” “gross proceeds,” “net proceeds,” “proceeds,” and “yield” have the meanings assigned to them for purposes of Section 148 of the Code.

Section 3.10 Section 265 Designation of Note. The reasonably anticipated amount of tax-exempt obligations (other than obligations described in clause (ii) of Section 265(b)(3)(C) of the Code and in Section 265(G)(ii)), which have been or will be issued by the City and all entities which are subordinate to or which issue obligations on behalf of the City during 2009 does not exceed \$30,000,000, and the City hereby designates the Note as a “qualified tax-exempt obligation” (“QTEO”) for purposes of Section 265(b)(3)(B)(i) of the Code, and the City covenants and agrees not to take any action or to fail to take any action if such action or failure would cause the Note to no longer be a QTEO.

ARTICLE IV

CONDITIONS OF LENDING

The obligations of the Bank to lend hereunder are subject to the following conditions precedent:

Section 4.01 Representations and Warranties. The representations and warranties set forth in this Agreement and the Note are and shall be true and correct on and as of the date hereof.

Section 4.02 No Default. On the date hereof, the City shall be in compliance with all the terms and provisions set forth in this Agreement and the Note on its part to be observed or performed, and no Event of Default nor any event that, upon notice or lapse of time or both, would constitute such an Event of Default, shall have occurred and be continuing at such time.

Section 4.03 Supporting Documents. On or prior to the date hereof, the Bank shall have received the following supporting documents, all of which shall be satisfactory in form and

substance to the Bank (such satisfaction to be evidenced by the purchase of the Note by the Bank):

(a) the opinion of the attorney for the City or bond counsel to the City, regarding the due authorization, execution, delivery, validity and enforceability of the Resolution, this Agreement and the Note;

(b) the opinion of Bond Counsel to the effect that, (1) the interest on such Note is excluded from gross income for federal income tax purposes and such Note is not an item of tax preference under Section 57 of the Code and (2) the Note is a QTEO; and

(c) such additional supporting documents as the Bank may reasonably request.

ARTICLE V

FUNDING THE LOAN

Section 5.01 The Loan. The Bank hereby agrees to lend to the City the Loan Amount on the date hereof and upon the terms and conditions set forth in this Agreement. The City agrees to repay the principal amount borrowed plus interest thereon, upon the terms and conditions set forth in this Agreement and the Note.

Section 5.02 Description and Payment Terms of the Note. To evidence the obligation of the City to repay the Loan, the City shall make and deliver to the Bank the Note in the form attached hereto as Exhibit A.

ARTICLE VI

EVENTS OF DEFAULT

Section 6.01 General. An “Event of Default” shall be deemed to have occurred under this Agreement if:

(a) The City shall fail to make any payment of the principal of or interest on the Loan when the same shall become due and payable, whether by maturity, by acceleration at the discretion of the Bank as provided for in Section 6.02, or otherwise; or

(b) The City shall default in the performance of or compliance with any term or covenant contained in this Agreement or the Note, other than a term or covenant a default in the performance of which or noncompliance with which is elsewhere specifically dealt with, which default or non-compliance shall continue and not be cured within thirty (30) days after (i) notice thereof to the City by the Bank, or (ii) the Bank is notified of such noncompliance or should have been so notified pursuant to the provisions of Section 3.01(c) of this Agreement, whichever is earlier; or

(c) Any representation or warranty made in writing by or on behalf of the City in this Agreement or the Note shall prove to have been false or incorrect in any material respect on the date made or reaffirmed; or

(d) 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 or consents to the appointment of a receiver or trustee for itself; or

(e) The City is adjudged insolvent by a court of competent jurisdiction, or it is adjudged a bankrupt on a petition in bankruptcy filed by or 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 if the aforesaid adjudications, orders, judgments or decrees shall not be vacated or set aside or stayed within ninety (90) days from the date of entry thereof; or

(f) The City 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 the State; or

(g) The City shall default in the due and punctual payment or performance of covenants related to (i) any obligation for the payment of money to the Bank or any other subsidiary or affiliate of Bank of America Corporation or (ii) any obligation for the repayment of borrowed money in an amount in excess of \$250,000 to any other obligee.

(h) Invalidity of any loan documentation or security interests.

Section 6.02 Effect of Event of Default. Immediately and without notice, upon the occurrence of any Event of Default, the Bank may declare all obligations of the City under this Agreement and the Note to be immediately due and payable without further action of any kind and upon such declaration the Note and the interest accrued thereon shall become immediately due and payable. In addition, and regardless whether such declaration is or is not made, the Bank may also seek enforcement of and exercise all remedies available to it under any applicable law.

ARTICLE VII

MISCELLANEOUS

Section 7.01 No Waiver; Cumulative Remedies. No failure or delay on the part of the Bank in exercising any right, power, remedy hereunder or under the Note shall operate as a waiver of the Bank's rights, powers and remedies hereunder, nor shall any single or partial exercise of any such right, power or remedy preclude any other or further exercise thereof, or the exercise of any other right, power or remedy hereunder or thereunder. The remedies herein and therein provided are cumulative and not exclusive of any remedies provided by law or in equity.

Section 7.02 Amendments, Changes or Modifications to the Agreement. This Agreement shall not be amended, changed or modified except in writing signed by the Bank and

the City. The City agrees to pay all of the Bank's costs and reasonable attorneys' fees incurred in modifying and/or amending this Agreement at the City's request or behest.

Section 7.03 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 7.04 Severability. If any clause, provision or section of this Agreement shall be held illegal or invalid by any court, the invalidity of such clause, provision or section shall not affect any other provisions or sections hereof, and this Agreement shall be construed and enforced to the end that the transactions contemplated hereby be effected and the obligations contemplated hereby be enforced, as if such illegal or invalid clause, provision or section had not been contained herein.

Section 7.05 Term of Agreement. Except as otherwise specified in this Agreement, this Agreement and all representations, warranties, covenants and agreements contained herein or made in writing by the City in connection herewith shall be in full force and effect from the date hereof and shall continue in effect until as long as the Note is outstanding.

Section 7.06 Notices. All notices, requests, demands and other communications which are required or may be given under this Agreement shall be in writing and shall be deemed to have been duly given when received if personally delivered; when transmitted if transmitted by telecopy, electronic telephone line facsimile transmission or other similar electronic or digital transmission method (provided customary evidence of receipt is obtained); the day after it is sent, if sent by overnight common carrier service; and five days after it is sent, if mailed, certified mail, return receipt requested, postage prepaid. In each case notice shall be sent to the Notice Address.

Section 7.07 Applicable Law; Venue. This Agreement shall be construed pursuant to and governed by the substantive laws of the State. The City and the Bank waive any objection either might otherwise have to venue of any action lying in Lake County, Florida.

Section 7.08 Binding Effect; Assignment. This Agreement shall be binding upon and inure to the benefit of the successors in interest and permitted assigns of the parties. The City shall have no rights to assign any of its rights or obligations hereunder without the prior written consent of the Bank.

Section 7.09 No Third Party Beneficiaries. It is the intent and agreement of the parties hereto that this Agreement is solely for the benefit of the parties hereto and no person not a party hereto shall have any rights or privileges hereunder.

Section 7.10 Attorneys Fees. To the extent legally permissible, the City and the Bank agree that in any suit, action or proceeding brought in connection with this Agreement or the Note (including any appeal(s)), the prevailing party shall be entitled to recover costs and attorneys' fees from the other party.

Section 7.11 Entire Agreement. Except as otherwise expressly provided, this Agreement and the Note embody the entire agreement and understanding between the parties hereto and supersede all prior agreements and understandings relating to the subject matter hereof.

Section 7.12 Further Assurances. The parties to this Agreement will execute and deliver, or cause to be executed and delivered, such additional or further documents, agreements or instruments and shall cooperate with one another in all respects for the purpose of out the transactions contemplated by this Agreement.

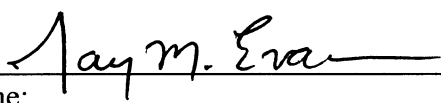
Section 7.13 Waiver of Jury Trial. THE BANK AND THE CITY HEREBY KNOWINGLY, VOLUNTARILY AND INTENTIONALLY WAIVE THE RIGHT EITHER MAY HAVE TO A TRIAL BY JURY IN RESPECT TO ANY LITIGATION BASED HEREON, OR ARISING OUT OF, UNDER OR IN CONNECTION WITH THE RESOLUTION, THIS AGREEMENT, THE NOTE OR ANY OTHER AGREEMENT CONTEMPLATED TO BE EXECUTED IN CONJUNCTION HERewith, OR ANY COURSE OF CONDUCT, COURSE OF DEALING, STATEMENTS (WHETHER VERBAL OR WRITTEN), OR ACTIONS OF EITHER PARTY.

[SIGNATURES ON FOLLOWING PAGE]

IN WITNESS WHEREOF, the parties have executed this Agreement to be effective between them as of the date of first set forth above.

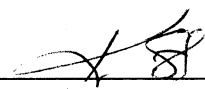
CITY OF LEESBURG, FLORIDA

By: 
Name: _____
Title: Mayor


Name: _____
City Manager


Name: _____
Finance Director

BANK OF AMERICA, N.A.

By: 
Name: Kathryn Sikes
Title: SVP

Schedule 1

“Cost of Essential Services” means the expenditures for line items entitled “General Government” and “Public Safety” as reflected in the City’s Statement of Revenues, Expenditures and Changes in Fund Balances, All Governmental Funds as reported in the City’s Comprehensive Annual Financial Report.

SCHEDULE II

REVENUES

TOTAL REVENUES PER CAFR (GOV'T FUNDS)
LESS: AD VALOREM REVENUES (GOV'T FUNDS)

NON AD VALOREM REVENUES (GOV'T FUNDS)

ADJUSTED NON AD-VALOREM REVENUES

ESSENTIAL EXPENDITURES

GENERAL GOVERNMENT
PUBLIC SAFETY
HUMAN SERVICES

ESSENTIAL EXPENDITURES PER CAFR (GOV'T FUNDS)

ESSENTIAL EXPENDITURES
AD VALOREM TAXES NOT DEBT-RELATED & RESTRICTED

BALANCE REMAINING TO BE PAID FROM NON AD
VALOREM REVENUES

NON AD VALOREM REVENUES
ESSENTIAL EXPENDITURES REMAINING

BALANCE AVAILABLE

MAXIMUM DEBT SERVICE FOR ALL NON AD VALOREM
DEBT

ATTACHMENT A

CAPITAL IMPROVEMENT PROMISSORY NOTE (MAGNOLIA TOWNHOMES)

KNOW ALL MEN BY THESE PRESENTS that the undersigned maker, City of Leesburg, Florida (the "City"), a municipality created and existing pursuant to the Constitution and the laws of the State of Florida, for value received, promises to pay from the sources hereinafter provided, to the order of Bank of America, N.A. or registered assigns (hereinafter, the "Bank"), the principal sum of \$4,500,000.00 or such lesser amount as shall be outstanding hereunder, together with interest on the principal balance outstanding at the rate of 3.40% per annum (subject to adjustment as hereinafter provided) based upon a 360 day year consisting of 12-30 day months. This Note is issued in conjunction with a Loan Agreement, dated of even date herewith, between the City and the Bank (the "Loan Agreement") and is subject to all the terms and conditions of the Loan Agreement.

Principal of and interest on this Note are payable in immediately available funds constituting lawful money of the United States of America at such place as the Bank may designate to the City.

As used in this Note:

(1) "Code" means the Internal Revenue Code of 1986, as amended, and any Treasury Regulations, whether temporary, proposed or final, promulgated thereunder or applicable thereto;

(2) "Determination of Taxability" shall mean interest on this Note is determined or declared, by the Internal Revenue Service or a court of competent jurisdiction to be included in the gross income of the Owner for federal income tax purposes under the Code.

The City shall pay the Bank interest hereon at the rate set forth above on the outstanding principal sum on the first day of each May and November of each year, commencing May 1, 2010, and shall pay the Bank principal as set forth on Exhibit "A" hereto. The entire unpaid principal balance, together with all accrued and unpaid interest hereon, shall be due and payable in full on November 1, 2016 (the "Maturity Date").

All payments by the City pursuant to this Note shall apply first to accrued interest, then to other charges due the Bank, and the balance thereof shall apply to the principal sum due.

Upon the occurrence of a Determination of Taxability, the interest rate on this Note shall be adjusted to a rate equal to 154% of the interest rate otherwise borne hereby (the "Adjusted Interest Rate"), as of and from the date such Determination of Taxability would be applicable with respect to this Note (the "Accrual Date"); and (i) the City shall on the next interest payment date (or if this Note shall have matured, within 30 days after demand by the Bank) hereon pay to the Bank an amount equal to the sum of (1) the difference between (A) the total interest that would have accrued on this Note at the Adjusted Interest Rate from the Accrual Date to such next interest payment date, and (B) the actual interest paid by the City on this Note from the Accrual

Date to such next interest payment date, and (2) any interest and penalties required to be paid as a result of any additional State of Florida and federal income taxes imposed upon such Bank and/or former Bank arising as a result of such Determination of Taxability; and (ii) from and after the Date of the Determination of Taxability, this Note shall continue to bear interest at the Adjusted Interest Rate for the period such determination continues to be applicable with respect to this Note. This adjustment shall survive payment of this Note until such time as the federal statute of limitations under which the interest on this Note could be declared taxable under the Code shall have expired.

This Note may be prepaid in whole or in part on any date, with three (3) days prior written notice to the Bank by payment in an amount equal to the principal amount to be prepaid plus accrued interest thereon to the date of such prepayment plus the Prepayment Fee. For purposes hereof, the Prepayment Fee will be the sum of fees calculated separately for each Prepaid Installment, as follows:

(i) The Bank will first determine the amount of interest which would have accrued each month at the Taxable Equivalent Rate for the Prepaid Installment had it remained outstanding until the applicable Original Payment Date, using the interest rate applicable to the Prepaid Installment under this Agreement.

(ii) The Bank will then subtract from each monthly interest amount determined in (i), above, the amount of interest which would accrue for that Prepaid Installment if it were reinvested from the date of prepayment or redemption through the Original Payment Date, using the Treasury Rate.

(iii) If (i) minus (ii) for the Prepaid Installment is greater than zero, the Bank will discount the monthly differences to the date of prepayment or redemption by the Treasury Rate. The Bank will then add together all of the discounted monthly differences for the Prepaid Installment.

The following definitions will apply to the calculation of the Prepayment Fee:

(i) "Original Payment Dates" mean the dates on which the prepaid or redeemed principal would have been paid if there had been no prepayment or redemption. If any of the principal would have been paid later than the end of the fixed rate interest period in effect at the time of prepayment or redemption, then the Original Payment Date for that amount will be the last day of the interest period.

(ii) "Prepaid Installment" means the amount of the prepaid or redeemed principal which would have been paid on a single Original Payment Date.

(iii) "Taxable Equivalent Rate" means the interest rate per annum derived from the following formula: 3.40% divided by the difference of (1 minus the Maximum Corporate Income Tax Rate). The "Maximum Corporate Income Tax Rate" is the highest marginal federal income tax rate charged to U.S. corporations in effect at the time of the prepayment calculation. The "Maximum Corporate Income Tax Rate" is currently 35% (or 0.35 in numerical terms).

(iv) "Treasury Rate" means the yield on the Treasury Constant Maturity Series with maturity equal to the Original Payment Date of the Prepaid Installment which are principal payments (calculated as of the date of redemption in accordance with accepted financial practice and rounded to the nearest quarter-year), as reported in Federal Reserve Statistical Release H.15, Selected Interest Rates of the Board of Governors of the Federal Reserve System, or any successor publication. If no maturity exactly corresponding to such Original Payment Date appears in Release H.15, the Treasury Rate will be determined by linear interpolation between the yields reported in Release H.15. If for any reason Release H.15 is no longer published, the Holder shall select a comparable publication to determine the Treasury Rate.

Upon the occurrence of an Event of Default (as defined in the Loan Agreement) then the Bank may declare the entire debt then remaining unpaid hereunder immediately due and payable; and in any such default and acceleration, the City shall also be obligated to pay (but only from the Budgeted Revenues) as part of the indebtedness evidenced by this Note, all costs of collection and enforcement hereof, including such fees as may be incurred on appeal or incurred in any proceeding under bankruptcy laws as they now or hereafter exist, including specifically but without limitation, claims, disputes and proceedings seeking adequate protection or relief from the automatic stay. If any payment hereunder is not made within fifteen (15) days after it is due, then the City shall also be obligated to pay, from any legally available funds of the City, as a part of the indebtedness evidenced by this Note a late payment fee in the amount of 3% of delinquent payment, which late payment shall be due and payable immediately.

Interest at the maximum lawful rate per annum shall be payable on the entire principal balance owing hereunder from and after the occurrence of and during the continuation of a default described in the preceding paragraph, irrespective of a declaration of maturity.

The City to the extent permitted by law hereby waives presentment, demand, protest and notice of dishonor.

This Note is payable solely from the Budgeted Revenues to the extent provided in the Loan Agreement. Notwithstanding any other provision of this Note, the City is not and shall not be liable for the payment of the principal of and interest on this Note or otherwise monetarily liable in connection herewith from any property other than as provided in the Loan Agreement.

All terms, conditions and provisions of the Loan Agreement are by this reference thereto incorporated herein as a part of this Note. Terms used herein in capitalized form and not otherwise defined herein shall have the meanings ascribed thereto in the Loan Agreement.

This Note may be exchanged or transferred but only as provided in the Loan Agreement.

It is hereby certified, recited and declared that all acts, conditions and prerequisites required to exist, happen and be performed precedent to and in the execution, delivery and the issuance of this Note do exist, have happened and have been performed in due time, form and manner as required by law, and that the issuance of this Note is in full compliance with and does not exceed or violate any constitutional or statutory limitation.

IN WITNESS WHEREOF, the City has caused this Note to be executed in its name as of the date hereinafter set forth.

The date of this Promissory Note is November 3, 2009.

CITY OF LEESBURG, FLORIDA

By: _____

Name: Lewis Puckett

Title: Mayor

ATTEST:

City Clerk

EXHIBIT "A"

Date	Principal
11/1/2012	\$ 840,000
11/1/2013	870,000
11/1/2014	900,000
11/1/2015	930,000
11/1/2016	960,000