

RESOLUTION NO. 040032

PASSED June 14, 2004

A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF GAINESVILLE, FLORIDA, AMENDING RESOLUTION NO. 020918 OF THE CITY RELATED TO THE CITY'S TAXABLE PENSION OBLIGATION REVENUE BONDS, SERIES 2003A (EMPLOYEES' PLAN) AND TAXABLE PENSION OBLIGATION REVENUE BONDS, SERIES 2003B (CONSOLIDATED PLAN); APPROVING THE FORM AND AUTHORIZING THE EXECUTION AND DELIVERY OF A MASTER AGREEMENT, SCHEDULE, CREDIT SUPPORT ANNEX AND CONFIRMATION WITH CITIBANK, N.A., NEW YORK PERTAINING TO AN INTEREST RATE SWAP TRANSACTION RELATING TO SUCH BONDS; PROVIDING AN ADDITIONAL COVENANT TO BUDGET AND APPROPRIATE FROM LEGALLY AVAILABLE NON-AD VALOREM REVENUE TO SUPPORT CERTAIN TERMINATION PAYMENTS UNDER THE MASTER AGREEMENT; DELEGATING TO THE CITY MANAGER, THE ADMINISTRATIVE SERVICES DIRECTOR OR THE FINANCE DIRECTOR OF THE CITY THE AUTHORITY TO EXECUTE AND DELIVER SUCH DOCUMENTS ON BEHALF OF THE CITY UNDER CERTAIN DELEGATION PARAMETERS; PROVIDING CERTAIN OTHER DETAILS IN CONNECTION WITH SUCH TRANSACTION; PROVIDING AN EFFECTIVE DATE.

WHEREAS, the City of Gainesville, Florida (the "City") issued its Taxable Pension Obligation Revenue Bonds, Series 2003A (Employees' Plan) in the original aggregate principal amount of \$40,042,952.75 and its Taxable Pension Obligation Revenue Bonds, Series 2003B (Consolidated Plan) in the original aggregate principal amount of \$49,851,805.95 (collectively, the "Series 2003 Bonds") on March 20, 2003, pursuant to Resolution No. 020918 adopted by the City Commission of the City on February 24, 2003 ("Resolution No. 020918"), as supplemented by Resolution No. 020919 adopted by the City Commission of the City on February 24, 2003 ("Resolution No. 020919", and collectively with Resolution No. 020918, the "Bond Resolution"), which Series 2003 Bonds were insured by municipal bond insurance policies issued by MBIA Insurance Corporation ("MBIA"); and

WHEREAS, the Series 2003 Bonds bear interest at fixed rates of interest and, in an effort to diversify its exposure under its various debt obligations and to achieve a better match between its funding obligations with respect to the

City's Pension Benefit Plans and the debt service on the Series 2003 Bonds, the proceeds of which were used to partially fund those obligations, the City wishes to enter into an interest rate swap transaction with Citibank, N.A., New York (the "Swap Provider") pursuant to the terms of a Master Agreement and related Schedule, Credit Support Annex and Confirmation, substantially in the form attached hereto as Exhibit "A" (collectively, the "Master Agreement"), pursuant to which the Swap Provider will periodically pay the City a fixed rate of interest and the City will periodically pay the Swap Provider a floating rate of interest on a stated notional amount not to exceed the then outstanding principal amount or Compounded Amounts, as the case may be, of the Series 2003 Bonds (which notional amounts under the Master Agreement will decrease over time in proportion to the regularly scheduled principal payments on such Series 2003 Bonds) (such transaction being hereinafter referred to as the "Swap Transaction"); and

WHEREAS, as a prerequisite to entering into the Master Agreement with the Swap Provider, it is necessary, among other things (i) to amend Resolution No. 020918 to allow for the blending of interest payments on Bonds with Qualified Hedge Payments and Qualified Hedge Receipts to be made and received under the Master Agreement, for purposes of determining compliance with the City's covenant to budget and appropriate and the anti-dilution tests as stated therein, and (ii) to obtain the consent of MBIA, as insurer of the Series 2003 Bonds, to such amendments as required by the terms of the Bond Resolution; and

WHEREAS, the City intends that the Master Agreement constitutes a Qualified Hedge Agreement under the terms of the Bond Resolution; and

WHEREAS, the City wishes to delegate to the City Manager, the Administrative Services Director or the Finance Director (each, a "City Authorized Representative") the authority to (i) negotiate the terms of, and execute, the Master Agreement, and (ii) negotiate the terms of, and execute, the Swap Transaction and the confirmation documenting and evidencing the Swap Transaction (the "Confirmation"), all subject to the delegation parameters hereinafter set forth;

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COMMISSION OF THE CITY OF GAINESVILLE, FLORIDA, AS FOLLOWS:

SECTION 1. ***Authority; Definitions.*** This Resolution is adopted pursuant to the provisions of Chapter 166, Florida Statutes, the City's Charter, the Bond Resolution and other applicable provisions of law (collectively, the "Act"). All terms used herein in capitalized form and not otherwise defined herein shall have the meanings ascribed thereto in the Bond Resolution.

SECTION 2. ***Findings.***

A. It is hereby ascertained, determined and declared that it is in the public interest and in the best interest of the City to enter into the Swap Transaction and to execute and deliver the Master Agreement, for overall debt and risk management purposes.

B. It is hereby ascertained, determined and declared that it is in the public interest and in the best interest of the City to enter into the Master Agreement and the Swap Transaction on a negotiated basis with the Swap Provider in light of current, and rapidly evolving, market conditions, to facilitate the timely execution of the Swap Transaction in response to those market conditions.

C. Resolution No. 020918 did not anticipate, and thus, without amendment of the definition of Bond Service Requirement and the anti-dilution test under Section 9.01, would not permit, the treatment of the Master Agreement as a Qualified Hedge Agreement and the payments to be made and received by the City thereunder as Qualified Hedge Payments and Qualified Hedge Receipts, respectively.

D. Section 12.01 of Resolution No. 020918 permits the Bondholders of a majority of Bonds outstanding thereunder to consent to amendments of the terms thereof, and further permits a Bond Insurer providing a bond insurance policy to act as the Bondholder of all Bonds insured by it for purposes of consenting to any such amendments. MBIA, as insurer of the Series 2003 Bonds, has consented to the amendments contained in Section 3 of this Resolution.

E. The City hereby finds that the Swap Provider has a rating on its long-term unsecured debt of "Aa1" by Moody's and "AA+" by Fitch, and that the Master Agreement is intended to be, and, upon the amendments contained in this Resolution and the due execution and delivery of the Master Agreement by each party thereto, shall constitute, a Qualified Hedge Agreement under the Bond Resolution.

F. The City hereby finds that each of the obligations of the City under the Swap Transaction constituting Termination Payments (as defined below) shall be treated, and is hereby designated, as a subordinated obligation of the City under the Bond Resolution.

SECTION 3. *Amendment of Resolution No. 020918.* Resolution No. 020918 is hereby amended in the following respects (such amendments having been approved by MBIA for and on behalf of the holders of the Series 2003 Bonds):

A. Paragraph (f) of the definition of the term "Bond Service Requirement" in Section 2.01 is hereby amended in its entirety to read as follows:

(f) For purposes of this Resolution, to the extent that the Issuer has entered into a Qualified Hedge Agreement with respect to

any Bonds and notwithstanding the provisions of clauses (a) through (e) above, while the Qualified Hedge Agreement is in effect and so long as the counterparty has not defaulted thereunder, for the purpose of determining the Bond Service Requirement, the interest rate with respect to the principal amount of such Bonds equal to the "notional" amount specified in the Qualified Hedge Agreement shall be assumed to be (A) if the Issuer's Qualified Hedge Payments under the Qualified Hedge Agreement are computed based upon a fixed rate of interest, the actual rate of interest upon which the Issuer's Qualified Hedge Payments are computed under such Qualified Hedge Agreement, (B) if the Issuer's Qualified Hedge Payments under the Qualified Hedge Agreement are computed based upon a variable rate of interest:

(i) for purposes of Section 6.03 of this Resolution, the average rate of interest for the Issuer's Qualified Hedge Payments under the Qualified Hedge Agreement for the prior Fiscal Year or portion thereof while the Qualified Hedge Agreement was in effect or if the Qualified Hedge Agreement was not in effect during such prior Fiscal Year, then the lesser of (X) the initial rate of interest for the Issuer's Qualified Hedge Payments under the Qualified Hedge Agreement and (Y) the average rate of interest for the prior Fiscal Year under a published variable interest rate index agreed upon by the Issuer and the counterparty that is the functional equivalent of the index rate that be used to determine the Issuer's Qualified Hedge Payments; and

(ii) for purposes of Section 9.01 of this Resolution, the interest rate on such Bonds shall be deemed to be determined in accordance with the provisions of clause (b) or (c) of this definition, as if such Bonds were Variable Rate Bonds,

plus in either case (C) any interest rate differential or basis risk between the rate payable by the counterparty under the Qualified Hedge Agreement and the interest rate payable by the Issuer on the Bonds to which the Qualified Hedge Agreement pertains, as determined by the Mayor or City Manager. The "average rate of interest" for the Issuer's Qualified Hedge Payments under the Qualified Hedge Agreement for the prior Fiscal Year means the rate determined by dividing the total annualized amount paid by the Issuer under the Qualified Hedge Agreement in such Fiscal Year or portion thereof (without taking into account Qualified Hedge Receipts during such prior Fiscal Year or portion thereof) by the "notional" amount specified in the Qualified Hedge Agreement for such Fiscal Year.

B. Section 9.01 is hereby amended in its entirety to read as follows:

SECTION 9.01. Anti-Dilution Test. Except to the extent authorized in Section 10.03 hereof, the Issuer may incur additional Non-Self-Supporting Revenue Debt only if, as set forth in a certificate of the Mayor or City Manager executed prior to the issuance thereof,

(i) after the issuance thereof, the Maximum Bond Service Requirement in any Bond Year resulting from the total outstanding Non-Self-Supporting Revenue Debt of the Issuer, including the additional Non-Self-Supporting Revenue Debt proposed to be issued, does not exceed 50% of the Non-Ad Valorem Revenues received in the preceding Fiscal Year; and

(ii) the Non-Ad Valorem Revenues of the Issuer for the preceding Fiscal Year were at least 2.00 times the average annual Bond Service Requirement in future Fiscal Years on the total outstanding Non-Self-Supporting Revenue Debt of the Issuer, including the additional Non-Self-Supporting Revenue Debt proposed to be issued.

SECTION 4. Delegation and Parameters. Subject to the delegation parameters described below, the City hereby approves the Master Agreement documenting and evidencing the Swap Transaction in substantially the form attached hereto as composite Exhibit "A", with such changes, deletions, modifications, and completion of blanks therein as may be agreed to by a City Authorized Representative, after consultation with the City Attorney, and determines and declares that it is in the public interest of the City to enter into the Master Agreement and the Swap Transaction, provided that all of the following parameters (sometimes referred to herein as the "Delegation Parameters") are adhered to prior to any such agreement:

A. The Swap Provider shall present written evidence satisfactory to a City Authorized Representative that the senior long-term unsecured debt rating of the Swap Provider is at least as high as the third highest long term rating category (without regard to gradations) by at least one nationally recognized securities rating agency.

B. The notional amount of the Swap Transaction shall not exceed the outstanding principal amount or Compounded Amounts, as the case may be, of the Series 2003 Bonds at the time of execution of such Swap Transaction, and shall reduce over time at least as quickly as the Series 2003 Bonds are scheduled to amortize.

C. The term of the Swap Transaction shall not exceed the remaining term of the Series 2003 Bonds at the time of execution of such Swap Transaction.

D. The fixed rate utilized to calculate the amount payable by the Swap Provider under the Swap Transaction shall not be less than 3.50%.

E. The floating rate utilized to calculate the amount payable by the City under the Swap Transaction shall be based on the London Inter-Bank Offered Rate (LIBOR).

F. The Swap Transaction shall be entered into, if at all, prior to October 1, 2004.

SECTION 5. Approval of Master Agreement. The City Commission hereby approves the Master Agreement substantially in the form attached hereto as composite Exhibit "A." The Mayor or the City Manager are hereby authorized to make such determinations and issue such certificates as may be required by Section 10.04 (and, to the extent required thereby, Sections 9.01 and 10.02) of Resolution No. 020918, with respect to the Master Agreement. Upon compliance with the requirements of Section 10.04 (and, to the extent required thereby, Sections 9.01 and 10.02) of Resolution No. 020918, as such resolution is amended hereby, and the satisfaction of the Delegation Parameters set forth in Section 4 above, the City Authorized Representative is hereby authorized and directed to execute and deliver, on behalf of the City, the Master Agreement, in substantially the form attached hereto as Exhibit "A," subject to such changes, deletions, modifications and completion of blanks therein as the City's Authorized Representative executing the same shall approve, execution thereof to be conclusive evidence of such approval, and to take all actions in connection therewith as may be required to accomplish the purposes of this Resolution. Upon execution and delivery, the Master Agreement shall constitute a Qualified Hedge Agreement under the Bond Resolution, and the Qualified Hedge Payments of the City under the Master Agreement shall be secured forthwith with an irrevocable lien on the Pledged Revenues on a parity with debt service on the Bonds; provided that each of the obligations of the City under the Master Agreement constituting Termination Payments (as defined below) shall be treated, and is hereby designated, as a subordinated obligation of the City under the Bond Resolution.

Prior to execution and delivery of the Master Agreement, the Finance Director of the City or his designee is hereby directed to notify Moody's and Fitch (who are the rating agencies that currently maintain a rating on the Bonds) of the City's intention to enter into the Master Agreement. After execution and delivery of the Swap Transaction evidenced by the Master Agreement, the Finance Director of the City or his designee is hereby authorized to take all actions in administering the Swap Transaction as may be required by the terms of the Master Agreement.

SECTION 6. Acknowledgement; Covenant to Budget and Appropriate for Termination Payments.

A. The City hereby acknowledges and agrees that Paragraph (i) of the definition of the term "Bond Service Requirement" in Section 2.01 of Resolution No. 020918, as such resolution is amended hereby, provides for Qualified Hedge Payments due to the Swap Provider to be taken into account as part of the overall Bond Service Requirement calculations, but only to the extent and in the manner provided therein.

B. Subject and subordinate to the requirements of Section 6.03 of Resolution No. 020918, as such resolution is amended hereby, the City hereby covenants and agrees, to the extent permitted by and in accordance with applicable law and budgetary processes, to prepare, approve and appropriate in its Annual Budget for each Fiscal Year, by amendment if necessary, Non-Ad Valorem Revenues of the City in an amount sufficient to pay all payment obligations incurred by the City under the Master Agreement, other than Qualified Hedge Payments, coming due in such Fiscal Year ("Termination Payments"). Such covenant and agreement on the part of the City to budget and appropriate sufficient amounts of Non-Ad Valorem Revenues shall be cumulative, and shall continue until such Non-Ad Valorem Revenues in amounts sufficient to make all Termination Payments as and when due, including any delinquent payments, shall have been budgeted, appropriated and actually paid; provided, however, that such covenant shall not constitute a lien or claim, either legal or equitable, on any of the City's Non-Ad Valorem Revenues or other revenues, nor shall it preclude the City from pledging in the future any of its Non-Ad Valorem Revenues or other revenues to other obligations. The City is prohibited by law from expending moneys not appropriated or in excess of its current budgeted revenues and surpluses. The obligation of the City to budget, appropriate and make payments hereunder from its Non-Ad Valorem Revenues in respect of Termination Payments is subject and subordinate to Section 6.03 of Resolution No. 020918 and to the availability of Non-Ad Valorem Revenues after satisfying funding requirements for the Bonds, Qualified Hedge Payments and other obligations having an express lien on or pledge of such revenues and after satisfying funding requirements for essential governmental services of the City. Notwithstanding the foregoing or anything in this Resolution to the contrary, the City has not covenanted to maintain any service or program now provided or maintained by the City which generates Non-Ad Valorem Revenues.

SECTION 7. Termination or Replacement. After implementation of the Swap Transaction, the Finance Director is authorized to take all actions in administering the Swap Transaction as the Finance Director determines to be in the best interest of the City, after consultation with its financial advisor, if any, and the City Attorney, including termination or replacement of the Swap Transaction, if

in the judgment of the Finance Director, the delay inherent in seeking the City's approval of such action may be disadvantageous to the City.

SECTION 8. Other and Further Actions. The City Authorized Representatives, the City Clerk, the City Attorney, and other officers, employees and agents of the City are authorized and directed to do all acts and things and to execute and deliver any and all documents and certificates which they deem necessary or advisable in order to effectuate the Swap Transaction contemplated by the Master Agreement and the Confirmation if all of the conditions set forth in Section 4 above have been satisfied. In the event that no City Authorized Representative is able to execute and deliver the Master Agreement or the Confirmation or any other documents contemplated by the Master Agreement or the Confirmation, such documents may be executed and delivered by the respective designee of such officers or any other duly authorized officer or official of the City.

SECTION 9. Severability. In case any one or more of the provisions of this Resolution shall for any reason be held to be illegal or invalid, such illegality or invalidity shall not affect any other provisions of this Resolution and such other provisions shall be construed and enforced as if such illegal or invalid provisions have not been contained herein.

SECTION 10. Copies of this Resolution. Certified copies of this Resolution shall be provided to MBIA and S&P as provided in Resolution No. 020919.

SECTION 11. Effective Date. This Resolution shall become effective immediately upon its adoption.

PASSED AND ADOPTED this 14th day of June, 2004.

CITY OF GAINESVILLE, FLORIDA

(SEAL)

ATTEST:

By: 
Clerk of the Commission

By: Pegeen Hanrahan
Pegeen Hanrahan, Mayor

APPROVED AS TO FORM AND
LEGALITY:

By: 
City Attorney

JUN 16 2004

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EXHIBIT "A"

[FORM OF MASTER AGREEMENT]

(Local Currency-Single Jurisdiction)

ISDA[®]

International Swaps and Derivatives Association, Inc.

MASTER AGREEMENT

dated as of June __, 2004

CITIBANK, N.A., NEW YORK and the CITY OF GAINESVILLE, FLORIDA, have entered and/or anticipate entering into one or more transactions (each a "Transaction") that are or will be governed by this Master Agreement (the "Master Agreement"), which includes the schedule (the "Schedule"), and the documents and other confirming evidence (each a "Confirmation") exchanged between the parties confirming those Transactions.

Accordingly, the parties agree as follows:—

1. Interpretation

(a) **Definitions.** The terms defined in Section 12 and in the Schedule will have the meanings therein specified for the purpose of this Master Agreement.

(b) **Inconsistency.** In the event of any inconsistency between the provisions of the Schedule and the other provisions of this Master Agreement, the Schedule will prevail. In the event of any inconsistency between the provisions of any Confirmation and this Master Agreement (including the Schedule), such Confirmation will prevail for the purpose of the relevant Transaction.

(c) **Single Agreement.** All Transactions are entered into in reliance on the fact that this Master Agreement and all Confirmations form a single agreement between the parties (collectively referred to as this "Agreement"), and the parties would not otherwise enter into any Transactions.

2. Obligations

(a) General Conditions.

(i) Each party will make each payment or delivery specified in each Confirmation to be made by it, subject to the other provisions of this Agreement.

(ii) Payments under this Agreement will be made on the due date for value on that date in the place of the account specified in the relevant Confirmation or otherwise pursuant to

this Agreement, in freely transferable funds and in the manner customary for payments in the required currency. Where settlement is by delivery (that is, other than by payment), such delivery will be made for receipt on the due date in the manner customary for the relevant obligation unless otherwise specified in the relevant Confirmation or elsewhere in this Agreement.

(iii) Each obligation of each party under Section 2(a)(i) is subject to (1) the condition precedent that no Event of Default or Potential Event of Default with respect to the other party has occurred and is continuing, (2) the condition precedent that no Early Termination Date in respect of the relevant Transaction has occurred or been effectively designated and (3) each other applicable condition precedent specified in this Agreement.

(b) **Change of Account.** Either party may change its account for receiving a payment or delivery by giving notice to the other party at least five Local Business Days prior to the scheduled date for the payment or delivery to which such change applies unless such other party gives timely notice of a reasonable objection to such change.

(c) **Netting.** If on any date amounts would otherwise be payable:—

- (i) in the same currency; and
- (ii) in respect of the same Transaction,

by each party to the other, then, on such date, each party's obligation to make payment of any such amount will be automatically satisfied and discharged and, if the aggregate amount that would otherwise have been payable by one party exceeds the aggregate amount that would otherwise have been payable by the other party, replaced by an obligation upon the party by whom the larger aggregate amount would have been payable to pay to the other party the excess of the larger aggregate amount over the smaller aggregate amount.

The parties may elect in respect of two or more Transactions that a net amount will be determined in respect of all amounts payable on the same date in the same currency in respect of such Transactions, regardless of whether such amounts are payable in respect of the same Transaction. The election may be made in the Schedule or a Confirmation by specifying that subparagraph (ii) above will not apply to the Transactions identified as being subject to the election, together with the starting date (in which case subparagraph (ii) above will not, or will cease to, apply to such Transactions from such date). This election may be made separately for different groups of Transactions and will apply separately to each pairing of branches or offices through which the parties make and receive payments or deliveries.

(d) **Default Interest; Other Amounts.** Prior to the occurrence or effective designation of an Early Termination Date in respect of the relevant Transaction, a party that defaults in the performance of any payment obligation will, to the extent permitted by law and subject to Section 6(c), be required to pay interest (before as well as after judgment) on the overdue amount to the other party on demand in the same currency as such overdue amount, for the period from (and including) the original due date for payment to (but excluding) the date of actual payment, at the Default Rate. Such interest will be calculated on the basis of daily compounding and the actual number of days elapsed. If, prior to the occurrence or effective designation of an Early Termination Date in respect of the relevant Transaction, a party defaults in the performance of any obligation required to be settled by delivery, it will compensate the other party on demand if and to the extent provided for in the relevant Confirmation or elsewhere in this Agreement.

3. Representations

Each party represents to the other party (which representations will be deemed to be repeated by each party on each date on which a Transaction is entered into) that:—

(a) **Basic Representations.**

(i) **Status.** It is duly organized and validly existing under the laws of the jurisdiction of its organization or incorporation and, if relevant under such laws, in good standing;

(ii) **Powers.** It has the power to execute this Agreement and any other documentation relating to this Agreement to which it is a party, to deliver this Agreement and any other documentation relating to this Agreement that it is required by this Agreement to deliver and to perform its obligations under this Agreement and any obligations it has under any Credit Support Document to which it is a party and has taken all necessary action to authorize such execution, delivery and performance;

(iii) **No Violation or Conflict.** Such execution, delivery and performance do not violate or conflict with any law applicable to it, any provision of its constitutional documents, any order or judgment of any court or other agency of government applicable to it or any of its assets or any contractual restriction binding on or affecting it or any of its assets;

(iv) **Consents.** All governmental and other consents that are required to have been obtained by it with respect to this Agreement or any Credit Support Document to which it is a party have been obtained and are in full force and effect and all conditions of any such consents have been complied with; and

(v) **Obligations Binding.** Its obligations under this Agreement and any Credit Support Document to which it is a party constitute its legal, valid and binding obligations, enforceable in accordance with their respective terms (subject to applicable bankruptcy, reorganization, insolvency, moratorium or similar laws affecting creditors' rights generally and subject, as to enforceability, to equitable principles of general application (regardless of whether enforcement is sought in a proceeding in equity or at law)).

(b) **Absence of Certain Events.** No Event of Default or Potential Event of Default or, to its knowledge, Termination Event with respect to it has occurred and is continuing and no such event or circumstance would occur as a result of its entering into or performing its obligations under this Agreement or any Credit Support Document to which it is a party.

(c) **Absence of Litigation.** There is not pending or, to its knowledge, threatened against it or any of its Affiliates any action, suit or proceeding at law or in equity or before any court, tribunal, governmental body, agency or official or any arbitrator that is likely to affect the legality, validity or enforceability against it of this Agreement or any Credit Support Document to which it is a party or its ability to perform its obligations under this Agreement or such Credit Support Document.

(d) **Accuracy of Specified Information.** All applicable information that is furnished in writing by or on behalf of it to the other party and is identified for the purpose of this Section 3(d) in the Schedule is, as of the date of the information, true, accurate and complete in every material respect.

4. Agreements

Each party agrees with the other that, so long as either party has or may have any obligation under this Agreement or under any Credit Support Document to which it is a party:—

(a) ***Furnish Specified Information.*** It will deliver to the other party any forms, documents or certificates specified in the Schedule or any Confirmation by the date specified in the Schedule or such Confirmation or, if none is specified, as soon as reasonably practicable.

(b) ***Maintain Authorizations.*** It will use all reasonable efforts to maintain in full force and effect all consents of any governmental or other authority that are required to be obtained by it with respect to this Agreement or any Credit Support Document to which it is a party and will use all reasonable efforts to obtain any that may become necessary in the future.

(c) ***Comply with Laws.*** It will comply in all material respects with all applicable laws and orders to which it may be subject if failure so to comply would materially impair its ability to perform its obligations under this Agreement or any Credit Support Document to which it is a party.

5. Events of Default and Termination Events

(a) ***Events of Default.*** The occurrence at any time with respect to a party or, if applicable, any Credit Support Provider of such party or any Specified Entity of such party of any of the following events constitutes an event of default (an “Event of Default”) with respect to such party:—

(i) ***Failure to Pay or Deliver.*** Failure by the party to make, when due, any payment under this Agreement or delivery under Section 2(a)(i) or 2(d) required to be made by it if such failure is not remedied on or before the third Local Business Day after notice of such failure is given to the party;

(ii) ***Breach of Agreement.*** Failure by the party to comply with or perform any agreement or obligation (other than an obligation to make any payment under this Agreement or delivery under Section 2(a)(i) or 2(d) or to give notice of a Termination Event or any agreement or obligation under Section 4(a)) to be complied with or performed by the party in accordance with this Agreement if such failure is not remedied on or before the thirtieth day after notice of such failure is given to the party;

(iii) ***Credit Support Default.***

(1) Failure by the party or any Credit Support Provider of such party to comply with or perform any agreement or obligation to be complied with or performed by it in accordance with any Credit Support Document if such failure is continuing after any applicable grace period has elapsed;

(2) the expiration or termination of such Credit Support Document or the failing or ceasing of such Credit Support Document to be in full force and effect for the purpose of this Agreement (in either case other than in accordance with its terms) prior to the satisfaction of all obligations of such party under each Transaction to which such Credit Support Document relates without the written consent of the other party; or

(3) the party or such Credit Support Provider disaffirms, disclaims, repudiates or rejects, in whole or in part, or challenges the validity of, such Credit Support Document;

(iv) **Misrepresentation.** A representation made or repeated or deemed to have been made or repeated by the party or any Credit Support Provider of such party in this Agreement or any Credit Support Document proves to have been incorrect or misleading in any material respect when made or repeated or deemed to have been made or repeated;

(v) **Default under Specified Transaction.** The party, any Credit Support Provider of such party or any applicable Specified Entity of such party (1) defaults under a Specified Transaction and, after giving effect to any applicable notice requirement or grace period, there occurs a liquidation of, an acceleration of obligations under, or an early termination of, that Specified Transaction, (2) defaults, after giving effect to any applicable notice requirement or grace period, in making any payment or delivery due on the last payment, delivery or exchange date of, or any payment on early termination of, a Specified Transaction (or such default continues for at least three Local Business Days if there is no applicable notice requirement or grace period) or (3) disaffirms, disclaims, repudiates or rejects, in whole or in part, a Specified Transaction (or such action is taken by any person or entity appointed or empowered to operate it or act on its behalf);

(vi) **Cross Default.** If “Cross Default” is specified in the Schedule as applying to the party, the occurrence or existence of (1) a default, event of default or other similar condition or event (however described) in respect of such party, any Credit Support Provider of such party or any applicable Specified Entity of such party under one or more agreements or instruments relating to Specified Indebtedness of any of them (individually or collectively) in an aggregate amount of not less than the applicable Threshold Amount (as specified in the Schedule) which has resulted in such Specified Indebtedness becoming, or becoming capable at such time of being declared, due and payable under such agreements or instruments, before it would otherwise have been due and payable or (2) a default by such party, such Credit Support Provider or such Specified Entity (individually or collectively) in making one or more payments on the due date thereof in an aggregate amount of not less than the applicable Threshold Amount under such agreements or instruments (after giving effect to any applicable notice requirement or grace period);

(vii) **Bankruptcy.** The party, any Credit Support Provider of such party or any applicable Specified Entity of such party:—

(1) is dissolved (other than pursuant to a consolidation, amalgamation or merger); (2) becomes insolvent or is unable to pay its debts or fails or admits in writing its inability generally to pay its debts as they become due; (3) makes a general assignment, arrangement or composition with or for the benefit of its creditors; (4) institutes or has instituted against it a proceeding seeking a judgment of insolvency or bankruptcy or any other relief under any bankruptcy or insolvency law or other similar law affecting creditors’ rights, or a petition is presented for its winding-up or liquidation, and, in the case of any such proceeding or petition instituted or presented against it, such proceeding or petition (A) results in a judgment of insolvency or bankruptcy or the entry of an order for relief or the making of an order for its winding-up or liquidation or (B) is not dismissed, discharged, stayed or restrained in each case within 30 days of the institution or presentation thereof; (5) has a resolution passed for its winding-up, official management or liquidation (other than pursuant to a consolidation, amalgamation or merger); (6) seeks or becomes subject to the appointment of an administrator, provisional liquidator, conservator, receiver, trustee, custodian or other similar official for it or for all or substantially all its assets; (7) has a secured party take possession of all or substantially all its assets or has a distress, execution, attachment, sequestration or other legal process

levied, enforced or sued on or against all or substantially all its assets and such secured party maintains possession, or any such process is not dismissed, discharged, stayed or restrained, in each case within 30 days thereafter; (8) causes or is subject to any event with respect to it which, under the applicable laws of any jurisdiction, has an analogous effect to any of the events specified in clauses (1) to (7) (inclusive); or (9) takes any action in furtherance of, or indicating its consent to, approval of, or acquiescence in, any of the foregoing acts; or

(viii) **Merger Without Assumption.** The party or any Credit Support Provider of such party consolidates or amalgamates with, or merges with or into, or transfers all or substantially all its assets to, another entity and, at the time of such consolidation, amalgamation, merger or transfer:—

(1) the resulting, surviving or transferee entity fails to assume all the obligations of such party or such Credit Support Provider under this Agreement or any Credit Support Document to which it or its predecessor was a party by operation of law or pursuant to an agreement reasonably satisfactory to the other party to this Agreement; or

(2) the benefits of any Credit Support Document fail to extend (without the consent of the other party) to the performance by such resulting, surviving or transferee entity of its obligations under this Agreement.

(b) **Termination Events.** The occurrence at any time with respect to a party or, if applicable, any Credit Support Provider of such party or any Specified Entity of such party of any event specified below constitutes an Illegality if the event is specified in (i) below, and, if specified to be applicable, a Credit Event Upon Merger if the event is specified pursuant to (ii) below or an Additional Termination Event if the event is specified pursuant to (iii) below:—

(i) **Illegality.** Due to the adoption of, or any change in, any applicable law after the date on which a Transaction is entered into, or due to the promulgation of, or any change in, the interpretation by any court, tribunal or regulatory authority with competent jurisdiction of any applicable law after such date, it becomes unlawful (other than as a result of a breach by the party of Section 4(b)) for such party (which will be the Affected Party):—

(1) to perform any absolute or contingent obligation to make a payment or delivery or to receive a payment or delivery in respect of such Transaction or to comply with any other material provision of this Agreement relating to such Transaction; or

(2) to perform, or for any Credit Support Provider of such party to perform, any contingent or other obligation which the party (or such Credit Support Provider) has under any Credit Support Document relating to such Transaction;

(ii) **Credit Event Upon Merger.** If “Credit Event Upon Merger” is specified in the Schedule as applying to the party, such party (“X”), any Credit Support Provider of X or any applicable Specified Entity of X consolidates or amalgamates with, or merges with or into, or transfers all or substantially all its assets to, another entity and such action does not constitute an event described in Section 5(a)(viii) but the creditworthiness of the resulting, surviving or transferee entity is materially weaker than that of X, such Credit Support Provider or such Specified Entity, as the case may be, immediately prior to such action (and, in such event, X or its successor or transferee, as appropriate, will be the Affected Party); or

(iii) **Additional Termination Event.** If any “Additional Termination Event” is specified in the Schedule or any Confirmation as applying, the occurrence of such event (and, in such event, the Affected Party or Affected Parties shall be as specified for such Additional Termination Event in the Schedule or such Confirmation).

(c) **Event of Default and Illegality.** If an event or circumstance which would otherwise constitute or give rise to an Event of Default also constitutes an Illegality, it will be treated as an Illegality and will not constitute an Event of Default.

6. Early Termination

(a) **Right to Terminate Following Event of Default.** If at any time an Event of Default with respect to a party (the “Defaulting Party”) has occurred and is then continuing, the other party (the “Non-defaulting Party”) may, by not more than 20 days notice to the Defaulting Party specifying the relevant Event of Default, designate a day not earlier than the day such notice is effective as an Early Termination Date in respect of all outstanding Transactions. If, however, “Automatic Early Termination” is specified in the Schedule as applying to a party, then an Early Termination Date in respect of all outstanding Transactions will occur immediately upon the occurrence with respect to such party of an Event of Default specified in Section 5(a)(vii)(1), (3), (5), (6) or, to the extent analogous thereto, (8), and as of the time immediately preceding the institution of the relevant proceeding or the presentation of the relevant petition upon the occurrence with respect to such party of an Event of Default specified in Section 5(a)(vii)(4) or, to the extent analogous thereto, (8).

(b) **Right to Terminate Following Termination Event.**

(i) **Notice.** If a Termination Event occurs, an Affected Party will, promptly upon becoming aware of it, notify the other party, specifying the nature of that Termination Event and each Affected Transaction and will also give such other information about that Termination Event as the other party may reasonably require.

(ii) **Two Affected Parties.** If an Illegality under Section 5(b)(i)(1) occurs and there are two Affected Parties, each party will use all reasonable efforts to reach agreement within 30 days after notice thereof is given under Section 6(b)(i) on action to avoid that Termination Event.

(iii) **Right to Terminate.** If:—

(1) an agreement under Section 6(b)(ii) has not been effected with respect to all Affected Transactions within 30 days after an Affected Party gives notice under Section 6(b)(i); or

(2) an Illegality other than that referred to in Section 6(b)(ii), a Credit Event Upon Merger or an Additional Termination Event occurs,

either party in the case of an Illegality, any Affected Party in the case of an Additional Termination Event if there is more than one Affected Party, or the party which is not the Affected Party in the case of a Credit Event Upon Merger or an Additional Termination Event if there is only one Affected Party may, by not more than 20 days notice to the other party and provided that the relevant Termination Event is then continuing, designate a day not earlier than the day such notice is effective as an Early Termination Date in respect of all Affected Transactions.

(c) ***Effect of Designation.***

(i) If notice designating an Early Termination Date is given under Section 6(a) or (b), the Early Termination Date will occur on the date so designated, whether or not the relevant Event of Default or Termination Event is then continuing.

(ii) Upon the occurrence or effective designation of an Early Termination Date, no further payments or deliveries under Section 2(a)(i) or 2(d) in respect of the Terminated Transactions will be required to be made, but without prejudice to the other provisions of this Agreement. The amount, if any, payable in respect of an Early Termination Date shall be determined pursuant to Section 6(e).

(d) ***Calculations.***

(i) ***Statement.*** On or as soon as reasonably practicable following the occurrence of an Early Termination Date, each party will make the calculations on its part, if any, contemplated by Section 6(e) and will provide to the other party a statement (1) showing, in reasonable detail, such calculations (including all relevant quotations and specifying any amount payable under Section 6(e)) and (2) giving details of the relevant account to which any amount payable to it is to be paid. In the absence of written confirmation from the source of a quotation obtained in determining a Market Quotation, the records of the party obtaining such quotation will be conclusive evidence of the existence and accuracy of such quotation.

(ii) ***Payment Date.*** An amount calculated as being due in respect of any Early Termination Date under Section 6(e) will be payable on the day that notice of the amount payable is effective (in the case of an Early Termination Date which is designated or occurs as a result of an Event of Default) and on the day which is two Local Business Days after the day on which notice of the amount payable is effective (in the case of an Early Termination Date which is designated as a result of a Termination Event). Such amount will be paid together with (to the extent permitted under applicable law) interest thereon (before as well as after judgment), from (and including) the relevant Early Termination Date to (but excluding) the date such amount is paid, at the Applicable Rate. Such interest will be calculated on the basis of daily compounding and the actual number of days elapsed.

(e) ***Payments on Early Termination.*** If an Early Termination Date occurs, the following provisions shall apply based on the parties' election in the Schedule of a payment measure, either "Market Quotation" or "Loss," and a payment method, either the "First Method" or the "Second Method." If the parties fail to designate a payment measure or payment method in the Schedule, it will be deemed that "Market Quotation" or the "Second Method," as the case may be, shall apply. The amount, if any, payable in respect of an Early Termination Date and determined pursuant to this Section will be subject to any Set-off.

(i) ***Events of Default.*** If the Early Termination Date results from an Event of Default:—

(1) ***First Method and Market Quotation.*** If the First Method and Market Quotation apply, the Defaulting Party will pay to the Non-defaulting Party the excess, if a positive number, of (A) the sum of the Settlement Amount (determined by the Non-defaulting Party) in respect of the Terminated Transactions and the Unpaid Amounts owing to the Non-defaulting Party over (B) the Unpaid Amounts owing to the Defaulting Party.

(2) *First Method and Loss.* If the First Method and Loss apply, the Defaulting Party will pay to the Non-defaulting Party, if a positive number, the Non-defaulting Party's Loss in respect of this Agreement.

(3) *Second Method and Market Quotation.* If the Second Method and Market Quotation apply, an amount will be payable equal to (A) the sum of the Settlement Amount (determined by the Non-defaulting Party) in respect of the Terminated Transactions and the Unpaid Amounts owing to the Non-defaulting Party less (B) the Unpaid Amounts owing to the Defaulting Party. If that amount is a positive number, the Defaulting Party will pay it to the Non-defaulting Party; if it is a negative number, the Non-defaulting Party will pay the absolute value of that amount to the Defaulting Party.

(4) *Second Method and Loss.* If the Second Method and Loss apply, an amount will be payable equal to the Non-defaulting Party's Loss in respect of this Agreement. If that amount is a positive number, the Defaulting Party will pay it to the Non-defaulting Party; if it is a negative number, the Non-defaulting Party will pay the absolute value of that amount to the Defaulting Party.

(ii) **Termination Events.** If the Early Termination Date results from a Termination Event:—

(1) *One Affected Party.* If there is one Affected Party, the amount payable will be determined in accordance with Section 6(e)(i)(3), if Market Quotation applies, or Section 6(e)(i)(4), if Loss applies, except that, in either case, references to the Defaulting Party and to the Non-defaulting Party will be deemed to be references to the Affected Party and the party which is not the Affected Party, respectively, and, if Loss applies and fewer than all the Transactions are being terminated, Loss shall be calculated in respect of all Terminated Transactions.

(2) *Two Affected Parties.* If there are two Affected Parties:—

(A) if Market Quotation applies, each party will determine a Settlement Amount in respect of the Terminated Transactions, and an amount will be payable equal to (I) the sum of (a) one-half of the difference between the Settlement Amount of the party with the higher Settlement Amount ("X") and the Settlement Amount of the party with the lower Settlement Amount ("Y") and (b) the Unpaid Amounts owing to X less (II) the Unpaid Amounts owing to Y; and

(B) if Loss applies, each party will determine its Loss in respect of this Agreement (or, if fewer than all the Transactions are being terminated, in respect of all Terminated Transactions) and an amount will be payable equal to one-half of the difference between the Loss of the party with the higher Loss ("X") and the Loss of the party with the lower Loss ("Y").

If the amount payable is a positive number, Y will pay it to X; if it is a negative number, X will pay the absolute value of that amount to Y.

(iii) **Adjustment for Bankruptcy.** In circumstances where an Early Termination Date occurs because "Automatic Early Termination" applies in respect of a party, the amount determined under this Section 6(e) will be subject to such adjustments as are appropriate and permitted by law to reflect any payments or deliveries made by one party to the other under this

Agreement (and retained by such other party) during the period from the relevant Early Termination Date to the date for payment determined under Section 6(d)(ii).

(iv) **Pre-Estimate.** The parties agree that if Market Quotation applies an amount recoverable under this Section 6(e) is a reasonable pre-estimate of loss and not a penalty. Such amount is payable for the loss of bargain and the loss of protection against future risks and except as otherwise provided in this Agreement neither party will be entitled to recover any additional damages as a consequence of such losses.

7. Transfer

Neither this Agreement nor any interest or obligation in or under this Agreement may be transferred (whether by way of security or otherwise) by either party without the prior written consent of the other party, except that:—

(a) a party may make such a transfer of this Agreement pursuant to a consolidation or amalgamation with, or merger with or into, or transfer of all or substantially all of its assets to, another entity (but without prejudice to any other right or remedy under this Agreement); and

(b) a party may make such a transfer of all or any part of its interest in any amount payable to it from a Defaulting Party under Section 6(e).

Any purported transfer that is not in compliance with this Section will be void.

8. Miscellaneous

(a) **Entire Agreement.** This Agreement constitutes the entire agreement and understanding of the parties with respect to its subject matter and supersedes all oral communication and prior writings with respect thereto.

(b) **Amendments.** No amendment, modification or waiver in respect of this Agreement will be effective unless in writing (including a writing evidenced by a facsimile transmission) and executed by each of the parties or confirmed by an exchange of telexes or electronic messages on an electronic messaging system.

(c) **Survival of Obligations.** Without prejudice to Sections 2(a)(iii) and 6(c)(ii), the obligations of the parties under this Agreement will survive the termination of any Transaction.

(d) **Remedies Cumulative.** Except as provided in this Agreement, the rights, powers, remedies and privileges provided in this Agreement are cumulative and not exclusive of any rights, powers, remedies and privileges provided by law.

(e) Counterparts and Confirmations.

(i) This Agreement (and each amendment, modification and waiver in respect of it) may be executed and delivered in counterparts (including by facsimile transmission), each of which will be deemed an original.

(ii) The parties intend that they are legally bound by the terms of each Transaction from the moment they agree to those terms (whether orally or otherwise). A Confirmation shall be entered into as soon as practicable and may be executed and delivered in counterparts (including by facsimile transmission) or be created by an exchange of telexes or by an exchange

of electronic messages on an electronic messaging system, which in each case will be sufficient for all purposes to evidence a binding supplement to this Agreement. The parties will specify therein or through another effective means that any such counterpart, telex or electronic message constitutes a Confirmation.

(f) **No Waiver of Rights.** A failure or delay in exercising any right, power or privilege in respect of this Agreement will not be presumed to operate as a waiver, and a single or partial exercise of any right, power or privilege will not be presumed to preclude any subsequent or further exercise, of that right, power or privilege or the exercise of any other right, power or privilege.

(g) **Headings.** The headings used in this Agreement are for convenience of reference only and are not to affect the construction of or to be taken into consideration in interpreting this Agreement.

9. Expenses

A Defaulting Party will, on demand, indemnify and hold harmless the other party for and against all reasonable out-of-pocket expenses, including legal fees, incurred by such other party by reason of the enforcement and protection of its rights under this Agreement or any Credit Support Document to which the Defaulting Party is a party or by reason of the early termination of any Transaction, including, but not limited to, costs of collection.

10. Notices

(a) **Effectiveness.** Any notice or other communication in respect of this Agreement may be given in any manner set forth below (except that a notice or other communication under Section 5 or 6 may not be given by facsimile transmission or electronic messaging system) to the address or number or in accordance with the electronic messaging system details provided (see the Schedule) and will be deemed effective as indicated:—

- (i) if in writing and delivered in person or by courier, on the date it is delivered;
- (ii) if sent by telex, on the date the recipient's answerback is received;
- (iii) if sent by facsimile transmission, on the date that transmission is received by a responsible employee of the recipient in legible form (it being agreed that the burden of proving receipt will be on the sender and will not be met by a transmission report generated by the sender's facsimile machine);
- (iv) if sent by certified or registered mail (airmail, if overseas) or the equivalent (return receipt requested), on the date that mail is delivered or its delivery is attempted; or
- (v) if sent by electronic messaging system, on the date that electronic message is received,

unless the date of that delivery (or attempted delivery) or that receipt, as applicable, is not a Local Business Day or that communication is delivered (or attempted) or received, as applicable, after the close of business on a Local Business Day, in which case that communication shall be deemed given and effective on the first following day that is a Local Business Day.

(b) **Change of Addresses.** Either party may by notice to the other change the address, telex or facsimile number or electronic messaging system details at which notices or other communications are to be given to it.

11. Governing Law and Jurisdiction

(a) **Governing Law.** This Agreement will be governed by and construed in accordance with the law specified in the Schedule.

(b) **Jurisdiction.** With respect to any suit, action or proceedings relating to this Agreement (“Proceedings”), each party irrevocably:—

(i) submits to the jurisdiction of the English courts, if this Agreement is expressed to be governed by English law, or to the non-exclusive jurisdiction of the courts of the State of New York and the United States District Court located in the Borough of Manhattan in New York City, if this Agreement is expressed to be governed by the laws of the State of New York; and

(ii) waives any objection which it may have at any time to the laying of venue of any Proceedings brought in any such court, waives any claim that such Proceedings have been brought in an inconvenient forum and further waives the right to object, with respect to such Proceedings, that such court does not have any jurisdiction over such party.

Nothing in this Agreement precludes either party from bringing Proceedings in any other jurisdiction (outside, if this Agreement is expressed to be governed by English law, the Contracting States, as defined in Section 1(3) of the Civil Jurisdiction and Judgments Act 1982 or any modification, extension or re-enactment thereof for the time being in force) nor will the bringing of Proceedings in any one or more jurisdictions preclude the bringing of Proceedings in any other jurisdiction.

(c) **Waiver of Immunities.** Each party irrevocably waives, to the fullest extent permitted by applicable law, with respect to itself and its revenues and assets (irrespective of their use or intended use), all immunity on the grounds of sovereignty or other similar grounds from (i) suit, (ii) jurisdiction of any court, (iii) relief by way of injunction, order for specific performance or for recovery of property, (iv) attachment of its assets (whether before or after judgment) and (v) execution or enforcement of any judgment to which it or its revenues or assets might otherwise be entitled in any Proceedings in the courts of any jurisdiction and irrevocably agrees, to the extent permitted by applicable law, that it will not claim any such immunity in any Proceedings.

12. Definitions

As used in this Agreement:—

“**Additional Termination Event**” has the meaning specified in Section 5(b).

“**Affected Party**” has the meaning specified in Section 5(b).

“**Affected Transactions**” means (a) with respect to any Termination Event consisting of an Illegality, all Transactions affected by the occurrence of such Termination Event and (b) with respect to any other Termination Event, all Transactions.

“**Affiliate**” means, subject to the Schedule, in relation to any person, any entity controlled, directly or indirectly, by the person, any entity that controls, directly or indirectly, the person or any entity directly or indirectly under common control with the person. For this purpose, “control” of any entity or person means ownership of a majority of the voting power of the entity or person.

“**Applicable Rate**” means:—

(a) in respect of obligations payable or deliverable (or which would have been but for Section 2(a)(iii)) by a Defaulting Party, the Default Rate;

(b) in respect of an obligation to pay an amount under Section 6(e) of either party from and after the date (determined in accordance with Section 6(d)(ii)) on which that amount is payable, the Default Rate;

(c) in respect of all other obligations payable or deliverable (or which would have been but for Section 2(a)(iii)) by a Non-defaulting Party, the Non-default Rate; and

(d) in all other cases, the Termination Rate.

“Consent” includes a consent, approval, action, authorization, exemption, notice, filing, registration or exchange control consent.

“Credit Event Upon Merger” has the meaning specified in Section 5(b).

“Credit Support Document” means any agreement or instrument that is specified as such in this Agreement.

“Credit Support Provider” has the meaning specified in the Schedule.

“Default Rate” means a rate per annum equal to the cost (without proof or evidence of any actual cost) to the relevant payee (as certified by it) if it were to fund or of funding the relevant amount plus 1% per annum.

“Defaulting Party” has the meaning specified in Section 6(a).

“Early Termination Date” means the date determined in accordance with Section 6(a) or 6(b)(iii).

“Event of Default” has the meaning specified in Section 5(a) and, if applicable, in the Schedule.

“Illegality” has the meaning specified in Section 5(b).

“Law” includes any treaty, law, rule or regulation and **“lawful”** and **“unlawful”** will be construed accordingly.

“Local Business Day” means, subject to the Schedule, a day on which commercial banks are open for business (including dealings in foreign exchange and foreign currency deposits) (a) in relation to any obligation under Section 2(a)(i), in the place(s) specified in the relevant Confirmation or, if not so specified, as otherwise agreed by the parties in writing or determined pursuant to provisions contained, or incorporated by reference, in this Agreement, (b) in relation to any other payment, in the place where the relevant account is located, (c) in relation to any notice or other communication, including notice contemplated under Section 5(a)(i), in the city specified in the address for notice provided by the recipient and, in the case of a notice contemplated by Section 2(b), in the place where the relevant new account is to be located and (d) in relation to Section 5(a)(v)(2), in the relevant locations for performance with respect to such Specified Transaction.

“Loss” means, with respect to this Agreement or one or more Terminated Transactions, as the case may be, and a party, an amount that party reasonably determines in good faith to be its total losses and costs (or gain, in which case expressed as a negative number) in connection with this Agreement or that Terminated Transaction or group of Terminated Transactions, as the case may be, including any loss of bargain, cost of funding or, at the election of such party but without duplication, loss or cost incurred as a result of its terminating, liquidating, obtaining or reestablishing any hedge or related trading position (or any gain resulting from any of them). Loss includes losses and costs (or gains) in respect of any payment or delivery required to have been made (assuming satisfaction of each applicable condition precedent) on or before the relevant Early Termination Date and not made, except, so as to avoid duplication, if Section

6(e)(i)(1) or (3) or 6(e)(ii)(2)(A) applies. Loss does not include a party's legal fees and out-of-pocket expenses referred to under Section 9. A party will determine its Loss as of the relevant Early Termination Date, or, if that is not reasonably practicable, as of the earliest date thereafter as is reasonably practicable. A party may (but need not) determine its Loss by reference to quotations of relevant rates or prices from one or more leading dealers in the relevant markets.

"Market Quotation" means, with respect to one or more Terminated Transactions and a party making the determination, an amount determined on the basis of quotations from Reference Market-makers. Each quotation will be for an amount, if any, that would be paid to such party (expressed as a negative number) or by such party (expressed as a positive number) in consideration of an agreement between such party (taking into account any existing Credit Support Document with respect to the obligations of such party) and the quoting Reference Market-maker to enter into a transaction (the "Replacement Transaction") that would have the effect of preserving for such party the economic equivalent of any payment or delivery (whether the underlying obligation was absolute or contingent and assuming the satisfaction of each applicable condition precedent) by the parties under Section 2(a)(i) in respect of such Terminated Transaction or group of Terminated Transactions that would, but for the occurrence of the relevant Early Termination Date, have been required after that date. For this purpose, Unpaid Amounts in respect of the Terminated Transaction or group of Terminated Transactions are to be excluded but, without limitation, any payment or delivery that would, but for the relevant Early Termination Date, have been required (assuming satisfaction of each applicable condition precedent) after that Early Termination Date is to be included. The Replacement Transaction would be subject to such documentation as such party and the Reference Market-maker may, in good faith, agree. The party making the determination (or its agent) will request each Reference Market-maker to provide its quotation to the extent reasonably practicable as of the same day and time (without regard to different time zones) on or as soon as reasonably practicable after the relevant Early Termination Date. The day and time as of which those quotations are to be obtained will be selected in good faith by the party obliged to make a determination under Section 6(e), and, if each party is so obliged, after consultation with the other. If more than three quotations are provided, the Market Quotation will be the arithmetic mean of the quotations, without regard to the quotations having the highest and lowest values. If exactly three such quotations are provided, the Market Quotation will be the quotation remaining after disregarding the highest and lowest quotations. For this purpose, if more than one quotation has the same highest value or lowest value, then one of such quotations shall be disregarded. If fewer than three quotations are provided, it will be deemed that the Market Quotation in respect of such Terminated Transaction or group of Terminated Transactions cannot be determined.

"Non-default Rate" means a rate per annum equal to the cost (without proof or evidence of any actual cost) to the Non-defaulting Party (as certified by it) if it were to fund the relevant amount.

"Non-defaulting Party" has the meaning specified in Section 6(a).

"Potential Event of Default" means any event which, with the giving of notice or the lapse of time or both, would constitute an Event of Default.

"Reference Market-makers" means four leading dealers in the relevant market selected by the party determining a Market Quotation in good faith (a) from among dealers of the highest credit standing which satisfy all the criteria that such party applies generally at the time in deciding whether to offer or to make an extension of credit and (b) to the extent practicable, from among such dealers having an office in the same city.

"Scheduled Payment Date" means a date on which a payment or delivery is to be made under Section 2(a)(i) with respect to a Transaction.

“Set-off” means set-off, offset, combination of accounts, right of retention or withholding or similar right or requirement to which the payer of an amount under Section 6 is entitled or subject (whether arising under this Agreement, another contract, applicable law or otherwise) that is exercised by, or imposed on, such payer.

“Settlement Amount” means, with respect to a party and any Early Termination Date, the sum of:—

(a) the Market Quotations (whether positive or negative) for each Terminated Transaction or group of Terminated Transactions for which a Market Quotation is determined; and

(b) such party’s Loss (whether positive or negative and without reference to any Unpaid Amounts) for each Terminated Transaction or group of Terminated Transactions for which a Market Quotation cannot be determined or would not (in the reasonable belief of the party making the determination) produce a commercially reasonable result.

“Specified Entity” has the meaning specified in the Schedule.

“Specified Indebtedness” means, subject to the Schedule, any obligation (whether present or future, contingent or otherwise, as principal or surety or otherwise) in respect of borrowed money.

“Specified Transaction” means, subject to the Schedule, (a) any transaction (including an agreement with respect thereto) now existing or hereafter entered into between one party to this Agreement (or any Credit Support Provider of such party or any applicable Specified Entity of such party) and the other party to this Agreement (or any Credit Support Provider of such other party or any applicable Specified Entity of such other party) which is a rate swap transaction, basis swap, forward rate transaction, commodity swap, commodity option, equity or equity index swap, equity or equity index option, bond option, interest rate option, foreign exchange transaction, cap transaction, floor transaction, collar transaction, currency swap transaction, cross-currency rate swap transaction, currency option or any other similar transaction (including any option with respect to any of these transactions), (b) any combination of these transactions and (c) any other transaction identified as a Specified Transaction in this Agreement or the relevant confirmation.

“Terminated Transactions” means with respect to any Early Termination Date (a) if resulting from a Termination Event, all Affected Transactions and (b) if resulting from an Event of Default, all Transactions (in either case) in effect immediately before the effectiveness of the notice designating that Early Termination Date (or, if “Automatic Early Termination” applies, immediately before that Early Termination Date).

“Termination Event” means an Illegality or, if specified to be applicable, a Credit Event Upon Merger or an Additional Termination Event.

“Termination Rate” means a rate per annum equal to the arithmetic mean of the cost (without proof or evidence of any actual cost) to each party (as certified by such party) if it were to fund or of funding such amounts.

“Unpaid Amounts” owing to any party means, with respect to an Early Termination Date, the aggregate of (a) in respect of all Terminated Transactions, the amounts that became payable (or that would have become payable but for Section 2(a)(iii)) to such party under Section 2(a)(i) on or prior to such Early Termination Date and which remain unpaid as at such Early Termination Date and (b) in respect of each Terminated Transaction, for each obligation under Section 2(a)(i) which was (or would have been but for Section 2(a)(iii)) required to be settled by delivery to such party on or prior to such Early Termination Date and which has not been so settled as at such Early Termination Date, an amount

equal to the fair market value of that which was (or would have been) required to be delivered as of the originally scheduled date for delivery, in each case together with (to the extent permitted under applicable law) interest, in the currency of such amounts, from (and including) the date such amounts or obligations were or would have been required to have been paid or performed to (but excluding) such Early Termination Date, at the Applicable Rate. Such amounts of interest will be calculated on the basis of daily compounding and the actual number of days elapsed. The fair market value of any obligation referred to in clause (b) above shall be reasonably determined by the party obliged to make the determination under Section 6(e) or, if each party is so obliged, it shall be the average of the fair market values reasonably determined by both parties.

IN WITNESS WHEREOF the parties have executed this document on the respective dates specified below with effect from the date specified on the first page of this document.

CITIBANK, N.A., NEW YORK

CITY OF GAINESVILLE, FLORIDA

By: _____
Name:
Title:
Date:

By: _____
Name:
Title:
Date:

SCHEDULE

to the

ISDA Master Agreement

dated as of June __, 2004,

between

CITIBANK, N.A., NEW YORK,

a national banking association organized and existing
under the laws of the United States of America

(*“Party A”*)

and

CITY OF GAINESVILLE, FLORIDA,

a municipal corporation created and existing
under the laws of the State of Florida

(*“Party B”*)

Part 1. Termination Provisions.

In this Agreement:—

(a) *“Specified Entity”* means in relation to Party A for the purpose of:—

Section 5(a)(v) (Default under Specified Transaction),	Each of Citigroup Global Markets Limited, Citigroup Global Markets Inc., Citigroup Forex Inc., Citigroup Global Markets Commercial Corp., Citicorp Securities Services, Inc. and Citigroup Financial Products Inc. (individually a “Section 5(a)(v) Affiliate”).
Section 5(a)(vi) (Cross Default),	Not applicable.
Section 5(a)(vii) (Bankruptcy),	Not applicable.
Section 5(b)(ii) (Credit Event Upon Merger),	Not applicable.

and in relation to Party B for the purpose of:—

Section 5(a)(v)(Default under Specified Transaction),	Not applicable.
Section 5(a)(vi) (Cross Default),	Not applicable.
Section 5(a)(vii) (Bankruptcy),	Not applicable.
Section 5(b)(ii) (Credit Event Upon Merger)	Not applicable.

(b) **“Specified Transaction”** will have the meaning specified in Section 12 of this Agreement; *provided, however*, that, with respect to Party B, (A) no transaction between Party A (or any Section 5(a)(v) Affiliate) and Gainesville Regional Utility, a department of Party B, shall be considered a Specified Transaction for purposes of this Agreement and (B) Specified Transactions shall only include Transactions with respect to which the obligations of Party B are payable solely from Covenant Revenues.

(c) The **“Cross Default”** provisions of Section 5(a)(vi) will apply to Party A and will apply to Party B.

The following provisions apply:—

“Specified Indebtedness” has the meaning specified in Section 12 of this Agreement, provided, however, that (i) with respect to Party A, Specified Indebtedness shall not include deposits received in the course of Party A’s ordinary banking business, and (ii) with respect to Party B, Specified Indebtedness (A) shall not include any obligations or indebtedness of the Gainesville Regional Utility, a department of Party B, and (B) shall only include obligations or indebtedness payable, in whole or in part, from Covenant Revenues and obligations or indebtedness which are payable from and secured by the full faith and credit and taxing power of Party B.

“Threshold Amount” means in the case of Party A, the lesser of (i) USD 250,000,000 and (ii) three percent (3%) of Stockholder’s Equity of Party A, and in the case of Party B, USD 10,000,000. For purposes of (ii) above, “Stockholder’s Equity” shall be determined by reference to the relevant party’s most recent consolidated (quarterly, in the case of a U.S. incorporated party) balance sheet and shall include, in the case of a U.S. incorporated party, legal capital, paid-in capital, retained earnings and cumulative translation adjustments. Such balance sheet shall be prepared in accordance with accounting principles that are generally accepted in such party’s country of organization.

The following proviso will be inserted at the end of Section 5(a)(vi) of this Agreement:

“provided, however, that notwithstanding the foregoing, an Event of Default shall not occur under either (1) or (2) above if (A) the event or condition referred to in (1) or the failure to pay referred to in (2) is a failure to pay caused by an error or omission of an administrative or operational nature; and (B) funds were available to such party to enable it to make the relevant payment when due; and (C) such relevant payment is made within three Business Days following receipt of written notice from an interested party of such failure to pay.”

(d) The **“Credit Event Upon Merger”** provisions of Section 5(b)(ii) will not apply to Party A and will not apply to Party B.

(e) The “**Automatic Early Termination**” provisions of Section 6(a) will not apply to Party A and will not apply to Party B; *provided, however*, that with respect to Party B, where the Event of Default specified in Section 5(a)(vii)(1), (3), (4), (5), (6) or to the extent analogous thereto, (8) is governed by a system of law which does not permit termination to take place after the occurrence of the relevant Event of Default, then the Automatic Early Termination provisions of Section 6(a) will apply to Party B.

(f) **Payments on Early Termination.** For the purpose of Section 6(e) of this Agreement, Market Quotation and Second Method will apply.

(g) **Events of Default.**

(i) **Bankruptcy.** Clause (6) of Section 5(a)(vii) of this Agreement is hereby amended to read in its entirety as follows:–

“(6)(A) seeks or becomes subject to the appointment of an administrator, provisional liquidator, conservator, receiver, trustee, custodian or other similar official for it or for all or substantially all its assets or (B) in the case of Party B, (I) there shall be appointed or designated with respect to it pursuant to applicable law, an entity such as an organization, board, commission, authority, agency or body (a “Financial Oversight Board”) to monitor, review, oversee, recommend or declare a financial emergency or similar state of financial distress with respect to it and (II) such Financial Oversight Board lawfully assumes control of Party B or Party B’s financial affairs and approves or otherwise takes any official action with respect to it which is analogous to any of the actions or events listed in clauses (1) through (5) and (7) of this paragraph;”

(ii) **Merger Without Assumption.** Section 5(a)(viii) of this Agreement is hereby amended by inserting after the phrase “another entity” on line 3 thereof the parenthetical “(or without limiting the foregoing, with respect to Party B, an entity such as an organization, board, commission, authority, agency, or body succeeds to the principal functions of Party B, or powers and duties granted to Party B)”.

(h) **Additional Termination Events.** For purposes of Section 5(b)(iii) of this Agreement, the following shall be Additional Termination Events with respect to Party A and Party B, respectively:

(A) With respect to Party A, it shall be an Additional Termination Event (under Section 5(b)(iii)), with Party A as the Affected Party if the credit ratings assigned to the long-term unsecured, unsubordinated debt obligations of Party A shall be reduced by the credit rating agency that has assigned the same to below “Baa1” (or its equivalent successor rating) by Moody’s or “BBB+” (or its equivalent successor rating) by S&P or Fitch (such event being referred to as a “Party A Downgrade”), unless at Party A’s option, either:

(1) Party A collateralizes its obligations under this Agreement for the benefit of Party B within thirty (30) days of such Party A Downgrade pursuant to an ISDA Credit Support Annex in form and substance reasonably satisfactory to Party B; or

(2) Party A provides for the benefit of Party B within thirty (30) days of such Party A Downgrade, a Credit Support Document, in form and substance reasonably satisfactory to Party B, from a Credit Support Provider of Party A reasonably acceptable to Party B and whose then long-term unsecured, unsubordinated debt obligations are rated not less than “Aa1” (or its equivalent successor ratings) from Moody’s or “AA+” (or its equivalent successor ratings) from S&P or Fitch; or

(3) Party A assigns its obligations under this Agreement within thirty (30) days of such Party A Downgrade to an alternate counterparty acceptable to Party B and having a credit rating on its long-term unsecured, unsubordinated debt obligations or financial products of not less than "A1" (or its equivalent successor rating) from Moody's or "A+" (or its equivalent successor rating) by S&P or Fitch, who assumes, by written instrument in form and manner reasonably satisfactory to Party B, Party A's obligations hereunder.

Notwithstanding any agreement by Party A to provide collateral pursuant to clause (A)(1) above, if the credit ratings applicable to the long-term unsecured, unsubordinated debt obligations of Party A from each of Moody's, S&P and Fitch are suspended or withdrawn, or any such credit rating is downgraded below "Baa3" (or its equivalent successor ratings) by Moody's or below "BBB-" (or its equivalent successor ratings) by S&P or Fitch, an Additional Termination Event shall occur regardless of the posting of collateral, unless Party A supplies a Credit Support Document or assigns its obligations pursuant to clause (A)(2) or (3) above, respectively.

If Party A elects to provide a Credit Support Document in lieu of collateral pursuant to clause (A)(2) above and at any time thereafter the long-term unsecured, unsubordinated debt obligations of such Credit Support Provider from each of Moody's, S&P and Fitch are suspended or withdrawn, or any such credit rating is downgraded below "Aa3" (or its equivalent successor ratings) by Moody's or below "AA-" (or its equivalent successor ratings) by S&P or Fitch, or any other requirements imposed by Party B upon the Credit Support Provider are breached, this Part 1, Paragraph (h) shall again apply.

(B) With respect to Party B, it shall be an Additional Termination Event (under Section 5(b)(iii)), with Party B as the Affected Party if the credit ratings assigned to the special obligation bonds of Party B secured by a lien on Covenant Revenues shall be reduced by the credit rating agency that has assigned the same to below "Baa1" (or its equivalent successor rating) by Moody's or "BBB+" (or its equivalent successor rating) by S&P or Fitch (such event being referred to as a "Party B Downgrade"), unless, at Party B's option, either:

(1) Party B collateralizes its obligations under this Agreement for the benefit of Party A within thirty (30) days of such Party B Downgrade pursuant to an ISDA Credit Support Annex in form and substance reasonably satisfactory to Party A; or

(2) Party B provides for the benefit of Party A within thirty (30) days of such Party B Downgrade, a Credit Support Document, in form and substance reasonably satisfactory to Party A, from a Credit Support Provider of Party B reasonably acceptable to Party A and whose then long-term unsecured, unsubordinated debt obligations are rated not less than "Aa1" (or its equivalent successor ratings) from Moody's or "AA+" (or its equivalent successor ratings) from S&P or Fitch; or

(3) Party B assigns its obligations under this Agreement within thirty (30) days of such Party B Downgrade to an alternate counterparty acceptable to Party A and having a credit rating on its long-term unsecured, unsubordinated debt obligations or financial products of not less than "A1" (or its equivalent successor rating) from Moody's or "A+" (or its equivalent successor ratings) by S&P or Fitch, who assumes, by written instrument in form and manner reasonably satisfactory to Party A, Party B's obligations hereunder.

Notwithstanding any agreement by Party B to provide collateral pursuant to clause (A)(1) above, if the credit ratings applicable to the special obligation bonds of Party B secured by a lien on Covenant

Revenues from each of Moody's, S&P and Fitch are suspended or withdrawn, or any such credit rating is downgraded below "Baa3" (or its equivalent successor ratings) by Moody's or below "BBB-" (or its equivalent successor ratings) by S&P or Fitch, an Additional Termination Event shall occur regardless of the posting of collateral, unless Party B supplies a Credit Support Document or assigns its obligations pursuant to clause (B)(2) or (3) above, respectively.

If Party B elects to provide a Credit Support Document in lieu of collateral pursuant to clause (B)(2) above and at any time thereafter the credit ratings applicable to the long-term unsecured, unsubordinated debt obligations of such Credit Support Provider from each of Moody's, S&P and Fitch are suspended or withdrawn, or any such credit rating is downgraded below "Aa3" (or its equivalent successor ratings) by Moody's or below "AA-" (or its equivalent successor ratings) by S&P or Fitch, or any other requirements imposed by Party A upon the Credit Support Provider are breached, this Part 1, Paragraph (h) shall again apply.

Part 2. Agreement to Deliver Documents.

For the purpose of Section 4(a) of this Agreement, each party agrees to deliver the following documents, as applicable:—

<u>Party required to deliver document</u>	<u>Form/Document/Certificate</u>	<u>Date by which to be Delivered</u>	<u>Covered by Section 3(d) of the Agreement</u>
1. Party A	An in-house and external opinion of counsel to Party A in form and substance reasonably satisfactory to Party B.	Upon execution of this Agreement and, with respect to each Transaction, upon execution of such Transaction.	No
2. Party B	A City Attorney and external opinion of counsel to Party B in form and substance reasonably satisfactory to Party A.	Upon execution of this Agreement and, with respect to each Transaction, upon execution of such Transaction.	No
3. Party B	A certified copy of the resolution or resolutions (or the equivalent thereof) of the governing body of Party B, certified by an appropriate official of Party B, pursuant to which Party B is authorized to enter into the Agreement and each Transaction, and evidence reasonably satisfactory to Party A of the authority and genuine signature of the individual signing the Agreement on behalf of Party B to execute the same.	Prior to the execution of this Agreement and, with respect to each Transaction, prior to the execution of such Transaction.	Yes

Party required to deliver document	<u>Form/Document/Certificate</u>	<u>Date by which to be Delivered</u>	Covered by Section 3(d) of the Agreement
4. Party A and Party B	Such party's annual audited consolidated financial statements certified by independent certified public accountants for each fiscal year.	As soon as available and in any event within 180 days (or as soon as practicable after becoming publicly available) after the end of each of its fiscal years.	Yes

Part 3. Miscellaneous.

(a) **Addresses for Notices.** For the purpose of Section 10(a) to this Agreement:—

Address for notices or communications to Party A:—

Address: 390 Greenwich Street, New York, New York 10013

Attention: Director Derivatives Operations (with an additional copy (in the case of notices or communications relating to Section 5, 6, 7, 9 or 11 of this Agreement) addressed to the attention of the Law Department).

Facsimile No.: (212) 615-8295

Telephone No.: (212) 615-8605/06

Address for notices or communications to Party B:—

Address: _____

Attention: _____

Facsimile No.: _____

Telephone No.: _____

(b) **Calculation Agent.** The Calculation Agent is Party A, unless (i) otherwise specified in a Confirmation in relation to the relevant Transaction, in which case the Calculation Agent shall be as specified in such Confirmation, or (ii) an Event of Default or Termination Event has occurred with respect to which Party A is the Defaulting Party or the sole Affected Party, in which case, notwithstanding clause (i) or the terms of any Confirmation, Party B may designate a Calculation Agent other than Party A, which designee shall qualify as a Reference Market-Maker hereunder.

(c) **Credit Support Document.** Details of any Credit Support Document:—

With respect to Party A, provided that Party A has made the election pursuant to Part 1(h)(A)(1), the ISDA Credit Support Annex and supplementary “Paragraph 13 - Elections & Variables” in form and substance reasonably acceptable to Party B shall constitute a “Credit Support Document” in relation to Party A, with respect to all of the obligations of Party A and for all purposes of this Agreement.

With respect to Party B, provided that Party B has made the election pursuant to Part 1(h)(B)(1), the ISDA Credit Support Annex and supplementary “Paragraph 13 - Elections & Variables” in form and

substance reasonably acceptable to Party A shall constitute a "Credit Support Document" in relation to Party B, with respect to all of the obligations of Party A and for all purposes of this Agreement. With respect to Party B only, the Covered Indenture shall also constitute a Credit Support Document.

(d) **Credit Support Provider.** "Credit Support Provider" means, in relation to Party A, none, unless a Party A Downgrade occurs and Party A has then elected to add a Credit Support Provider, pursuant to Part 1(h)(A)(2), in which case such Credit Support Provider shall be deemed a Credit Support Provider of Party A. "Credit Support Provider" means, in relation to Party B, none, unless a Party B Downgrade occurs and Party B has then elected to add a Credit Support Provider, pursuant to Part 1(h)(B)(2), in which case such Credit Support Provider shall be deemed a Credit Support Provider of Party B.

(e) **Governing Law.** Section 11(a) of this Agreement is hereby amended to read in their entirety as follows:

"This Agreement, each Transaction and each Confirmation shall be governed by, construed and enforced in accordance with the laws of the State of New York, without reference to choice of laws doctrine, except that the capacity, power and authority of Party B to enter into this Agreement and any matter relating to the interpretation or enforceability of any ordinance, resolution, agreement or other instrument adopted or otherwise entered into by Party B authorizing, securing or otherwise relating to its obligations hereunder, heretofore or hereafter adopted or assumed, shall be governed by and construed in accordance with the laws of the State of Florida."

(f) **Netting of Payments.** Subparagraph (ii) of Section 2(c) of this Agreement will apply to all Transactions.

(g) **Jurisdiction.** Section 11(c) of this Agreement is hereby amended to read in their entirety as follows:

"With respect to any suit, action or proceedings relating to this Agreement ("Proceedings"), each party irrevocably submits, to the fullest extent permitted by applicable law, to the non-exclusive jurisdiction of the courts of the United States District Court located in the Borough of Manhattan in New York County and to the non-exclusive jurisdiction of the courts of the United States District Court for the Northern District of Florida located in Alachua County, Florida."

(h) **No Immunity.** Section 11(c) (Waiver of Immunities) is hereby intentionally deleted from this Agreement. In lieu thereof, Party B represents that Florida law does not provide for immunity, on the grounds of sovereignty or other similar grounds, against suits, actions or proceedings brought against it to enforce its obligations under this Agreement or against the enforcement and collection of such contractual obligations from Covenant Revenues under the Bond Resolution, and Party B hereby agrees that in the event of a change in applicable law during the term of this Agreement and to the extent permitted under such law it shall not assert any such immunity in respect of its obligations hereunder. Notwithstanding the foregoing, Party A acknowledges that the collection of any judgment against Party B shall be limited to available revenues pursuant to the provisions of the Covered Indenture.

Part 4. Other Provisions.

(a) **Representations.**

(i) The introductory clause of Section 3 of this Agreement is hereby amended to read in its entirety as follows:—

“Each party represents to the other party (which representations will be deemed to be repeated by each party on each date on which a Transaction is entered into and, in the case of the representations in Section 3(a) and 3(e), at all times until the termination of this Agreement) that:—”.

(ii) Section 3(a)(ii) of this Agreement is hereby amended to read in its entirety as follows:—

“(ii) **Powers.** It has the power to execute this Agreement and any other documentation relating to this Agreement to which it is a party, to deliver this Agreement and any other documentation relating to this Agreement that it is required by this Agreement to deliver and to perform its obligations under this Agreement and any obligations it has under any Credit Support Document to which it is a party and has taken all necessary action and made all necessary determinations and findings to authorize such execution, delivery and performance;”

(iii) Section 3(b) of this Agreement is hereby amended to read in its entirety as follows:—

“(b) **Absence of Certain Events.** No Event of Default or Potential Event of Default or, to its knowledge, Incipient Illegality (in the case of Party B) or Termination Event with respect to it has occurred and is continuing and no such event or circumstance would occur as a result of its entering into or performing its obligations under this Agreement or any Credit Support Document to which it is a party.”

(iv) Section 3 of this Agreement is hereby amended by adding the following subsection “(e)” thereto, which subsection shall only apply to Party B and the following subsections “(f)”, “(g)”, “(h)”, “(i)” and “(j)” thereto, which subsections shall apply to both Party A and Party B:—

“(e) **Non-Speculation.** This Agreement has been, and each Transaction hereunder will be (and, if applicable, has been), entered into for purposes of managing its borrowings or investments and not for purposes of speculation.

(f) **No Agency.** It is entering into this Agreement, any Credit Support Document to which it is a party, each Transaction, and any other documentation relating to this Agreement as principal (and not as agent or in any other capacity, fiduciary or otherwise).

(g) **Due Execution.** The individual(s) executing and delivering this Agreement and any other documentation (including any Credit Support Document and each Confirmation) relating to this Agreement to which it is a party or that it is required to deliver are duly empowered and authorized to do so, and it has duly executed and delivered this Agreement, each Confirmation and any Credit Support Document to which it is a party.

(h) **Eligible Contract Participant.** It is an “eligible contract participant” within the meaning Section 1(a)(12) of the Commodity Exchange Act (7 U.S.C. 1a) as amended by the Commodity Futures Modernization Act of 2000.

(i) **No Trading Facility.** No Transaction between the parties hereto was entered into on a “trading facility” within the meaning Section 1(a)(33) of the Commodity Exchange Act (7 U.S.C. 1a) as amended by the Commodity Futures Modernization Act of 2000.

(j) **No Representations.** It is not relying upon any representations (whether written or oral) of the other party other than the representations expressly set forth herein, in any Credit Support Document or in any Confirmation.”

(b) **Agreements.**

(i) The introductory clause of Section 4 of this Agreement is hereby amended to read in its entirety as follows:—

“Each party agrees with the other (or, in the case of paragraphs (d), (e) and (f) of Section 4, Party B agrees with Party A) that, so long as either party has or may have any obligation under this Agreement or under any Credit Support Document to which it is a party:—”.

(ii) Section 4 of this Agreement is hereby amended by adding the following subsections “(d)”, “(e)” and “(f)” thereto:—

“(d) **Compliance with Covered Indenture.** Party B will observe, perform and fulfill Section 6.03 (Covenant to Budget and Appropriate) and each provision contained in Article VII (Creation and Use of Funds and Accounts; Disposition of Revenues), Article IX (General Covenants of the Issuer) and Article X (Issuance of Additional Indebtedness; Qualified Hedge Agreements; including, without limitation, Section 10.04 (Qualified Hedge Agreements) thereof) of the Base Resolution (including all relevant definitions in Article II), as any of those provisions may, following the date of the Supplemental Resolution, be amended, supplemented or modified for purposes of this Agreement, with the prior written consent of Party A (the “Incorporated Provisions”), which consent shall not be unreasonably withheld, conditioned or delayed, with the effect that Party A will have the benefit of each of the Incorporated Provisions. In the event the Covered Indenture ceases to be in effect prior to the termination of this Agreement, those portions of the Incorporated Provisions relating to (i) budgeting, appropriating and paying Qualified Hedge Payments under any Qualified Hedge Agreement and any Settlement Amount and any other non-scheduled amounts not constituting Qualified Hedge Payments due to Party A under any Qualified Hedge Agreement; (ii) the incurrence of additional Non-Self-Supporting Revenue Debt as is currently set forth in Section 9.01 of the Covered Indenture; and, (iii) the issuance of additional indebtedness as is currently set forth in Article X of the Covered Indenture, will remain in full force and effect for purposes of this Agreement as though set forth herein until such date on which all of the obligations of Party B under this Agreement and any obligations of Party B or any Credit Support Provider of Party B under a Credit Support Document have been fully satisfied. The Incorporated Provisions are hereby incorporated by reference and made a part of this Agreement to the same extent as if such provisions were set forth herein. Any amendment, supplement, modification or waiver of any of the Incorporated Provisions without the prior written consent of Party A shall have no force and effect with respect to

this Agreement. Any amendment, supplement or modification for which consent is obtained shall be part of the Incorporated Provisions for purposes of this Agreement.

(e) **Security and Source of Payment of Party B's Obligations.**

(i) Payments to be made by Party B in respect of any Transaction under this Agreement are payable solely from Covenant Revenues in order and priority specified in the Covered Indenture. The Covered Indenture provides that Qualified Hedge Payments shall be payable on a parity with debt service on the Bonds issued under the Covered Indenture. Qualified Hedge Payments will not include any Settlement Amount, other termination charges or other non-scheduled fees, charges, or amounts becoming due under this Agreement, all of which shall be paid on a subordinated basis pursuant to the terms of the Bond Resolution.

(ii) The obligations of Party B under this Agreement, or any Transaction entered into hereunder, shall not be deemed to constitute a general obligation or indebtedness of Party B nor a pledge of the faith and credit of Party B, the State of Florida or any political subdivision thereof within the meaning of the Constitution or laws of the State of Florida, nor shall such obligations be or constitute a lien upon any real property or tangible personal property of Party B. Party A shall have no right, directly or indirectly, to require or compel the exercise of the ad valorem taxing power of Party B, the State of Florida or any political subdivision thereof, or taxation in any form on any real or personal property for the payment of any obligation of Party B under this Agreement, or any Transaction entered into thereunder, or for the payment of any other amounts as may be required by ordinance or resolution.

(iii) Neither the members of the governing body of Party B nor any person executing or delivering this Agreement, or any document related to the entering into of this Transaction, shall be liable personally for any obligations hereunder by reason of such execution or delivery.

(f) **Notice of Incipient Illegality.** If an Incipient Illegality occurs, Party B will promptly upon the Finance Director of Party B becoming aware of it, notify the other party, specifying the nature of that Incipient Illegality and will also give such other information about that Incipient Illegality as the other party may reasonably require, provided, however, that Party B's inadvertent failure to provide such notice shall not be an Event of Default hereunder."

(c) **Definitions.** Section 12 of this Agreement is hereby amended to add or amend the following definitions in their appropriate alphabetical order:—

"Additional Bonds" has the meaning set forth in the Bond Resolution.

"Affiliate" will have the meaning specified in Section 12 of this Agreement, *provided, however,* that (i) with regard to Party A, the term "Affiliate" shall not include any entity that controls or is under common control with Citibank, N.A., New York, and (ii) with regard to Party B, the term "Affiliate" shall not include the Gainesville Regional Utility, a department of Party B, or any other entity.

“Base Resolution” means Resolution No. 020918 adopted by Party B on February 24, 2003, creating the pledge of and lien on the Covenant Revenues and providing for the issuance of Bonds thereunder.

“Bond Resolution” means, collectively, (i) the Base Resolution, (ii) Resolution No. 020919 adopted by Party B on February 24, 2003, supplementing the Base Resolution to authorize and provide for the issuance of the Series 2003 Bonds, and (iii) the Supplemental Resolution.

“Bonds” means, collectively, the Series 2003 Bonds and any Additional Bonds hereafter issued by Party B under the Covered Indenture.

“Covenant Revenues” has the meaning set forth in the Bond Resolution.

“Covered Indenture” means, collectively, the Bond Resolution and the Supplemental Resolution, as each may be supplemented and amended from time to time in accordance with its terms and the terms hereof.

“Fitch” means Fitch Ratings, Inc., or any successor thereto.

“Incipient Illegality” means (a) the enactment by any legislative body with competent jurisdiction over Party B of legislation which, if adopted as law, would render unlawful (i) the performance by Party B of any absolute or contingent obligation to make a payment or delivery or to receive a payment or delivery in respect of a Transaction or the compliance by Party B with any other material provision of this Agreement relating to such Transaction or (ii) the performance by Party B or a Credit Support Provider of Party B of any contingent or other obligation that Party B (or such Credit Support Provider) has under any Credit Support Document relating to such Transaction, (b) any assertion in any proceeding, forum or action by Party B to the effect that performance under this Agreement or similar agreements is unlawful or (c) the occurrence with respect to Party B or any Credit Support Provider of Party B of any event that constitutes an Illegality.

“Moody’s” means Moody’s Investors Service, Inc., or any successor thereto.

“S&P” means Standard and Poor’s Ratings Services, a Division of The McGraw-Hill Companies, Inc., or any successor thereto.

“Series 2003 Bonds” means, collectively, (i) the \$40,042,952.75 City of Gainesville, Florida Taxable Pension Obligation Revenue Bonds, Series 2003A (Employees’ Plan), and (ii) \$49,851,805.95 City of Gainesville, Florida Taxable Pension Obligation Revenue Bonds, Series 2003B (Consolidated Plan), authorized and issued by Party B under the Covered Indenture.

“Supplemental Resolution” means Resolution No. [] adopted by Party B on [, 2004], supplementing the Base Resolution and providing for, among other things, a limited and subordinated covenant to budget and appropriate with respect to payment obligations of Party B, relating to Qualified Hedge Agreements, that do not constitute Qualified Hedge Payments.

“Qualified Hedge Agreements” has the meaning set forth in the Covered Indenture.

“Qualified Hedge Payments” has the meaning set forth in the Covered Indenture.

(d) **Addition of Section 13 to the Agreement.** This Agreement is hereby amended by adding the following Section “13” hereto:—

“13. Relationship Between Parties.

Each party will be deemed to represent to the other party on the date on which it enters into a Transaction that (absent a written agreement between the parties that expressly imposes affirmative obligations to the contrary for that Transaction):—

- (i) **Non-Reliance.** Its decision to enter into that Transaction has been based solely on the independent evaluation of itself and its representatives and upon advice from such independent professional advisers and such information as it has deemed necessary or appropriate, and not upon any advice, view, recommendation, counsel or representations of the other party hereto except as expressly set forth in this Agreement, in any Credit Support Document or in any Confirmation. Any advice (written or oral) given by the other party hereto under or in connection with this Agreement or any Transaction is and will be merely incidental to the provision of such other party’s services hereunder and does not and will not serve as a primary basis of any investment decision by it. It has not received from the other party any assurance or guarantee as to the expected results of that Transaction. The other party hereto has not given to it (directly or indirectly) any assurance, guaranty, or representation whatsoever as to the expected or projected success, profitability, return, performance, result, effect, consequence or benefit (either economic, legal, regulatory, tax, financial, accounting or otherwise) of this Agreement, any Credit Support Document, any Transaction, or such other documentation
- (ii) **Assessment and Understanding.** It is capable of assessing the merits of and understanding (on its own behalf or through independent professional advice), and understands and accepts, the terms, conditions and risks of that Transaction. It is also capable of assuming, and assumes, the risks of that Transaction.
- (iii) **Status of Parties.** The other party is not acting as a fiduciary for or as an advisor to it in respect of that Transaction.”

(e) **Set-off.** Any amounts payable to one party (the “Payee”) by the other party (the “Payer”) following the designation or deemed designation of an Early Termination Date, in circumstances where there is a Defaulting Party or where there is one Affected Party, will, at the option of the Non-defaulting party or the non-Affected Party, as the case may be (such party being referred to in this subsection (f) as “Party X”) (and without prior notice to the Defaulting Party or the Affected Party, as the case may be), be reduced by its set-off against any other amounts (“Other Amounts”) payable by the Payee to the Payer (whether or not arising under this Agreement, matured or contingent and irrespective of the currency, place of the payment or place of booking of the obligation); provided that such set-off rights shall be limited to Other Amounts relating to transactions in which Party B’s obligations are payable from Covenant Revenues. To the extent that any Other Amounts are so set off, those Other Amounts will be discharged promptly in all respects. Party X will give notice to the other party of any set-off effected under this Section 6(f).

For purpose of cross-currency set-off, Party X may convert any obligation to another currency at a market rate determined by Party X.

If an obligation is unascertained, Party X may in good faith estimate that obligation and set-off in respect of the estimate, subject to the relevant party accounting to the other when the obligation is ascertained.

Nothing in this provision will be deemed to create a charge or other security interest. This paragraph shall be without prejudice and in addition to any right of set-off, combination of accounts, lien or other right to which any party is at any time otherwise entitled (whether by operation of law, contract or otherwise).

(f) **Waiver of Right to Trial by Jury.** Each party hereby irrevocably waives, to the fullest extent permitted by applicable law, any right it may have to a trial by jury in respect of any suit, action or proceeding relating to this Agreement or any Credit Support Document. Each party (i) certifies that no representative, agent or attorney of the other party or any Credit Support Provider has represented, expressly or otherwise, that such other party would not, in the event of such a suit, action or proceeding, seek to enforce the foregoing waiver and (ii) acknowledges that it and the other party have been induced to enter into this Agreement and provide for any Credit Support Document, as applicable, by, among other things, the mutual waivers and certifications in this section.

(g) **Severability.** In the event that any one or more of the provisions contained in this Agreement should be held invalid, illegal, or unenforceable in any respect, the validity, legality and enforceability of the remaining provisions contained herein shall not in any way be affected or impaired thereby. The parties shall endeavor, in good faith negotiations, to replace the invalid, illegal or unenforceable provisions with valid provisions, the economic effect of which on the parties comes as close as possible to that of the invalid, illegal or unenforceable provisions.

(h) **Optional Termination Right.** Party B may terminate any Transaction at any time, or reduce the Notional Amount specified in any Confirmation with respect thereto, in either case specifying in such notice the date on which the termination or proposed reduction is to occur (the "Optional Early Termination Date"), which date shall not be earlier than ten (10) Local Business Days from the date such notice was given. In the case of a partial reduction in the Notional Amount, the notice shall also state the amount by which the Notional Amount is to be reduced. Such notice may be given for any reason, and shall be given by Party B to coincide with a corresponding redemption of all or any part of the Bonds in advance of their scheduled payment or redemption dates. Upon such notice becoming effective, the date specified by Party B shall be deemed an Early Termination Date with respect to the relevant Transaction or portion thereof only, with Party B being deemed the Affected Party, and if pursuant to the notice, the Notional Amount is to be reduced, then on the Optional Early Termination Date, the parties shall execute an amendment to the Confirmation relating to such Transaction to amend the Notional Amount (and other terms as appropriate) to reflect such reduction. Notwithstanding anything herein to the contrary, the parties will be obligated to pay any Unpaid Amounts that have become due on or prior to the Optional Early Termination Date. Party B agrees that it shall not optionally terminate this Transaction unless it shall have sufficient funds to pay any Settlement Amount which may be due to Party A as provided herein, and as a condition to such optional termination, Party A may request written evidence from Party B of the availability of such funds. Notwithstanding the foregoing, if there is more than one Transaction outstanding under this Agreement, Party B shall not be entitled to exercise the right of optional termination described herein unless (i) it has obtained the prior written consent of Party A to such optional termination, which consent shall not be unreasonably withheld, or (ii) such optional termination applies to all Transactions, in whole, then outstanding under this Agreement.

(i) **Acknowledgments.** Each party acknowledges that:

(i) the proprietary trading and other activities and transactions of the other party and its Affiliates, including risk management transactions entered into or to be entered into in connection with, or in anticipation of, the establishment, maintenance or termination of a particular Transaction, may affect the level of a market price, rate or index underlying a Transaction, the price and terms on which such other party or other dealers are willing to enter into or unwind or terminate a Transaction and the valuations provided by such other party;

(ii) the “indicative” or “midmarket” valuations of a Transaction provided to it by the other party from time to time may not represent (1) the price at which a new Transaction may be entered into, (2) the price at which the Transaction may be liquidated or unwound, (3) the price at which the Transaction is or would be carried on such other party’s books; (4) the price at which a similar Transaction might be available from another dealer in the market or (5) the calculation or estimate of an amount that would be payable following the designation of an Early Termination Date under Section 6(e) or otherwise of this Agreement;

(iii) except as provided herein or other express written agreement to the contrary, (1) neither party has undertaken an obligation to unwind or terminate a Transaction prior to its scheduled termination date and (2) the provision by a party of a valuation or indicative unwind price does not constitute an undertaking to unwind or terminate any Transaction at that price unless the party providing such price expressly so indicates in connection with the provision of such price;

(iv) (1) except as provided herein or other express written agreement to the contrary, neither party has undertaken an obligation to quote a price or terms for entering into or unwinding or terminating a Transaction prior to its scheduled termination date, (2) if a party provides such a quote, the price or other terms provided may not be the most favorable price or terms available in the market and (3) except as expressly agreed in writing, the price and terms on which a Transaction is entered into or unwound or terminated have been or will be individually negotiated and no representations or warranties are given with respect to such price or terms.

(j) ***Amendment to Section 6(e)(iii) of the Agreement.*** Section 6(e)(iii) of this Agreement shall be amended to include the following after the existing sentence:

“In addition, if an Early Termination Date is deemed to have occurred under Section 6(a) as a result of Automatic Early Termination triggered by an Event of Default under Section 5(a)(vii), the parties agree that any Settlement Amount determined as of the Early Termination Date resulting from such Automatic Early Termination shall be increased or decreased as a result of movement in interest rates or market quotations between the Early Termination Date and the date (the “Determination Date”) upon which the Non-Defaulting Party knows, or reasonably should have known, of the occurrence of such Event of Default with respect to the Defaulting Party; *provided*, that the Determination Date shall not be a date later than the date upon which creditors generally of the Defaulting Party are notified of such Event of Default.”

(k) ***Confirmation Procedures.*** For each Transaction that Party A and Party B enter into hereunder, Party A shall promptly send to Party B a Confirmation setting forth the terms of such Transaction. Party B shall execute and return the Confirmation to Party A or request correction of any error within five Business Days of receipt. Failure of Party B to respond within such period shall not affect the validity or enforceability of such Transaction and shall be deemed to be an affirmation and acceptance of such terms, absent manifest error.

(l) **Transfer by Party B.** Section 7 of this Agreement is hereby amended by adding the following subsection “(c)” thereto:

“(c) Party B may transfer all of its rights and obligations under any Transaction hereunder (the “Transferred Obligation”) to another entity (the “Transferee”) provided that:

- (i) the creditworthiness of the Transferee is acceptable to Party A, such acceptance not to be unreasonably withheld;
- (ii) at the time of such transfer, no Early Termination Date shall have been designated under this Agreement and no Event of Default, Potential Event of Default or Termination Event shall have occurred and be continuing under this Agreement with respect to Party B;
- (iii) such transfer will not result in the violation of any law, regulation, rule, judgment, order or other legal limitation or restriction applicable to Party A;
- (iv) at the time of such transfer, no event which would constitute a Termination Event, Event of Default or Potential Event of Default with respect to the Transferee if the Transferee were a party to this Agreement shall have occurred;
- (v) no adverse tax consequences to Party A will occur as a result of such transfer;
- (vi) such transfer will not result in the violation of Party A’s exposure limitations, counterparty eligibility policies or other internal limitation; and
- (vii) the Transferee has entered into a Master Agreement with Party A with appropriate credit provisions in relation to the Transferee’s credit rating.”

[Remainder of page intentionally left blank]

The parties executing this Schedule have executed the Master Agreement and have agreed as to the contents of this Schedule.

CITIBANK, N.A., NEW YORK

By: _____

Name:

Title:

CITY OF GAINESVILLE, FLORIDA

By: _____

Name:

Title:

City of Gainesville

Gainesville, Florida _____

Attention: _____

Facsimile No.: _____

Telephone No.: _____

Taxpayer Identification No.: _____

Reference No.: _____

_____, 2004

TRANSACTION

Ladies and Gentlemen:

The purpose of this letter agreement (this "Confirmation") is to confirm the terms and conditions of the Transaction entered into between the City of Gainesville, Florida ("Party B") and Citibank, N.A., New York ("Party A") on the Trade Date referred to below (the "Transaction").

The definitions contained in the 2000 ISDA Definitions (the "2000 Definitions") and the 1992 ISDA U.S. Municipal Counterparty Definitions (the "1992 Muni Definitions"), each as amended and supplemented through the date of this Confirmation (as published by the International Swaps and Derivatives Association, Inc.) are incorporated into this Confirmation. In the event of any inconsistency between the 2000 Definitions and the 1992 Muni Definitions, the 1992 Muni Definitions will govern and in the event of any inconsistency between the 1992 Muni Definitions and this Confirmation, this Confirmation will govern.

1. This Confirmation supplements, forms a part of, and is subject to, the 1992 ISDA Master Agreement dated as of June __, 2004, between Party B and Party A, including the Schedule thereto, as the same may be amended and supplemented from time to time (collectively, the "Master Agreement"). All provisions contained in the Master Agreement govern this Confirmation except as expressly modified below.

2. The Master Agreement, as supplemented by the terms of this Confirmation, the Definitions incorporated by reference herein and all other confirmations (including all documents incorporated by reference therein) hereinafter or heretofore entered into between the parties from time to time (to the extent they specify that they are subject to the Master Agreement) shall constitute a single agreement between the parties and shall survive termination of the Transaction set forth herein and in any other confirmation supplementing such Master Agreement, unless provided otherwise in any such confirmation.

3. The terms of the particular Transaction to which this Confirmation relates are as follows:

Notional Amount: [USD _____]

Trade Date: _____, 2004

Effective Date: [Trade Date plus two Business Days]

Termination Date: **TBD**, subject to adjustment in accordance with the

Following Business Day Convention.

Business Days: New York

FIXED AMOUNTS:

Fixed Rate Payer: Party A

Fixed Rate Payer Payment Dates: Each _____ and _____ commencing _____, 2004, to and including the Termination Date, subject to adjustment in accordance with the Following Business Day Convention.

Fixed Rate Payer Period End Dates: Each _____ and _____ commencing _____, 2004, to and including the Termination Date, subject to adjustment in accordance with the Following Business Day Convention.

Fixed Rate: **TBD**

Fixed Rate Day Count Fraction: 30/360

FLOATING AMOUNTS:

Floating Rate Payer: Party B

Floating Rate Payer Payment Dates: Each _____ and _____ commencing _____, 2004, to and including the Termination Date, subject to adjustment in accordance with the Following Business Day Convention.

Floating Rate Payer Period End Dates: Each _____ and _____ commencing _____, 2004, to and including the Termination Date, subject to adjustment in accordance with the Following Business Day Convention.

Compounding: Inapplicable

Floating Rate Option: USD-LIBOR-BBA

Floating Rate Reset Dates: [The Effective Date and the first Business Day of each calendar month thereafter. As specified in the Definitions, the rate for each such Reset Date shall be the rate which is published two London Banking Days prior to such Reset Date.]

Spread	None
Floating Rate Day Count Fraction:	Actual/360
Averaging:	Weighted
Designated Maturity:	[One month]

4. Account Details

Payments to Party A:	Citibank, N.A. New York ABA # 021000089 Account No.: 00167679 Financial Futures Reference: _____
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Payments to Party B:	[Please provide]
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Please confirm that the foregoing correctly sets forth the terms of our agreement by executing the copy of this Confirmation enclosed for that purpose and returning it to us.

Yours sincerely,

CITIBANK, N.A., NEW YORK

By: _____
Authorized Signatory
Name:

Accepted and confirmed as
of the date first written:

CITY OF GAINESVILLE, FLORIDA

By: _____
Name:
Title:

1997743_v2

City of Gainesville

Gainesville, Florida _____

Attention: _____

Facsimile No.: _____

Telephone No.: _____

Taxpayer Identification No.: _____

Reference No.: _____

_____, 2004

TRANSACTION

Ladies and Gentlemen:

The purpose of this letter agreement (this "Confirmation") is to confirm the terms and conditions of the Transaction entered into between the City of Gainesville, Florida ("Party B") and Citibank, N.A., New York ("Party A") on the Trade Date referred to below (the "Transaction").

The definitions contained in the 2000 ISDA Definitions (the "2000 Definitions") and the 1992 ISDA U.S. Municipal Counterparty Definitions (the "1992 Muni Definitions"), each as amended and supplemented through the date of this Confirmation (as published by the International Swaps and Derivatives Association, Inc.) are incorporated into this Confirmation. In the event of any inconsistency between the 2000 Definitions and the 1992 Muni Definitions, the 1992 Muni Definitions will govern and in the event of any inconsistency between the 1992 Muni Definitions and this Confirmation, this Confirmation will govern.

1. This Confirmation supplements, forms a part of, and is subject to, the 1992 ISDA Master Agreement dated as of June __, 2004, between Party B and Party A, including the Schedule thereto, as the same may be amended and supplemented from time to time (collectively, the "Master Agreement"). All provisions contained in the Master Agreement govern this Confirmation except as expressly modified below.

2. The Master Agreement, as supplemented by the terms of this Confirmation, the Definitions incorporated by reference herein and all other confirmations (including all documents incorporated by reference therein) hereinafter or heretofore entered into between the parties from time to time (to the extent they specify that they are subject to the Master Agreement) shall constitute a single agreement between the parties and shall survive termination of the Transaction set forth herein and in any other confirmation supplementing such Master Agreement, unless provided otherwise in any such confirmation.

3. The terms of the particular Transaction to which this Confirmation relates are as follows:

Notional Amount: [USD _____]

Trade Date: _____, 2004

Effective Date: [Trade Date plus two Business Days]

Termination Date: **TBD**, subject to adjustment in accordance with the

Following Business Day Convention.

Business Days: New York

FIXED AMOUNTS:

Fixed Rate Payer: Party A

Fixed Rate Payer Payment Dates: Each _____ and _____ commencing _____, 2004, to and including the Termination Date, subject to adjustment in accordance with the Following Business Day Convention.

Fixed Rate Payer Period End Dates: Each _____ and _____ commencing _____, 2004, to and including the Termination Date, subject to adjustment in accordance with the Following Business Day Convention.

Fixed Rate: **TBD**

Fixed Rate Day Count Fraction: 30/360

FLOATING AMOUNTS:

Floating Rate Payer: Party B

Floating Rate Payer Payment Dates: Each _____ and _____ commencing _____, 2004, to and including the Termination Date, subject to adjustment in accordance with the Following Business Day Convention.

Floating Rate Payer Period End Dates: Each _____ and _____ commencing _____, 2004, to and including the Termination Date, subject to adjustment in accordance with the Following Business Day Convention.

Compounding: Inapplicable

Floating Rate Option: USD-LIBOR-BBA

Floating Rate Reset Dates: [The Effective Date and the first Business Day of each calendar month thereafter. As specified in the Definitions, the rate for each such Reset Date shall be the rate which is published two London Banking Days prior to such Reset Date.]

Spread	None
Floating Rate Day Count Fraction:	Actual/360
Averaging:	Weighted
Designated Maturity:	[One month]

4. Account Details

Payments to Party A:	Citibank, N.A. New York ABA # 021000089 Account No.: 00167679 Financial Futures Reference: _____
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Payments to Party B:	[Please provide]
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Please confirm that the foregoing correctly sets forth the terms of our agreement by executing the copy of this Confirmation enclosed for that purpose and returning it to us.

Yours sincerely,

CITIBANK, N.A., NEW YORK

By: _____
Authorized Signatory
Name:

Accepted and confirmed as
of the date first written:

CITY OF GAINESVILLE, FLORIDA

By: _____
Name:
Title:

1997743_v2