



MEMORANDUM

Office of the City Attorney

Phone: 334-5011/Fax 334-2229
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TO: Mayor and City Commission

DATE: October 22, 2001

FROM: City Attorney

RESOLUTION

SUBJECT: Stormwater Management System Revenue Bonds

Recommendation: The City Commission adopt the resolution that authorizes the issuance of the Bonds and authorizes the City Attorney's Office to file a validation lawsuit in the Circuit Court.

The Resolution authorizes the issuance of Bonds, in a principal amount not in excess of \$5,000,000, payable from the gross revenues of the City from its stormwater management system on a parity with the portion of such revenues pledged to a revolving loan from the State Department of Environmental Protection. Proceeds of such Bonds are to be expended on the cost of extensions, improvements and repairs to the stormwater system. The Bonds also allow flexibility in funding larger capital construction projects under the stormwater utility, such as the Sweetwater and Depot Avenue Stormwater Park projects. Due to the large costs associated with major stormwater management projects it takes multiple years to accumulate adequate funds to finance these types of projects.

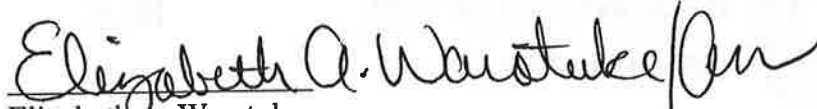
The Bonds shall not be general indebtedness or pledge of the credit of the City and are not payable from or secured by any taxes. The Resolution includes a pledge of the Gross Revenues for the payment of the Bonds and standard covenants for the benefit of bondholders.

The City's stormwater management system is a utility with a schedule of utility fees. As fees, the charges apply to all users of the system, including the City and other government entities. For many years, the Department of Transportation located at 2006 N.E. Waldo Road has refused to pay the City's stormwater fee, claiming the charge was a tax or a special assessment for which it was not liable to pay. In 1998, the City filed an action for declaratory relief, asking the Court to declare that the City's stormwater charge was a valid fee and not a tax or special assessment. On appeal, the appellate court reversed the lower court, finding that if the City's charge operated as alleged in the complaint, it was a valid fee as opposed to a special assessment. The Court remanded the case to the trial court to make this determination.


In consultation with City management, it is our opinion that these legal issues can be best determined in a Bond validation lawsuit. A validation of the stormwater fees will give the City the ability to issue Bonds on the fees to fund projects, which could include the Depot Stormwater Park and the Sweetwater, Tumbling Creek and Hogtown Creek projects. The Bond validation will also determine as a final matter whether the City's charges are valid fees, as a direct appeal to the Florida Supreme Court is a matter of right.

The Resolution authorizes the City Attorney to file validation proceedings with respect to the Bonds in the Alachua County Circuit Court.

Prepared by:


Elizabeth A. Waratuke,
Litigation Attorney

Approved and
Submitted by:


Marion J. Radson,
City Attorney

RESOLUTION NO. _____

A RESOLUTION OF THE CITY OF GAINESVILLE, FLORIDA, PROVIDING FOR THE CONSTRUCTION AND ACQUISITION OF ADDITIONS, EXTENSIONS, REPAIRS, RENOVATIONS AND IMPROVEMENTS TO, AND THE REPAIR AND EQUIPPING OF, PORTIONS OF THE CITY'S STORMWATER MANAGEMENT SYSTEM; PROVIDING FOR THE ISSUANCE FROM TIME TO TIME OF NOT EXCEEDING \$5,000,000 STORMWATER MANAGEMENT SYSTEM REVENUE BONDS OF THE CITY TO BE APPLIED TO THE PAYMENT OF THE COST OF SUCH ADDITIONS, EXTENSIONS, IMPROVEMENTS, REPAIRS AND EQUIPPING ABOVE DESCRIBED; PROVIDING FOR THE PAYMENT OF SUCH BONDS FROM CERTAIN REVENUES OF THE SYSTEM ON A PARITY WITH THE CITY'S OBLIGATIONS UNDER THE STATE REVOLVING LOAN; MAKING CERTAIN COVENANTS AND AGREEMENTS IN CONNECTION THEREWITH; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE.

BE IT ADOPTED BY THE CITY COMMISSION OF THE CITY OF GAINESVILLE, FLORIDA, THAT:

**ARTICLE I
AUTHORITY FOR THIS RESOLUTION**

This resolution is enacted pursuant to Article VIII, Section 2, Constitution of the State of Florida, Chapter 166, Florida Statutes, Section 403.0893, Florida Statutes, the Charter of the City and Article V of Chapter 27 of the Code of Ordinances of the City (collectively, the "Act").

**ARTICLE II
DEFINITIONS**

SECTION 2.01. Definitions. As used herein, unless the context otherwise requires:

"Act" shall have the meaning ascribed thereto by Article I of this Resolution.

"Additional Bonds" means additional obligations issued in compliance with the terms, conditions and limitations contained in a Supplemental Resolution which will have an equal lien on the Gross Revenues to the extent herein provided, and rank equally in all other respects with any other Bonds issued hereunder.

"Amortization Installment" means the funds to be deposited in the debt service fund in a given Bond Year for the payment at maturity or redemption of a portion of a series of Term Bonds, as established hereby or by resolution or ordinance of the City at or before the delivery of that series of Term Bonds.

"Annual Budget" means the budget, as amended and supplemented from time to time, prepared by the City for each Fiscal Year in accordance with Section 8.04 below and in accordance with the laws of the State of Florida.

"Authorized Depository" means any bank, trust company, national banking association, savings and loan association, savings bank or other banking association selected by the City as a depository, which is authorized under Florida law to be a depository of municipal funds and which has qualified with all applicable state and federal requirements concerning the receipt of City funds.

"Bond Counsel" means counsel experienced in matters relating to the validity of, and the exclusion from gross income for federal income tax purposes of interest on, obligations of states and their political subdivisions.

"Bondholders" means the registered owners (or their authorized representatives) of Bonds.

"Bonds" means the Series of Bonds originally issued hereunder and any Additional Bonds.

"Bond Year" means, unless otherwise provided by Supplemental Resolution, the annual period beginning on the first day of October of each year and ending on the last day of September of the following year; provided that when such term is used to describe the period during which deposits are to be made to a fund or account to amortize principal and interest on the Bonds maturing or becoming subject to redemption, interest and principal maturing or becoming subject to redemption on October 1 of any year shall be deemed to mature or become subject to redemption on the last day of the preceding Bond Year.

"Business Day" means a day on which banking business is transacted in the city or cities in which the Paying Agent has its principal corporate trust offices and on which the New York Stock Exchange is open.

"Capital Appreciation Bonds" means Bonds that bear interest, compounded semiannually, that is payable only at maturity or upon redemption prior to maturity in amounts determined by reference to the Compounded Amounts.

"City" means the City of Gainesville, Florida.

"Clerk" means the Clerk of the Commission or any Deputy Clerk of the City.

"Code" means the Internal Revenue Code of 1986, as amended, or any corresponding provisions of any future laws of the United States of America relating to federal income taxation, and except as otherwise provided herein or required by the context thereof, includes interpretations thereof contained or set forth in the applicable regulations of the Department of the Treasury (including applicable final regulations, temporary regulations and proposed regulations), the applicable rulings of the Internal Revenue Service (including published Revenue Rulings and private letter rulings) and applicable court decisions.

"Cost of Operation and Maintenance" means the current expenses, paid or accrued, of operation, maintenance and repair of the System and its facilities, as calculated in accordance with generally accepted accounting principles, consistently applied, and shall include, without limiting the generality of the foregoing, administrative expenses relating to the System, and insurance premiums and charges for the accumulation of appropriate reserves for self-insurance, not annually recurrent but which are reasonably expected to be incurred on a periodic basis in accordance with generally accepted accounting principles, consistently applied. The Cost of Operation and Maintenance shall not include (i) any reserve for renewals and replacements, extraordinary repairs or any allowance for depreciation or amortization, (ii) the payment of any principal of and interest on the Bonds and any other notes, bonds and similar obligations of the City, and (iii) payments made by the City under leases that are capitalized in accordance with generally accepted accounting principles.

"Credit Facility" means a line of credit, letter of credit or similar credit enhancement device or arrangement providing support for the payment of the principal of and interest on one or more Series of Bonds.

"Current Interest Bonds" means Bonds that bear interest which is payable annually, semiannually or monthly, or such more frequent interval as the City may determine.

"Dated Date" means the date of a Series of Bonds established by a Supplemental Resolution authorizing such Bonds.

"Department" means the State of Florida Department of Environmental Protection.

"Fiscal Year" means the period commencing on October 1 of each year and ending on the succeeding September 30, or such other consecutive 12-month period as may be hereafter designated as the fiscal year of the City pursuant to general law.

"Governing Body" means the City Commission of the City.

"Gross Revenues" means all income or earnings derived by the City from the ownership, operation, leasing or use of the System, or any part thereof, including any income from the investment of funds to be deposited in certain funds and accounts related to the Bonds to be established by Supplemental Resolution, and proceeds from insurance (including, without limitation, business interruption insurance), condemnation or the disposition of property (to the extent and for the purposes herein provided), but shall not include (i) proceeds from the sale of any Bonds or other obligations of the City, or (ii) moneys received by the City from federal, state or local governmental grants or stipends.

"Liquidity Facility" means a line of credit, letter of credit or similar enhancement device or arrangement creating a source to be drawn upon by the City to pay the purchase price of one or more Series of Bonds.

"Mayor" means the Mayor or, in his absence or unavailability, the Mayor-Commissioner Pro Tempore.

"Paying Agent" means the City or any Authorized Depository designated by the City to serve as a Paying Agent or place of payment for any one or more Series of Bonds issued hereunder that shall have agreed to arrange for the timely payment of the principal of, interest on and redemption premium, if any, with respect to the Bonds to the registered owners thereof, from funds made available therefor by the City, and any successors designated pursuant to this resolution. All Paying Agents appointed hereunder, if other than the City, shall have a combined capital, surplus and undivided profits of at least \$50,000,000.

"Projects" means the construction or acquisition of additions, extensions, improvements, renovations, equipping and repairs to and replacements of various components of the System, as described from time to time by ordinance or resolution of the City, or the refunding of obligations issued for such purpose, including, without limitation, the improvements described in Exhibit "A" hereto to be financed with proceeds of the initial Series of Bonds, as such Exhibit "A" may be modified prior to the issuance of such initial Series of Bonds.

"Registrar" means the City or any agent designated from time to time by the City, by ordinance or resolution, to maintain the registration books for the Bonds issued hereunder or to perform other duties with respect to registering the transfer of Bonds.

"Reserve Product" means a policy of bond insurance, a surety bond or a letter of credit or line of credit or other credit facility used in lieu of, or in substitution for, a cash deposit in any reserve fund created by a Supplemental Resolution.

"Serial Bonds" means all Bonds of a Series other than Term Bonds.

"Series" means any portion of the Bonds of an issue authenticated and delivered in a single transaction, payable from an identical source of revenue and identified pursuant to the supplemental ordinance or resolution authorizing such Bonds as a separate Series of Bonds, regardless of variations in maturity, interest rate, Amortization Installments or other provisions, and any Bonds thereafter authenticated and delivered in lieu of or in substitution of a series of Bonds issued pursuant to this resolution.

"State" means the State of Florida.

"State Revolving Loan" means the loan or loans by the Department to the City pursuant to the terms of the State Revolving Loan Agreement or any similar agreement between the City and the Department.

"State Revolving Loan Agreement" means the Clean Water State Revolving Fund Loan Agreement SW12049716P effective March 26, 2001, between the City and the Department.

"Supplemental Resolution" means a resolution adopted at or prior to issuance of any Series of Bonds, including, without limitation, the initial Series of Bonds to be issued.

"System" means the entire stormwater management system and all parts and components thereof or interests therein, owned, operated or used by the City, and all such parts and components hereafter constructed, contracted for or acquired, the improvements, extensions and additions thereto to be constructed or acquired either from the proceeds of the Bonds authorized by this resolution or from any other sources, together with all land and interests therein, plants, buildings, machinery, franchises, pipes, fixtures, equipment, contract rights, berms, swales and retainage areas or ponds and all property, real or personal, tangible or intangible, now or hereafter owned, operated or used by the City in connection therewith.

"Taxable Bonds" means Bonds the interest on which is not intended at the time of the issuance thereof to be excluded from the gross income of the holders thereof for federal tax purposes.

"Term Bonds" means Bonds of a Series for which Amortization Installments are established, and such other Bonds of a Series so designated by supplemental ordinance or resolution of the City adopted on or before the date of delivery of such Bonds.

SECTION 2.02. Singular/Plural. Words importing singular number shall include the plural number in each case and vice versa, and words importing persons shall include firms, corporations or other entities including governments or governmental bodies.

ARTICLE III FINDINGS

It is hereby ascertained, determined and declared that:

A. The City now owns, operates and maintains the System and derives Gross Revenues therefrom.

B. It is necessary in order to maintain and operate the System for the protection of the health, safety and welfare of the residents and inhabitants of the City and in order to comply with requirements of federal and state law to repair, renovate, extend, expand and improve the System to expand and improve its quality and capacity by providing for the Projects to be funded hereunder.

C. The City is authorized under the Act to issue Bonds and to use the proceeds thereof to pay the costs thereof.

D. A portion of the Gross Revenues have been pledged to the payment of the State Revolving Loans. The Gross Revenues have not been pledged or encumbered in any other fashion. The State Revolving Loan Agreement expressly permits a pledge of the Gross Revenues on a parity with the portion thereof pledged to the repayment of the State Revolving Loan with the consent of the Department.

E. The principal of, interest on and premiums, if any, with respect to the Bonds and all required sinking fund, reserve and other payments with respect thereto shall be payable solely from Gross Revenues, which the City has full authority to irrevocably pledge. The City shall never be required to levy ad valorem taxes on any property to pay the principal of, interest on or any premium with respect to the Bonds or to make any of the required sinking fund, reserve or other

payments required herein, and the Bonds shall not constitute a lien on any property owned by or situated within the limits of the City.

F. The estimated Gross Revenues to be derived in each year hereafter from the operation of the System, after payment of the Costs of Operation and Maintenance, will be sufficient to pay all of the principal of and interest on the Bonds to be issued hereunder, as the same become due and to make all sinking fund, reserve and other payments in connection with the Bonds and all payments with respect to the State Revolving Loan

G. The Projects, and the issuance of the Bonds to finance the Projects, will serve a public purpose.

ARTICLE IV AUTHORIZATION OF CONSTRUCTION AND ACQUISITION OF PROJECTS; COST OF PROJECTS

SECTION 4.01. Authorization of Projects. The acquisition and construction of the Projects, including, without limitation, the Projects described on Exhibit "A" hereto to be financed with proceeds of the initial Series of Bonds, is hereby authorized. The description of Projects to be financed with proceeds of the Bonds, including the initial Series of Bonds, may be modified or supplemented by Supplemental Resolution.

SECTION 4.02. Cost of Projects. Proceeds received from the sale of the Bonds are hereby authorized to be used to pay the costs of the Projects. Such costs shall include, without limiting the items of cost permitted under the Act, the following items to the extent they relate to such Project, including without limitation, reimbursement to the City in connection with items previously incurred: (i) all direct costs of the Project items described in the plans and specifications for such Project; (ii) all costs of planning, designing, acquiring, constructing, financing and placing such Projects in operation; (iii) all costs of issuance of Bonds, including the cost of Bond Insurance, any Reserve Product, any Credit Facility, any Liquidity Facility, bond counsel, underwriters and underwriters' counsel, special tax counsel, financial advisors, printing costs, rating agency fees, initial acceptance fees of paying agents, registrars, trustees, depositaries and financial institutions providing special credit facilities with respect to one or more Series of Bonds, and any other costs of issuance of Bonds; (iv) the cost of any lands or interests therein and all of the properties deemed necessary or convenient for the maintenance and operation of the Projects; (v) all other engineering, legal and financial costs and expenses; (vi) all expenses for estimates of costs and of revenues; (vii) costs of obtaining governmental and regulatory permits, licenses, covenants and approvals; (viii) all fees of special advisors and consultants associated with one or more aspects of the

Projects or the financing thereof; (ix) all costs relating to claims or judgments arising out of the construction of the System; (x) all federal, state and local taxes and payments in lieu of taxes required to be paid in connection with the acquisition and construction of the System; (xi) all amounts required to be paid by this resolution or any supplemental ordinance or resolution authorizing the issuance of Bonds into a reserve fund debt service fund or renewal and replacement fund upon the issuance of any Series of Bonds; (xii) the payment of all principal, premium, if any, and interest when due, of any Bonds of any Series or other evidences of indebtedness issued to finance a portion of the cost of the Projects, whether at the maturity thereof or at the due date of interest or upon redemption thereof; (xiii) interest on Bonds of any Series prior to and during construction of any Project for which such Bonds were issued, and for such additional periods as the City may reasonably determine to be necessary for the placing of such Projects in operation; (xiv) the reimbursement to the City of all such costs of any Project that have been advanced by the City from its available funds before the delivery of a Series of Bonds issued to finance such costs; (xv) the principal, interest, premium, if any, and costs related thereto, payable with respect to any note or other obligation issued by the City to pay any part of the Cost of the Project enumerated in this Section 4.02; (xvi) all amounts required to be rebated to the United States of America in order to preserve the exclusion from gross income for federal income tax purposes of interest on Bonds other than Taxable Bonds; and (xvii) such other costs and expenses which shall be necessary or incidental to the financing herein authorized and the construction and acquisition of the Projects and the placing of same in operation.

ARTICLE V THIS INSTRUMENT TO CONSTITUTE CONTRACT

In consideration of the acceptance of the Bonds authorized to be issued hereunder by those who shall hold the same from time to time, this resolution shall be deemed to be and shall constitute a contract between the City and the Bondholders. The covenants and agreements herein set forth to be performed by the City shall be for the equal benefit, protection and security of the Bondholders and all Bonds shall be of equal rank and without preference, priority or distinction over any other thereof, except as expressly provided herein.

ARTICLE VI AUTHORIZATION, DESCRIPTION, FORM AND TERMS OF BONDS

SECTION 6.01. Authority for Issuance of Bonds. Subject and pursuant to the provisions hereof, Bonds to be known as "City of Gainesville, Florida Stormwater Management System Revenue Bonds" in an aggregate principal amount not exceeding \$5,000,000 are hereby authorized to be issued for the purpose

of financing the Cost of Projects. Additional Bonds in excess of this amount may be issued from time to time pursuant to the terms hereof and the terms of a Supplemental Resolution or Supplemental Resolutions.

SECTION 6.02. Description of Obligations. The Bonds authorized hereunder may be issued as Term Bonds or Serial Bonds, Current Interest Bonds or Capital Appreciation Bonds and may be in one or more Series that may be delivered from time to time. The City shall by Supplemental Resolution authorize each such Series and shall specify the following: the authorized principal amount of such Series; the Projects to be financed with the proceeds thereof; the date and terms of maturity or maturities of the Bonds of such Series, or the payment of the Bonds on the demand of the holder, provided that each maturity date shall be October 1 (or, in the event of semiannual maturities of principal, April 1 and October 1) unless otherwise expressly provided by Supplemental Resolution, and provided further that the final maturity date of any Series of Bonds shall not exceed forty (40) years from the date of initial issuance of the Bonds of such Series; the interest rate or rates of the Bonds of such Series, which may include variable, dual adjustable, convertible or other rates, original issue discounts, compound interest, Capital Appreciation Bonds and zero interest rate bonds, provided that the interest rate on each such Series shall never exceed for such Series the maximum interest rate permitted by law in effect at the time such Series of Bonds are issued, and provided further that in the event original issue discount, zero interest rate, Capital Appreciation Bonds or similar Bonds are issued, only the original principal amount of such Bonds shall be deemed issued on the date of issuance for the purposes of the maximum amount of Bonds authorized hereunder or under a supplemental ordinance or resolution; the denominations, numbering, lettering and series designation of such Series of Bonds, provided that the Bonds shall be in the denominations of \$5,000 or any integral multiple thereof, or in the case of Capital Appreciation Bonds, \$5,000 amount due at maturity, or any integral multiple thereof, or any other denomination designated by Supplemental Resolution; the Paying Agent and place or places of payment of such Bonds; the redemption prices for such Series of Bonds and any terms of redemption or any formula for accretion upon redemption not inconsistent with the provisions of this resolution, which may include mandatory redemption at the election of the holder or registered owner thereof; the amount and date of each Amortization Installment, if any, for such Series of Bonds, provided that each Amortization Installment shall fall due on April 1 or October 1, or both, of a Bond Year; the use of proceeds of such Series of Bonds, including deposits required to be made into any construction fund, reserve fund and renewal and replacement fund; and any other terms or provisions applicable to the Series of Bonds, not inconsistent with the provisions of this resolution or the Act. All of the foregoing may be added by supplemental resolution or resolutions (or supplemental ordinance or ordinances) adopted at any time and from time to time prior to the issuance of such Series of Bonds. Unless otherwise so provided, each Bond shall bear interest from the later of the Dated Date or original issue date

shown thereon or the most recent interest payment date to which interest has been paid, until payment of the principal sum or until provision for the payment thereof on or after the maturity or redemption date has been duly provided for.

Unless coupon bonds, the interest on which is excluded from gross income for federal income tax purposes, may again be issued under Section 103 of the Code, or any successor to such Code section, or unless such Bonds are intended to be Taxable Bonds, all Bonds hereunder shall be in registered form, shall be payable in lawful money of the United States of America, and, in the case of Current Interest Bonds, interest thereon shall be payable by mail to the registered owner thereof. Principal of Current Interest Bonds and principal of and any accreted interest on Capital Appreciation Bonds, shall be payable at maturity or earlier redemption thereof upon presentation and surrender of such Bonds at the principal office of the Registrar by check or draft unless otherwise provided by Supplemental Resolution. To the extent the City under then applicable law may issue any Series of Bonds in coupon form, the interest on which, in the opinion of Bond Counsel, is excluded from gross income for federal tax purposes, or to the extent such Bonds are to be issued as Taxable Bonds, the City may amend this resolution, including the form of the Bonds, to authorize and provide for the issuance and payment of such coupon Bonds. In addition, notwithstanding the foregoing, if and to the extent permitted by applicable law, the City shall establish a system of registration with respect to any Series or all Series of Bonds issued hereunder and may issue thereunder certificated registered public obligations (represented by instruments) or uncertificated registered public obligations (not represented by instruments) commonly known as book-entry obligations, combinations thereof, or such other obligations as may then be permitted by law. The City shall appoint such registrars, transfer agents, depositaries or other agents as may be necessary to cause the registration, registration of transfer and reissuance of the Bonds within a commercially reasonable time according to the then current industry standards and to cause the timely payment of interest, principal and premium payable with respect to the Bonds. Registration and registration of transfer of the Bonds shall be subject to the terms set forth below and any Supplemental Resolution. Any such system may be effective for any Series then outstanding or to be subsequently issued, provided that if the City adopts a system for the issuance of uncertificated registered public obligations, it may permit thereunder the conversion, at the option of a holder of any Bond then outstanding, of a certificated registered public obligation to an uncertificated registered public obligation, and the reconversion of the same. A list of the names and addresses of the registered owners of the Bonds shall be maintained at all times by the Registrar and shall be made available to any Bondholder requesting same during normal business hours.

The registration of the Bonds may be transferred upon the registration books therefor upon delivery to the Registrar, accompanied by a written instrument

or instruments of transfer in form and with guaranty of signature satisfactory to the Registrar, duly executed by the registered owner of such Bonds or by his attorney-in-fact or legal representative, containing written instructions as to the details of transfer of such Bonds, along with the social security number or federal employer identification number of such transferee. In all cases of a transfer of the Bonds, the Registrar shall at the earliest practical time in accordance with the provisions of this resolution enter the transfer of ownership in the registration books for the Bonds and (unless uncertificated registration shall be requested and the City has a registration system that will accommodate uncertificated registration) shall deliver in the name of the new transferee or transferees a new fully registered Bond or Bonds of the same maturity and of authorized denomination or denominations for the same aggregate principal amount and payable from the same sources of funds. Neither the City nor the Registrar shall be required to register the transfer of any Bond during the period commencing on the fifteenth day of the month next preceding an interest payment date on the Bonds and ending on such interest payment date, or, in the case of any proposed redemption of Bonds, after such Bonds or any portion thereof have been selected for redemption. The Registrar or the City may charge the registered owners of such Bonds for the registration of every such transfer of such Bonds sufficient to reimburse it for any tax, fee or any other governmental charge required to be paid, except for any such governmental charge imposed by the City, with respect to the registration of such transfer, and may require that such amounts be paid before any such new Bonds shall be delivered.

If any date for payment of the principal of, premium, if any, or interest on any Bond is not a Business Day, then the date for such payment shall be the next succeeding Business Day, and payment on such day shall have the same force and effect as if made on the nominal date of payment.

The form of Bonds may provide that the holder of any such Bond may demand that the City purchase such Bond by payment of principal and interest within a stated period after delivering notice to a designated agent for the City and providing a copy of the notice with the tender of the Bond to such agent. The designated agent for the City, in accordance with the terms of a remarketing or replacement agreement, may provide for the resale or redelivery of the Bonds on behalf of the City at a price provided for in the agreement. If the Bonds shall not be resold or redelivered within a stated period, the agent for the City may be authorized to draw upon a previously executed Credit Facility or Liquidity Facility between the City and one or more banks or other financial or lending institutions permitting the City to borrow funds to pay for the purchase of Bonds to which such Credit Facility or Liquidity Facility shall pertain. The particular form or forms of such demand provisions, the period or periods for payment of principal and interest after delivery of notice, the appointment of the agent for the City, the terms and provisions of the remarketing or replacement agreement, and the terms and

provisions of the Credit Facility or Liquidity Facility shall be as designated by a supplemental ordinance or resolution of the City pertaining to each Series of Bonds to which such terms and provisions are applicable, prior to the sale and delivery thereof.

SECTION 6.03. Execution of Bonds. The Bonds shall be executed in the name of the City by the Mayor and the seal of the City shall be imprinted, reproduced or lithographed on the Bonds and attested to and countersigned by the Clerk. The signatures of the Mayor and the Clerk on the Bonds may be by facsimile, but one such officer shall sign his manual signature on the Bonds unless the City appoints an authenticating agent, registrar, transfer agent or trustee who shall be authorized and directed to cause one of its duly authorized officers to manually execute the Bonds. If any officer whose signature appears on the Bonds ceases to hold office before the delivery of the Bonds, his signature shall nevertheless be valid and sufficient for all purposes. In addition, any Bond may bear the signature of, or may be signed by, such persons as at the actual time of execution of such Bond shall be the proper officers to sign such Bond although at the date of such Bond or the date of delivery thereof such persons may not have been such officers.

SECTION 6.04. Bonds Mutilated, Destroyed, Stolen or Lost. If any Bond is mutilated, destroyed, stolen or lost, the City or its agent may, in its discretion (i) deliver a duplicate replacement Bond, or (ii) pay a Bond that has matured or is about to mature. A mutilated Bond shall be surrendered to and cancelled by the Clerk of the City or its duly authorized agent. The Bondholder must furnish the City or its agent proof of ownership of any destroyed, stolen or lost Bond; post satisfactory indemnity; comply with any reasonable conditions the City or its agent may prescribe; and pay the City's or its agent's reasonable expenses.

Any such duplicate Bond shall constitute an original contractual obligation on the part of the City whether or not the destroyed, stolen, or lost Bond be at any time found by anyone, and such duplicate Bond shall be entitled to equal and proportionate benefits and rights as to lien on, and source of and security for payment from, the funds pledged to the payment of the Bond so mutilated, destroyed, stolen or lost.

SECTION 6.05. Provisions for Redemption. Each Series of Bonds shall be subject to redemption prior to their maturity at such times and in such manner as shall be established by Supplemental Resolution adopted on or before the time of delivery of such Series of Bonds. Notice of redemption shall be given as provided by such Supplemental Resolution.

ARTICLE VII
SOURCE OF PAYMENT OF BONDS;
SPECIAL OBLIGATIONS OF THE ISSUER

SECTION 7.01. Bonds Not to be General Indebtedness of the City. The Bonds shall not be or constitute general obligations or indebtedness of the City within the meaning of the Constitution of the State, but shall be payable solely from and secured by a lien upon and a pledge of the Gross Revenues and certain funds and the earnings thereon pledged to the payment of the Bonds, in the manner and to the extent provided in a Supplemental Resolution to be adopted prior to the issuance of the initial Series of Bonds. No Bondholder shall ever have the right to compel the exercise of the ad valorem taxing power of the City or taxation in any form on any real or personal property to pay such Bonds or the interest thereon, nor shall any Bondholder be entitled to payment of such principal and interest from any other funds of the City other than the Gross Revenues and the funds and the earnings thereon pledged to payment of the Bonds, all in the manner and to the extent provided in a Supplemental Resolution adopted prior to the issuance of the initial Series of Bonds. The Bondholders shall have no lien upon the System or the Projects.

SECTION 7.02. Pledge of Revenues. The payment of the principal of and interest on the Bonds shall be secured forthwith equally and ratably by an irrevocable lien on the Gross Revenues (on a parity with the portion thereof pledged to the State Revolving Loan), moneys deposited into the funds and accounts created by a Supplemental Resolution to be adopted prior to the issuance of the initial Series of Bonds, and all earnings thereon, all in the manner and to the extent provided in such Supplemental Resolution, prior and superior to all other liens or encumbrances on the Gross Revenues, other than the pledge of the portion of Gross Revenues to the State Revolving Loans, and the City does hereby irrevocably pledge the Gross Revenues, moneys deposited into the funds and accounts to be created by Supplemental Resolution, and all earnings thereon, to the extent expressly provided by Supplemental Resolution, all to the payment of the Cost of Operation and Maintenance of the System, the principal of, premium, if any, and interest on the Bonds, the funding and maintaining of the reserves therefor as required herein and for all other payments as provided herein. Notwithstanding the foregoing, however, nothing herein provided shall be deemed to grant or create a lien on any account in any reserve fund created with respect to a particular Series of Bonds in favor of the owners of Bonds of any other Series, and each account in any reserve fund shall secure only the Series of Bonds with respect to which it was created.

ARTICLE VIII
GENERAL COVENANTS OF THE ISSUER

SECTION 8.01. Representations of the City. The City makes the following representations on which the Bondholders are hereby entitled to rely:

(a) Adoption of this resolution and the compliance by the City with the requirements hereof will not conflict with or result in a breach of or a default under any ordinance, resolution, agreement or instrument to which the City is now a party, including, without limitation, the State Revolving Loans.

(b) The City is duly authorized and empowered to operate the System under the laws, rulings, regulations and ordinances of the United States, the State and the departments, agencies and political subdivisions thereof.

(c) There are no pending, or to the knowledge of the City, threatened actions or proceedings before any court of the State or any federal court in the State or any administrative agency which are likely in any case or in the aggregate to materially adversely affect the financial condition or operations of the City or its obligations under this resolution, nor is the City aware of any facts or circumstances that would give rise to any such actions or proceedings.

SECTION 8.02. Punctual Payment. The City covenants and agrees with the Bondholders that it will punctually pay or cause to be paid the principal of, premium, if any, and interest on the Bonds and that it will be unconditionally and irrevocably obligated, so long as any of the Bonds are outstanding and unpaid, to take all lawful action necessary or required during each Fiscal Year so long as any of the Bonds are outstanding and unpaid, to pay from the funds pledged hereunder, in accordance with the provisions of any Supplemental Resolution (i) all reserve fund deposits provided for such year, and (ii) all other payments required by any Supplemental Resolution, and that the funds pledged hereunder shall not, in the aggregate, be reduced so as to be insufficient to provide adequate revenues for such purposes. Such covenant and agreement of the City shall be cumulative and shall continue until such funds in amounts sufficient to make all payments required hereunder have been actually paid as herein provided.

SECTION 8.03. Maintenance of System. The City will maintain the System and all parts thereof in good condition and will operate the same in an efficient and economical manner, making such expenditures for such equipment, maintenance and repairs and for renewals and replacements thereof as may be proper for its economical operation and maintenance.

SECTION 8.04. Operating Budget. Before the first day of each Fiscal Year the Governing Body shall prepare, approve and adopt in the manner prescribed by law, a detailed budget of the Gross Revenues and Cost of Operation and Maintenance for the next succeeding Fiscal Year. Copies of its Annual Budgets shall be available for inspection at the offices of the City and shall be mailed to any Bondholder requesting the same in writing. The City shall not expend any moneys for any purpose in excess of the budgeted appropriation therefor, or for a purpose for which there is no appropriation unless such expenditure will not have an appreciable effect upon the City's anticipated or actual Gross Revenues available to pay debt service on the Bonds and to make the other deposits required hereunder or under any Supplemental Resolution related to the Bonds.

SECTION 8.05. Rate Covenant. Commencing on a date at least thirty (30) days prior to the first interest payment date for which interest on the initial Series of the Bonds has not been fully funded from Bond proceeds or from other funds of the City, the City will enact (unless the existing rate ordinance or resolution is sufficient for the purposes hereof) and cause to be in effect a rate ordinance or resolution, and the City covenants with the Bondholders to fix, establish, revise from time to time whenever necessary, maintain and collect fees, rates, rentals and other charges for the use of the products, services and facilities of the System that will always provide Gross Revenues in each Bond Year which, unless otherwise provided by Supplemental Resolution, will be sufficient to timely pay all Costs of Operation and Maintenance and all principal, interest and redemption premiums, if any, with respect to the Bonds.

SECTION 8.06. Books and Records. The City shall keep separately identifiable financial books, records, accounts and data concerning the operation of the System and the receipt and disbursement of Gross Revenues.

SECTION 8.07. No Free Services. The City will not render or cause to be rendered any free services of any nature by its System, nor will any preferential rates be established for users of the same class; and in the event the City or any department, agency, instrumentality, officer or employee thereof, shall avail itself of the facilities or services provided by the System, or any part thereof, the same rates, fees or charges applicable to other customers receiving like services under similar circumstances shall be charged to the City and any such department, agency, instrumentality, officer or employee. Such charges shall be paid as they accrue, and the City shall transfer from its general funds sufficient sums to pay such charges. The revenues so received shall be deemed to be revenues derived from the operation of the System, and shall be deposited and accounted for in the same manner as other revenue derived from such operation of the System.

SECTION 8.08. Enforcement of Collections. The City will diligently enforce its right to receive the Gross Revenues and will diligently enforce and collect the fees, rates, rentals and other charges for the use of the products, services and

facilities of the System. The City will not take any action that will impair or adversely affect its rights to levy, collect and receive the Gross Revenues, as herein pledged, or impair or adversely affect in any manner the pledge of the Gross Revenues, made herein or the rights of the Bondholders. The City shall be unconditionally and irrevocably obligated, so long as any of the Bonds are outstanding and unpaid, to take all lawful action necessary or required to continue to entitle the City to receive the Gross Revenues in at least the amounts required by this resolution.

SECTION 8.09. Issuance of Obligations. Upon issuance of the initial Series of Bonds, the City will not issue any obligations payable from the Gross Revenues, or voluntarily create or cause to be created any debt, lien, pledge, assignment, encumbrance or other charge having priority to or being on a parity with the lien of any Bonds issued pursuant to this resolution, upon the Gross Revenues, except under the conditions and in the manner provided by Supplemental Resolution adopted prior to the issuance of the initial Series of Bonds.

ARTICLE IX VALIDATION AUTHORIZATION

In order to facilitate the issuance of the Bonds and pursuant to the Constitution and laws of the State, the City Attorney is hereby authorized and directed to institute proper proceedings in the Eighth Judicial Circuit in and for Alachua County, Florida, to confirm and validate the Bonds and to pass upon the security therefor, and Holland & Knight LLP, Bond Counsel, is hereby authorized to assist the City Attorney with respect to such validation proceedings.

ARTICLE X MISCELLANEOUS PROVISIONS

SECTION 10.01. Severability. If any one or more of the covenants, agreements or provisions of this resolution should be held contrary to any express provision of law or contrary to the policy of express law, though not expressly prohibited, or against public policy, or shall for any reason whatsoever be held invalid, then such covenants, agreements or provisions shall be null and void and shall be deemed separate from the remaining covenants, agreements or provisions of this resolution or of the Bonds issued hereunder, which remaining covenants, agreements and provisions shall remain in full force and effect.

SECTION 10.02. No Third-Party Beneficiaries. Except as herein otherwise expressly provided, nothing in this resolution expressed or implied is intended or shall be construed to confer upon any person, firm or corporation other than the parties hereto and the owners and holders of the Bonds issued under and secured by this resolution, any right, remedy or claim, legal or equitable, under or

by reason of this resolution or any provision hereof, this resolution and all its provisions being intended to be and being for the sole and exclusive benefit of the parties hereto and the owners and holders from time to time of the Bonds issued hereunder.

SECTION 10.03. Controlling Law; Members of Governing Body Not Liable. All covenants, stipulations, obligations and agreements of the City contained in this resolution shall be deemed to be covenants, stipulations, obligations and agreements of the City to the full extent authorized by the Act and provided by the Constitution and laws of the State. No covenant, stipulation, obligation or agreement contained herein shall be deemed to be a covenant, stipulation, obligation or agreement of any present or future member, agent, officer or employee of the City or the Governing Body of the City in his or her individual capacity, and neither the members or officers of the Governing Body of the City nor any official executing the Bonds shall be liable personally on the Bonds or this resolution or shall be subject to any personal liability or accountability by reason of the issuance or the execution by the City or such members thereof.

SECTION 10.04. Repeal of Inconsistent Resolutions. All resolutions or parts thereof in conflict herewith are to the extent of such conflict superseded and repealed.

SECTION 10.05. Effective Date. This Resolution shall become effective immediately upon its adoption.

PASSED AND ADOPTED this ____ day of _____, 2001.

CITY OF GAINESVILLE, FLORIDA

(SEAL)

ATTEST:

By: _____
Mayor

By: _____
Clerk of the Commission

APPROVED AS TO FORM AND
LEGALITY:

By: _____
City Attorney

EXHIBIT "A"

City of Gainesville Projects to be financed in part with Bonds proceeds

Projects

Amount to be
Financed

Extensions, improvements
and repairs to the existing
stormwater system, including
land acquisition and/or land
rights for any facility

Up to 5 Million Dollars