

**RESOLUTION NO. 020918**

**PASSED February 24, 2003**

**A RESOLUTION OF THE CITY OF GAINESVILLE, FLORIDA, AUTHORIZING AND PROVIDING FOR THE ISSUANCE OF NOT TO EXCEED \$100,000,000 IN AGGREGATE ORIGINAL PRINCIPAL AMOUNT OF CITY OF GAINESVILLE, FLORIDA, TAXABLE PENSION OBLIGATION REVENUE BONDS, SERIES 2003A (EMPLOYEES' PLAN) AND SERIES 2003B (CONSOLIDATED PLAN) FOR THE PURPOSE OF FUNDING THE UNFUNDED PENSION OBLIGATIONS OF THE CITY WITH RESPECT TO THE EMPLOYEES' PLAN AND THE CONSOLIDATED PLAN RESPECTIVELY; PROVIDING FOR THE PAYMENT OF SUCH BONDS FROM LEGALLY AVAILABLE NON-AD VALOREM REVENUES OF THE CITY WHICH ARE BUDGETED AND APPROPRIATED BY THE CITY ON AN ANNUAL BASIS AND DEPOSITED INTO A SINKING FUND ACCOUNT FOR SUCH BONDS; PROVIDING FOR THE RIGHTS AND REMEDIES OF THE HOLDERS THEREOF, AND MAKING CERTAIN COVENANTS AND AGREEMENTS IN CONNECTION THEREWITH; PROVIDING AN EFFECTIVE DATE; AND PROVIDING CERTAIN OTHER DETAILS.**

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

**ARTICLE I**

**AUTHORITY FOR THIS RESOLUTION**

**SECTION 1.01. Authority.** This Resolution (the "Bond Resolution") is enacted pursuant to Chapter 166, Florida Statutes, Chapter 159, Part VII, Florida Statutes, the Charter of the Issuer, and other applicable provisions of law (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 in Article I hereof.

"Additional Bonds" means additional obligations issued under this Bond Resolution in compliance with the terms, conditions and limitations contained herein, which will have a lien on the Pledged Revenues ranking equally with the lien of the 2003 Bonds thereon.

"Amortization Installment" means the funds to be deposited in the Sinking Fund Account in a given Bond Year for the payment at maturity or redemption of a portion of Term Bonds of a designated Series, as established by resolution or ordinance of the Issuer at or before the delivery of that Series of Term Bonds.

"Annual Budget" means the budget or budgets, as amended and supplemented from time to time, prepared by the Issuer for each Fiscal Year 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 Issuer as a depository, which is authorized under Florida law to be a depository of public funds of the Issuer and which has qualified with all applicable state and federal requirements concerning the receipt of Issuer funds.

"Bond Counsel" means nationally recognized 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.

"Bondholder" or "Holder" or any similar term shall mean any person who shall be the registered owner of any such Bond or Bonds as shown on the registration books for the Bonds maintained by the Registrar.

"Bond Insurer" means with respect to any Series of Bonds, the issuer of a municipal bond insurance policy insuring the payment, when due, of the principal of and interest on such Series of Bonds.

"Bond Obligation" means, as of the date of computation, the sum of: (i) the principal amount of all Current Interest Bonds then Outstanding and (ii) the Compounded Amount on all Capital Appreciation Bonds then Outstanding.

"Bond Service Requirement" means for a given Bond Year the remainder, after subtracting any accrued interest or capitalized interest for that year that has been deposited into the Sinking Fund Account for that purpose, from the sum of:

- (1) The amount required to pay the interest coming due on Bonds during that Bond Year, including the accreted interest component of the Compounded Amount of Capital Appreciation Bonds coming due during that Bond Year,
- (2) The amount required to pay the principal of Serial Bonds and the principal of Term Bonds maturing in that Bond Year that are not included in the previous Amortization Installments for such Term Bonds, including the principal component of the Compounded Amounts of Capital Appreciation Bonds, maturing in that Bond Year, and
- (3) The Amortization Installment for all series of Term Bonds for that Bond Year.

For purposes of determining the Bond Service Requirement, the interest rate on Variable Rate Bonds shall be calculated as follows:

(a) The rate of interest on any outstanding Variable Rate Bonds shall be assumed to be 110% of the average interest rate borne by such Bonds during the preceding twelve (12) months (or such shorter period as such Variable Rate Bonds have been Outstanding).

(b) For purposes of determining whether additional variable rate indebtedness may be issued under Section 9.01 or Article X hereof, the interest rate on Variable Rate Bonds (other than Taxable Bonds) (or other variable rate indebtedness the interest on which is excludable from gross income for federal income tax purposes) proposed to be issued shall be assumed to be the greater of (1) the average of The Bond Market Association Municipal Swap Index for the immediately preceding 52 weeks (or if not available for such 52-week period, then for the longest immediately preceding period for which available), or if such index is no longer published, a comparable 7-day index for high quality variable rate demand obligations selected by the Issuer, in either case, plus 50 basis points, or (2) if the variable rate on such Bonds or other indebtedness is determined by reference to an index or a formula based on an index, the average interest rate which would have been applicable to such Variable Rate Bonds (or other variable rate indebtedness) based on such index or formula during the immediately preceding 52-week period (or if not available for such 52-week period, then for the longest immediately preceding period for which available).

(c) For purposes of determining whether additional variable rate indebtedness may be issued under Section 9.01 or Article X hereof, the interest rate on Variable Rate Bonds that are Taxable Bonds (or other variable rate indebtedness the interest on which is not excluded from gross income for federal income tax purposes) proposed to be issued hereunder shall be assumed to be the interest rate quoted for the week preceding the date of calculation on direct United States Treasury obligations having a maturity the same as the nominal maturity of the Variable Rate Bonds, plus 50 basis points.

(d) For purposes of Section 6.03 hereof, if the interest rate on any Variable Rate Bonds is fixed for an entire Fiscal Year, such actual interest rate shall be used with respect to such Variable Rate Bonds for purposes of calculating the Bond Service Requirement for such Fiscal Year.

(e) The interest rate for Variable Rate Bonds for purposes of determining the amount, if any, to be deposited into a subaccount in the Reserve Account for such Variable Rate Bonds shall be as required by supplemental ordinance or resolution authorizing such Variable Rate Bonds; provided, however, that use of such assumptions shall not result in a withdrawal or reduction of any credit rating assigned to any outstanding Bonds and, if no other assumptions are provided, the assumptions provided in paragraph (b) above shall apply for Bonds that are not Taxable Bonds and the assumptions provided in paragraph (c) above shall apply for Taxable Bonds.

(f) For purposes of this Resolution, if with respect to any Series or portion of a Series of Bonds, the Issuer enters into a qualified Hedge Agreement providing for payments to the Issuer which are pledged to the payment of interest on such Bonds in an amount equal to interest on a notional amount equal to the principal amount of such Bonds (which may include all or any portion of the principal amount of a Series of

Bonds), based on a fixed rate or a variable index or formula different from that used to calculate interest to the Issuer with respect to such Bonds taking into account (i) the actual interest rate borne by such Bonds, (ii) payments to be received by the Issuer pursuant to such qualified Hedge Agreement based upon interest on such notional amount determined by a fixed rate or a variable rate index or formula, and payment obligations of the Issuer under such qualified Hedge Agreement based upon interest on such notional amount determined by reference to a fixed rate or a variable rate index or formula, shall be used for purposes of this definition as the rate of interest with respect to such Bonds, including, without limitation, for purposes of determining whether or not such Bonds are Variable Rate Bonds.

(g) If two Series of Variable Rate Bonds, or one or more maturities within a Series, are issued simultaneously with inverse floating interest rates providing a composite fixed rate for such Bonds taken as a whole, such composite fixed rate shall be used in determining the Bond Service Requirement with respect to such Bonds for all purposes of this Resolution.

(h) If a Series of Variable Rate Bonds is subjected to purchase by the Issuer pursuant to a mandatory or optional tender by the holder, the "tender" date or dates shall be ignored and the stated maturity dates thereof shall be used for purposes of all calculations hereunder.

(i) If the Issuer has entered into a Qualified Hedge Agreement with respect to all or a portion of the Bonds issued hereunder, the interest coming due on such Bonds for purposes of this definition shall be the net aggregate amount each applicable period, taking into account (i) the actual interest borne by such Bonds for such period (using the assumptions described above for Variable Rate Bonds, if applicable), (ii) the Qualified Hedge Receipts for such period and (iii) the Qualified Hedge Payments for such period, with the payments described in clauses (ii) and (iii) above being calculated on the applicable notional amount.

"Bond Year" means the annual period beginning on the first day of October of each year and ending on the last day of September of the same year; provided that when such term is used to describe the period during which deposits are to be made pursuant to Article VII hereof to amortize the principal and interest on the Bonds maturing or becoming subject to redemption, for all purposes hereof the principal and interest maturing or becoming subject to redemption on the first day of the month immediately succeeding any Bond Year shall be deemed to mature or become subject to redemption on the last day of the preceding Bond Year.

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

"Bonds" means the 2003 Bonds and any Additional Bonds authorized to be issued pursuant to Article X below.

"2003 Bonds" means the 2003A Bonds, and the 2003B Bonds authorized to be issued pursuant to this Bond Resolution in the aggregate original principal amount not exceeding \$100,000,000.

"2003A Bonds" means the City of Gainesville, Florida, Taxable Pension Obligation Revenue Bonds, Series 2003A (Employees' Plan), authorized to be issued pursuant to this Bond Resolution.

"2003B Bonds" means the City of Gainesville, Florida, Taxable Pension Obligation Revenue Bonds, Series 2003B (Consolidated Plan), authorized to be issued pursuant to this Bond Resolution.

"Business Day" means a day on which banking business is transacted in the city or cities in which the Paying Agent and the Registrar have their 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 Manager" means the City Manager of the Issuer.

"Clerk" means the Issuer's Clerk of the Commission or any Deputy Clerk of the Commission or Acting Clerk of the Commission.

"Closing Date" means, with respect to a particular Series of Bonds issued hereunder, the date of issuance and delivery of such Bonds to the original purchaser or purchasers thereof.

"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 and temporary regulations), the applicable rulings of the Internal Revenue Service (including published Revenue Rulings and private letter rulings) and applicable court decisions.

"Composite Reserve Requirement" means an amount of money or available amount under one or more Reserve Products, or a combination thereof, equal to the lesser of (i) the Maximum Bond Service Requirement calculated with respect to all Series of Bonds Outstanding hereunder that are secured by the Composite Reserve Subaccount, (ii) 125% of the average annual Bond Service Requirement calculated with respect to all Series of Bonds Outstanding hereunder that are secured by the Composite Reserve Subaccount, or (iii) 10% of the aggregate stated principal amount of all Series of Bonds Outstanding hereunder that are secured by the Composite Reserve Subaccount; provided, however, that in determining the aggregate stated original principal amount of all Bonds Outstanding hereunder for purposes of (iii), the issue price of a Series (net of pre-issuance accrued interest) shall be substituted for the original principal stated amount of that Series if the Series was sold at either an original issue discount or premium exceeding two percent (2%) of the stated redemption price at maturity of such Series.

"Composite Reserve Subaccount" means the subaccount in the Reserve Account established pursuant to Section 7.01 of this Resolution.

"Compounded Amounts" means the principal amount of the Capital Appreciation Bonds plus the amount of interest that has accreted on such Bonds, compounded semiannually, to the date of calculation, determined by reference to accretion tables contained in each such Bond or an offering circular with respect thereto. The Compounded Amounts for such Bonds as of any date not stated in such tables shall be calculated by adding to the Compounded Amount for such Bonds as of the date stated in such tables immediately preceding the date of computation a portion of the difference between the Compounded Amount for such preceding date and the Compounded Amount for such Bonds as of the date shown on such tables immediately succeeding the date of calculation, apportioned on the assumption that interest accretes during any period in equal daily amounts on the basis of a year of twelve 30-day months.

"Consolidated Plan" means the contributory defined benefit retirement plan known as the Consolidated Police Officer's and Firefighters' Retirement Plan sponsored by the Issuer that covers the Issuer's sworn police officers and firefighters.

"Cost of a Project" means those costs described in Section 5.01 hereof.

"Covenant Revenues" means the Non-Ad Valorem Revenues budgeted and appropriated, and deposited into the Sinking Fund Account, to pay the principal of, premium, if any, and interest on the Bonds of a particular series pursuant to Section 6.03 hereof.

"Credit Facility" means a municipal bond insurance policy, 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 other interval as the Issuer may determine.

"Dated Date" means the date of authentication or issuance of a Bond.

"Debt Service Fund" means the "Pension Obligation Debt Service Fund" established pursuant to Section 7.01 hereof.

"Defined Contribution Plan" means the Defined Contribution Pension Plan open to certain Issuer professional and managerial employees.

"Direct Obligations" means non-callable direct obligations (including obligations issued or held in book entry form) of the Department of Treasury of the United States of America.

"Employees' Plan" means the contributory defined benefit retirement plan known as the Employees' Pension Plan sponsored and administered by the Issuer and that covers most permanent employees of the Issuer, except certain employees who participate in the Defined Contribution Plan or the Consolidated Plan.

"Finance Director" means the Finance Director of the Issuer or his or her designee.

"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 Issuer pursuant to general law.

"Fitch" means Fitch Ratings and its successors.

"Governing Body" means the City Commission of the City of Gainesville, Florida.

"Investment Obligations" means, unless otherwise provided by subsequent resolution or ordinance of the Issuer by contract executed in connection with the issuance of a Series of Bonds, any obligation or evidence of a participation in one or more obligations, which at any time are legal for investment of funds of the Issuer pursuant to the laws of the State of Florida and meets the requirements of the investment policy of the Issuer.

"Issuer" means the City of Gainesville, Florida.

"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 Issuer to pay the purchase price of one or more Series of Bonds.

"Maximum Bond Service Requirement" means, as of any particular date of calculation, the largest Bond Service Requirement for any remaining Bond Year, except that with respect to any Bonds for which Amortization Installments have been established, the amount of principal coming due on the final maturity date with respect to such Bonds shall be reduced by the aggregate principal amount or Compounded Amounts, as the case may be, of such Bonds that are to be redeemed or paid from Amortization Installments to be made in prior Bond Years. For purposes of this Bond Resolution, the Maximum Bond Service Requirement shall be calculated at least annually as of the first day of each Bond Year and as of the date of issuance of any Series of Bonds hereunder.

"Mayor" means the Mayor or, in his or her absence or inability to perform, the Mayor-Commissioner Pro Tempore, of the Issuer.

"Moody's" means Moody's Investors Service, Inc. and its successors.

"Non-Ad Valorem Revenues" means all legally available non-ad valorem revenues of the Issuer derived from any source whatsoever, including, without limitation, investment income, which are legally available for the payment by the Issuer of debt service on Bonds or Non-Self-Supporting Revenue Debt, including, without limitation, legally available non-ad valorem revenues derived from sources subject to a prior pledge thereof for the payment of other obligations of the Issuer and available after payment of principal and interest on such other obligations, but excluding revenues derived from the Issuer's electric system, natural gas system, water system, wastewater system, telecommunications system ("GRUCom") and stormwater management utility system, except to the extent that revenues derived from such sources are deposited into the Issuer's general fund.

"Non-Self-Supporting Revenue Debt" means obligations evidencing indebtedness for borrowed money, including Bonds issued hereunder, (i) the primary security for which is provided by a covenant of the Issuer to budget and appropriate Non-Ad Valorem Revenues of the Issuer for the payment of debt service on such obligations, or (ii) primarily secured or payable from another source of funds, but with respect to which the Issuer has also covenanted to budget and appropriate Non-Ad Valorem Revenues of the Issuer for the payment of debt service on such obligations, provided that obligations described in this clause (ii) shall only be

considered Non-Self-Supporting Revenue Debt to the extent the Issuer has included in its budget (by amendment or otherwise) the payment of such Non-Ad Valorem Revenues pursuant to such covenant to pay debt service on such obligations. Such term shall not include any debt payable from the revenues of a utility system.

"Outstanding" or "Bonds outstanding" means all Bonds which have been issued pursuant to this Bond Resolution except:

(a) Bonds cancelled after purchase in the open market or because of payment at or redemption prior to maturity;

(b) Bonds for the payment or redemption of which pursuant to Section 12.02 of this Bond Resolution cash funds or Direct Obligations or any combination thereof shall have been theretofore irrevocably set aside in a special account with the Paying Agent or an Authorized Depository acting as an escrow agent (whether upon or prior to the maturity or redemption date of any such Bonds) in an amount which, together with earnings on such Direct Obligations, will be sufficient to pay the principal of and interest on such Bonds at maturity or upon their earlier redemption; provided that, if such Bonds are to be redeemed before the maturity thereof, notice of such redemption shall have been given according to the requirements of this Bond Resolution or irrevocable instructions directing the timely publication of such notice and directing the payment of the principal of and interest on all Bonds at such redemption dates shall have been given to the Paying Agent; and

(c) Bonds which are deemed paid pursuant to Section 5.08 hereof or in lieu of which other Bonds have been issued under Section 5.04 hereof.

"Paying Agent" means the Issuer or any commercial bank with trust powers designated by the Issuer to serve as a Paying Agent or place of payment for the 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 Issuer, and any successors designated pursuant to a resolution or ordinance.

"2003 Pension Obligations" means the Pension Obligations with respect to the Employees' Plan and the Consolidated Plan determined in the reports of Actuarial Concepts, Jacksonville, Florida, and Buck Consultants, Atlanta, Georgia dated February 3, 2003, and January 29, 2003, respectively, plus the estimated unfunded actuarial accrued liability installment payments from April 1, 2003, through September 30, 2003.

"Pension Obligations" means the amount necessary to fund the currently estimated unfunded actuarial accrued liability of one or more of the defined benefit retirement plans sponsored and/or administered by the Issuer.

"Pledged Revenues" means the Covenant Revenues, income received from the investment of moneys deposited in the funds and accounts established hereunder and any Qualified Hedge Receipts (net of any Qualified Hedge Payments).



"Project" means any capital or other project hereafter authorized by the Issuer and funded, in whole or in part, with the proceeds of Additional Bonds issued pursuant to Article X hereof.

"Project Fund" means the Project Fund permitted to be created pursuant to Section 7.02 of this Bond Resolution.

"Qualified Hedge Agreement" means an agreement such as an interest rate swap, collar, cap, or other functionally similar agreement, between the Issuer and a counterparty whose long-term unsecured debt at the time of entering into such agreement is rated in the single-A category or above (without regard to gradations) by at least one major rating agency, which is entered into by the Issuer as a debt management tool with respect to the Bonds or a portion thereof issued hereunder, provided that the payments to be made by the counterparty thereunder have been pledged to the payment of the Bonds.

"Qualified Hedge Payments" means the payment obligation of the Issuer arising under a Qualified Hedge Agreement, which are calculated on the basis of interest on a notional amount which may correspond with the principal amount of certain Bonds issued hereunder or a particular series or maturity thereof, based upon a fixed or a variable rate index or formula. Qualified Hedge Payments include only regularly scheduled payments under a Qualified Hedge Agreement determined by reference to interest on a notional amount and shall not include any other payments under such agreement (for example any termination fee, indemnification obligations or other fees payable to the counterparty).

"Qualified Hedge Receipts" means the payment obligations of the counterparty to the Issuer arising under a Qualified Hedge Agreement which are calculated on the basis of interest on a notional amount which may correspond with the principal amount of certain Bonds issued hereunder, or a particular series or maturity thereof, based upon a fixed or variable rate index or formula. Qualified Hedge Receipts include only regularly scheduled payments under a Qualified Hedge Agreement determined by reference to interest on a notional amount and shall not include any other payments under such agreement (for example, any termination fee, indemnification obligations or other fees payable to the counterparty).

"Rebate Year" means, with respect to a particular Series of Bonds issued hereunder which are not Taxable Bonds, the period selected by the Issuer with respect to such Series of Bonds pursuant to the Code.

"Rebate Amount" means the excess of the future value, as of a computation date, of all receipts on nonpurpose investments (as defined in Section 1.148-3 of the U.S. Treasury Regulations) over the future value, as of that date, of all payments on nonpurpose investments, all as provided by regulations under the Code implementing Section 148 thereof.

"Registrar" means the Issuer or any agent designated from time to time by the Issuer, 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 Account" means the Reserve Account established pursuant to Section 7.01 of this Bond Resolution.

"Reserve Product" means bond insurance, a surety bond or a letter of credit or other credit facility used in lieu of a cash deposit in the Reserve Account and meeting the terms and conditions of Section 7.03(3) of this Bond Resolution.

"Reserve Product Provider" means a reputable and nationally recognized bond insurance provider or a bank or other financial institution providing a Reserve Product, whose bond insurance policies insuring, or whose letters of credit, surety bonds or other credit facilities securing, the payment, when due, of the principal of and interest on bond issues by public entities results in such issues (as of the date of issuance of the Series of Bonds for which the Reserve Product is to be utilized) being rated in one of the two highest full rating categories by S&P, Moody's and Fitch.

"Reserve Requirement" means, with respect to the Composite Reserve Subaccount, the Composite Reserve Requirement, and with respect to each Series of Bonds issued hereunder that is not secured by the Composite Reserve Subaccount, the amount of money, if any, or available amount of Reserve Product or Reserve Products, if any, required by subsequent resolution or ordinance adopted or enacted prior to the issuance of such Series of Bonds to be maintained in the subaccount in the Reserve Account with respect to such Series of Bonds pursuant to Section 7.01 hereof, and which amount shall be available for use only with respect to such Series of Bonds.

"S&P" means Standard & Poor's Ratings Group and its successors.

"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 Bond Resolution.

"Sinking Fund Account" means the Sinking Fund Account established pursuant to Section 7.01 of this Bond Resolution.

"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 Issuer enacted or adopted on or before the date of delivery of such Bonds.

"Variable Rate Bonds" means Bonds issued with a variable, adjustable, convertible or other similar rate which is not fixed in percentage at the date of issue for the entire term thereof.

**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

**SECTION 3.01. Findings.** It is hereby ascertained, determined and declared that:

A. The Issuer has determined that it has unfunded Pension Obligations with respect to the Employees' Plan and the Consolidated Plan.

B. The issuance of the 2003 Bonds for the purpose of funding all or a portion of the 2003 Pension Obligations of the Issuer will serve a public purpose and is in the best interests of the Issuer.

C. The Issuer is authorized and empowered by the Act to issue the 2003 Bonds and use the proceeds thereof, together with other funds of the Issuer, if any, to provide for the funding of the 2003 Pension Obligations.

D. The principal of, premium, if any, and interest on the Bonds and all required sinking fund and other payments with respect thereto shall be payable from the proceeds of Bonds and from moneys deposited in the funds and accounts pledged by this Bond Resolution, which the Issuer has full authority to irrevocably pledge. The Issuer shall never be required to levy ad valorem taxes on any real or personal 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 real or personal property owned by or situated within the limits of the Issuer.

E. The expenditure of proceeds of the 2003 Bonds for the purpose of funding the 2003 Pension Obligations is hereby deemed to be made for a public purpose and constitutes a "project" within the meaning and contemplation of Section 166.101(8), Florida Statutes.

## ARTICLE IV

### THIS INSTRUMENT TO CONSTITUTE CONTRACT

**SECTION 4.01. 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 Bond Resolution shall be deemed to be and shall constitute a contract between the Issuer and the Bondholders. The covenants and agreements herein set forth to be performed by the Issuer 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 V

### AUTHORIZATION OF THE FUNDING OF THE 2003 PENSION OBLIGATIONS; DESCRIPTION, FORM AND TERMS OF BONDS

**SECTION 5.01. Authority for the Funding of the 2003 Pension Obligations and the Issuance of 2003 Bonds.** The funding of all or a portion of the 2003 Pension Obligations and

the issuance of the 2003 Bonds for such purpose is hereby authorized. Subject and pursuant to the provisions hereof, 2003 Bonds to be known as the "City of Gainesville, Florida, Taxable Pension Obligation Revenue Bonds, Series 2003A (Employees' Plan)" and "City of Gainesville, Florida, Taxable Pension Obligation Revenue Bonds, Series 2003B (Consolidated Plan)" (or such other Series designation as shall be designated by subsequent ordinances or resolution), are hereby authorized to be issued, in one or more Series, in an aggregate principal amount not to exceed One Hundred Million Dollars (\$100,000,000), for the purpose of funding of all or a portion of the 2003 Pension Obligations and paying the costs of issuance of the 2003 Bonds. Additional Bonds in excess of the principal amount of the 2003 Bonds issued pursuant to this Bond Resolution may be issued from time to time pursuant to the terms of Article X hereof.

For purposes of the 2003 Bonds and Additional Bonds that may be issued hereunder from time to time, the Cost of a Project may include, without limiting the items of cost permitted under the Act, the following items to the extent they relate to any such Project: (i) all expenses necessary, appurtenant or incidental to the reimbursement, acquisition, construction and installation of the Project, including without limitation the cost of any land or interest therein or of any fixtures, equipment or personal property necessary or convenient therefor, the cost of labor and materials to complete such construction, architectural, engineering and legal expenses, fiscal expenses, expenses for estimates of costs and of revenues, expenses for plans, specifications and surveys, interest during construction, administrative expenses related solely to the acquisition and construction of the Project; (ii) all costs of issuance of Bonds, including, without limitation, the fees and costs of municipal bond insurance, a Reserve Product, a Liquidity Facility and/or a Credit Facility, if any, bond counsel, underwriter and or disclosure counsel, special tax counsel and financial advisors, printing costs, rating agency fees, initial acceptance fees of paying agents, registrars, trustees, depositaries and all fees and costs of financial institutions providing special credit facilities, if any, with respect to one or more Series of Bonds; (iii) all the 2003 Bonds and fees of special advisors and consultants associated with one or more aspects of such Project; (iv) all amounts required to be paid by this Bond Resolution, or any supplemental ordinance or resolution authorizing the issuance of Bonds, into the Reserve Account and into the Sinking Fund Account upon the issuance of any Series of Bonds; (v) the reimbursement to the Issuer of all eligible costs of such Project that have been advanced by the Issuer from its available funds or on behalf of the Issuer before the delivery of a Series of Bonds issued to finance such costs; (vi) the principal, interest, premium, if any, and costs related thereto, payable with respect to any note or other obligation issued by the Issuer to pay any part of the Cost of the Project enumerated in this Section; (vii) 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 (viii) such other costs and expenses which shall be necessary or incidental to the financing herein authorized.

**SECTION 5.02. Description of Obligations.** The Issuer may by supplemental ordinance or resolution specify for each Series of Bonds, including the 2003 Bonds, the following: the authorized principal amount of Bonds needed to pay the 2003 Pension Obligations or the Cost of the Project for which such Series of Bonds is issued; the date and terms of maturity or maturities of the Bonds and the interest payment dates with respect thereto; the interest rate or rates of the Bonds, which may include variable, dual, convertible or other rates, compound interest, Capital Appreciation Bonds, original issue discount and zero interest rate bonds, provided that the average net interest cost rate on such Bonds shall never exceed the

maximum interest rate permitted by law in effect at the time such 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 to be issued on the date of issuance for the purposes of the maximum amount of Bonds authorized hereunder; the denominations, numbering and lettering of such 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 ordinance or resolution of the Issuer enacted or adopted prior to the issuance of such Bonds; the Paying Agent and place or places of payment of such Bonds; the redemption prices for such Bonds and any terms of redemption or any formula for accretion upon redemption, not inconsistent with the provisions of this Bond Resolution, which may include mandatory redemptions or purchases at the election of the holder or registered owner thereof; the amount and date of each Amortization Installment, if any, for such Term Bonds, provided that each Amortization Installment shall fall due on October 1 of a Bond Year; the use of proceeds of such Bonds not inconsistent with this Bond Resolution, and any other terms or provisions applicable to the Bonds, not inconsistent with the provisions of this Bond Resolution or the Act. The supplemental ordinance or resolution shall designate whether or not such Series of Bonds shall be secured by the Composite Reserve Subaccount. All of the foregoing may be added by supplemental resolution or resolutions (or supplemental ordinance or ordinances) adopted (or enacted) at any time and from time to time prior to the issuance of any Series of such 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. The 2003 Bonds may be issued in one or more Series and the Series designation of such Bonds may be changed to reflect the date and sequence of issuance, and the particular terms thereof.

Except as otherwise provided by subsequent ordinance or resolution, all Bonds issued hereunder shall be in registered form, shall be payable in lawful money of the United States of America and shall bear interest from their date, or from such other date as the Issuer may determine, which in the case of Current Interest Bonds shall be paid by check or draft of the Paying Agent mailed to the registered owner thereof unless otherwise provided by subsequent ordinance or resolution. Principal, and any 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 subsequent ordinance or resolution. In addition, notwithstanding the foregoing, if and to the extent permitted by applicable law, the Issuer may establish a system of registration and may issue thereunder uncertificated registered public obligations (not represented by instruments) commonly known as book-entry obligations, certificated registered public obligations (represented by instruments), combinations thereof, or such other obligations as may then be permitted by law. The Issuer 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 premiums, if any, payable with respect to the Bonds. Registration and registration of transfer of the 2003 Bonds shall be subject to the terms set forth in the form of the 2003 Bonds in Section 5.09 hereof. If the Issuer 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.

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 Bond Resolution enter the transfer of ownership in the registration books for the Bonds and (unless uncertificated registration shall be requested and the Issuer 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. Unless otherwise provided by subsequent ordinance or resolution with respect to a particular Series of Bonds, neither the Issuer nor the Registrar shall be required to register the transfer of any Bond during the fifteen (15) days next preceding an interest payment date on the Bonds 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 Issuer 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 Issuer, with respect to the registration of such transfer, and may require that such amounts be paid before any such new Bonds shall be delivered.

With respect to any Bonds registered in the registration books kept by the Registrar in the name of Cede & Co., as nominee of The Depository Trust Company ("DTC"), all payments of interest on the such Bonds shall be made by the Registrar by check and/or draft or by bank wire transfer to Cede & Co., as Bondholder of such Bonds, the Issuer and the Registrar shall have no responsibility or obligation to any direct or indirect participant in the DTC book-entry program (a "Participant"). Without limiting the immediately preceding sentence, the Issuer and the Registrar shall have no responsibility or obligation with respect to (A) the accuracy of the records of DTC, Cede & Co. or any Participant with respect to any ownership interest on the Bonds, (B) the delivery to any Participant or any other person other than a Bondholder, as shown in the registration books kept by the Registrar, of any notice with respect to the Bonds, including any notice of redemption, or (C) the payment to any Participant or any other person, other than a Bondholder, as shown in the registration books kept by the Registrar, of any amount with respect to principal, interest or redemption premium, if any, of the Bonds. The Issuer and the Registrar may treat and consider the person in whose name each Bond is registered in the registration books kept by the Registrar as the Bondholder and absolute owner of such Bond for the purpose of payment of principal, interest or redemption premium, if any, with respect to such Bond, for the purpose of giving notices of redemption and other matters with respect to such Bond, for the purpose of registering transfers with respect to such Bond, and for all other purposes whatsoever. The Registrar shall pay all principal, interest or redemption premium, if any, of the Bonds only to or upon the order of the respective Bondholders, as shown in the registration books kept by the Registrar, or their respective attorneys duly authorized in writing, as provided herein and all such

payments shall be valid and effective to fully satisfy and discharge the Issuer's obligations with respect to payment of principal, interest or redemption premium, if any, of the Bonds to the extent of the sum or sums so paid. No person other than a Bondholder, as shown in the registration books kept by the Registrar, shall receive a certificated Bond evidencing the obligation of the Issuer to make payments of principal, interest or redemption premium, if any, pursuant to the provisions hereof. Upon delivery by DTC to the Issuer of written notice to the effect that DTC has determined to substitute a new nominee in place of Cede & Co., and subject to the provisions in this Bond Resolution with respect to transfers during the 15 days next preceding a payment date or mailing of notice of redemption, the words "Cede & Co." in this Bond Resolution shall refer to such new nominee of DTC; and upon receipt of such notice, the Issuer shall promptly deliver a copy of the same to the Registrar and the Paying Agent.

Upon (i) receipt by the Issuer of written notice from DTC (a) to the effect that a continuation of the requirement that any Bonds be registered in the registration books kept by the Registrar in the name of Cede & Co., as nominee of DTC, is not in the best interest of the beneficial owners of such Bonds or (b) to the effect that DTC is unable or unwilling to discharge its responsibilities and no substitute depository willing to undertake the functions of DTC hereunder can be found which is willing and able to undertake such functions upon reasonable and customary terms, or (ii) determination by the Issuer, in its sole discretion, that such book-entry only system should be discontinued by the Issuer, such Bonds shall no longer be restricted to being registered in the registration books kept by the Registrar in the name of Cede & Co., as nominee of DTC, but shall be registered in whatever name or names holders shall designate, in accordance with the provisions of this Bond Resolution. In such event, the Issuer shall issue and the Registrar shall authenticate, transfer and exchange Bonds consistent with the terms of this Bond Resolution, in denominations of \$5,000 or any integral multiple thereof to the Bondholders thereof. The foregoing notwithstanding, until such time as participation in the book-entry only system is discontinued, the provisions set forth in the existing Blanket Issuer Letter of Representations previously executed by the Issuer and delivered to DTC shall apply to the payment of principal, interest and redemption premium, if any, on such Bonds.

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.

With respect to one or more Series of Bonds issued hereunder, the forms of the Bonds may provide that the holder of any such Bond may demand that the Issuer purchase such Bond by payment of principal and interest within a stated period after delivering notice to a designated agent for the Issuer and providing a copy of the notice with the tender of the Bond to such agent. The designated agent for the Issuer, 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 Issuer 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 Issuer may be authorized to draw upon a previously executed Credit Facility or Liquidity Facility between the Issuer and one or more banks or other financial or lending institutions permitting the Issuer to borrow amounts to be used for the purchase of the 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 Issuer, 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 Issuer adopted prior to the sale and delivery of such Series of Bonds.

Unless otherwise provided by subsequent ordinance or resolution adopted prior to the issuance of the applicable Series of Bonds, a purchase of Bonds by or through a remarketing agent, trustee, auction agent, credit facility provider or the Issuer pursuant to an optional or mandatory tender of such Bonds shall not be deemed a redemption of such Bonds and will not be deemed to extinguish or discharge the indebtedness evidenced by such Bonds. Any Bonds purchased by or on behalf of the Issuer pursuant to an optional or mandatory tender shall be purchased with the intent that the indebtedness evidenced by such Bonds shall not be extinguished or discharged; such indebtedness shall not be extinguished or discharged and such Bonds shall remain outstanding hereunder unless and until such Bonds are delivered to the trustee or paying agent therefor for cancellation.

**SECTION 5.03. Execution of Bonds.** The Bonds shall be executed in the name of the Issuer by the Mayor and the seal of the Issuer shall be imprinted, reproduced or lithographed on the Bonds and attested to by the Clerk subject to approval by the City Attorney of the form and legality thereof. 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 Issuer 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. The Bonds shall be approved as to form and legality by the City Attorney of the Issuer, which approval shall be evidenced by either the manual or facsimile signature of the City Attorney thereon.

The Registrar shall act as authenticating agent for the Bonds.

**SECTION 5.04. Bonds Mutilated, Destroyed, Stolen or Lost.** If any Bond is mutilated, destroyed, stolen or lost, the Issuer 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 Registrar or its duly authorized agent. The Bondholder must furnish the Issuer or its agent proof of ownership of any destroyed, stolen or lost Bond; post satisfactory indemnity; comply with any reasonable conditions the Issuer or its agent may prescribe; and pay the Issuer's or its agent's reasonable expenses.

Any such duplicate Bond shall constitute an original contractual obligation on the part of the Issuer 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, source of and security for payment from, the funds pledged to the payment of the Bond so mutilated, destroyed, stolen or lost.

**SECTION 5.05. Provisions for Redemption.** Each Series of Bonds may be subject to redemption prior to maturity at such times and in such manner as shall be established by



subsequent resolutions or ordinances of the Issuer adopted or enacted on or before the time of delivery thereof.

Except as otherwise provided in an ordinance or resolution adopted prior to the issuance of a Series of Bonds, notice of redemption shall be given by the deposit in the U. S. Mail of a copy of the redemption notice, postage prepaid, at least thirty (30) and not more than sixty (60) days before the redemption date to the registered owners of each Bond or portion of Bonds to be redeemed at their addresses as they appear on the registration books to be maintained in accordance with provisions hereof. Failure to give such notice, or any defect therein, shall not affect the validity of the proceedings for the redemption of any Bond or portion thereof with respect to which no failure or defect has occurred.

Each notice shall set forth the date fixed for redemption for each Bond being redeemed, the rate of interest borne by each Bond being redeemed, the redemption price to be paid, the name and address of the Registrar, and, if less than all of the Bonds then outstanding shall be called for redemption, the distinctive numbers and letters, including CUSIP numbers, if any, of such Bonds to be redeemed and, in the case of Bonds to be redeemed in part only, the portion of the principal amount thereof to be redeemed. If any Bond is to be redeemed in part only, the notice of redemption which relates to such Bond shall also state that on or after the redemption date, upon surrender of such Bond, a new Bond or Bonds in a principal amount equal to the unredeemed portion of such Bond will be issued.

Any notice mailed as provided in this section shall be conclusively presumed to have been duly given, whether or not the owner of such Bond receives such notice.

In addition to the mailing of the notice described above, each notice of redemption and payment of the redemption price shall meet the requirements of this paragraph, provided however, that failure of such notice or payment to comply with the terms of this paragraph shall not in any manner defeat the effectiveness of a call for redemption if notice thereof is given as prescribed above in this Section.

(a) Each notice of redemption shall be sent at least thirty-five (35) days before the redemption date by registered or certified mail or overnight delivery service or telecopy to all registered securities depositories then in the business of holding substantial amounts of obligations of types comprising the Bonds (such depositories now being The Depository Trust Company, New York, New York, Midwest Securities Trust Company, Chicago, Illinois and Philadelphia Depository Trust Company, Philadelphia, Pennsylvania) and to one or more national information services that disseminate notices of redemption of obligations such as the Bonds.

(b) Upon the payment of the redemption price of Bonds being redeemed, each check or other transfer of funds issued for such purpose shall bear the CUSIP number identifying, by issue and maturity, the Bonds being redeemed with the proceeds of such check or other transfer.

Any notice of optional redemption may contain a statement that the redemption of Bonds on the date set for redemption is conditioned upon the occurrence of certain events to occur after

the mailing of such notice but on or prior to the date set for redemption including, without limitation, the issuance of refunding obligations.

**SECTION 5.06. Effect of Notice of Redemption.** Notice having been given in the manner and under the conditions hereinabove provided, the Bonds or portions of Bonds so called for redemption shall, on the redemption date designated in such notice, become and be due and payable at the redemption price provided for redemption of such Bonds or portions of Bonds on such date. On the date so designated for redemption, notice having been published and/or mailed as required herein and moneys for payment of the redemption price being held in separate accounts by the Paying Agents in trust for the registered owners of the Bonds or portions thereof to be redeemed, all as provided in this Bond Resolution, interest on the Bonds or portions of Bonds so called for redemption shall cease to accrue, such Bonds and portions of Bonds shall cease to be entitled to any lien, benefit or security under this Bond Resolution, and the holders of such Bonds or portions of Bonds shall have no right in respect thereof except to receive payment of the redemption price thereof and, to the extent provided in Section 5.07 of this Article, to receive Bonds for any unredeemed portions of the Bonds.

**SECTION 5.07. Redemption of Portion of Registered Bonds.** In case part but not all of an outstanding fully registered Bond shall be selected for redemption, the registered owners thereof shall present and surrender such Bond to the Issuer or its designated Paying Agent for payment of the principal amount thereof so called for redemption, and the Issuer shall execute and deliver to or upon the order of such registered owner, without charge therefor, for the unredeemed balance of the principal amount of the Bond so surrendered, a Bond or Bonds fully registered as to principal and interest.

**SECTION 5.08. Bonds Called for Redemption Not Deemed Outstanding.** Bonds or portions of Bonds that have been duly called for redemption under the provisions of this Article V, and with respect to which amounts sufficient to pay the principal of, premium, if any, and interest to the date fixed for redemption shall be delivered to and held in separate accounts by any Authorized Depository or any Paying Agent in irrevocable trust for the registered owners thereof, as provided in this Bond Resolution, shall not be deemed to be outstanding under the provisions of this Bond Resolution and shall cease to be entitled to any lien, benefit or security under this Bond Resolution, except to receive the payment of the redemption price on or after the designated date of redemption from moneys deposited with or held by the Authorized Depository or Paying Agent, as the case may be, for such redemption of the Bonds and, to the extent provided in Section 5.07 of this Article, to receive Bonds for any unredeemed portions of the Bonds.

**SECTION 5.09. Form of Bonds.** The text of the Bonds, the form of assignment for such Bonds and the form for the Certificate of Authentication, if any, and provisions for compound, zero and dual interest rate bonds, if any, shall be in substantially the following form, with such omissions, insertions and variations as may be necessary or desirable and authorized, permitted by or not inconsistent with this Bond Resolution or by any subsequent ordinance or resolution enacted or adopted prior to the issuance thereof or as may be approved by the Mayor, including, without limitation, such changes as may be required for the issuance of Capital Appreciation Bonds, uncertificated public obligations or coupon Bonds to the extent herein authorized and for the execution of the Bonds by an authenticating agent:

[FORM OF BOND]

No. R- \_\_\_\_\_

\$ \_\_\_\_\_

UNITED STATES OF AMERICA  
STATE OF FLORIDA  
CITY OF GAINESVILLE  
[TAXABLE] PENSION OBLIGATION REVENUE BOND,  
SERIES \_\_\_\_\_ ( \_\_\_\_\_ [PLAN])

Interest <u>Rate:</u>	Maturity <u>Date:</u>	Original Dated <u>Date:</u>	<u>CUSIP</u>
%			

REGISTERED HOLDER:

PRINCIPAL AMOUNT:

DOLLARS

The City of Gainesville, Florida (hereinafter called the "Issuer"), for value received, hereby promises to pay to the Registered Holder identified above, or to registered assigns or legal representatives, but solely from the revenues hereinafter mentioned, on the Maturity Date identified above (or earlier as hereinafter provided), the Principal Amount identified above, upon presentation and surrender hereof at the principal office of \_\_\_\_\_, \_\_\_\_\_, \_\_\_\_\_, or its successors, as Registrar and Paying Agent (the "Registrar"), and to pay, solely from such special revenues, interest on the principal sum from the date hereof, or from the most recent interest payment date to which interest has been paid, at the Interest Rate per annum identified above, until payment of the principal sum, or until provision for the payment thereof has been duly provided for, such interest being payable semiannually on the first day of \_\_\_\_\_ and the first day of \_\_\_\_\_ of each year, commencing on \_\_\_\_\_ 1, 20\_\_.

Interest will be paid by check or draft mailed to the Registered Holder hereof at his address as it appears on the registration books of the Issuer maintained by the Registrar at the close of business on the 15th day (whether or not a business day) of the month next preceding the interest payment date (the "Record Date"), irrespective of any transfer or exchange of such Bond subsequent to such Record Date and prior to such interest payment date, unless the Issuer shall be in default in payment of interest due on such interest payment date. In the event of any such default, such defaulted interest shall be payable to the person in whose name such Bond is registered at the close of business on a special record date for the payment of such defaulted interest as established by notice by deposit in the U. S. mails, postage prepaid, by the Issuer to the Registered Holders of Bonds not less than fifteen days preceding such special record date. Such notice shall be mailed to the persons in whose names the Bonds are registered at the close of business on the fifth (5th) day (whether or not a business day) preceding the date of mailing.

This Bond and the interest hereon is payable solely from and secured by a prior lien upon and pledge of certain revenues of the Issuer deposited and held in the funds and accounts created pursuant to Resolution No. \_\_\_ of the Issuer adopted on \_\_\_\_\_, 2003, as may be amended and supplemented from time to time (the "Bond Resolution") and certain other funds and investment earnings thereon, all in the manner and to the extent provided in the Bond Resolution.

All terms used herein in capitalized form and not otherwise defined shall have the meanings ascribed thereto in the Bond Resolution. Pursuant to the Bond Resolution, the Issuer has covenanted and agreed, 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 and to deposit to the credit of the Sinking Fund Account established pursuant to the Bond Resolution, legally available non-ad valorem revenues of the Issuer in an amount which, in such Fiscal Year, is equal to the Bond Service Requirement with respect to all Bonds outstanding under the Bond Resolution for the applicable Bond Year, plus an amount sufficient to satisfy all other payment obligations of the Issuer under the Bond Resolution for the applicable Bond Year, including, without limitation, to the extent applicable the funding or replenishment of subaccounts in the Reserve Account in the manner contemplated by the Bond Resolution. Such covenant and agreement on the part of the Issuer to budget and appropriate sufficient amounts of legally available non-ad valorem revenues shall be cumulative, and shall continue until such legally available non-ad valorem revenues in amounts sufficient to make all required payments under the Bond Resolution as and when due, including any delinquent payments, shall have been budgeted, appropriated and actually paid into the appropriate funds and accounts under the Bond Resolution; provided, however, that such covenant shall not constitute a lien, either legal or equitable, on any of the Issuer's legally available non-ad valorem revenues or other revenues, nor shall it preclude the Issuer from pledging in the future any of its legally available non-ad valorem revenues or other revenues to other obligations so long as the provisions of the Bond Resolution are satisfied, nor shall it give the Bondholders a prior claim on the legally available non-ad valorem revenues. Anything herein or in the Bond Resolution to the contrary notwithstanding, all obligations of the Issuer under the Bond Resolution shall be secured only by the legally available non-ad valorem revenues actually budgeted and appropriated and deposited into the funds and accounts created under the Bond Resolution, as provided for therein. The Issuer is prohibited by law from expending moneys not appropriated or in the excess of its current budgeted revenues and surpluses. The obligation of the Issuer to budget, appropriate and make payments hereunder from its legally available non-ad valorem revenues is subject to the availability of legally available non-ad valorem revenues of the Issuer after satisfying funding requirements for obligations having an express lien on or pledge of such revenues and after satisfying funding requirements for essential governmental services of the Issuer. Notwithstanding the foregoing or anything in the Bond Resolution to the contrary, the Issuer has not covenanted to maintain any services or programs now provided or maintained by the Issuer which generate non-ad valorem revenues.

Reference is hereby made to the Bond Resolution for the provisions, among others, relating to the terms, lien and security of the Bonds, the custody and application of the proceeds of the Bonds, the rights and remedies of the Registered Holders of the Bonds, the extent of and limitations on the Issuer's rights, duties and obligations, and the provisions permitting the issuance of additional parity indebtedness, to all of which provisions the Registered Holder hereof for himself and his successors in interest assents by acceptance of this Bond.

This Bond shall not be deemed to constitute a debt or a pledge of the faith and credit of the Issuer, the State of Florida or any political subdivision thereof within the meaning of any constitutional, legislative or charter provision or limitation. Nothing herein or in the Bond Resolution shall be deemed to create a pledge of or lien on the legally available non-ad valorem revenues, the ad valorem tax revenues, or any other revenues of the Issuer, or permit or

constitute a mortgage or lien upon any assets owned by the Issuer. It is expressly agreed by the Registered Holder of this Bond that such Registered Holder shall never have the right, directly or indirectly, to require or compel the exercise of the ad valorem taxing power of the Issuer or any other political subdivision of the State of Florida or taxation in any form on any real or personal property for any purpose, including, without limitation, for the payment of the principal of and interest or premium on this Bond or for the payment of any other amounts provided for in the Bond Resolution or to maintain or continue any of the activities of the Issuer which generate user service charges, regulatory fees or any other non-ad valorem revenues, nor shall the Bonds constitute a charge, lien or encumbrance, either legal or equitable, on any property, assets or funds of the Issuer.

Neither the members of the City Commission of the Issuer nor any person executing the Bonds shall be liable personally on the Bonds by reason of their issuance.

This Bond shall not be valid or become obligatory for any purpose or be entitled to any security or benefit under the Bond Resolution until the Certificate of Authentication endorsed hereon shall have been signed by the Registrar.

This Bond is one of an authorized issue of Bonds in the aggregate principal amount of \$ \_\_\_\_\_, of like date, tenor and effect, except as to number, maturity and interest rate, issued to fund [all or a portion of the 2003 Pension Obligations (as defined in the Bond Resolution)] pursuant to the authority of and in full compliance with the Constitution and laws of the State of Florida, including particularly the Bond Resolution, Chapter 166, Florida Statutes, Chapter 159, Part VII, Florida Statutes, the City Charter and other applicable provisions of law. This Bond is also subject to the terms and conditions of the Bond Resolution.

The Bonds of this issue [are] [are not] subject to redemption prior to their maturity (Insert Term Bond amortization provisions). The Bonds of this issue [shall be further] [shall not be] subject to redemption prior to their maturity [at the option of the Issuer (Insert optional redemption provisions, if any, with appropriate accretion tables for original issue discount and zero coupon Bonds)].

Notice of such redemption shall be given in the manner required by the Bond Resolution.

The registration of this Bond may be transferred upon the registration books upon delivery to the principal office of 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 owner of this Bond or by his attorney-in-fact or legal representative, containing written instructions as to the details of transfer of this Bond, along with the social security number or federal employer identification number of such transferee. In all cases of a transfer of a Bond, the Registrar shall at the earliest practical time in accordance with the provisions of the Bond Resolution enter the transfer of ownership in the registration books and 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 source of funds. The Issuer and the Registrar may charge the owner of such Bond for the registration of every such transfer of a Bond an amount sufficient to reimburse them for any tax, fee or any other governmental charge required (other than by the

Issuer) to be paid with respect to the registration of such transfer, and may require that such amounts be paid before any such new Bond shall be delivered.

If the date for payment of the principal of, premium, if any, or interest on this Bond shall be other than 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.

It is hereby certified and recited that all acts, conditions and things required to exist, to happen, and to be performed precedent to and in the issuance of this Bond exist, have happened and have been performed in regular and due form and time as required by the laws and Constitution of the State of Florida applicable hereto, and that the issuance of the Bonds of this Series does not violate any constitutional or statutory limitation or provision.

[PROVISION FOR VARIABLE RATE BONDS]

[The form of the Bonds may be modified as appropriate to provide for a variable interest rate calculated initially and from time to time by reference to an index or indices to be subsequently designated by the Issuer by supplemental ordinance or resolution pertaining to each Series of Bonds, provided that in no event shall the interest rate calculated in accordance with such formula exceed the maximum rate permitted by law.]

IN WITNESS WHEREOF, the City of Gainesville, Florida, has issued this Bond and has caused the same to be signed by its Mayor and attested to and countersigned by its Clerk of the Commission, either manually or with their facsimile signatures, and its corporate seal or a facsimile thereof to be reproduced hereon, all as of the first day of \_\_\_\_\_, 20\_\_.

CITY OF GAINESVILLE, FLORIDA

(SEAL)

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

ATTESTED AND COUNTERSIGNED:

By \_\_\_\_\_  
Clerk of the Commission

Approved as to form and legality:

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

CERTIFICATE OF AUTHENTICATION

This Bond is one of the Bonds designated in and executed under the provisions of the within mentioned Bond Resolution.

\_\_\_\_\_,  
Authenticating Agent

By \_\_\_\_\_  
Authorized Officer

Date of Authentication:

ASSIGNMENT

FOR VALUE RECEIVED, the undersigned \_\_\_\_\_ (the "Transferor"), hereby sells, assigns and transfers unto \_\_\_\_\_ (the "Transferee")

PLEASE INSERT SOCIAL SECURITY OR OTHER IDENTIFYING NUMBER OF TRANSFEREE  
\_\_\_\_\_

the within Bond and all rights thereunder, and hereby irrevocably constitutes and appoints \_\_\_\_\_ as attorney to register the transfer of the within Bond on the books kept for registration and registration of transfer thereof, with full power of substitution in the premises.

Date: \_\_\_\_\_

Signature Guaranteed:

NOTICE: Signature(s) must be guaranteed by a member firm of the New York Stock Exchange or a commercial bank or a trust company.

NOTICE: No transfer will be registered and no new Bond will be issued in the name of the Transferee, unless the signature(s) to this assignment correspond(s) with the name as it appears upon the face of the within Bond in every particular without alteration or enlargement or any change whatever and the Social Security or Federal Employer Identification Number of the Transferee is supplied.

[END OF FORM OF BOND]

**SECTION 5.10. Application of 2003 Bond Proceeds.** The proceeds, including accrued interest and premium, if any, received from the sale of the 2003 Bonds shall be applied by the Issuer, simultaneously with the delivery of the 2003 Bonds, in the manner provided by subsequent ordinance or resolution enacted or adopted coincident with or prior to the sale of the 2003 Bonds, or by a certificate of the Mayor or City Manager delivered coincident with or prior to the sale of the 2003 Bonds.

**SECTION 5.11. Temporary Bonds.** Pending the preparation of definitive Bonds, the Issuer may execute and deliver temporary Bonds. Temporary Bonds shall be issuable as registered Bonds without coupons, of any authorized denomination, and substantially in the form of the definitive Bonds but with such omissions, insertions, and variations as may be appropriate



for temporary Bonds, all as may be determined by the Issuer. Temporary Bonds may contain such reference to any provisions of this Bond Resolution as may be appropriate. Every temporary Bond shall be executed and authenticated upon the same conditions and in substantially the same manner, and with like effect, as the definitive Bonds. As promptly as practicable the Issuer shall execute and shall furnish definitive Bonds and thereupon temporary Bonds may be surrendered in exchange for definitive Bonds without charge at the principal office of the Registrar, and the Registrar shall authenticate and deliver in exchange for such temporary Bonds a like aggregate principal amount of definitive Bonds of authorized denominations. Until so exchanged, the temporary Bonds shall be entitled to the same benefits under this Bond Resolution as definitive Bonds.

## ARTICLE VI

### SOURCE OF PAYMENT OF BONDS; SPECIAL OBLIGATIONS OF THE ISSUER

#### **SECTION 6.01. Bonds Not to be General Obligation or Indebtedness of the Issuer.**

The Bonds shall not be deemed to constitute general obligations or a pledge of the faith and credit of the Issuer, the State of Florida or any political subdivision thereof within the meaning of any constitutional, legislative or charter provision or limitation, but shall be payable solely from and secured by a lien upon and a pledge of the Pledged Revenues, in the manner and to the extent herein provided. No Bondholder shall ever have the right, directly or indirectly, to require or compel the exercise of the ad valorem taxing power of the Issuer or any other political subdivision of the State of Florida or taxation in any form on any real or personal property for any purpose, including, without limitation, for the payment of principal of and interest on such Bonds, or to maintain or continue any activities of the Issuer which generate user service charges, regulatory fees or other non-ad valorem revenues, nor shall any Bondholder be entitled to payment of such principal and interest from any other funds of the Issuer other than the Pledged Revenues, all in the manner and to the extent herein provided. The Bonds and the indebtedness evidenced thereby shall not constitute a lien upon any real or personal property of the Issuer, or any part thereof, or any other tangible personal property of or in the Issuer, but shall constitute a lien only on the Pledged Revenues, all in the manner and the extent provided herein.

**SECTION 6.02. Pledge.** The payment of the principal of, premium, if any, and interest on the Bonds shall be secured forthwith equally and ratably by an irrevocable lien on the Pledged Revenues, all in the manner and to the extent provided herein. The Issuer does hereby irrevocably pledge such Pledged Revenues to the payment of the principal of, premium, if any, and interest on the Bonds, and for all other payments as provided herein, in the order of priorities set forth herein. Notwithstanding the foregoing, nothing herein provided shall be deemed to grant or create a lien on any account or subaccount in the Project Fund, if hereafter created, or the Reserve Account created with respect to a particular Series of Bonds in favor of the owners of Bonds of any other Series and each account in the Project Fund, if hereafter created, and in the Reserve Account shall secure only the Series of Bonds with respect to which it was created and the Composite Reserve Subaccount shall secure only those Series of Bonds designated by supplemental ordinance or resolution to be secured thereby.

**SECTION 6.03. Covenant to Budget and Appropriate.** The Issuer 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, and to deposit to the credit of the Sinking Fund Account, Non-Ad Valorem Revenues of the Issuer in an amount which is equal to the Bond Service Requirement with respect to all Bonds outstanding hereunder for the applicable Bond Year, plus an amount sufficient to satisfy all other payment obligations of the Issuer hereunder for the applicable Bond Year, including, without limitation, to the extent applicable, the funding or replenishment of the subaccounts in the Reserve Account in the manner contemplated hereby. Such covenant and agreement on the part of the Issuer 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 required payments hereunder as and when due, including any delinquent payments, shall have been budgeted, appropriated and actually paid into the appropriate funds and accounts hereunder; provided, however, that such covenant shall not constitute a lien, either legal or equitable, on any of the Issuer's Non-Ad Valorem Revenues or other revenues, nor shall it preclude the Issuer from pledging in the future any of its Non-Ad Valorem Revenues or other revenues to other obligations, nor shall it give the Bondholders a prior claim on the Non-Ad Valorem Revenues. Anything herein to the contrary notwithstanding, all obligations of the Issuer hereunder shall be secured only by the Non-Ad Valorem Revenues actually budgeted and appropriated and deposited into the funds and accounts created hereunder, as provided for herein. The Issuer is prohibited by law from expending moneys not appropriated or in excess of its current budgeted revenues and surpluses. The obligation of the Issuer to budget, appropriate and make payments hereunder from its Non-Ad Valorem Revenues is subject to the availability of Non-Ad Valorem Revenues after satisfying funding requirements for obligations having an express lien on or pledge of such revenues and after satisfying funding requirements for essential governmental services of the Issuer. Notwithstanding the foregoing or anything in this Bond Resolution to the contrary, the Issuer has not covenanted to maintain any service or program now provided or maintained by the Issuer which generates Non-Ad Valorem Revenues.

## ARTICLE VII

### CREATION AND USE OF FUNDS AND ACCOUNTS; DISPOSITION OF REVENUES

**SECTION 7.01. Creation of Fund and Accounts.** There are hereby created and established the "City of Gainesville Pension Obligation Debt Service Fund" (the "Debt Service Fund") and two accounts therein, the "Sinking Fund Account" and the "Reserve Account" (and a subaccount in the Reserve Account designated the "Composite Reserve Subaccount"). There may be created and established in the Reserve Account one or more additional separate subaccounts with respect to and securing separate Series of Bonds.

The Debt Service Fund created hereunder and all accounts and subaccounts therein and the Project Fund, if hereafter created, and any accounts created therein constitute trust funds for the purposes herein and in any subsequent ordinance or resolution provided, shall be delivered to and held by the Finance Director (or an Authorized Depository designated by the Finance Director), in each case who shall act as trustee of such funds for the purposes hereof, and shall at all times be kept separate and distinct from all other funds of the Issuer and used only as herein

provided. Moneys held in the Debt Service Fund and the accounts and subaccounts therein shall be subject to a lien and charge in favor of the holders and registered owners of the Bonds as herein provided.

**SECTION 7.02. Project Fund.** In the event that the Issuer shall issue Additional Bonds hereunder to pay the Cost of a Project, it shall in the ordinance or resolution authorizing such Bonds create a Project Fund and two accounts therein, an account to be designated to hold the proceeds of such Additional Bonds to pay the Cost of such Project and an account to hold the proceeds to be applied to pay the costs of issuance of such Series of Bonds. Moneys in the Project Fund shall be kept separate and apart from all other funds and accounts of the Issuer.

Any funds on deposit in the Project Fund that in the opinion of the Issuer are not immediately necessary for expenditure, as hereinabove provided, may be invested in Investment Obligations, provided that such investments mature or are redeemable at not less than par on or before the date such funds are estimated to be needed for the purposes hereof. Except as otherwise provided in this Bond Resolution, all income derived from the investment of funds in the respective accounts of the Project Fund shall be deposited into such respective accounts.

Any amounts remaining in an account in the Project Fund from proceeds of any Series of Bonds after funds on deposit therein are no longer needed to be expended for the purpose for which such account was created hereunder and which have not been reserved by the Issuer for the payment of the Cost of a Project or costs of issuance, as the case may be, shall be transferred at the option of the Issuer to the Sinking Fund Account and used to redeem Bonds in the manner described in Section 7.04(3) below, or, upon receipt of an opinion from Bond Counsel that the interest on the Bonds that are not Taxable Bonds will not be included in gross income for federal income tax purposes as a result of such action, (i) shall be deposited into the Sinking Fund Account and used to pay principal and interest next coming due on the Bonds, (ii) if needed, shall be deposited into the applicable subaccount in the Reserve Account, or (iii) shall be paid to the Issuer to be used for any lawful purpose.

**SECTION 7.03. Disposition of Covenant Revenues and Qualified Hedge Payments.**

(1) Commencing immediately following the issuance of the 2003 Bonds, and continuing thereafter so long as any Bonds shall be Outstanding hereunder, the Issuer shall deposit to the credit of the Funds and Accounts listed below on or before the twenty-fifth day of each month, from Non-Ad Valorem Revenues budgeted and appropriated for such purposes and Qualified Hedge Receipts received by the Issuer, amounts which, together with funds on deposit therein, will be sufficient to satisfy the cumulative deposit requirements described in clauses (a) and (b) below. Covenant Revenues and Qualified Hedge Receipts received by the Issuer shall be deposited in the following order and priority:

(a) First, by deposit into the Sinking Fund Account an amount which, together with any other amounts required to be deposited therein pursuant to this Bond Resolution, will equal one-sixth (1/6th) of the interest maturing on the Bonds on the next semiannual interest payment date, with respect to Bonds that bear interest payable semiannually, the amount of interest next becoming due or maturing on Bonds that bear interest payable monthly, the amount of interest accruing in such month on Bonds that bear interest payable on other than a monthly or semiannual basis (other than Capital Appreciation Bonds), the amount of any Qualified Hedge

Payment payable by the Issuer accruing in such month, one-twelfth (1/12th) of all principal and, with respect to Capital Appreciation Bonds, the Compounded Amounts, maturing or becoming due during the current Bond Year on the various Series of Serial Bonds that mature annually, one-sixth (1/6th) of all principal and, with respect to Capital Appreciation Bonds, the Compounded Amounts, maturing on the next maturity date in such Bond Year on the various Series of Serial Bonds that mature semiannually, and one-twelfth (1/12th) of the Amortization Installments and unamortized principal balances of Term Bonds coming due during the current Bond Year with respect to the Bonds, until there are sufficient funds then on deposit equal to the sum of the interest, principal and redemption payments due on the Bonds on the next interest, principal and redemption dates in such Bond Year.

Deposits shall be increased or decreased to the extent required to pay principal, interest and redemption premium, if any, or any Qualified Hedge Payments next coming due, after making allowance for any accrued and capitalized interest and taking into account deficiencies in prior months' deposits. Additionally, if Bonds constituting Variable Rate Bonds are outstanding on the date of such application of Covenant Revenues, unless the Issuer shall establish a different procedure for the payment of monthly interest on Variable Rate Bonds, the Issuer shall deposit into the Sinking Fund Account in lieu of the monthly interest deposit or the one-sixth (1/6th) semiannual interest deposit described above, the interest actually accruing on such Bonds for such month (plus any deficiencies in interest deposits for the preceding month), assuming the interest rate thereon on the such date will continue through the end of such month. On or before each interest payment date, the Issuer shall make up any deficiencies in such interest deposit, based on the actual interest accruing through such date. If the amount on deposit in the Sinking Fund Account shall not be adequate to pay an interest or principal and interest payment due on all Series of Bonds Outstanding, such amount shall be applied pro rata to each Series.

Notwithstanding anything in this subsection (a) to the contrary, if principal, interest or redemption premium payments have been made on behalf of the Issuer by a Bond Insurer or the issuer of a Liquidity Facility or Credit Facility or other entity insuring, guarantying or providing for the payment of Bonds or any Series thereof, moneys deposited in the Sinking Fund Account and allocable to the payments on such Bonds made by a Bond Insurer or issuer of the Liquidity Facility or Credit Facility shall be paid to such Bond Insurer or issuer of a Liquidity Facility or Credit Facility having theretofore made the corresponding payment on the Bonds.

(b) Second, by deposit into the separate subaccounts in the Reserve Account, the amounts, if any, which, together with funds on deposit therein, will be sufficient to make the funds on deposit therein, except as otherwise hereinafter provided, equal to the Reserve Requirement for each such subaccount.

(c) Thereafter any remaining Covenant Revenues shall be available to the Issuer to be used for any lawful purpose.

(2) Deposits required pursuant to this Section shall be cumulative and the amount of any deficiency in any month shall be added to the amount otherwise required to be deposited in each month thereafter until such time as all such deficiencies have been cured.

(3) If the Issuer shall have determined, or be required, to fund a subaccount in the Reserve Account with respect to a Series of Bonds, notwithstanding the foregoing, the Issuer shall not be required to fully fund such subaccount in the Reserve Account at the time of issuance of such Series of Bonds hereunder if (i) it elects, by ordinance or resolution adopted prior to the issuance of such Series of Bonds, subject to the limits described below, to fully fund the applicable subaccount in the Reserve Account over a period specified in such ordinance or resolution not to exceed sixty (60) months, during which it shall make substantially equal monthly installments in order that the amounts on deposit therein at the end of such period shall equal the Reserve Requirement for such Series of Bonds, or (ii) it provides at any time with respect to such Series of Bonds in lieu or in substitution or replacement of such funds a Reserve Product issued by a Reserve Product Provider in an amount equal to the difference between the Reserve Requirement and the sums then on deposit (or required to be on deposit over a specified period as authorized above) in the applicable subaccount in the Reserve Account. Such Reserve Product as provided above must provide for payment on any interest or principal payment date (provided adequate notice is given) on which a deficiency exists (or is expected to exist) in moneys held hereunder for a payment with respect to Bonds of the Series secured thereby which cannot be cured by funds in any other account held pursuant to this Bond Resolution and available for such purpose, and which shall name the Paying Agent or an Authorized Depository who has agreed to serve as trustee for the benefit of the Bondholders as the beneficiary thereof. In no event shall the use of such Reserve Product be permitted if it would cause an impairment in any existing rating on the Bonds or any Series thereof. If the applicable subaccount in the Reserve Account is to be funded in installments pursuant to clause (i) above upon the issuance of any Additional Bonds, the deposits required pursuant to the foregoing may be limited to the amount which will be sufficient to pay the required monthly installments specified in the ordinance or the resolution, plus an additional amount necessary to make up any deficiencies caused by withdrawals or resulting from the semiannual valuation of the funds on deposit therein. If a disbursement is made from a Reserve Product as provided pursuant to clause (ii) above, the Issuer shall be obligated to reinstate the maximum limits of such Reserve Product immediately following such disbursement or to replace such Reserve Product by depositing into the applicable subaccount in the Reserve Account from the first Pledged Revenues available for deposit pursuant to clause (1)(b) above, funds in the maximum amount originally payable under such Reserve Product, plus amounts necessary to reimburse the Reserve Product Provider for previous disbursements made pursuant to such Reserve Product, or a combination of such alternatives, and for purposes of clause (1)(b) above, amounts necessary to satisfy such reimbursement obligation and other obligations of the Issuer to such a Reserve Product Provider shall be deemed required deposits into the applicable subaccount in the Reserve Account, but shall be used by the Issuer to satisfy its obligations to the Reserve Product Provider. The Issuer may at any time substitute a Reserve Product for cash held in a subaccount in the Reserve Account or vice versa, and upon a substitution of a Reserve Product for cash, such cash may be applied by the Issuer for any lawful purpose.

(4) If there are not sufficient funds in the Debt Service Fund available to make the amounts on deposit in each subaccount in the Reserve Account equal to the Reserve Requirement for the applicable Series of Bonds, there shall be deposited in each such subaccount an amount equal to the lesser of (i) the difference between the amount therein and the Reserve Requirement for such subaccount or (ii) the total amount available to be deposited into the Reserve Account multiplied by a fraction, the numerator of which is the Bond Obligation of all Bonds of the applicable Series secured by such subaccount then Outstanding and the

denominator of which is the total aggregate amount of the Bond Obligation of all Bonds of every Series then Outstanding hereunder.

(5) The Issuer shall not be required to make any further payments into the Sinking Fund Account and the Reserve Account when the aggregate amount of funds in the Sinking Fund Account and the Reserve Account, including the applicable subaccounts therein, are at least equal to the aggregate principal amount of Bonds issued pursuant to this Bond Resolution and then Outstanding, plus the amount of interest then due or thereafter to become due on said Bonds then Outstanding, or if all Bonds then Outstanding have otherwise been defeased pursuant to Section 12.02 below. For purposes of the preceding sentence, in determining that moneys held in the Sinking Fund Account and Reserve Account are at least equal to the principal of and interest on a particular Series of Bonds, the Issuer shall take into account moneys in the Reserve Account only to the extent that such moneys are held in a subaccount therein related to such Series of Bonds.

#### **SECTION 7.04. Use of Moneys in the Sinking Fund Account.**

(1) Moneys on deposit in the Sinking Fund Account shall be used solely for the payment of the principal of, interest on and any redemption premiums required with respect to the Bonds and the payment of Qualified Hedge Payments; provided, however, that if such principal and interest payments, or a portion thereof, have been made on behalf of the Issuer by a Bond Insurer, Credit Facility issuer, Liquidity Facility issuer or other entity insuring, guaranteeing or providing for the payment of the Bonds, or any Series or maturity thereof, moneys deposited therein and allocable to such payments on such Series or maturity shall be paid to such Bond Insurer, Credit Facility issuer, Liquidity Facility issuer or entity having theretofore made a corresponding payment on the Bonds. Capitalized interest deposited in the Sinking Fund shall be used to pay interest next coming due on the Series of Bonds to which such capitalized interest relates.

(2) At the maturity date of each Bond and at the due date of such Amortization Installment and installment of interest on such Bonds, the Issuer shall transfer from the Sinking Fund Account to the Paying Agent for such Bonds sufficient moneys to pay all principal of, premium, if any, and interest then due and payable with respect to such Bonds. Interest accruing with respect to any fully registered Bond shall be paid by check or draft of the Paying Agent to the registered owner thereof. Qualified Hedge Payments shall be made to the counterparty under the applicable Qualified Hedge Agreement in accordance with the terms thereof.

(3) Moneys on deposit in the Sinking Fund Account for the redemption of Bonds shall be applied to the retirement of Bonds issued under the provisions of this Bond Resolution and then outstanding in the following order:

(a) The Issuer shall first endeavor to purchase Outstanding Term Bonds redeemable from Amortization Installments during such Bond Year, and pro rata (based on the principal amount of the Amortization Installments due in such Bond Year for each such Series of Term Bonds) among all such Bonds if more than one Series of such Term Bonds are Outstanding, or if no such Term Bonds are then Outstanding, the Issuer shall endeavor to purchase Serial Bonds whether or not such Bonds shall then be subject to redemption, but only to the extent moneys are available therefor, at the most advantageous price obtainable, such price

not to exceed the principal of such Bonds plus accrued interest (or with respect to Capital Appreciation Bonds, the Compounded Amount) but no such purchase shall be made by the Issuer within a period of thirty (30) days next preceding any interest payment date on which such Bonds are subject to call for redemption under the provisions of this Bond Resolution;

(b) Then, to the extent moneys remain on deposit in the Sinking Fund Account that are held for the redemption of Bonds, the Issuer shall call for redemption on each interest payment date on which Bonds are subject to redemption from such moneys, such amount of Term Bonds subject to the Amortization Installments for such Bond Year that have not been purchased pursuant to clause (a) above; and

(c) Then, to the extent moneys remain on deposit in the Sinking Fund Account that were deposited therein pursuant to this Bond Resolution for the purpose of redeeming Bonds, the Issuer shall first call any remaining Bonds then subject to redemption, in such order and by such selection method as the Issuer, in its discretion, may determine, from such funds as will exhaust the money then held for the redemption of such Bonds as nearly as may be possible; and

(d) Then, to the extent moneys remain on deposit in the Sinking Fund Account that were deposited therein pursuant to this Bond Resolution for the purpose of redeeming Bonds, the Issuer may, in its discretion from time to time (i) use such moneys to defease Bonds, pay the principal of or interest on Bonds, or any other lawful purpose, or (ii) keep such moneys on deposit in the Sinking Fund Account for future use pursuant to this Section 7.04; provided, however, that such moneys shall be used for any purpose or purposes allowed pursuant to clause (i) above only if the Issuer shall obtain an opinion of Bond Counsel to the effect that such use will not cause the interest on any Bond (other than any Taxable Bond) to become included in the gross income of the Bondholder thereof.

If Term Bonds are purchased or redeemed pursuant to this section in excess of the Amortization Installments for such Bond Year, such excess principal amount of such Term Bonds so purchased or redeemed shall be credited against subsequent Amortization Installments for such Term Bonds in such Bond Year or Bond Years as the Issuer may determine and as may be reflected in the Issuer's accounting records.

Notwithstanding the foregoing, to the extent that moneys are deposited into the Sinking Fund Account in a given Bond Year in an amount equal to the Amortization Installment for such Bond Year and are applied to purchase or redeem Term Bonds to which such Amortization Installment applies, then all moneys thereafter deposited to the Sinking Fund Account for redemption of Bonds in such Bond Year may be applied as provided in clause (c) above and to the extent not fully utilized in connection therewith, as provided in clause (d) above.

**SECTION 7.05. Designation of Reserve Requirements; Application of Moneys in the Reserve Account.** Prior to the issuance of each Series of Bonds, the Issuer shall by resolution or ordinance designate the Reserve Requirement, if any, that it may determine to be required with respect to such Series of Bonds, including whether or not such Series is to be secured by the Composite Reserve Subaccount. The Issuer shall create one or more subaccounts within the Reserve Account which subaccounts shall secure only those Series of Bonds as shall

be designated in such resolution or ordinance. Bonds of each Series shall be secured only by the subaccount in the Reserve Account created and established with respect to such Series of Bonds or designated to secure such Series of Bonds and shall have no lien on or right to payment from any other subaccount in the Reserve Account. Funds on deposit in the separate subaccounts in the Reserve Account, if any, shall be used solely to cure deficiencies in the Sinking Fund Account with respect to the Series of Bonds to which such account pertains. If funds on deposit in any subaccount within the Reserve Account exceed the Reserve Requirement with respect to the Series of Bonds secured thereby, such excess shall be transferred to the Sinking Fund Account; provided that if such excess is due to the substitution of a Reserve Product, such excess shall be first applied to cure any deficiencies in the Sinking Fund Account with respect to any Bonds, and then shall be released to the Issuer to use for any lawful purposes that, in the opinion of Bond Counsel, will not cause the interest on any Bonds issued hereunder (other than Taxable Bonds) to become includable in gross income for federal income tax purposes.

**SECTION 7.06. Paying Agents.** The Issuer shall transfer, from the Sinking Fund Account, to one or more Paying Agents (which may include the Issuer itself) as shall be designated herein or by ordinance or resolution hereafter and from time to time enacted or adopted by the Issuer on the Business Day preceding each interest, principal and redemption date, by wire transfer or delivery in other immediately available funds, an amount sufficient to pay when due the principal of, interest on and redemption premium, if any, with respect to the Bonds.

## ARTICLE VIII

### DEPOSITARIES OF FUNDS, SECURITY FOR DEPOSITS AND INVESTMENT OF MONEYS

**SECTION 8.01. Deposits Constitute Trust Funds.** All funds or other property which at any time may be owned or held in the possession of or deposited with the Issuer for application in accordance with the terms and provisions of this Bond Resolution shall be held in trust and applied only in accordance with the provisions of this Bond Resolution, and shall not be subject to lien or attachment by any creditor of the Issuer.

All funds or other property which at any time may be owned or held in the possession of or deposited with the Issuer pursuant to this Bond Resolution, and any investment income thereon, shall be continuously secured, for the benefit of the Issuer and the Bondholders in the order and manner and for the purposes provided in this Bond Resolution either (a) by depositing with an Authorized Depository, as custodian, collateral security consisting of obligations of, or obligations the principal of and interest on which are unconditionally guaranteed by, the United States of America having a market value (exclusive of accrued interest) not less than the amount of such deposit, or (b) in such other manner as permitted hereunder and as may then be required or permitted by applicable state and federal laws and regulations regarding the security for, or granting a preference in the case of, the deposit of trust funds, including without limitation, the provisions of Chapter 280, Florida Statutes, as from time to time amended.

All moneys deposited with each Authorized Depository shall be credited to the particular fund or account to which such moneys belong.



**SECTION 8.02. Investment of Moneys.** Moneys held for the credit of the Reserve Account, the Sinking Fund Account and the Project Fund, if created, and all other funds and accounts hereunder shall be invested and reinvested by the Issuer in Investment Obligations. Such investments or reinvestments shall mature or become available not later than the respective dates, as estimated by the Issuer, that the moneys held for the credit of said funds and accounts will be needed for the purposes of such funds or accounts.

Obligations so purchased as an investment of moneys in any such fund or account created hereunder shall be deemed at all times to be a part of such fund or account, and shall at all times, for the purposes of this Bond Resolution, be valued annually on September 30 at the market value thereof, exclusive of accrued interest. Deficiencies in the amount on deposit in any fund or account resulting from a decline in market value shall be restored no later than the succeeding valuation date.

Except as otherwise expressly provided herein, including specifically the obligations of the Issuer with respect to paying the Rebate Amount as set forth in Section 12.03 hereof, all income and profits derived from the investment of moneys in the funds and accounts created hereby shall be retained in such respective funds and accounts and used for the purposes specified for such respective funds and accounts. Notwithstanding the foregoing, income and profits derived from the investment of moneys in the funds and accounts created hereunder may, at the option of the Issuer, be transferred to the Issuer in order to pay the Rebate Amount.

All such investments shall be made in compliance with Section 12.03 below.

Notwithstanding anything herein to the contrary, for purposes of investing or reinvesting, the Issuer may commingle moneys in the fund, accounts and subaccounts created hereunder in order to achieve greater investment income, provided that the Issuer shall separately account for the amounts so commingled.

## **ARTICLE IX**

### **GENERAL COVENANTS OF THE ISSUER**

**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 annual debt service in any Bond Year resulting from the total outstanding Non-Self-Supporting Revenue Debt of the Issuer, including such additional Non-Self-Supporting Revenue Debt, does not exceed 50% of total general purpose 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 average annual debt service in future Bond Years on all outstanding Non-Self-Supporting Revenue Debt and the Non-Self-Supporting Revenue Debt proposed to be issued.

**SECTION 9.02. Annual Audit.** The Issuer shall require that an annual audit of its accounts and records with respect to its General Fund and the Pledged Revenues and the funds and accounts hereunder be completed as soon as reasonably practicable after the end of each Fiscal Year by an independent certified public accountant of recognized standing. Such audit shall be conducted in accordance with generally accepted auditing standards as applied to governmental units.

## ARTICLE X

### ISSUANCE OF ADDITIONAL INDEBTEDNESS; QUALIFIED HEDGE AGREEMENTS

**SECTION 10.01. Issuance of Bonds or Other Obligations.** The Issuer will not issue any obligations (other than the 2003 Bonds authorized by Section 5.01 hereof) payable from the Pledged Revenues or the Covenant Revenues, or any portion thereof, or voluntarily create or cause to be created any debt, lien, pledge, assignment, encumbrance or other charge, in each case, having priority to or being on a parity with the lien securing any Bonds issued pursuant to this Bond Resolution upon the Pledged Revenues or the Covenant Revenues, or any portion thereof, except to the extent permitted, and upon the terms and conditions specified, in Sections 9.01, 10.02 and 10.03 below.

**SECTION 10.02. Issuance of Additional Bonds.** Except as provided in Section 10.03 hereof, no Additional Bonds shall be issued unless the Issuer shall have complied with the conditions set forth below.

(1) Certificate. There shall have been obtained and filed with the Governing Body a certificate of the Mayor or the City Manager evidencing compliance with the requirements of Section 9.01 hereof upon the issuance of such Additional Bonds.

(2) No Default. The Mayor or the City Manager of the Issuer shall certify that (i) the Issuer is not in default in the performance of any of the covenants and obligations assumed by it hereunder or under any ordinance, resolution or other enabling instrument of the Issuer pursuant to which Additional Bonds have been issued, and (ii) all payments herein required to have been made into the funds and accounts provided by this Bond Resolution or by such other ordinance, resolution or enabling instrument shall have been made in full to the extent required.

(3) Due Authorization. The City Attorney of the Issuer or a duly authorized assistant City Attorney shall submit an opinion to the Governing Body of the Issuer to the effect that the issuance of such Additional Bonds has been duly authorized and that all conditions precedent to the delivery of such Additional Bonds have been fulfilled.

(4) Covenants Applicable. Each ordinance, resolution or enabling instrument authorizing the issuance of Additional Bonds issued pursuant to this Section 10.02 and, unless all Bonds outstanding shall be refunded, Section 10.03 hereof, will contain a provision to the effect that all of the covenants herein contained (except as to the details of such Additional Bonds) will be fully applicable to such Bonds as if originally issued hereunder.

The 2003 Bonds and all Additional Bonds issued pursuant to this Article X, regardless of the time or times of their issuance, shall rank equally without preference of any 2003 Bonds or Additional Bonds over any other.

(5) Opinion of Bond Counsel. An opinion of Bond Counsel shall be delivered to the Governing Body to the effect that the issuance of Additional Bonds will not impair the exclusion from gross income for federal income tax purposes of interest paid on any Bonds issued hereunder and then Outstanding that are not Taxable Bonds. The 2003 Bonds are Taxable Bonds.

**SECTION 10.03. Refunding Bonds.** In addition to the foregoing, the Issuer may issue at any time and from time to time Additional Bonds for the purpose of refunding the 2003 Bonds or any other Series of Bonds, or any maturity or portion of a maturity of Bonds within a Series, provided that prior to the issuance of such Additional Bonds there shall be filed with the Governing Body of the Issuer a certificate or report of an independent certified public accountant to the effect that (i) the net proceeds from such Additional Bonds, together with other available funds of the Issuer, if any, will be sufficient to cause the lien created by this Bond Resolution with respect to the Bonds to be refunded to be defeased pursuant to Section 12.02 below and (ii) unless all Bonds then Outstanding shall be refunded or the conditions of Section 10.02 above shall be satisfied, the aggregate Bond Service Requirement with respect to such Additional Bonds, shall be equal to or less than the aggregate Bond Service Requirement with respect to the Bonds which would have been Outstanding had the same not been refunded pursuant to this section. Prior to or concurrently with the issuance of such Bonds, there shall be filed with a representative of the Issuer an opinion of Bond Counsel to the effect that (i) the net proceeds from the sale of such Additional Bonds have been set aside in irrevocable escrow for the payment of the Bonds to be refunded in the manner described in Section 12.02 below and (ii) the issuance of such Additional Bonds and the use of the proceeds thereof as described above will not have the effect of causing the interest on any Bond then Outstanding under this Bond Resolution (other than any Taxable Bond), including the Bonds to be refunded, to become includable in gross income of the holders thereof for federal income tax purposes.

**SECTION 10.04. Qualified Hedge Agreements.** The Issuer may enter into one or more Qualified Hedge Agreements with respect to one or more Series of Bonds (or portions thereof); provided, however, that if such Qualified Hedge Agreement is not entered into at the time of initial issuance of the Series of Bonds to which it relates, the requirements of Sections 9.01 and 10.02 above must be met, applying the same as if \$1.00 in principal amount of Additional Bonds were being issued as of the effective date of such Qualified Hedge Agreement. Qualified Hedge Payments payable by the Issuer under any such agreement may be payable from the Sinking Fund Account on a parity with interest payments with respect to Bonds issued and Outstanding hereunder. The Issuer may grant to the counterparties to such Qualified Hedge Agreements a parity lien on the Pledged Revenues to secure payment of such Qualified Hedge Payments and to provide the priority of payment thereof.

Prior to entering into any Qualified Hedge Agreement with respect to any Bonds issued and Outstanding hereunder, the Issuer shall notify Moody's, S&P and Fitch, to the extent they shall maintain a rating on Outstanding Bonds, of the Issuer's intent to enter into such agreement.

## ARTICLE XI

### EVENTS OF DEFAULT; REMEDIES

**SECTION 11.01. Events of Default.** Each of the following events is hereby declared an "event of default," that is to say if:

(a) payment of principal of any Bond shall not be made when the same shall become due and payable, either at maturity or on required payment dates by proceedings for redemption or otherwise; or

(b) payment of any installment of interest or any Qualified Hedge Payment shall not be made when the same shall become due and payable; or

(c) the Issuer shall fail to make any deposits required to be made hereunder or shall otherwise fail to comply with any of the covenants and obligations of the Issuer hereunder and such failure shall continue unremedied for a period of thirty (30) days after such failure to deposit or other such occurrence; or

(d) an order or decree shall be entered, with the consent or acquiescence of the Issuer, appointing a receiver or receivers of the Issuer, or the filing of a petition by the Issuer for relief under federal bankruptcy laws or any other similar law or statute of the United States of America or the State of Florida, which shall not be dismissed, vacated or discharged within thirty (30) days after the filing thereof; or

(e) any proceedings shall be instituted, with the consent or acquiescence of the Issuer, for the purpose of effecting a composition between the Issuer and its creditors or for the purpose of adjusting the claims of such creditors, pursuant to any federal or state statutes now or hereafter enacted, if the claims of such creditors are under any circumstances payable from the Pledged Revenues.

Notwithstanding the foregoing, with respect to the events described in clause (c), the Issuer shall not be deemed in default hereunder if such default can be cured within a reasonable period of time and if the Issuer in good faith institutes appropriate curative action and diligently pursues such action until the default has been corrected.

**SECTION 11.02. Enforcement of Remedies.** Upon the happening and continuance of any event of default specified in Section 11.01 of this Article, then and in every such case the owners of not less than twenty-five percent (25%) of the Bond Obligation may appoint any state bank, national bank, trust company or national banking association qualified to transact business in Florida to serve as trustee for the benefit of the holders of all Bonds then outstanding (the "Default Trustee"). Notice of such appointment, together with evidence of the requisite signatures of the holders of twenty-five percent (25%) of the Bond Obligation and each of the Bond Insurers, if any, and the trust instrument under which the Default Trustee shall have agreed to serve shall be filed with the Issuer and the Default Trustee and notice of such appointment shall be published in THE BOND BUYER or a financial journal of general circulation in the City of New York, New York and mailed to the registered holders of the Bonds. No more than

one Default Trustee may be appointed and serving hereunder at any one time; however, the holders of a majority of the Bond Obligation and the Bond Insurer, if any, acting jointly, may remove the Default Trustee initially appointed and appoint a successor and subsequent successors at any time. If the default for which the Default Trustee was appointed is cured or waived pursuant to this Article, the appointment of the Default Trustee shall terminate with respect to such default.

After a Default Trustee has been appointed pursuant to the foregoing, the Default Trustee may proceed, and upon the written request of owners of twenty-five percent (25%) of the Bond Obligation shall proceed, to protect and enforce the rights of the Bondholders under the laws of the State of Florida, including the Act, and under this Bond Resolution, by such suits, actions or special proceedings in equity or at law, or by proceedings in the office of any board, body or officer having jurisdiction, either for the specific performance of any covenant or agreement contained herein or in aid of execution of any power herein granted or for the enforcement of any proper legal or equitable remedy, all as the Default Trustee, being advised by counsel, shall deem most effectual to protect and enforce such rights.

In the enforcement of any remedy against the Issuer under this Bond Resolution the Default Trustee shall be entitled to sue for, enforce payment of and receive any and all amounts then or during any default becoming, and at any time remaining, due from the Issuer for principal, interest or otherwise under any provisions of this Bond Resolution or of such Bonds and unpaid, with interest on overdue payments of principal and, to the extent permitted by law, on interest, at the rate or rates of interest specified in such Bonds, together with any and all costs and expenses of collection and of all proceedings hereunder and under such Bonds, without prejudice to any other right or remedy of the Default Trustee or of the Bondholders, and to recover and enforce any judgment or decree against the Issuer, but solely as provided herein and in such Bonds, for any portion of such amounts remaining unpaid and interest, costs and expenses as above provided, and to collect (but solely from moneys in the Sinking Fund Account, and any other moneys available for such purpose) in any manner provided by law, the moneys adjudged or decreed to be payable.

**SECTION 11.03. Effect of Discontinuing Proceedings.** In case any proceeding taken by the Default Trustee or any Bondholder on account of any default shall have been discontinued or abandoned for any reason or shall have been determined adversely to the Default Trustee or such Bondholder, then and in every such case the Issuer, the Default Trustee and Bondholders shall be restored to their former positions and rights hereunder, respectively, and all rights, remedies and powers of the Default Trustee shall continue as though no such proceeding had been taken.

**SECTION 11.04. Directions to Default Trustee as to Remedial Proceedings.** Anything in this Bond Resolution to the contrary notwithstanding, the holders of a majority of the Bond Obligation and each of the Bond Insurers, if any, acting jointly, shall have the right, by an instrument or concurrent instruments in writing executed and delivered to the Default Trustee, to direct the method and place of conducting all remedial proceedings to be taken by the Default Trustee hereunder, provided that such direction shall not be otherwise than in accordance with law or the provisions of this Bond Resolution, and that the Default Trustee shall have the right to decline to follow any such direction which in the opinion of the Default Trustee would be unjustly prejudicial to Bondholders not parties to such direction.

**SECTION 11.05. Restrictions on Actions by Individual Bondholders.** No Bondholder shall have any right to institute any suit, action or proceeding in equity or at law for the execution of any trust hereunder or for any other remedy hereunder unless such Bondholder previously shall have given to the Default Trustee and each of the Bond Insurers, if any, written notice of the event of default on account of which such suit, action or proceeding is to be taken, and unless the holders of not less than twenty-five percent (25%) of the Bond Obligation shall have made written request of the Default Trustee after the right to exercise such powers or right of action, as the case may be, shall have accrued, and shall have afforded the Default Trustee a reasonable opportunity either to proceed to exercise the powers hereinabove granted or to institute such action, suit or proceeding in its or their name, and unless, also, there shall have been offered to the Default Trustee reasonable security and indemnity against the costs, expenses and liabilities to be incurred therein or thereby, including the reasonable fees of its attorneys (including fees on appeal), and the Default Trustee shall have refused or neglected to comply with such request within a reasonable time; and such notification, request and offer of indemnity are hereby declared in every such case, at the option of the Default Trustee, to be conditions precedent to the execution of the powers and trusts of this Bond Resolution or for any other remedy hereunder. It is understood and intended that no one or more owners of the Bonds hereby secured shall have any right in any manner whatever by his or their action to affect, disturb or prejudice the security of this Bond Resolution, or to enforce any right hereunder, except in the manner herein provided, and that all proceedings at law or in equity shall be instituted, had and maintained in the manner herein provided and for the benefit of all Bondholders, and that any individual rights of action or any other right given to one or more of such owners by law are restricted by this Bond Resolution to the rights and remedies herein provided.

Nothing contained herein, however, shall affect or impair the right of any Bondholder, individually, to enforce the payment of the principal of and interest on his Bond or Bonds at and after the maturity thereof, at the time, place, from the source and in the manner provided in this Bond Resolution.

**SECTION 11.06. Bond Insurer.** For the purposes of Section 11.02, 11.04 and 11.05 hereof, a Bond Insurer providing a municipal bond insurance policy insuring the payment of principal and interest with respect to any Series of Bonds shall be deemed to be the holder of the Bonds of such Series so insured for the purpose of giving consents so long as such bond insurance policy remains in full force and effect and (i) the Bond Insurer shall not be in default in the due and punctual performance of its obligations under its insurance policy; and (ii) the Bond Insurer has not applied for or consented to the appointment of a receiver, custodian, trustee or liquidator of itself or of all or a substantial part of its assets, or admitted in writing its inability, or be generally unable, to pay its debts as such debts become due, or made a general assignment for the benefit of its creditors, or commenced a voluntary case under the Federal Bankruptcy Code (as now or hereafter in effect) or filed a petition seeking to take advantage of any other law relating to bankruptcy, insolvency, reorganization, winding up or composition or adjustment of debts, or failed to convert in a timely and appropriate manner, or acquiesced in writing to, any other petition filed against it in any involuntary case under said Federal Bankruptcy Code, or have taken any other action for the purpose of effecting the foregoing.

## ARTICLE XII

### MISCELLANEOUS PROVISIONS

**SECTION 12.01. Modification or Amendment.** This Bond Resolution may be modified or amended by ordinance or resolution and may be supplemented for the completion of all appropriate blanks and for the addition of terms, covenants and provisions in the manner herein provided and as may further be necessary for the issuance of the Bonds hereunder from time to time by supplemental ordinance or resolution adopted concurrently with or prior to the issuance of the 2003 Bonds. Thereafter, no modification or amendment of this Bond Resolution or of any resolution or ordinance amendatory hereof or supplemental hereto not provided for herein, materially adverse to the Bondholders of one or more Series of Bonds may be made without the consent in writing of the owners of not less than a majority of the Bond Obligation of such Series of Bonds, but no modification, amendment or supplemental ordinance or resolution shall permit a change (a) in the maturity of the Bonds or a reduction in the rate of interest thereon, (b) in the amount of the principal obligation of any Bond, (c) that would amend the covenant to budget and appropriate Non Ad Valorem Revenues of the Issuer in Section 6.03 hereof in a manner that would be materially adverse to the Bondholders or (d) that would reduce such percentage of holders of the Bonds required above for such modifications or amendments, without the consent of the Bond Insurer, if any, and all of the Bondholders. For the purpose of Bondholders' voting rights or consents, the Bonds owned by or held for the account of the Issuer, directly or indirectly, shall not be counted.

A Bond Insurer providing a municipal bond insurance policy insuring the payment of principal and interest with respect to any Series of Bonds shall be deemed to be the holder of the Bonds of such Series so insured for the purpose of giving consents under this Section 12.01, except for the purposes of clauses (a), (b), (c) and (d) of the immediately preceding paragraph, so long as such bond insurance policy remains in full force and effect and (i) the Bond Insurer shall not be in default in the due and punctual performance of its obligations under its insurance policy; and (ii) the Bond Insurer has not applied for or consented to the appointment of a receiver, custodian, trustee or liquidator of itself or of all or a substantial part of its assets, or admitted in writing its inability, or be generally unable, to pay its debts as such debts become due, or made a general assignment for the benefit of its creditors, or commenced a voluntary case under the Federal Bankruptcy Code (as now or hereafter in effect) or filed a petition seeking to take advantage of any other law relating to bankruptcy, insolvency, reorganization, winding up or composition or adjustment of debts, or failed to convert in a timely and appropriate manner, or acquiesced in writing to, any other petition filed against it in any involuntary case under said Federal Bankruptcy Code, or have taken any other action for the purpose of effecting the foregoing.

**SECTION 12.02. Defeasance.** If, at any time after the date of issuance of the Bonds, (a) all Bonds secured hereby or any Series thereof or maturity or portion of a maturity of Bonds within a Series and any Qualified Hedge Payments with respect thereto shall have become due and payable in accordance with their terms or otherwise as provided in this Bond Resolution, or shall have been duly called for redemption, or the Issuer gives the Paying Agent irrevocable instructions directing the payment of the principal of, premium, if any, and interest on such Bonds at maturity or at any earlier redemption date scheduled by the Issuer, or any combination thereof, (b) the whole amount of the principal, premium, if any, and the interest so due and

payable upon all of such Bonds or any Series thereof or maturity or portion of a maturity of Bonds within a Series then Outstanding, at maturity or upon redemption, and any Qualified Hedge Payments with respect thereto shall be paid, or sufficient moneys shall be held by a Paying Agent or other Authorized Depository acting as an escrow agent in irrevocable trust for the benefit of such Bondholders (whether or not in any accounts created hereby) which, when invested in cash or Direct Obligations maturing not later than the maturity or redemption dates of such principal, premium, if any, and interest and any Qualified Hedge Payments with respect thereto will, together with the income realized on such investments, be sufficient to pay all such principal, premium, if any, and interest on such Bonds at the maturity thereof or the date upon which such Bonds are to be called for redemption prior to maturity and any Qualified Hedge Payments with respect thereto, and (c) provisions satisfactory to the Registrar and Paying Agent shall also be made for paying all fees, charges and expenses of the Registrar and Paying Agent payable hereunder by the Issuer, then and in that case the right, title and interest of such Bondholders hereunder and the pledge of and lien on the Pledged Revenues, the covenant of the Issuer pursuant to Section 6.03 hereof, and all other pledges and liens created hereby or pursuant hereto, with respect to such Bondholders shall thereupon cease, determine and become void, and if such conditions have been satisfied with respect to all Bonds issued hereunder and then Outstanding, all balances remaining in any other funds or accounts created by this Bond Resolution other than moneys held for redemption or payment of Bonds and to pay all other sums payable by the Issuer hereunder shall be distributed to the Issuer for any lawful purpose; otherwise this Bond Resolution shall be, continue and remain in full force and effect. For purposes of this Section 12.02, the amount of interest to accrue on Variable Rate Bonds to maturity or redemption shall be determined by assuming interest thereon will accrue at the maximum rate of interest such Variable Rate Bonds may bear pursuant to the ordinance or resolution authorizing the issuance thereof, or the maximum rate permitted by law if such authorizing ordinance or resolution provides no maximum rate of interest.

Notwithstanding anything herein to the contrary, in the event that the principal and/or interest due on the Bonds shall be paid by the Bond Insurer, if any, pursuant to a municipal bond insurance policy, the Bonds shall remain Outstanding for all purposes, not be defeased or otherwise satisfied and not be considered paid by the Issuer, and the assignment and pledge of the Pledged Revenues and all covenants, agreements and other obligations of the Issuer to the registered owners shall continue to exist and shall run to the benefit of the Bond Insurer, and the Bond Insurer shall be subrogated to the rights of such registered owners.

Notwithstanding any other provision of this Bond Resolution, including in particular this Section 12.02, the obligation to pay over the Rebate Amount to the United States and to comply with all other requirements of Section 12.03 hereof shall survive the defeasance or payment in full of the Bonds.

**SECTION 12.03. Tax Covenants.** It is the intention of the Issuer and all parties under its control that the interest on each Series of Bonds issued hereunder that are not Taxable Bonds be and remain excluded from gross income for federal income tax purposes and to this end the Issuer hereby represents to and covenants with each of the holders of the Bonds issued hereunder that are not Taxable Bonds that it will comply with the requirements applicable to it contained in Section 103 and Part IV of Subchapter B of Chapter 1 of Subtitle A of the Code to the extent necessary to preserve the exclusion of interest on each Series of Bonds issued hereunder that are not Taxable Bonds from gross income for federal income tax purposes. The 2003 Bonds are



Taxable Bonds. Specifically, without intending to limit in any way the generality of the foregoing, the Issuer covenants and agrees:

(1) to the extent required by the Code, to make or cause to be made all necessary determinations and calculations of the Rebate Amount and required payments of the Rebate Amount;

(2) to set aside sufficient moneys from the Pledged Revenues or other legally available funds of the Issuer, to timely pay the Rebate Amount to the United States;

(3) to pay the Rebate Amount at the times and to the extent required under the Code, to the United States from Pledged Revenues or from any other legally available funds;

(4) to maintain and retain all records pertaining to the Rebate Amount with respect to each Series of Bonds issued hereunder that are not Taxable Bonds and required payments of the Rebate Amount with respect to each such Series of Bonds for at least six years after the final maturity of each such Series of Bonds or such other period as shall be necessary to comply with the Code;

(5) to refrain from taking any action that would cause the Bonds issued hereunder that are not Taxable Bonds, or any of them, to become arbitrage bonds under Section 148 of the Code; and

(6) to refrain from using proceeds of the Bonds issued hereunder that are not Taxable Bonds in a manner that would cause the Bonds or any of them to be classified as private activity bonds under Section 141(a) of the Code.

The Issuer understands that the foregoing covenants impose continuing obligations of the Issuer that will exist as long as the requirements of Section 103 and Part IV of Subchapter B of Chapter 1 of Subtitle A of the Code are applicable to the Bonds.

The Issuer shall, by subsequent resolution adopted in connection with the issuance of any Additional Bonds, make such covenants with respect to compliance with the Code, as the Issuer may deem necessary or desirable with respect to such series of Additional Bonds. Nothing contained in this paragraph shall be deemed or construed to limit the power and authority of the Issuer to issue Additional Bonds the interest on which is not excludable from gross income under Section 103 of the Code.

Notwithstanding any other provision of this Bond Resolution, including in particular Section 12.02 hereof, the obligation to pay over the Rebate Amount to the United States and to comply with all other requirements of this Section 12.03 shall survive the defeasance or payment in full of the Bonds.

**SECTION 12.04. Severability.** If any one or more of the covenants, agreements or provisions of this Bond 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 Bond Resolution or of the Bonds issued hereunder.

**SECTION 12.05. No Third-Party Beneficiaries.** Except as herein otherwise expressly provided, nothing in this Bond 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 Bond Resolution, any right, remedy or claim, legal or equitable, under or by reason of this Bond Resolution or any provision hereof, this Bond 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 12.06. Controlling Law; Members of Governing Body Not Liable.** All covenants, stipulations, obligations and agreements of the Issuer contained in this Bond Resolution shall be deemed to be covenants, stipulations, obligations and agreements of the Issuer to the full extent authorized by the Act and provided by the Constitution and laws of the State of Florida. 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 or employee of the Issuer in his individual capacity, and neither the members of the Governing Body nor any official executing the Bonds shall be liable personally on the Bonds or this Bond Resolution or shall be subject to any personal liability or accountability by reason of the issuance or the execution by the Issuer or such members thereof.

**SECTION 12.07. Municipal Securities Disclosure Requirements.** The Issuer hereby agrees, in accordance with the provisions of Rule 15c2-12 in effect from time to time and applicable to the 2003 Bonds (the "Rule"), promulgated by the Securities and Exchange Commission (the "Commission") pursuant to the Securities Exchange Act of 1934, to enter into a continuing disclosure certificate substantially in the form on file with the office of the Clerk of the Commission (the "Continuing Disclosure Certificate"). The form of the Continuing Disclosure Certificate on file with the office of the Clerk of the Commission is hereby approved and the Mayor or City Manager is hereby authorized to execute and deliver the Continuing Disclosure Certificate, subject to such amendments, modifications and filling of blanks therein as such officer executing such document shall approve, such execution to constitute conclusive evidence of such approval. Notwithstanding any other provision of this Bond Resolution, failure of the Issuer to comply with such Continuing Disclosure Certificate shall not be considered an Event of Default hereunder. However, the Continuing Disclosure Certificate shall be enforceable by the Bondholders of the 2003 Bonds in the event that the Issuer fails to cure a breach thereunder within a reasonable time after written notice from a Bondholder of a 2003 Bond to the Issuer that a breach exists. Any rights of the Bondholders of the 2003 Bonds to enforce the provisions of this Section shall be on behalf of all Bondholders of the 2003 Bonds and shall be limited to a right to obtain specific performance of the Issuer's obligations under the Continuing Disclosure Certificate.

**SECTION 12.08. Effect of Covenants.** All covenants, stipulations, obligations and agreements of the Issuer contained in this Bond Resolution shall be deemed to be covenants, stipulations, obligations and agreements of the Issuer and of the Governing Body and of each department and agency of the Issuer to the full extent authorized or permitted by law, and all such covenants, stipulations, obligations and agreements shall bind or inure to the benefit of the

successor or successors thereof from time to time and any officer, board, body or commission to whom or to which any power or duty affecting such covenants, stipulations, obligations and agreements shall be transferred by or in accordance with law.

Except as otherwise provided herein, all rights, powers and privileges conferred and duties and liabilities imposed upon the Issuer or upon the Governing Body by the provisions of this Bond Resolution shall be exercised or performed by the Governing Body, or by such other officers, board, body or commission as may be required by law to exercise such powers or to perform such duties.

**SECTION 12.09. Repeal of Inconsistent Resolutions.** All resolutions or parts thereof in conflict herewith are, to the extent of such conflict, superseded and repealed.


**SECTION 12.10. Effective Date.** This Bond Resolution shall be effective immediately upon its enactment.

**PASSED AND ADOPTED THIS 24<sup>th</sup> DAY OF FEBRUARY, 2003.**

CITY COMMISSION OF THE CITY OF  
GAINESVILLE, FLORIDA

By:   
Thomas D. Bussing, Mayor

ATTESTED:

By:   
Kurt Lannon  
Clerk of the Commission

APPROVED AS TO FORM AND  
LEGALITY:

By:   
City Attorney **FEB 25 2003**

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