

RESOLUTION NO. 030597

A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF GAINESVILLE, FLORIDA, SUPPLEMENTING RESOLUTION NO. R-94-15, AND PROVIDING FOR THE CURRENT REFUNDING OF A PORTION OF THE CITY'S OUTSTANDING GUARANTEED ENTITLEMENT REFUNDING AND REVENUE BONDS, SERIES 1994; AUTHORIZING THE ISSUANCE OF THE CITY OF GAINESVILLE, FLORIDA GUARANTEED ENTITLEMENT REVENUE REFUNDING BONDS, SERIES 2004 IN THE AGGREGATE PRINCIPAL AMOUNT NOT EXCEEDING \$11,500,000 AS ADDITIONAL BONDS ON A PARITY WITH THE GUARANTEED ENTITLEMENT REFUNDING AND REVENUE BONDS, SERIES 1994 NOT BEING REFUNDED; FINDING THAT THE REQUIREMENTS FOR THE ISSUANCE OF ADDITIONAL BONDS SHALL HAVE BEEN SATISFIED PRIOR TO THE ISSUANCE OF SAID BONDS; PROVIDING THE FORM OF SAID BONDS; PROVIDING FOR THE APPLICATION OF THE COVENANTS IN RESOLUTION NO. R-94-15 TO SAID BONDS; DELEGATING TO THE CITY MANAGER, THE ADMINISTRATIVE SERVICES DIRECTOR OR THE FINANCE DIRECTOR THE AUTHORITY TO AWARD THE SALE OF SAID BONDS TO MORGAN KEEGAN & COMPANY, INC. ON A NEGOTIATED BASIS; APPROVING THE FORM AND AUTHORIZING THE EXECUTION OF A FORWARD DELIVERY PURCHASE CONTRACT; APPROVING THE FORM OF A PRELIMINARY OFFICIAL STATEMENT AND DELEGATING TO THE CITY MANAGER, THE ADMINISTRATIVE SERVICES DIRECTOR OR THE FINANCE DIRECTOR TO DEEM IT FINAL FOR PURPOSES OF SECURITIES EXCHANGE COMMISSION RULE 15c2-12; AUTHORIZING THE EXECUTION OF AN OFFICIAL STATEMENT PERTAINING TO SAID BONDS; APPROVING THE FORM AND AUTHORIZING THE EXECUTION OF AN ESCROW DEPOSIT AGREEMENT AND DESIGNATING AN ESCROW AGENT THEREUNDER; APPROVING THE FORM AND AUTHORIZING THE EXECUTION OF A CONTINUING DISCLOSURE CERTIFICATE; AUTHORIZING THE ACCEPTANCE OF A COMMITMENT FOR BOND INSURANCE FROM AMBAC ASSURANCE CORPORATION; DESIGNATING THE BOND REGISTRAR AND PAYING AGENT FOR SAID BONDS; AUTHORIZING CERTAIN OFFICIALS OF THE CITY TO EXECUTE ANY DOCUMENTS OR TO TAKE ANY ACTIONS REQUIRED IN CONNECTION WITH THE ISSUANCE OF SAID BONDS AND THE REFUNDING OF BONDS TO BE REFUNDED WITH THE PROCEEDS THEREOF; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, on March 28, 1994, the City Commission of the City of Gainesville, Florida (the "Issuer") adopted Resolution No. R-94-15 (the "Bond Resolution") pursuant to which it issued its Guaranteed Entitlement Refunding and Revenue Bonds, Series 1994 (the "1994 Bonds") in the initial aggregate principal amount of \$15,892,219.55; and

WHEREAS, the Bond Resolution authorizes the issuance of "Additional Bonds" payable on a parity with any Bonds (as defined in the Bond Resolution) outstanding thereunder; and

WHEREAS, it is in the best interest of the Issuer (i) to provide for the current refunding of the 1994 Bonds maturing in the years 2005, 2006, 2010 and 2017 (collectively, the "Refunded Bonds"), (ii) to provide for the redemption of the Refunded Bonds on August 1, 2004, and (iii) to issue its City of Gainesville, Florida Guaranteed Entitlement Revenue Refunding Bonds, Series 2004 (the "2004 Bonds") in the aggregate principal amount not exceeding \$11,500,000, the proceeds of which will accomplish such refunding and pay the costs of issuance of such 2004 Bonds, including, without limitation, the costs of municipal bond insurance related thereto; and

WHEREAS, Morgan Keegan & Company, Inc. (the "Underwriter") intends to submit an offer to purchase the 2004 Bonds by negotiated sale pursuant to the terms of a Forward Delivery Purchase Contract between the Issuer and the Underwriter, in substantially the form attached hereto as Exhibit "A" (the "Bond Purchase Contract"), pursuant to which the Underwriter will agree to purchase the 2004 Bonds at current market interest rates (taking into account the fact that the 2004 Bonds will not be delivered prior to a date which is no more than ninety (90) days prior to August 1, 2004); and

WHEREAS, the Issuer desires to approve the form of a Preliminary Official Statement dated the date hereof, a form of which is attached hereto as Exhibit "B" (the "Preliminary Official Statement") in connection with the issuance and sale of the 2004 Bonds and to authorize execution of a final Official Statement and a supplement thereto; and

WHEREAS, the Issuer desires to approve the form of and authorize the execution and delivery of an Escrow Deposit Agreement substantially in the form on file with the office of the Clerk of the Commission (the "Escrow Deposit Agreement") and to appoint U.S. Bank, National Association, Fort Lauderdale, Florida, as the Escrow Agent thereunder; and

WHEREAS, the Issuer desires to approve the form of a Continuing Disclosure Certificate substantially in the form on file with the office of the Clerk of the Commission (the "Continuing Disclosure Certificate") in connection with the 2004 Bonds; and

WHEREAS, because of the current conditions existing in the market for securities similar to the 2004 Bonds and the nature of this transaction as a forward refunding, the Issuer finds it appropriate to delegate to the City Manager, the Administrative Services Director or the Finance Director the authority to accept the offer of the Underwriter to purchase the 2004 Bonds pursuant to the terms of the Bond Purchase Contract if certain conditions set forth in this Resolution are met and to award the sale of the 2004 Bonds on a negotiated basis; and

WHEREAS, the Issuer desires to appoint U.S. Bank, National Association, Fort Lauderdale, as initial Paying Agent and Bond Registrar with respect to the 2004 Bonds; and

WHEREAS, the Issuer desires to accept the commitment for a policy of municipal bond insurance insuring the 2004 Bonds from Ambac Assurance Corporation ("Ambac") substantially in the form on file with the office of the Clerk of the Commission (the "Commitment");

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

SECTION 1. Authority. This Resolution is adopted pursuant to the Constitution and Laws of the State of Florida, including Chapter 166, Part II, Florida Statutes, Chapter 218, Part II, Florida Statutes, the Bond Resolution, the Charter of the Issuer and other applicable provisions of law.

SECTION 2. Definitions. All terms used herein in capitalized form that are defined in the Bond Resolution shall have the same meanings as are ascribed to those terms in the Bond Resolution, unless a different or additional meaning is given to those terms herein. All terms defined in the preamble to this Resolution shall have the meanings ascribed thereto in said preamble.

Words of masculine gender include correlative words of the feminine and neuter genders. Unless the context shall otherwise indicate, words importing singular number shall include the plural number in each case and vice versa, and words importing persons shall include corporations and associations, including public bodies, as well as natural persons.

SECTION 3. Findings. It is hereby ascertained, determined and declared that:

A. The Issuer has heretofore adopted the Bond Resolution pursuant to which the 1994 Bonds were issued and remain outstanding.

B. The Issuer is authorized under the Act to issue Bonds for various purposes, including the current refunding of the Refunded Bonds, and the

current refunding of the Refunded Bonds to obtain net interest cost savings constitutes a valid and proper public purpose under the Act.

C. The Issuer has the authority under the Bond Resolution to issue Additional Bonds payable on a parity with the Bonds outstanding thereunder from the Pledged Funds except as expressly provided herein.

D. It is in the best financial interest of the Issuer to provide for the current refunding of the Refunded Bonds through the issuance on or after May 3, 2004, of the 2004 Bonds in order to produce net present value debt service savings for the Issuer and to pay the costs of issuance of the 2004 Bonds.

E. The 2004 Bonds will constitute Additional Bonds within the meaning and contemplation of the Bond Resolution and will be payable from the Pledged Funds on a parity with the 1994 Bonds not being refunded (the "Unrefunded 1994 Bonds") and any Additional Bonds which may be issued in the future. The 2004 Bonds will be issued only if the requirements for the issuance of Additional Bonds under the Bond Resolution are met.

F. The estimated Pledged Funds pledged and available hereunder will be at least sufficient to pay the principal of and interest on the Bonds as the same become due, and all other amounts required to be paid or deposited pursuant to the Bond Resolution.

G. The Pledged Funds are not pledged or encumbered in any manner except to pay the principal of and interest on the Bonds and the other payments required in the Bond Resolution.

H. The Issuer is not in default in performing any of the covenants and obligations assumed by it under the Bond Resolution and all payments required thereunder to have been made into the accounts and funds established therein have been made to the full extent required.

I. The Governing Body of the Issuer prior to delivery of the 2004 Bonds will be provided with a letter from an independent certified public accountant containing the certifications required by Section 18K of the Bond Resolution and the opinion of nationally recognized bond counsel required by Section 18K of the Bond Resolution.

J. The Underwriter will, prior to acceptance by the Issuer of the offer of the Underwriter to purchase the 2004 Bonds, provide the Issuer with a disclosure statement regarding the 2004 Bonds containing the information required by Section 218.385(6), Florida Statutes, and no further disclosure is requested by the Issuer. The truth-in-bonding requirements of Section 218.385(3), Florida Statutes, will be met by the terms of the Bond Purchase Contract.

K. Because of the characteristics of the 2004 Bonds, the nature of the issuance of the 2004 Bonds as a forward refunding, prevailing and anticipated market conditions and savings to be realized, and taking into account the advice of the Issuer's financial advisor, Public Financial Management, Inc., it is the best interest of the Issuer to accept the offer, if and when made, of the Underwriter to purchase the 2004 Bonds in the aggregate principal amount not exceeding \$11,500,000 at a negotiated sale upon the terms and conditions set forth herein and in the Bond Purchase Contract and as determined by the City Manager in accordance with the terms hereof, with delivery of the 2004 Bonds to occur on or after May 3, 2004.

L. All of the covenants of the Bond Resolution will be applicable to the 2004 Bonds.

SECTION 4. Authorization of Current Refunding of Refunded Bonds. The current refunding of the Refunded Bonds through delivery of the 2004 Bonds on or after May 3, 2004, in accordance with the terms hereof and of the Escrow Deposit Agreement is hereby approved and authorized. The redemption of the Refunded Bonds on August 1, 2004, at a redemption premium of two percent (2%) is hereby authorized and the Paying Agent with respect to the Refunded Bonds is hereby authorized to give all necessary notices in connection therewith.

SECTION 5. Authorization of 2004 Bonds. Pursuant to and subject to the provisions of the Bond Resolution, for the purpose of currently refunding the Refunded Bonds and paying the costs of issuance of the 2004 Bonds, the 2004 Bonds are hereby authorized to be issued in an aggregate principal amount not exceeding Eleven Million Five Hundred Thousand Dollars (\$11,500,000), the exact principal amount to be determined by the City Manager, the Administrative Services Director or the Finance Director in accordance with the terms hereof. Notwithstanding anything herein to the contrary, however, the 2004 Bonds shall not be issued and delivered until the conditions specified in Section 18K of the Bond Resolution have been met.

SECTION 6. This Instrument to Constitute Contract. Upon and in consideration of the acceptance of the 2004 Bonds by the Bondholders thereof, this Resolution, together with the Bond Resolution, shall be deemed to be and shall constitute a contract between the Issuer and the Bondholders. The covenants and agreements set forth in the Bond Resolution to be performed by the Issuer shall be for the equal and proportionate benefit, protection and security of the 2004 Bondholders and the Bondholders of all other series of Bonds outstanding or to be Outstanding under the Bond Resolution including the 2004 Bonds, and such other Bonds issued and outstanding or to be outstanding pursuant to the Bond Resolution shall be of equal rank, without preference, priority or distinction over any other thereof, except as expressly provided in the Bond Resolution. Unless otherwise

provided in the Bond Resolution or herein, all of the covenants in the Bond Resolution will apply to the 2004 Bonds.

SECTION 7. Delegation; Terms and Form of 2004 Bonds.

A. The City Manager, the Administrative Services Director or the Finance Director is hereby authorized and directed to award the sale of the 2004 Bonds to the Underwriter and to approve the terms thereof, including, without limitation, the principal amount thereof, the date thereof, the delivery date, the first interest payment date with respect thereto, the interest rate or rates with respect thereto, the purchase price thereof, the redemption terms with respect thereto and the exact series designation thereof, provided, however, that in no event shall (i) the principal amount of the 2004 Bonds exceed \$11,500,000, (ii) the purchase price be less than 98% of the original principal amount of the 2004 Bonds (excluding original issue discount) (the "Minimum Purchase Price"), (iii) the interest rate exceed the maximum rate permitted by applicable law, (iv) the final maturity date be later than August 1, 2017, (v) the net present value debt service savings be less than 3% of the principal amount of the Refunded Bonds (the "Minimum Savings") assuming no investment earnings on amounts deposited under the Escrow Deposit Agreement, or (vi) the Bond Service Requirement for the 2004 Bonds for any Bond Year exceed the Bond Service Requirement for the Refunded Bonds for such Bond Year.

B. The 2004 Bonds shall be dated the date provided in the Bond Purchase Contract, and approved by the City Manager, the Administrative Services Director or the Finance Director, shall bear interest from such date, payable semiannually on the first day of August and the first day of February of each year, commencing on February 1, 2005, or such other date as is provided in the Bond Purchase Contract, and approved by the Administrative Services Director or the Finance Director, at the rates, and shall mature substantially in accordance with the schedules, set forth or incorporated by reference in the Bond Purchase Contract and the Official Statement and approved by the Administrative Services Director or the Finance Director. The approval by the Administrative Services Director or the Finance Director shall be conclusively evidenced by the execution of the Bond Purchase Contract. The 2004 Bonds shall be issued as fully registered bonds in the denomination of \$5,000 each or any integral multiple thereof. The interest rate on the 2004 Bonds shall not under any circumstances exceed the maximum rate permitted by applicable law.

C. The 2004 Bonds may be subject to such mandatory and optional redemption provisions as provided in the Bond Purchase Contract and the Official Statement, and approved by the City Manager, the Administrative Services Director or the Finance Director, the approval by the City Manager, the Administrative Services Director or the Finance Director to be conclusively evidenced by the execution of the Bond Purchase Contract.

D. The 2004 Bonds shall be numbered consecutively from one upward preceded by the letter "R" prefixed to the number. Principal of and premium, if any, on the 2004 Bonds shall be payable when due upon presentation and surrender of the 2004 Bonds at the designated corporate trust office of the Bond Registrar for the 2004 Bonds. Interest on the 2004 Bonds shall be paid when due by check or draft drawn upon the Paying Agent for the 2004 Bonds and mailed to the registered owners of the 2004 Bonds at the addresses as they appear on the registration books maintained by the Bond Registrar for the 2004 Bonds (or in the case of holders of \$1,000,000 or more in aggregate principal amount of 2004 Bonds, by wire transfer) at the close of business on the fifteenth 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 2004 Bonds 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 persons in whose names such 2004 Bonds are registered at the close of business on a special record date for the payment of such defaulted interest as established by notice deposited in the U.S. Mails, postage prepaid, by the Issuer to the registered owners of 2004 Bonds not less than fifteen (15) days preceding such special record date. Such notice shall be mailed to the persons in whose names the 2004 Bonds are registered at the close of business on the fifth day (whether or not a business day) preceding the date of mailing.

The registration of the 2004 Bonds may be transferred upon the registration books upon delivery to the principal office of the Bond Registrar for the 2004 Bonds designated by the Issuer, accompanied by a written instrument or instruments of transfer in form and with guaranty of signature satisfactory to the Bond Registrar, duly executed by the owner of such 2004 Bond or by his attorney-in-fact or legal representative, containing written instructions as to the details of transfer of such 2004 Bond, along with the social security number or federal employer identification number or such transferee. In all cases of a transfer of a 2004 Bond, the Bond Registrar shall at the earliest practical time in accordance with the provisions of this 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 2004 Bond or Bonds of the same maturity and of authorized denomination or denominations, for the same aggregate principal amount and payable from the same sources of funds. Neither the Issuer nor the Bond Registrar for the 2004 Bonds shall be required to register the transfer of any 2004 Bond during the period commencing on the fifteenth day of the month next preceding an interest payment date on the 2004 Bonds and ending on such interest payment date or, in the case of any proposed redemption of a 2004 Bond, after such 2004 Bond or any portion thereof has been selected for redemption. The Issuer and the Bond Registrar for the 2004 Bonds may charge the owner of such Bond for the registration of every such transfer of a Bond 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 2004 Bond shall be delivered.

E. If the date for payment of the principal of, premium, if any, or interest on the 2004 Bonds shall be a Saturday, Sunday, legal holiday or a day on which banking institutions in the city where the corporate trust office of the Bond Registrar is located are authorized by law or executive order to close, then the date for such payment shall be the next succeeding day which is not a Saturday, Sunday, legal holiday or a day on which such banking institutions are authorized to close, and payment on such day shall have the same force and effect as if made on the nominal date of payment.

F. The text of the 2004 Bonds and the form of assignment for such 2004 Bonds and Certificate of Authentication shall be substantially in form for Current Interest Bonds set forth in the Bond Resolution, with such omissions, insertions and variations as may be necessary or desirable and authorized by this Resolution or by any subsequent resolution or ordinance adopted prior to the issuance thereof, or as may be approved and made by the officers of the Issuer executing the same, such execution to be conclusive evidence of such approval.

SECTION 8. Provisions for Redemption. The 2004 Bonds shall be subject to redemption prior to their maturity as approved by the City Manager, the Administrative Services Director or the Finance Director pursuant to Section 7C hereof through the execution of the Bond Purchase Contract.

Notice of call for redemption shall be given by the Issuer by deposit in the U.S. Mail of a copy of the redemption notice, postage prepaid, at least 30 but not more than 60 days prior to the date fixed for redemption to the registered owner of each 2004 Bond to be redeemed at the address shown on the registration books to be maintained in accordance with the provisions hereof. Failure to give such notice by mailing to any Bondholder, or any defect therein, shall not affect the validity of the proceedings for the redemption of any 2004 Bond or portion thereof with respect to which no such failure has occurred.

Each notice shall set forth the date fixed for redemption, the rate of interest borne by each 2004 Bond being redeemed, the redemption date of each Bond being redeemed, the date of the notice of redemption, the name and address of the Registrar, the redemption price to be paid and, if less than all of the 2004 Bonds then outstanding shall be called for redemption, the distinctive numbers and letters, including CUSIP numbers, if any, of such 2004 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 2004 Bond is to be redeemed in part only, the notice of redemption which relates to such 2004 Bond shall also state that on or after the redemption date, upon surrender of such 2004 Bond, a new 2004 Bond or Bonds in a principal amount equal to the unredeemed portion of such 2004 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 2004 Bond receives such notice.

Notice having been mailed in the manner and under the conditions hereinabove provided, the 2004 Bonds or portions of 2004 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 2004 Bonds or portions of 2004 Bonds on such date.

On the date so designated for redemption, notice having been mailed and moneys for payment of the redemption price being held in separate accounts by the Paying Agent, in trust for the holders of the 2004 Bonds or portions thereof to be redeemed, all as provided in this Resolution, interest on the 2004 Bonds or portions of 2004 Bonds so called for redemption shall cease to accrue, such 2004 Bonds and portions of 2004 Bonds shall cease to be entitled to any lien, benefit or security under this Resolution, and the holders or registered owners of such 2004 Bonds or portions of 2004 Bonds shall have no rights in respect thereof except to receive payment of the redemption price thereof and, to the extent provided in the last paragraph of this Section 8, to receive 2004 Bonds for any unredeemed portion of the 2004 Bonds.

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 or in any way create a default under or violation of the terms of this Resolution if notice thereof is given as prescribed above in this Section 8.

(a) Each notice of redemption shall be sent by the Issuer at least 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 2004 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 2004 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.

In case part but not all of an outstanding 2004 Bond shall be selected for redemption, the registered owner thereof shall present and surrender such 2004 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 2004 Bond so surrendered, a 2004 Bond or Bonds fully registered as to principal and interest.

Notwithstanding the foregoing or any other provision hereof, notice of optional redemption pursuant to this Section 8 may be conditioned upon the occurrence or non-occurrence of such event or events as shall be specified in such notice of optional redemption and may also be subject to rescission by the Issuer if expressly set forth in such notice.

SECTION 9. Application of 2004 Bond Proceeds. To the extent not otherwise provided by the Issuer by resolution or ordinance adopted or enacted or by certificate of the City Manager, the Administrative Services Director or the Finance Director delivered at or prior to the issuance and delivery of the 2004 Bonds, the proceeds from the sale of the 2004 Bonds, including accrued interest, if any, shall be disposed of as follows:

1. Accrued interest, if any, shall be deposited in the Sinking Fund and used for and applied to the payment of interest next coming due on the 2004 Bonds.

2. An amount, together with interest earnings thereon, sufficient to pay the principal of and interest and redemption premiums on the Refunded Bonds on August 1, 2004, shall be transferred to the Escrow Agent for deposit into the Escrow Deposit Trust Fund created and established pursuant to the Escrow Deposit Agreement and shall be used and applied pursuant to and in the manner described in the Escrow Deposit Agreement.

3. An amount equal to the costs of issuance of the 2004 Bonds shall be retained by the Issuer and used to pay when due, or for reimbursement of, the costs of issuance of the 2004 Bonds, including, without limitation, the cost of a municipal bond insurance policy issued by Ambac.

Funds currently held for the benefit of the Refunded Bonds under the Bond Resolution shall be applied as set forth in a certificate of the City Manager, the Administrative Services Director or the Finance Director, provided, however, that such funds shall be used:

1. to refund the Refunded Bonds under the Escrow Deposit Agreement; or

2. for such other lawful purposes as permitted under applicable law as shall in the opinion of bond counsel, not result in the interest on the Refunded Bonds being includable in gross income of the holders thereof for federal income tax purposes.

To the extent necessary, the City may contribute legally available funds of the City for deposit under the Escrow Deposit Agreement to refund the Refunded Bonds.

SECTION 10. Approval of Preliminary Official Statement. The Issuer hereby approves the form and content of the Preliminary Official Statement attached hereto as Exhibit "B" and approves the use of the Preliminary Official Statement with respect to the 2004 Bonds to be made by the Underwriter in the marketing of the 2004 Bonds. There is hereby delegated to the City Manager, the Administrative Services Director or the Finance Director the authority to, on behalf of the Issuer, deem the Preliminary Official Statement final for the purpose of Rule 15c2-12 of the Securities and Exchange Commission (the "Rule"), subject to the completion of information therein as permitted by the Rule. The City Manager, the Administrative Services Director or the Finance Director are hereby authorized to execute, on behalf of the Issuer, a final Official Statement relating to the 2004 Bonds substantially in the form of the Preliminary Official Statement, subject to such changes, insertions, omissions and filling of blanks therein as such officers shall approve, execution by such officers to be conclusive evidence of their approval, and such final Official Statement is hereby authorized to be used and distributed in connection with the marketing and sale of the 2004 Bonds. The City Manager, the Administrative Services Director or the Finance Director is also hereby authorized to execute, on behalf of the Issuer, a subsequent final Official Statement, or a supplement to or amendment of the final Official Statement, at or about the time of delivery of the 2004 Bonds, in such form as such officers shall approve, execution of such document to be conclusive evidence of such approval.

SECTION 11. Approval of Escrow Deposit Agreement. The form of the Escrow Deposit Agreement substantially in the form on file with the office of the Clerk of the Commission is hereby approved, subject to such changes, insertions and omissions and filling of blanks therein as may be approved and made in such form of Escrow Deposit Agreement by the officer of the Issuer executing the same, in a manner consistent with the provisions of this Resolution, such execution to be conclusive evidence of such approval. The City Manager, the Administrative Services Director or the Finance Director are hereby authorized to execute the Escrow Deposit Agreement on behalf of the Issuer. The Issuer hereby designates and appoints U.S. Bank, National Association, Fort Lauderdale, Florida, as the Escrow Agent under the Escrow Deposit Agreement. To the extent that any funds remain on deposit in the Escrow Deposit Agreement, after payment in full of the Refunded Bonds, such moneys shall be deposited to the 2004 Construction Fund

and applied to pay the costs of the 2004 Projects or to such other purposes as are permitted hereunder.

SECTION 12. Continuing Disclosure. The Issuer hereby covenants and agrees that, in order to assist the Underwriter in complying with the Rule with respect to the 2004 Bonds, it will comply with and carry out all of the provisions of the Continuing Disclosure Certificate to be executed by the Issuer prior to the time the Issuer delivers the 2004 Bonds to the Underwriter, as it may be amended from time to time in accordance with the terms thereof. The Continuing Disclosure Certificate, substantially in the form on file with the office of the Clerk of the Commission, is hereby approved. The City Manager, the Administrative Services Director or the Finance Director are hereby authorized to execute and deliver the Continuing Disclosure Certificate on behalf of the Issuer in substantially the form attached hereto with such changes, insertions, omissions and filling of blanks therein as such officers may approve, execution thereof to be conclusive evidence of such approval. Notwithstanding any other provision of this Resolution, failure of the Issuer to comply with such Continuing Disclosure Certificate shall not be considered an event of default hereunder or under the Bond Resolution. However, the Continuing Disclosure Certificate shall be enforceable by the Bondholders of the 2004 Bonds in the event that the Issuer fails to cure a breach thereunder within a reasonable time after written notice from a holder of the 2004 Bonds to the Issuer that a breach exists. Any rights of the holders and registered owners of the 2004 Bonds to enforce the provisions of this Section shall be on behalf of all holders and registered owners of the 2004 Bonds and shall be limited to a right to obtain specific performance of the Issuer's obligations under the Continuing Disclosure Certificate.

SECTION 13. Paying Agent and Bond Registrar. U.S. Bank, National Association, Fort Lauderdale, Florida, is hereby appointed and designated as the initial Bond Registrar and Paying Agent for the 2004 Bonds.

SECTION 14. Authorization of Commitment for Municipal Bond Insurance. The Commitment of Ambac to issue a policy of municipal bond insurance to insure the 2004 Bonds substantially in the form on file with the office of the Clerk of the Commission is hereby accepted and approved and the execution thereof by the City Manager, the Administrative Services Director or the Finance Director or by any other Issuer official is hereby approved and ratified.

SECTION 15. Authorizations.

A. The form of the Bond Purchase Contract presented by the Underwriter and attached hereto as Exhibit "A" is hereby approved, subject to such changes, insertions and omissions and such filling of blanks therein as may be approved and made in such Bond Purchase Contract by the City Manager, the Administrative Services Director or the Finance Director, in a manner consistent with the provisions of this Resolution, including, without limitation, Section 7A

hereof, such execution to be conclusive evidence of such approval. Upon receipt of a disclosure statement from the Underwriter, the City Manager, the Administrative Services Director or the Finance Director is hereby authorized to accept the offer of the Underwriter to purchase the 2004 Bonds in the aggregate principal amount not exceeding \$11,500,000, at a purchase price of not less than the Minimum Purchase Price, plus accrued interest thereon to the date of delivery, and with present value savings produced from refunding the Refunded Bonds of not less than the Minimum Savings, upon the terms and conditions set forth in the Bond Purchase Contract. The City Manager, the Administrative Services Director or the Finance Director is hereby authorized to execute the Bond Purchase Contract for and on behalf of the Issuer pursuant to the terms hereof. The City may, after execution of the Bond Purchase Contract and prior to delivery of the 2004 Bonds, use lawfully available funds to pay a portion of the costs of the issuance of the 2004 Bonds, which amount will be reimbursed from proceeds of the 2004 Bonds at the time of delivery of the 2004 Bonds.

B. The Mayor, the Mayor Pro Tempore, the Clerk, the City Manager, the Administrative Services Director or the Finance Director and the City Attorney or their duly authorized alternative officers are hereby authorized and directed on behalf of the Issuer to execute the 2004 Bonds (including any temporary bond or bonds) as provided in this Resolution and any of such officers are hereby authorized and directed upon the execution of the 2004 Bonds in the form and manner set forth in this Resolution to deliver the 2004 Bonds in the amounts authorized to be issued hereunder, to the Authentication Agent for authentication and delivery to or upon the order of the Underwriter pursuant to the Bond Purchase Contract, upon payment of said purchase price and upon compliance by the Underwriter with the terms of the Bond Purchase Contract.

C. The Mayor, the Mayor Pro Tempore, the Clerk, the City Manager, the Administrative Services Director or the Finance Director the City Attorney, and such other officers and employees of the Issuer as may be designated by the Mayor or the City Manager in writing, are each designated as agents of the Issuer in connection with the issuance and delivery of the 2004 Bonds and are authorized and empowered, collectively or individually, to take all action and steps and to execute all instruments, documents and contracts on behalf of the Issuer that are necessary or desirable in connection with the execution and delivery of the 2004 Bonds and the current refunding of the Refunded Bonds, including, without limitation, an agreement with the Bond Registrar and Paying Agent, and which are specifically authorized by or are not inconsistent with, the terms and provisions of this Resolution or any action relating to the 2004 Bonds heretofore taken by the Issuer. Such officers and those so designated are hereby charged with the responsibility for the issuance of the 2004 Bonds.

SECTION 16. Tax Covenants. It is the intention of the Issuer and all parties under its control that the interest on the 2004 Bonds issued hereunder 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 and registered owners of the 2004 Bonds issued hereunder that it will comply with the requirements applicable to it contained in Section 103 and Part IV of Subchapter B of Chapter 1 of the Internal Revenue Code of 1986, as amended (the "Code") to the extent necessary to preserve the exclusion of interest on the 2004 Bonds issued hereunder from gross income for federal income tax purposes. Specifically, without intending to limit in any way the generality of the foregoing, the Issuer covenants and agrees:

(1) to make or cause to be made all necessary determinations and calculations of the Rebate Amount (as hereinafter defined) and required payments of the Rebate Amount;

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

(3) to pay the Rebate Amount to the United States of America from the Pledged Funds or from any other legally available funds, at the times and to the extent required pursuant to Section 148(f) of the Code;

(4) to maintain and retain all records pertaining to the Rebate Amount with respect to the 2004 Bonds issued hereunder and required payments of the Rebate Amount with respect to the 2004 Bonds for at least six years after the final maturity of the 2004 Bonds or such other period as shall be necessary to comply with the Code;

(5) to refrain from using proceeds from the 2004 Bonds issued hereunder in a manner that might cause the 2004 Bonds to be classified as private activity bonds under Section 141(a) of the Code; and

(6) to refrain from taking any action that would cause the 2004 Bonds issued hereunder to become arbitrage bonds under Section 148 of the Code.

The Issuer understands that the foregoing covenants impose continuing obligations on the Issuer that will exist as long as the requirements of Section 103 and Part IV of Subchapter B of Chapter 1 of the Code are applicable to the 2004 Bonds.

Notwithstanding any other provision of the Bond Resolution, including, in particular Section 20 thereof, the obligation of the Issuer to pay the Rebate Amount to the United States of America and to comply with the other requirements of this Section shall survive the defeasance or payment in full of the 2004 Bonds.

As used herein, the term "Rebate Amount" means the excess of the amount earned on all non-purpose investments (as defined in Section 148(f)(6) of the Code) over the amount which would have been earned if such non-purpose investments were invested at a rate equal to the yield on the 2004 Bonds, plus any income attributable to such excess to the extent required to be paid to the United States in order to maintain the exclusion from gross income for federal income tax purposes of interest on the 2004 Bonds.

SECTION 17. Additional Covenants. Except to the extent that the same would conflict with the terms of the Bond Resolution, so long as any 2004 Bond insured by Ambac remains outstanding, the Issuer agrees that, except as provided in paragraph O below, the following provisions shall apply:

A. In addition to the requirements of Section 19 of the Bond Resolution, the following shall apply with respect to modification or amendment of the Bond Resolution:

(i) Any provision of the Bond Resolution as supplemented by this Resolution expressly recognizing or granting rights in or to Ambac may not be amended in any manner which affects the rights of Ambac thereunder without the prior written consent of Ambac. Ambac reserves the right to charge the Issuer a fee for any consent or amendment to the Bond Resolution as supplemented by this Resolution while the policy insuring the 2004 Bonds (the "2004 Financial Guaranty Insurance Policy") is outstanding.

(ii) Unless otherwise provided in Section 19 of the Bond Resolution, Ambac's consent shall be required in addition to Holder consent, when required, for the following purposes: (i) execution and delivery of any resolution amending the Bond Resolution; and (ii) initiation or approval of any action not described in (i) above which requires Holder consent.

(iii) Any reorganization or liquidation plan with respect to the Issuer during the term of the 2004 Bonds must be acceptable to Ambac. In the event of any reorganization or liquidation during the term of the 2004 Bonds, Ambac shall have the right to vote on behalf of all Holders who hold Ambac-insured 2004 Bonds.

(iv) Notwithstanding anything herein or in the Bond Resolution to the contrary, Ambac shall be considered the Holder of all Bonds insured by the 2004 Financial Guaranty Insurance Policy for all purposes of the Bond Resolution and this Resolution, including, without limitation, the giving of consents and the direction of remedies.

B. While the 2004 Financial Guaranty Insurance Policy is in effect, the Issuer shall furnish to Ambac the following:

(i) Upon written request, a copy of any financial statement, audit and/or annual report of the Issuer.

(ii) To the Ambac Surveillance Department, a copy of any notice to be given to the Holders of 2004 Bonds, including, without limitation, notice of any redemption of or defeasance of 2004 Bonds, and any certificate rendered pursuant to the Bond Resolution as supplemented by this Resolution.

(iii) To Ambac's General Counsel's office, notice of any failure of the Issuer to provide notices or certificates required hereunder.

(iv) To Ambac's General Counsel's office, notice if at any time there are insufficient moneys to make any payments of principal and/or interest as required and immediately upon the occurrence of any event of default hereunder or under the Bond Resolution.

(v) Upon written request, such additional information as Ambac shall reasonably request.

C. The Issuer will permit Ambac to discuss the affairs, finances and accounts of the Issuer or any information Ambac may reasonably request regarding the security for the 2004 Bonds with appropriate officers of the Issuer. The Issuer will permit Ambac to have access to and to make copies of all books and records relating to the 2004 Bonds at any reasonable time upon reasonable written request.

D. Upon a payment default by the Issuer under the Bond Resolution as supplemented by this Resolution, Ambac shall have the right to direct an accounting at the Issuer's expense of the Pledged Funds, and the Issuer's failure to comply with such direction within thirty (30) days after receipt of written notice of the direction from Ambac shall be deemed a default hereunder; provided, however, that if compliance cannot occur within such period, then such period will be extended so long as compliance is begun within such period and diligently pursued, but only if such extension would not materially adversely affect the interests of any registered owner of the 2004 Bonds.

E. In addition to the other persons named therein to receive copies of information required to be distributed under the Continuing Disclosure Certificate, Ambac shall be a recipient thereof and is hereby entitled to a copy of such information at the same time as such other recipients.

F. Notwithstanding anything in Section 20 of the Bond Resolution to the contrary, in the event that the principal and/or interest due on the 2004 Bonds shall be paid by Ambac pursuant to the 2004 Financial Guaranty Insurance Policy, the 2004 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 Funds and all covenants, agreements and other obligations of the Issuer to the registered owners of the 2004 Bonds shall continue to exist and shall run to the benefit of Ambac, and Ambac shall be subrogated to the rights of such registered owners.

G. The Issuer agrees to comply with the following provisions:

(i) At least one(1) day prior to all interest payment dates the Issuer will determine whether there will be sufficient funds in the funds and accounts under the Bond Resolution to pay the principal of or interest on the 2004 Bonds on such interest payment date. If the Issuer determines that there will be insufficient funds in such funds or accounts, the Issuer shall so notify Ambac. Such notice shall specify the amount of the anticipated deficiency, the 2004 Bonds to which such deficiency is applicable and whether such 2004 Bonds will be deficient as to principal or interest, or both. If the Issuer has so notified Ambac at least one (1) day prior to an interest payment date, Ambac will make payments of principal or interest due on the 2004 Bonds on or before the first (1<sup>st</sup>) day next following the date on which Ambac shall have received notice of nonpayment from the Issuer.

(ii) The Issuer shall, after giving notice to Ambac as provided in (i) above, make available to Ambac and, at Ambac's direction, to The Bank of New York, in New York, New York, as insurance trustee for Ambac or any successor insurance trustee (the "Insurance Trustee"), the registration books of the Issuer maintained by the Bond Registrar and all records relating to the funds and accounts maintained under the Bond Resolution.

(iii) The Issuer or the Bond Registrar shall provide Ambac and the Insurance Trustee with a list of registered owners of 2004 Bonds entitled to receive principal or interest payments from Ambac under the terms of the 2004 Financial Guaranty Insurance Policy, and shall make arrangements with the Insurance Trustee (a) to mail checks or drafts to the registered owners of 2004 Bonds entitled to receive full or partial interest payments from Ambac and (b) to pay principal upon 2004 Bonds surrendered to the Insurance Trustee by the registered owner of 2004 Bonds entitled to receive full or partial principal payments from Ambac.

(iv) The Issuer shall, at the time it provides notice to Ambac pursuant to (i) above, notify registered owners of 2004 Bonds entitled to receive the payment of principal or interest thereon from Ambac (a) as to the fact of such entitlement, (b) that Ambac will remit to them all or a part of the interest payments next coming due upon proof of Holder entitlement to interest payments and delivery to the Insurance Trustee, in form satisfactory to the Insurance Trustee, of an appropriate assignment of the registered owner's right to payment, (c) that should they be entitled to receive full

payment of principal from Ambac, they must surrender their 2004 Bonds (along with an appropriate instrument of assignment in form satisfactory to the Insurance Trustee to permit ownership of such 2004 Bonds to be registered in the name of Ambac) for payment to the Insurance Trustee, and not the Paying Agent, and (d) that should they be entitled to receive partial payment of principal from Ambac, they must surrender their 2004 Bonds for payment thereon first to the Paying Agent who shall note on such 2004 Bonds the portion of the principal paid by the Paying Agent and then, along with an appropriate instrument of assignment in form satisfactory to the Insurance Trustee, to the Insurance Trustee, which will then pay the unpaid portion of principal.

(v) In the event that the Issuer or Paying Agent has notice that any payment of principal of or interest on a 2004 Bond which has become due for payment and which is made to a holder by or on behalf of the Issuer has been deemed a preferential transfer and theretofore recovered from its registered owner pursuant to the United States Bankruptcy Code by a trustee in bankruptcy in accordance with the final, nonappealable order of a court having competent jurisdiction, the Issuer or Paying Agent shall, at the time Ambac is notified pursuant to (i) above, notify all registered owners that in the event that any registered owner's payment is so recovered, such registered owner will be entitled to payment from Ambac to the extent of such recovery if sufficient funds are not otherwise available, and the Issuer or Paying Agent shall furnish to Ambac its records evidencing the payments of principal of and interest on the 2004 Bonds which have been made by the Issuer or Paying Agent and subsequently recovered from registered owners and the dates on which such payments were made.

(vi) In addition to those rights granted Ambac under this Resolution, Ambac shall, to the extent it makes payment of principal of or interest on 2004 Bonds, become subrogated to the rights of the recipients of such payments in accordance with the terms of the 2004 Financial Guaranty Insurance Policy, and to evidence such subrogation (a) in the case of subrogation as to claims for past due interest, the Bond Registrar shall note Ambac's rights as subrogee on the registration books of the Issuer maintained by the Bond Registrar upon receipt from Ambac of proof of the payment of interest thereon to the registered owners of the 2004 Bonds, and (b) in the case of subrogation as to claims for past due principal, the Bond Registrar shall note Ambac's rights as subrogee on the registration books of the Issuer maintained by the Bond Registrar upon surrender of the 2004 Bonds by the registered owners thereof together with proof of the payment of principal thereof.

H. The Paying Agent may be removed at any time, at the request of Ambac, for any breach of the trust set forth in the Bond Resolution as supplemented hereby.

I. Ambac shall receive prior written notice from the Issuer of any Paying Agent resignation.

J. Every successor Paying Agent appointed with respect to the 2004 Bonds shall be a trust company or bank in good standing located in or incorporated under the laws of the State of Florida, duly authorized to exercise trust powers and subject to examination by federal or state authority, having a reported capital and surplus of not less than \$75,000,000 and reasonably acceptable to Ambac. Any successor Paying Agent shall not be appointed unless Ambac approves such successor in writing.

K. Notwithstanding any other provision of the Bond Resolution, as supplemented hereby, in determining whether the rights of the Holders will be adversely affected by any action taken pursuant to the terms and provisions of the Bond Resolution, as supplemented hereby, the Issuer shall consider the effect on the Holders as if there were no 2004 Financial Guaranty Insurance Policy.

L. Notwithstanding any other provision of the Bond Resolution, as supplemented hereby, except paragraph O below, no removal, resignation or termination of the Paying Agent for the 2004 Bonds shall take effect until a successor, acceptable to Ambac, shall be appointed.

M. To the extent that the Bond Resolution as supplemented hereby confers upon or gives or grants to Ambac any right, remedy or claim under or by reason of the Bond Resolution, Ambac is hereby explicitly recognized as being a third-party beneficiary hereunder and may enforce any such right, remedy or claim conferred, given or granted hereunder.

N. Nothing in the Bond Resolution as supplemented hereby, expressed or implied, is intended or shall be construed to confer upon, or to give or grant to, any person or entity, other than the Issuer, Ambac, the Paying Agent and the registered owners of the 2004 Bonds, any right, remedy or claim related to the 2004 Bonds under or by reason of the Bond Resolution as supplemented hereby or any covenant, condition or stipulation hereof, and all covenants, stipulations, promises and agreements in the Bond Resolution as supplemented hereby contained by and on behalf of the Issuer with respect to the 2004 Bonds shall be for the sole and exclusive benefit of the Issuer, Ambac, the Paying Agent and the registered owners of the 2004 Bonds.

O. Anything provided herein to the contrary notwithstanding, Ambac shall not be entitled to any benefits of the Bond Resolution as supplemented hereby or any rights specifically granted to it hereunder, including the right to

consent to, approve or participate in any actions proposed to be taken by the Issuer, a 2004 Bondholder, or any of them pursuant to this Resolution if:

(i) Ambac shall be in default in the due and punctual performance of its payment obligations under the 2004 Financial Guaranty Insurance Policy or if such policy for whatever reason is not then enforceable and in full force and effect; or

(ii) Ambac shall apply for or consent to the appointment of a receiver, custodian, trustee or liquidator of Ambac or of all or a substantial part of its assets, or shall admit in writing its inability, or be generally unable, to pay its debts as such debts become due, or shall make a general assignment for the benefit of its creditors, or commence a voluntary case under the Federal Bankruptcy Code (as now or hereafter in effect) or shall file a petition seeking to take advantage of any other law relating to bankruptcy, insolvency, reorganization, winding up or composition or adjustment of debts, or shall fail to contest in a timely and appropriate manner, or acquiesce in writing to, any other petition filed against Ambac in any involuntary case under said Federal Bankruptcy Code, or shall take any other action for the purpose of effecting the foregoing; or

(iii) A proceeding or case shall be commenced without the application or consent of Ambac, in any court of competent jurisdiction seeking the liquidation, reorganization, dissolution, winding up or composition or readjustment of debts of Ambac or the appointment of a trustee, receiver, custodian, liquidator, sequestrator (or other similar official) or the like, of Ambac or of all or a substantial part of its assets, or similar relief with respect to Ambac under any law relating to bankruptcy, insolvency, reorganization, winding up or composition or adjustment of debts, or for relief, rehabilitation, reorganization, conservation, liquidation or dissolution under the law of any state and such proceeding or case shall continue undismissed and an order, judgment or decree approving or ordering any of the foregoing shall be entered and continue unstayed in effect for a period of one hundred twenty (120) days from the commencement of such proceedings or case, or any order for relief against Ambac shall be entered in an involuntary case under said Federal Bankruptcy Code; or

(d) Ambac shall no longer insure any of the 2004 Bonds.

SECTION 18. Covenant Regarding Receipt of Guaranteed Entitlement. The Issuer covenants and agrees that, for so long as any of the 2004 Bonds remain outstanding, to the extent that the State of Florida does not otherwise designate as Guaranteed Entitlement funds any of the state revenue sharing funds distributed to the Issuer pursuant to Chapter 218, Part II, Florida Statutes (the "Revenue Sharing Funds"), for purposes of Section 18C of the Bond

Resolution, the Issuer shall treat the Guaranteed Entitlement for each year as having been distributed to it by the State in twelve equal monthly installments, each such installment having been received at the time of receipt from the State of that month's distribution of Revenue Sharing Funds.

SECTION 19. Repeal of Inconsistent Resolutions. Except as supplemented hereby, all provisions of the Bond Resolution remain in full force and effect. All other resolutions or parts of other resolutions in conflict herewith are hereby repealed.

SECTION 20. Severability. If any one or more of the covenants, agreements or provisions of this Resolution should be held contrary to any express provision of law or contrary to the policy of express law, though not expressly prohibited, or against public policy, or shall for any reason whatsoever be held invalid, then such covenants, agreements or provisions shall be null and void and shall be deemed separate from the remaining covenants, agreements or provisions of this Resolution or of the 2004 Bonds issued hereunder.

SECTION 21. Effective Date. Except as expressly provided herein, this Resolution shall be effective immediately upon its adoption.

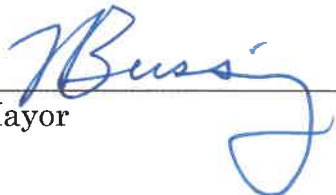
PASSED AND ADOPTED this 10<sup>th</sup> day of November, 2003.

CITY OF GAINESVILLE, FLORIDA

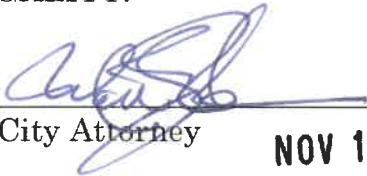
(SEAL)

ATTEST:

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

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

APPROVED AS TO FORM AND  
LEGALITY:

By:  \_\_\_\_\_  
City Attorney

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