

RESOLUTION NO. 080995

A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF GAINESVILLE, FLORIDA AUTHORIZING A LOAN IN THE PRINCIPAL AMOUNT OF \$13,000,000 TO FINANCE OR REFINANCE ALL OR A PORTION OF THE COSTS OF CERTAIN CAPITAL IMPROVEMENTS AND OTHER ITEMS DESCRIBED HEREIN AND TO PAY THE COSTS OF SUCH LOAN; APPROVING THE FORM OF A REVENUE NOTE, SERIES 2009 AND A LOAN AGREEMENT; PROVIDING OTHER DETAILS WITH RESPECT THERETO; AND PROVIDING AN EFFECTIVE DATE.

BE IT RESOLVED BY THE CITY COMMISSION OF THE CITY OF GAINESVILLE, FLORIDA (the "Issuer") that:

Section 1. Authority for this Resolution. This Resolution is adopted pursuant to the Charter of the Issuer, Chapter 166, Florida Statutes, Article VIII, Section 2, Constitution of the State of Florida, and other applicable provisions of law (collectively, the "Act").

Section 2. Definitions. Words and phrases used herein in capitalized form and not otherwise defined herein (including, without limitation, in the preamble hereto) shall have the meanings ascribed thereto in the Loan Agreement (hereinafter defined) and, in addition, the following words and phrases shall have the following meanings:

"Authorized Signatories" means the Mayor, the Mayor-Commissioner Pro Tempore, the City Manager, the Administrative Services Director or the Finance Director of the Issuer, and the Clerk of the Commission of the Issuer or any Deputy Clerk of the Commission or Acting Clerk of the Commission.

"Loan Amount" means \$13,000,000.

Section 3. Authorization of Transaction. In order to obtain funds to finance or refinance the acquisition and construction of the capital improvements and other items described on Exhibit "A" hereto (the "Project") and to pay the costs of the Loan (hereinafter defined), the Issuer is authorized to obtain a loan (the "Loan") and to borrow an amount equal to the Loan Amount from Branch Banking and Trust Company (the "Bank"), the Bank having been selected through a request for proposals process.

Because of prevailing and anticipated market conditions and the nature of the Loan, and taking into account the advice of Public Financial Management, the Issuer's financial advisor, it is not feasible, cost effective or advantageous to enter into the Loan through a competitive sale and it is in the best interest of the Issuer to accept the terms of the Loan from the Bank in a principal amount of the Loan Amount, at a negotiated sale upon the terms and conditions outlined herein and in the Loan Agreement (as hereinafter defined) and as determined by the Authorized Signatory executing the Loan Agreement in accordance with the terms hereof.

Prior to its execution and delivery of the Loan Documents, as hereinafter defined, the Issuer shall have received from the Bank a disclosure statement containing the information required by Section 218.385(6), Florida Statutes, and a Truth-in-Bonding Statement pursuant to

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Section 218.385(3), Florida Statutes, and no further disclosure is or shall be required by the Issuer.

Section 4. Loan Agreement and Revenue Note. The Issuer is authorized to execute a Loan Agreement with the Bank in substantially the form attached hereto as Exhibit "B" (the "Loan Agreement") and to make and deliver to the Bank the Revenue Note, Series 2009 (the "Note") in the form attached to the Loan Agreement. The forms and terms of the Loan Agreement and Note (jointly, the "Loan Documents") attached hereto are hereby approved, and the Authorized Signatories are authorized to execute and deliver the same, with such changes, insertions, omissions and filling of blanks as may be approved by the Authorized Signatories, such approval to be conclusively evidenced by the execution thereof by the Authorized Signatories.

Section 5. Loan Agreement and Revenue Note Not to be General Obligation or Indebtedness of the Issuer. The Loan Agreement and Note and the obligations of the Issuer thereunder 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 (i) the Non-Ad Valorem Revenues actually budgeted and appropriated and deposited into the Revenue Note, Series 2009 Debt Service Account, which is hereby created (the "Debt Service Account"), to pay debt service payments on or under the Loan Agreement and the Note and (ii) all funds on deposit in the Debt Service Account and the Project Account (hereinafter defined) (including any investment securities therein) and all investment earnings on any such funds (the "Pledged Funds"), in the manner and to the extent herein and in the Loan Agreement provided. No holder or owner of the Note 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 debt service with respect thereto, 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 holder or owner of the Note be entitled to payment of such principal and interest from any other funds of the Issuer other than the Pledged Funds, all in the manner and to the extent herein and in the Loan Agreement provided. The Loan Agreement and the Note 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 Funds, all in the manner and to the extent provided herein and in the Loan Agreement.

Funds in the Debt Service Account, until applied to the payment of debt service on the Note, may be invested in investments authorized by law and meeting the Issuer's written investment policy, which investments shall mature no later than the date on which moneys therein shall be needed to pay such debt service.

Section 6. Pledge. The payment of the principal of, premium, if any, and interest under the Loan Agreement and the Note shall be secured forthwith equally and ratably by an irrevocable lien on the Pledged Funds, all in the manner and to the extent provided herein and in the Loan Agreement. The Issuer does hereby irrevocably pledge such Pledged Funds to the

payment of the principal of, premium, if any, and interest under the Loan Agreement and the Note.

Section 7. Project Account. There is hereby created and established a 2009 Note Project Account (the "Project Account") into which shall be deposited the proceeds of the Loan. Moneys in the Project Account shall be applied to pay the costs of the Project and the costs of the Loan, and, until applied to payment of the costs of the Project or the costs of the Loan, may be invested in investments authorized by law and meeting the Issuer's written investment policy, which investments shall mature no later than the date on which moneys therein shall be needed for costs of the Project or costs of the Loan. Any funds on deposit in the Project Account and determined by the Issuer not to be needed to pay the Costs of the Project or the cost of issuance of the Loan and Note shall be transferred by the Issuer to the Debt Service Account.

Section 8. Separate Accounts. The moneys required to be accounted for in the Debt Service Account and the Project Account may be deposited in a single bank account, and funds allocated to such accounts may be invested in a common investment pool, provided that adequate accounting records are maintained to reflect and control the restricted allocation of moneys on deposit therein and such investments for the various purposes of such accounts. The designation and establishment of the Debt Service Account and the Project Account shall not be construed to require the establishment of any completely independent, self-balancing funds or accounts, but rather is intended solely to constitute an earmarking of certain revenues for certain purposes.

Section 9. Severability. If any provision of this Resolution shall be held or deemed to be or shall, in fact, be illegal, inoperative or unenforceable in any context, the same shall not affect any other provision herein or render any other provision (or such provision in any other context) invalid, inoperative or unenforceable to any extent whatever.

Section 10. Applicable Provisions of Law. This Resolution shall be governed by and construed in accordance with the laws of the State of Florida.

Section 11. Authorizations. The Authorized Signatories are hereby authorized to execute and deliver on behalf of the Issuer the Loan Agreement and the Note as provided hereby. All officials and employees of the Issuer, including, without limitation, the Authorized Signatories, are authorized and empowered, collectively or individually, to take all other actions and steps and to execute all instruments, documents, and contracts on behalf of the Issuer as they shall deem necessary or desirable in connection with the completion of the Loan and the carrying out of the intention of this Resolution.

Section 12. Repealer. All resolutions or parts thereof in conflict herewith are hereby repealed.

Section 13. Effective Date. This Resolution shall take effect immediately upon its adoption.

Passed and duly adopted in public session of the City Commission of the City of Gainesville, Florida on the 2nd day of July, 2009.

CITY COMMISSION OF THE CITY OF
GAINESVILLE, FLORIDA

By: *Peper Hamrahan*
Mayor

ATTESTED:

By: *[Signature]*
Clerk of the Commission

APPROVED AS TO FORM AND
LEGALITY:

By: *[Signature]*
City Attorney
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