

RESOLUTION NO. 43-08-08

A RESOLUTION OF THE TOWN COMMISSION OF THE TOWN OF LAKE PARK, FLORIDA AUTHORIZING LOANS IN THE AGGREGATE PRINCIPAL AMOUNT OF \$5,237,900 IN ORDER TO FINANCE THE ACQUISITION, CONSTRUCTION, AND EQUIPPING OF CERTAIN IMPROVEMENTS TO THE TOWN'S ALLEYWAY SYSTEM AND MARINA, THE ACQUISITION OF SANITATION AND RECREATION DEPARTMENT VEHICLES, AND LAND FOR THE CONSTRUCTION OF A MUNICIPAL PARKING FACILITY, AND SETTLEMENT OF CERTAIN PENSION LIABILITIES OF THE TOWN; APPROVING THE FORM OF AND AUTHORIZING THE EXECUTION OF PROMISSORY NOTES AND A LOAN AGREEMENT WITH BANK OF AMERICA, N.A.; APPROVING AN INTERLOCAL AGREEMENT WITH THE TOWN OF LAKE PARK, FLORIDA COMMUNITY REDEVELOPMENT AGENCY; AND PROVIDING AN EFFECTIVE DATE.

BE IT RESOLVED BY THE TOWN COMMISSION OF THE TOWN OF LAKE PARK, FLORIDA (the "Town") that:

**Section 1. Authority for this Resolution.** This Resolution is adopted pursuant to the Constitution and laws of the State of Florida.

**Section 2. Definitions.** Words and phrases used herein capitalized form and not otherwise defined herein shall have the meanings ascribed hereto in the Loan Agreement (hereinafter defined) and, in addition, the following words and phrases shall have the following meanings when used herein:

"Authorized Signatory" means the Mayor or Vice-Mayor of the Town, or in their absence or inability to act, any other member of the Town Commission of the Town.

"Loan Amount" means \$5,237,900.00.

**Section 3. Authorization of Transaction.** In order to obtain funds to finance a portion of the cost of the acquisition, construction, and equipping of certain improvements to the Town's alleyway system and marina, the acquisition of sanitation and recreation department vehicles, and land for the construction of a municipal parking facility, and settlement of certain pension liabilities of the Town, the Town is authorized to obtain loans (jointly, the "Loan") from and to borrow from Bank of America, N.A. (the "Bank") the amount of the Loan Amount.

Because of the characteristics of the transaction, it is in the best interest of the Town to obtain the Loan through negotiation with the Bank.

**Section 4. Loan Agreement and Promissory Notes.** The Town is authorized to execute a Loan Agreement with the Bank in substantially the form attached hereto as Exhibit A (the "Loan Agreement") and to make the Promissory Notes (the "Promissory Notes") in the form attached to the

Loan Agreement. The forms and terms of the Loan Agreement and Promissory Notes (jointly, the "Loan Documents") attached hereto are hereby approved by the Town and the Authorized Signatory is authorized to execute the same, with such changes as may be approved by the Authorized Signatory, such approval to be conclusively evidenced by the execution thereof by the Authorized Signatory.

**Section 5.** Interlocal Agreement. The Town is authorized to execute an Interlocal Agreement with the Town of Lake Park, Florida Community Redevelopment Agency in substantially the form attached hereto as Exhibit B and the Authorized Signatory is authorized to execute the same, with such changes as may be approved by the Authorized Signatory, such approval to be conclusively evidenced by the execution thereof by the Authorized Signatory.

**Section 6.** 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 7.** Applicable Provisions of Law. This Resolution shall be governed by and construed in accordance with the laws of the State of Florida.

**Section 8.** Authorizations. All officials and employees of the Town 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 Town that are necessary or desirable in connection with the completion of the Loan. The Authorized Signatory is authorized to make on behalf of the Town any elections or designations necessary or desirable in connection with the arbitration provisions of Section 148 of the Internal Revenue Code of 1986 (the "Code") and/or the provisions of Section 265 of the Code regarding qualified tax-exempt obligations.

**Section 9.** Repealer. All resolutions or parts thereof in conflict herewith are hereby repealed.

**Section 10.** Effective Date. This Resolution shall take effect immediately upon its adoption.

The foregoing Resolution was offered by Commissioner Balius, who moved its adoption. The motion was seconded by Commissioner Carey, and upon being put to a roll call vote, the vote was as follows:

	AYE	NAY
MAYOR DESCA DUBOIS	<u>/</u>	—
VICE-MAYOR ED DALY	<u>/</u>	—
COMMISSIONER CHUCK BALIUS	<u>/</u>	—
COMMISSIONER JEFF CAREY	<u>/</u>	—
COMMISSIONER PATRICIA OSTERMAN	<u>/</u>	—

The Town Commission thereupon declared the foregoing Resolution NO. 43-08-08 duly passed and adopted this 20 day of August, 2008.

TOWN OF LAKE PARK, FLORIDA

BY:   
DESCA DUBOIS  
MAYOR

ATTEST:

  
VIVIAN MENDEZ LEMLEY  
TOWN CLERK

TOWN OF LAKE PARK  
TOWN SEAL  
SEAL  
FLORIDA

Approved as to form and legal sufficiency:

BY:   
THOMAS J. BAIRD  
TOWN ATTORNEY

## LOAN AGREEMENT

This LOAN AGREEMENT (the "Agreement") is made and entered into as of August \_\_, 2008, and is by and between the Town of Lake Park, Florida, a political subdivision and municipality of the State of Florida, and its successors and assigns (the "Town"), and Bank of America, N.A., a national banking association, and its successors and assigns, as holder(s) of the hereinafter defined Note (the "Bank").

The parties hereto, intending to be legally bound hereby and in consideration of the mutual covenants hereinafter contained, DO HEREBY AGREE as follows:

### ARTICLE I

#### DEFINITION OF TERMS

Section 1.01 Definitions. The words and terms used in this Agreement shall have the meanings as set forth in the recitals above and the following words and terms as used in this Agreement shall have the following meanings:

"Agreement" shall mean this Loan Agreement and any and all modifications, alterations, amendments and supplements hereto made in accordance with the provisions hereof.

"Bond Counsel" means an attorney-at-law or firm of such attorneys having expertise in the legal aspects of the issuance of indebtedness by states and political subdivisions thereof.

"Budgeted Revenues" means, to the extent provided in Section 3.06 hereof, the Non-Ad Valorem Revenues.

"Business Day" means any day except any Saturday or Sunday or day on which the Principal Office of the Bank is lawfully closed.

"Closing Date" means the date so indicated in the Notes.

"Code" means the Internal Revenue Code of 1986, as amended, and any Treasury Regulations, whether temporary, proposed or final, promulgated thereunder or applicable thereto.

"Costs" means, with respect to the Projects, any lawful expenditure of the Town which meets the further requirements of this Agreement.

"Event of Default" shall mean an event of default specified in Article VI of this Agreement.

"Loans" shall mean the loans by the Bank to the Town contemplated hereby.

"Loan Amount" means \$5,237,900.

"Loan Documents" means this Agreement and the Notes.

"Non-Ad Valorem Revenues" means all revenues of the Town not derived from ad valorem taxation and which are lawfully available to be used to pay debt service on the Notes, but, to the extent required in order to avoid a violation of Article VII, Section 12 of the Florida Constitution, only after provision has been made by the Town for the payment of services and programs which are for essential public purposes affecting the health, welfare and safety of the inhabitants of the Town or which are legally mandated by applicable law.

"Notes" means the Taxable Note and the Tax-Exempt Note.

"Notice Address" means,

As to the Town:      Town Manager  
                                 Town of Lake Park, Florida  
                                 535 Park Avenue  
                                 Lake Park, Florida 33403

As to the Bank:      Bank of America, N.A.  
                                 9000 Southside Boulevard  
                                 Building 100  
                                 Jacksonville, Florida 32256

or to such other address as either party may have specified in writing to the other using the procedures specified in Section 7.06.

"Principal Office" means, with respect to the Bank, the office located at 9000 Southside Boulevard, Building 100, Jacksonville, Florida, 32256, or such other office as the Bank may designate to the Town in writing.

"Projects" means the Taxable Project and the Tax-Exempt Project.

"State" means the State of Florida.

"Tax-Exempt Note" means the promissory note of the Town in the form attached as Exhibit "A."

"Taxable Note" means the promissory note of the Town in the form attached as Exhibit "B."

"Tax-Exempt Project" means the acquisition, construction, and equipping of certain improvements to the Town's alleyway system and marina, and land for the construction of a municipal parking facility, acquisition of sanitation department vehicles and settlement of certain pension liabilities of the Town and payment of costs of issuance of the Tax-Exempt Note.

"Taxable Project" means reimbursement to the Town of \$309,550 in costs incurred for the acquisition, construction, and equipping of certain improvements to the Town's marina and the acquisition of recreation department vehicles.

Section 1.02 Titles and Headings. The titles and headings of the articles and sections of this Agreement have been inserted for convenience of reference only and are not to be considered a part hereof, shall not in any way modify or restrict any of the terms and provisions hereof, and shall not be considered or given any effect in construing this Agreement or any provision hereof or in ascertaining intent, if any question of intent should arise.

## ARTICLE II

### REPRESENTATIONS OF TOWN

The Town represents and warrants to the Bank that:

Section 2.01 Powers of Town. The Town is a political subdivision and municipality, duly organized and validly existing under the laws of the State. The Town has the power to borrow the amount provided for in this Agreement, to execute and deliver the Loan Documents, to secure the Notes in the manner contemplated hereby and to perform and observe all the terms and conditions of the Loan Documents on its part to be performed and observed. The Town may lawfully borrow funds hereunder in order to provide for the financing of costs of the Projects and to pay the costs of issuance of the Notes.

Section 2.02 Authorization of Loan. The Town had, has, or will have, as the case may be, at all relevant times, full legal right, power, and authority to execute the Loan Documents, to make the Notes, and to carry out and consummate all other transactions contemplated hereby, and the Town has complied and will comply with all provisions of applicable law in all material matters relating to such transactions. The Town has duly authorized the borrowing of the amount provided for in this Agreement, the execution and delivery of this Agreement, and the making and delivery of the Notes to the Bank and to that end the Town warrants that it will take all action and will do all things which it is authorized by law to take and to do in order to fulfill all covenants on its part to be performed and to provide for and to assure payment of the Note. The Notes have been duly authorized, executed, issued and delivered to the Bank and constitute the legal, valid and binding obligations of the Town enforceable in accordance with the terms thereof and the terms hereof, and are entitled to the benefits and security of this Agreement, subject to the provisions of the bankruptcy laws of the United States of America and to other applicable bankruptcy, insolvency, reorganization, moratorium or similar laws relating to or affecting creditors' rights, heretofore or hereinafter enacted, to the extent constitutionally applicable, and provided that its enforcement may also be subject to equitable principles that may affect remedies or other equitable relief, or to the exercise of judicial discretion in appropriate cases. All approvals, consents, and orders of and filings with any governmental authority or agency which would constitute a condition precedent to the issuance of the Notes or the execution and delivery of or the performance by the Town of its obligations under this Agreement and the Notes have been obtained or made and any consents, approvals, and orders to be received or filings so made are in full force and effect.

Section 2.03 No Violation of Law or Contract. The Town is not in default in any material respect under any agreement or other instrument to which it is a party or by which it may be bound, the breach of which could result in a material and adverse impact on the financial

condition of the Town or the ability of the Town to perform its obligations hereunder and under the Notes. The making and performing by the Town of this Agreement and the Notes will not violate any applicable provision of law, and will not result in a material breach of any of the terms of any agreement or instrument to which the Town is a party or by which the Town is bound, the breach of which could result in a material and adverse impact on the financial condition of the Town or the ability of the Town to perform its obligations hereunder and under the Notes.

Section 2.04 Pending or Threatened Litigation. There are no actions or proceedings pending against the Town or affecting the Town or, to the knowledge of the Town, threatened, which, either in any case or in the aggregate, might result in any material adverse change in the financial condition of the Town, or which questions the validity of this Agreement or the Notes or of any action taken or to be taken in connection with the transactions contemplated hereby or thereby.

Section 2.05 Financial Information. The financial information regarding the Town furnished to the Bank by the Town in connection with the Loans is complete and accurate, and there has been no material and adverse change in the financial condition of the Town from that presented in such information.

### ARTICLE III

#### COVENANTS OF THE TOWN

Section 3.01 Affirmative Covenants. For so long as any of the principal amount of or interest on either Note is outstanding or any duty or obligation of the Town hereunder or under either Note remains unpaid or unperformed, the Town covenants to the Bank as follows:

(a) Payment. The Town shall pay the principal of and the interest on the Notes at the time and place and in the manner provided herein and in the Notes.

(b) Use of Proceeds. Proceeds from the Tax-Exempt Note will be used only to finance costs of the Tax-Exempt Project and to pay closing costs of the Tax-Exempt Note. Proceeds from the Taxable Note will be used only to finance costs of the Projects and to pay closing costs of the Taxable Note.

(c) Notice of Defaults. The Town shall within ten (10) days after it acquires knowledge thereof, notify the Bank in writing at its Notice Address upon the happening, occurrence, or existence of any Event of Default, and any event or condition which with the passage of time or giving of notice, or both, would constitute an Event of Default, and shall provide the Bank with such written notice, a detailed statement by a responsible officer of the Town of all relevant facts and the action being taken or proposed to be taken by the Town with respect thereto.

(d) Maintenance of Existence. The Town will take all reasonable legal action within its control in order to maintain its existence until all amounts due and owing from the Town to the Bank under this Agreement and the Notes have been paid in full.

(e) Records. The Town agrees that any and all records of the Town with respect to the Loans shall be open to inspection by the Bank or its representatives at all reasonable times at the offices the Town.

(f) Financial Statements. The Town will cause an audit to be completed of its books and accounts and shall furnish to the Bank audited year-end financial statements of the Town certified by an independent certified public accountant to the effect that such audit has been conducted in accordance with generally accepted auditing standards and stating whether such financial statements present fairly in all material respects the financial position of the Town and the results of its operations and cash flows for the periods covered by the audit report, all in conformity with generally accepted accounting principles applied on a consistent basis. The Town shall provide the Bank with the Town's audited financial statements for each fiscal year ending on or after September 30, 2008 within 270 days after the end thereof.

(g) Notice of Liabilities. The Town shall promptly inform the Bank in writing of any actual or potential contingent liabilities or pending or threatened litigation of any amount that could reasonably be expected to have a material and adverse effect upon the financial condition of the Town or upon the ability of the Town to perform its obligation hereunder and under the Notes.

(h) Insurance. The Town shall maintain such liability, casualty and other insurance as is reasonable and prudent for similarly situated governmental entities of the State of Florida.

(i) Compliance with Laws. The Town shall comply with all applicable federal, state and local laws and regulatory requirements, the violation of which could reasonably be expected to have a material and adverse effect upon the financial condition of the Town or upon the ability of the Town to perform its obligation hereunder and under the Notes.

(j) Payment of Document Taxes. In the event the Notes or this Agreement should be subject to the excise tax on documents or the intangible personal property tax of the State, the Town shall pay such taxes or reimburse the Bank for any such taxes paid by it.

Section 3.02 Negative Covenants. For so long as any of the principal amount of or interest on the Notes is outstanding or any duty or obligation of the Town hereunder or under the Notes remains unpaid or unperformed, the Town covenants to the Bank as follows:

(a) Future Borrowings. The Town shall not hereafter incur any indebtedness payable from any Non-Ad Valorem Revenues, other than any Non-Ad Valorem Revenues accounted for in an enterprise fund under governmental accounting principles, which could, but for such future indebtedness, be lawfully used to pay principal of or interest on the Note (any and all such indebtedness payable from Non-Ad Valorem Revenues, other than any Non-Ad Valorem Revenues accounted for in an enterprise fund under governmental accounting principles, whether now existing or incurred in the future, is referred to as "Competing Debt"), unless (i) the amount of Non-Ad Valorem Revenues, other than any Non Ad Valorem Revenues accounted for in an enterprise fund under governmental accounting principles, which could lawfully be used to pay principal and interest on the Notes received by the Town during the fiscal year of the Town most

recently concluded prior to the incurrence of such indebtedness, equals or exceeds 135% of the maximum amount of principal and interest scheduled to be payable on the Notes and all Competing Debt (including the proposed debt) during the then current or any future fiscal year and (ii) the Town Manager or Finance Director of the Town certifies in writing to the Bank that to the best of his or her knowledge no event has occurred which would cause him or her to believe that the amount of Non-Ad Valorem Revenues, other than any Non-Ad Valorem Revenues accounted for in an enterprise fund under governmental accounting principles, which could lawfully be used to pay principal and interest on the Notes to be received in any future fiscal year to be less than 135% of the amount of principal and interest scheduled to be payable on the Notes and all Competing Debt during such fiscal year. For purposes of calculating the foregoing, if any indebtedness bears a variable rate of interest, then the interest rate on such indebtedness shall be assumed to be the higher of (i) the average rate of actual interest borne by such indebtedness during the most recent complete month prior to the date of issuance of such proposed indebtedness, (ii) The Bond Buyer 25 Revenue Bond index as of the date 30 days prior to the incurrence of the additional debt, provided that if the Town shall have entered into an interest rate swap or interest rate cap or shall have taken any other action which has the effect of fixing or capping the interest rate on such indebtedness for the entire term thereof, then such fixed or capped rate shall be used as the applicable rate for the period of such swap or cap.

Section 3.03. Registration and Exchange of Note. The Notes are owned by Bank of America, N.A. The ownership of the Notes may only be transferred, and the Town will transfer the ownership of the Notes, upon written request of the Bank specifying the name, address and taxpayer identification number of the transferee, and the Town will keep a record setting forth the identification of the owner of the Notes.

Section 3.04. Note Mutilated, Destroyed, Stolen or Lost. In case a Note shall become mutilated, or be destroyed, stolen or lost, the Town shall issue and deliver a new Note, in exchange and in substitution for such mutilated Note, or in lieu of and in substitution for the Note destroyed, stolen or lost and upon the Bank furnishing the Town proof of ownership thereof and indemnity reasonably satisfactory to the Town and paying such expenses as the Town may incur.

Section 3.05. Payment of Principal and Interest; Limited Obligation. The Town promises that it will promptly pay the principal of and interest on the Notes at the place, on the dates and in the manner provided therein, provided that the Town may be compelled to pay the principal of and interest on the Notes solely from the Budgeted Revenues, and nothing in the Notes or this Loan Agreement shall be construed as pledging any other funds or assets of the Town to such payment or as authorizing such payment to be made from any other source. Nothing herein shall, however, prevent the Town from using any lawfully available funds to pay its obligations hereunder and under the Notes. The Town is not and shall not be liable for the payment of the principal of and interest on the Notes or for the performance of any pledge, obligation or agreement for payment undertaken by the Town hereunder or under the Notes from any property other than the Budgeted Revenues. The Bank shall not have any right to resort to legal or equitable action to require or compel the Town to make any payment required by the Notes or this Loan Agreement from any source other than the Budgeted Revenues.

The Town covenants that, so long as the Notes shall remain unpaid or any other amounts are owed by the Town under this Agreement or the Notes, it will appropriate in its annual budget, by amendment, if required, from the Non-Ad Valorem Revenues, amounts sufficient to pay the principal of and interest on the Notes and other amounts owed under this Agreement as the same shall become due. In the event that the amount previously budgeted for such purpose is ever insufficient to pay such principal and interest on the Notes and other amounts owed under this Agreement, the Town covenants to take immediate action to amend its budget so as to budget and appropriate an amount from the Non-Ad Valorem Revenues sufficient to pay such debt service on the Notes and such other amounts. The covenant to budget and appropriate does not create a lien upon or pledge of the Non-Ad Valorem Revenues. Such covenants to budget and appropriate from Non-Ad Valorem Revenues shall be cumulative to the extent not paid and shall continue until Non-Ad Valorem Revenues sufficient to make all required payments have been budgeted, appropriated and used to pay such debt service on the Notes and such other amounts.

Notwithstanding the foregoing covenant, the Town does not covenant to maintain any service or programs now provided or maintained by the Town which generate Non-Ad Valorem Revenues.

Section 3.06 Officers and Employees of the Town Exempt from Personal Liability. No recourse under or upon any obligation, covenant or agreement of this Loan Agreement or the Note or for any claim based hereon or thereon or otherwise in respect thereof, shall be had against any officer, agent or employee, as such, of the Town past, present or future, it being expressly understood (a) that the obligation of the Town under this Agreement and under the Note is solely a corporate one, limited as provided in the preceding Section 3.05, (b) that no personal liability whatsoever shall attach to, or is or shall be incurred by, the officers, agents, or employees, as such, of the Town, or any of them, under or by reason of the obligations, covenants or agreements contained in this Agreement or implied therefrom, and (c) that any and all such personal liability of, and any and all such rights and claims against, every such officer, agent, or employee, as such, of the Town under or by reason of the obligations, covenants or agreements contained in this Agreement and under the Notes, or implied therefrom, are waived and released as a condition of, and as a consideration for, the execution of this Agreement and the issuance of the Notes on the part of the Town.

Section 3.07. Business Days. In any case where the due date of interest on or principal of the Notes is not a Business Day, then payment of such principal or interest need not be made on such date but may be made on the next succeeding Business Day, provided that credit for payments made shall not be given until the payment is actually received by the Bank.

Section 3.08. Tax Representations, Warranties and Covenants of the Town.

(a) The Town hereby covenants and represents that it has taken and caused to be taken and shall make and take and cause to be made and taken all actions that may be required of it for the interest on the Tax-Exempt Note to be and remain excluded from the gross income of the Bank for federal income tax purposes to the extent set forth in the Code, and that to the best of its knowledge it has not taken or permitted to be taken on its behalf, and covenants that to the best of its ability and

within its control, it shall not make or take, or permit to be made or taken on its behalf, any action which, if made or taken, would adversely affect such exclusion under the provisions of the Code.

The Town acknowledges that the continued exclusion of interest on the Tax-Exempt Note from gross income for federal income tax purposes depends, in part, upon compliance with the arbitrage limitations imposed by Sections 103(b)(2) and 148 of the Code. The Town hereby acknowledges responsibility to take all reasonable actions necessary to comply with these requirements. The Town hereby agrees and covenants that it shall not permit at any time or times any of the proceeds of the Tax-Exempt Note or other funds of the Town to be intentionally used, directly or indirectly, to acquire or to replace funds which were used directly or indirectly to acquire any higher yielding investments (as defined in Section 148 of the Code), the acquisition of which would cause the Tax-Exempt Note to be an arbitrage bond for purposes of Sections 103(b)(2) and 148 of the Code. The Town further agrees and covenants that it shall do and perform all acts and things necessary in order to assure that the requirements of Sections 103(b)(2) and 148 of the Code are met.

Specifically, without intending to limit in any way the generality of the foregoing, the Town covenants and agrees:

(1) to pay to the United States of America at the times required pursuant to Section 148(f) of the Code, the excess of the amount earned on all non-purpose investments (as defined in Section 148(f)(6) of the Code) (other than investments attributed to an excess described in this sentence) over the amount which would have been earned if such non-purpose investments were invested at a rate equal to the yield on the Tax-Exempt Note, plus any income attributable to such excess (the "Rebate Amount");

(2) to maintain and retain all records pertaining to and to be responsible for making or causing to be made all determinations and calculations of the Rebate Amount and required payments of the Rebate Amount as shall be necessary to comply with the Code; and

(3) to comply with all representations and restrictions contained in any Certificate as to Arbitrage and Other Tax Matters executed by the Town in connection with the Tax-Exempt Note.

The Town understands that the foregoing covenants impose continuing obligations on it to comply with the requirements of Section 103 and Part IV of Subchapter B of Chapter 1 of the Code so long as such requirements are applicable.

(b) The Town will comply with, and timely make or cause to be made all filings required by, all effective rules, rulings or regulations promulgated by the Department of the Treasury or the Internal Revenue Service.

(c) The Town will not use, invest, direct or permit the investment of the proceeds of the Tax-Exempt Note or any investment earnings thereon in a manner that will result in the Tax-Exempt Note becoming a "private activity bond" within the meaning of Sections 141 and 145 of the Code.

(d) The Town will not use or permit to be used more than ten percent (10%) of the proceeds of the Tax-Exempt Note (including any amounts used to pay costs associated with issuing the Tax-Exempt Note), including all investment income earned on such proceeds directly or indirectly, in any trade or business carried on by any person who is not the Town or a state or political subdivision or instrumentality thereof as those terms are used in Section 103 of the Code (an "Exempt Person").

(e) The Town will not use or permit the use of any portion of the proceeds of the Tax-Exempt Note, including all investment income earned on such proceeds, directly or indirectly, to make or finance loans to persons who are not Exempt Persons.

(f) The Town has not entered into, and will not enter into, any arrangement with any person or organization (other than an Exempt Person) which provides for such person or organization to manage, operate, or provide services with respect to more than 10% of the property financed with the proceeds of the Tax-Exempt Note (a "Service Contract"), unless the guidelines set forth in Revenue Procedure 97-13 (or the guidelines set forth in Revenue Procedure 93-19, to the extent applicable, or any new, revised or additional guidelines applicable to Service Contracts) (the "Guidelines"), are satisfied, except to the extent it obtains a private letter ruling from the Internal Revenue Service or an opinion of nationally recognized Bond Counsel which allows for a variation from the Guidelines.

(g) The Town will not cause the Tax-Exempt Note to be treated as "federally guaranteed" for purposes of Section 149 of the Code, as may be modified in any applicable rules, rulings, policies, procedures, regulations or other official statements promulgated or proposed by the Department of the Treasury or the Internal Revenue Service with respect to "federally guaranteed" obligations described in Section 149 of the Code. For purposes of this paragraph, the Tax-Exempt Note shall be treated as "federally guaranteed" if (i) all or any portion of the principal or interest is or will be guaranteed directly or indirectly by the United States of America or any agency or instrumentality thereof, or (ii) 5% or more of the proceeds of the Tax-Exempt Note will be (A) used in making loans the payment of principal or interest with respect to which is to be guaranteed in whole or in part by the United States of America or any agency or instrumentality thereof, or (B) invested directly or indirectly in federally insured deposits or accounts, and (iii) such guarantee is not described in Section 149(b)(3) of the Code.

The terms "debt service," "gross proceeds," "net proceeds," "proceeds," and "yield" have the meanings assigned to them for purposes of Section 148 of the Code.

#### Section 3.09. Section 265 Designation of Tax-Exempt Note.

The reasonably anticipated amount of tax-exempt obligations (other than obligations described in clause (ii) of Section 265(b)(3)(C) of the Code), which have been or will be issued by the Town and all entities which are subordinate to or which issue obligations on behalf of the Town during 2008 does not exceed \$10,000,000, and the Town hereby designates the Tax-Exempt Note as a "qualified tax-exempt obligation" ("QTEO") for purposes of Section 265(b)(3)(B)(i) of the Code, and the Town covenants and agrees not to take any action or to fail to take any action if such action or failure would cause the Tax-Exempt Note to no longer be a QTEO.

## ARTICLE IV

### CONDITIONS OF LENDING

The obligations of the Bank to lend hereunder are subject to the following conditions precedent:

Section 4.01 Supporting Documents. On or prior to the date hereof, the Bank shall have received the following supporting documents, all of which shall be satisfactory in form and substance to the Bank (such satisfaction to be evidenced by the purchase of the Note by the Bank):

(a) the opinion of the attorney for the Town or bond counsel to the Town, regarding the due authorization, execution, delivery, validity and enforceability of the Resolution, this Agreement and the Notes;

(b) the opinion of bond counsel to the Town to the effect that, (1) the interest on such Tax-Exempt Note is excluded from gross income for federal income tax purposes and is not an item of tax preference under Section 57 of the Code, (2) the Notes and the income thereon are exempt from the Florida excise tax on documents and (3) the Tax-Exempt Note is a QTEO; and

(c) such additional supporting documents as the Bank may reasonably request.

## ARTICLE V

### FUNDING THE LOAN

Section 5.01 The Loan. The Bank hereby agrees to loan to the Town the Loan Amount on the date hereof and upon the terms and conditions set forth in this Agreement. The Town agrees to repay the principal amount borrowed plus interest thereon, upon the terms and conditions set forth in this Agreement and the Notes.

Section 5.02 Description and Payment Terms of the Note. To evidence the obligation of the Town to repay the Loans, the Town shall make and deliver to the Bank the Notes.

## ARTICLE VI

### EVENTS OF DEFAULT

Section 6.01 General. An "Event of Default" shall be deemed to have occurred under this Agreement if:

(a) The Town shall fail to make any payment of the principal of or interest on the Loans when the same shall become due and payable, whether by maturity, by acceleration at the discretion of the Bank as provided for in Section 6.02, or otherwise; or

(b) The Town shall default in the performance of or compliance with any term or covenant contained in this Agreement or the Notes, other than a term or covenant a default in the performance of which or noncompliance with which is elsewhere specifically dealt with, which default or non-compliance shall continue and not be cured within thirty (30) days after (i) notice thereof to the Town by the Bank, or (ii) the Bank is notified of such noncompliance or should have been so notified pursuant to the provisions of Section 3.01(c) of this Agreement, whichever is earlier; or

(c) Any representation or warranty made in writing by or on behalf of the Town in this Agreement or the Notes shall prove to have been false or incorrect in any material respect on the date made or reaffirmed; or

(d) The Town admits in writing its inability to pay its debts generally as they become due or files a petition in bankruptcy or makes an assignment for the benefit of its creditors or consents to the appointment of a receiver or trustee for itself; or

(e) The Town is adjudged insolvent by a court of competent jurisdiction, or it is adjudged a bankrupt on a petition in bankruptcy filed by or against the Town, or an order, judgment or decree is entered by any court of competent jurisdiction appointing, without the consent of the Town, a receiver or trustee of the Town or of the whole or any part of its property, and if the aforesaid adjudications, orders, judgments or decrees shall not be vacated or set aside or stayed within ninety (90) days from the date of entry thereof; or

(f) The Town shall file a petition or answer seeking reorganization or any arrangement under the federal bankruptcy laws or any other applicable law or statute of the United States of America or the State; or

(g) The Town shall default in the due and punctual payment or performance of covenants related to (i) any obligation for the payment of money to the Bank or any other subsidiary or affiliate of Bank of America Corporation or (ii) any obligation for the payment of money in an amount in excess of \$250,000 to any other obligee.

#### Section 6.02 Effect of Event of Default.

Immediately and without notice, upon the occurrence of any Event of Default, the Bank may declare all obligations of the Town under this Agreement and the Notes to be immediately due and payable without further action of any kind and upon such declaration the Notes and the interest accrued thereon shall become immediately due and payable. In addition, and regardless whether such declaration is or is not made, the Bank may also seek enforcement of and exercise all remedies available to it under any applicable law.

## ARTICLE VII

### MISCELLANEOUS

Section 7.01 No Waiver; Cumulative Remedies. No failure or delay on the part of the Bank in exercising any right, power, remedy hereunder or under the Notes shall operate as a waiver of the Bank's rights, powers and remedies hereunder, nor shall any single or partial exercise of any such right, power or remedy preclude any other or further exercise thereof, or the exercise of any other right, power or remedy hereunder or thereunder. The remedies herein and therein provided are cumulative and not exclusive of any remedies provided by law or in equity.

Section 7.02 Amendments, Changes or Modifications to the Agreement. This Agreement shall not be amended, changed or modified except in writing signed by the Bank and the Town. The Town agrees to pay all of the Bank's costs and reasonable attorneys' fees incurred in modifying and/or amending this Agreement at the Town's request or behest.

Section 7.03 Counterparts. This Agreement may be executed in any number of counterparts, each of which, when so executed and delivered, shall be an original; but such counterparts shall together constitute but one and the same Agreement, and, in making proof of this Agreement, it shall not be necessary to produce or account for more than one such counterpart.

Section 7.04 Severability. If any clause, provision or section of this Agreement shall be held illegal or invalid by any court, the invalidity of such clause, provision or section shall not affect any other provisions or sections hereof, and this Agreement shall be construed and enforced to the end that the transactions contemplated hereby be effected and the obligations contemplated hereby be enforced, as if such illegal or invalid clause, provision or section had not been contained herein.

Section 7.05 Term of Agreement. Except as otherwise specified in this Agreement, this Agreement and all representations, warranties, covenants and agreements contained herein or made in writing by the Town in connection herewith shall be in full force and effect from the date hereof and shall continue in effect until as long as the Note is outstanding.

Section 7.06 Notices. All notices, requests, demands and other communications which are required or may be given under this Agreement shall be in writing and shall be deemed to have been duly given when received if personally delivered; when transmitted if transmitted by telecopy, electronic telephone line facsimile transmission or other similar electronic or digital transmission method (provided customary evidence of receipt is obtained); the day after it is sent, if sent by overnight common carrier service; and five days after it is sent, if mailed, certified mail, return receipt requested, postage prepaid. In each case notice shall be sent to the Notice Address.

Section 7.07 Applicable Law; Venue. This Agreement shall be construed pursuant to and governed by the substantive laws of the State. The Town and the Bank waive any objection either might otherwise have to venue of any action lying in Palm Beach County, Florida.

Section 7.08 Binding Effect; Assignment. This Agreement shall be binding upon and inure to the benefit of the successors in interest and permitted assigns of the parties. The Town shall have

no rights to assign any of its rights or obligations hereunder without the prior written consent of the Bank.

Section 7.09 No Third Party Beneficiaries. It is the intent and agreement of the parties hereto that this Agreement is solely for the benefit of the parties hereto and no person not a party hereto shall have any rights or privileges hereunder.

Section 7.10 Attorneys Fees. To the extent legally permissible, the Town and the Bank agree that in any suit, action or proceeding brought in connection with this Agreement or the Notes (including any appeal(s)), the prevailing party shall be entitled to recover costs and attorneys' fees from the other party.

Section 7.11 Entire Agreement. Except as otherwise expressly provided, this Agreement and the Notes embody the entire agreement and understanding between the parties hereto and supersede all prior agreements and understandings relating to the subject matter hereof.

Section 7.12 Further Assurances. The parties to this Agreement will execute and deliver, or cause to be executed and delivered, such additional or further documents, agreements or instruments and shall cooperate with one another in all respects for the purpose of out the transactions contemplated by this Agreement.

Section 7.13 Arbitration and Waiver of Jury Trial.

(a) This Section 7.13 concerns the resolution of any controversies or claims between the parties, whether arising in contract, tort or by statute, that arise out of or relate to: (i) this Agreement (including any renewals, extensions or modifications); or (ii) any Loan Document (collectively a "Claim"). For the purposes of this arbitration provision only, the term "parties" shall include any parent corporation, subsidiary or affiliate of the Bank involved in the servicing, management or administration of any obligation described or evidenced by this Agreement.

(b) At the request of any party to this Agreement, any Claim shall be resolved by binding arbitration in accordance with the Federal Arbitration Act (Title 9, U.S. Code) (the "Arbitration Act"). The Arbitration Act will apply even though this Agreement provides that it is governed by the law of a specified state. The arbitration will take place on an individual basis without resort to any form of class action.

(c) Arbitration proceedings will be determined in accordance with the Arbitration Act, the then-current rules and procedures for the arbitration of financial services disputes of the American Arbitration Association or any successor thereof ("AAA"), and the terms of this Section. In the event of any inconsistency, the terms of this paragraph shall control. If AAA is unwilling or unable to (i) serve as the provider of arbitration or (ii) enforce any provision of this arbitration clause, any party to this Agreement may substitute another arbitration organization with similar procedures to serve as the provider of arbitration.

(d) The arbitration shall be administered by AAA and conducted in West Palm Beach, Florida. All Claims shall be determined by one arbitrator; however, if Claims exceed Five Million

Dollars (\$5,000,000), upon the request of any party, the Claims shall be decided by three arbitrators. All arbitration hearings shall commence within ninety (90) days of the demand for arbitration and close within ninety (90) days of commencement and the award of the arbitrator(s) shall be issued within thirty (30) days of the close of the hearing. However, the arbitrator(s), upon a showing of good cause, may extend the commencement of the hearing for up to an additional sixty (60) days. The arbitrator(s) shall provide a concise written statement of reasons for the award. The arbitration award may be submitted to any court having jurisdiction to be confirmed, judgment entered and enforced.

(e) The arbitrator(s) will give effect to statutes of limitation in determining any Claim and may dismiss the arbitration on the basis that the Claim is barred. For purposes of the application of the statute of limitations, the service on AAA under applicable AAA rules of a notice of Claim is the equivalent of the filing of a lawsuit. Any dispute concerning this arbitration provision or whether a Claim is arbitrable shall be determined by the arbitrator(s). The arbitrator(s) shall have the power to award legal fees pursuant to the terms of this Agreement.

(f) This Section does not limit the right of any party to: (i) exercise self-help remedies, such as but not limited to, setoff; (ii) initiate judicial or non-judicial foreclosure against any real or personal property collateral; (iii) exercise any judicial or power of sale rights, or (iv) act in a court of law to obtain an interim remedy, such as but not limited to, injunctive relief, writ of possession or appointment of a receiver, or additional or supplementary remedies.

(g) The filing of a court action is not intended to constitute a waiver of the right of any party, including the suing party, thereafter to require submittal of the Claim to arbitration.

(h) By agreeing to binding arbitration, the parties irrevocably and voluntarily waive any right they may have to a trial by jury in respect of any Claim. Furthermore, without intending in any way to limit this agreement to arbitrate, to the extent any Claim is not arbitrated, the parties irrevocably and voluntarily waive any right they may have to a trial by jury in respect of such Claim. This provision is a material inducement for the parties entering into this Agreement.

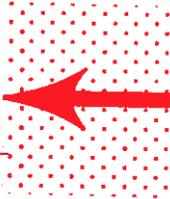
IN WITNESS WHEREOF, the parties have executed this Agreement to be effective between them as of the date of first set forth above.

TOWN OF LAKE PARK, FLORIDA

By:   
Name:  
Title: Mayor

BANK OF AMERICA, N.A.

By: \_\_\_\_\_  
Name: Linda A. Mason  
Title: Senior Vice President



PROMISSORY NOTE

KNOW ALL MEN BY THESE PRESENTS that the undersigned maker, Town of Lake Park, Florida (the "Town"), a political subdivision and municipality created and existing pursuant to the Constitution and the laws of the State of Florida, for value received, promises to pay from the sources hereinafter provided, to the order of Bank of America, N.A. or registered assigns (hereinafter, the "Bank"), the principal sum of \$4,928,350.00 or such lesser amount as shall be outstanding hereunder, together with interest on the principal balance outstanding at the rate of \_\_\_% per annum (subject to adjustment as hereinafter provided) based upon a year of 360 days consisting of twelve thirty day months. This Note is issued in conjunction with a Loan Agreement, dated of even date herewith, between the Town and the Bank (the "Loan Agreement") and is subject to all the terms and conditions of the Loan Agreement.

Principal of and interest on this Note are payable in immediately available funds constituting lawful money of the United States of America at such place as the Bank may designate to the Town.

As used in this Note:

(1) "Code" means the Internal Revenue Code of 1986, as amended, and any Treasury Regulations, whether temporary, proposed or final, promulgated thereunder or applicable thereto;

(2) "Determination of Taxability" shall mean interest on this Note is determined or declared, by the Internal Revenue Service or a court of competent jurisdiction to be included in the gross income of the Owner for federal income tax purposes under the Code.

The Town shall pay the Bank interest hereon in arrears on October 1, 2008 and on each April 1 and October 1 thereafter. The Town shall pay the Bank the principal hereof in installments due on each April 1 as set forth in the table below, and the entire unpaid principal balance, together with all accrued and unpaid interest hereon, shall be due and payable in full on April 1, 2028 (the "Maturity Date").

Principal Due Date (April 1)	Payment Amount	Principal Due Date (April 1)	Payment Amount
2009		2019	
2010		2020	
2011		2021	
2012		2023	
2013		2024	
2014		2025	
2015		2026	
2016		2027	
2017		2028	
2018			

All payments by the Town pursuant to this Note shall apply first to accrued interest, then to other charges due the Bank, and the balance thereof shall apply to the principal sum due.

Upon the occurrence of a Determination of Taxability, the interest rate on this Note shall be adjusted to a rate equal to 154% of the interest rate otherwise borne hereby (the "Adjusted Interest Rate"), as of and from the date such Determination of Taxability would be applicable with respect to this Note (the "Accrual Date"); and (i) the Town shall on the next interest payment date (or if this Note shall have matured, within 30 days after demand by the Bank) hereon pay to the Bank an amount equal to the sum of (1) the difference between (A) the total interest that would have accrued on this Note at the Adjusted Interest Rate from the Accrual Date to such next interest payment date, and (B) the actual interest paid by the Town on this Note

from the Accrual Date to such next interest payment date, and (2) any interest and penalties required to be paid as a result of any additional State of Florida and federal income taxes imposed upon such Bank and/or former Bank arising as a result of such Determination of Taxability; and (ii) from and after the Date of the Determination of Taxability, this Note shall continue to bear interest at the Adjusted Interest Rate for the period such determination continues to be applicable with respect to this Note. This adjustment shall survive payment of this Note until such time as the federal statute of limitations under which the interest on this Note could be declared taxable under the Code shall have expired.

This Note may be prepaid in whole or in part on any date, with three (3) days prior written notice to the Bank by payment in an amount equal to the principal amount to be prepaid plus accrued interest thereon to the date of plus the Prepayment Fee. For purposes hereof, the Prepayment Fee will be the sum of fees calculated separately for each Prepaid Installment, as follows:

- (i) The Bank will first determine the amount of interest which would have accrued each month at the Taxable Equivalent Rate for the Prepaid Installment had it remained outstanding until the applicable Original Payment Date, using the interest rate applicable to the Prepaid Installment under this Agreement.
- (ii) The Bank will then subtract from each monthly interest amount determined in (i), above, the amount of interest which would accrue for that Prepaid Installment if it were reinvested from the date of prepayment or redemption through the Original Payment Date, using the Treasury Rate.
- (iii) If (i) minus (ii) for the Prepaid Installment is greater than zero, the Bank will discount the monthly differences to the date of prepayment or redemption by the Treasury Rate. The Bank will then add together all of the discounted monthly differences for the Prepaid Installment.

The following definitions will apply to the calculation of the Prepayment Fee:

- (i) "Original Payment Dates" mean the dates on which the prepaid or redeemed principal would have been paid if there had been no prepayment or redemption. If any of the principal would have been paid later than the end of the fixed rate interest period in effect at the time of prepayment or redemption, then the Original Payment Date for that amount will be the last day of the interest period.
- (ii) "Prepaid Installment" means the amount of the prepaid or redeemed principal which would have been paid on a single Original Payment Date.
- (iii) "Taxable Equivalent Rate" means the interest rate per annum derived from the following formula:  $\frac{\text{___\%}}{1 - \text{Maximum Corporate Income Tax Rate}}$  divided by the difference of (1 minus the Maximum Corporate Income Tax Rate). The "Maximum Corporate Income Tax Rate" is the highest marginal federal income tax rate charged to U.S. corporations in effect at the time of the prepayment calculation. The "Maximum Corporate Income Tax Rate" is currently 35% (or 0.35 in numerical terms).
- (iv) "Treasury Rate" means the yield on the Treasury Constant Maturity Series with maturity equal to the Original Payment Date of the Prepaid Installment which are principal payments (calculated as of the date of redemption in accordance with accepted financial practice and rounded to the nearest quarter-year), as reported in Federal Reserve Statistical Release H.15, Selected Interest Rates of the Board of Governors of the Federal Reserve System, or any successor publication. If no maturity exactly corresponding to such Original Payment Date appears in Release H.15, the Treasury Rate will be determined by linear interpolation between the yields reported in Release H.15. If for any reason Release H.15 is no longer published, the Holder shall select a comparable publication to determine the Treasury Rate.

Upon the occurrence of an Event of Default (as defined in the Loan Agreement) then the Bank may declare the entire debt then remaining unpaid hereunder immediately due and payable; and in any such

default and acceleration, the Town shall also be obligated to pay (but only from the Budgeted Revenues) as part of the indebtedness evidenced by this Note, all costs of collection and enforcement hereof, including such fees as may be incurred on appeal or incurred in any proceeding under bankruptcy laws as they now or hereafter exist, including specifically but without limitation, claims, disputes and proceedings seeking adequate protection or relief from the automatic stay. If any payment hereunder is not made within fifteen (15) days after it is due, then the Town shall also be obligated to pay, from any legally available funds of the Town, as a part of the indebtedness evidenced by this Note a late payment fee in the amount of 4% of delinquent payment, which late payment shall be due and payable immediately.

Interest at the maximum lawful rate per annum shall be payable on the entire principal balance owing hereunder from and after the occurrence of and during the continuation of a default described in the preceding paragraph, irrespective of a declaration of maturity.

The Town to the extent permitted by law hereby waives presentment, demand, protest and notice of dishonor.

This Note is payable solely from the Budgeted Revenues to the extent provided in the Loan Agreement. Notwithstanding any other provision of this Note, the Town is not and shall not be liable for the payment of the principal of and interest on this Note or otherwise monetarily liable in connection herewith from any property other than as provided in the Loan Agreement.

All terms, conditions and provisions of the Loan Agreement are by this reference thereto incorporated herein as a part of this Note. Terms used herein in capitalized form and not otherwise defined herein shall have the meanings ascribed thereto in the Loan Agreement.

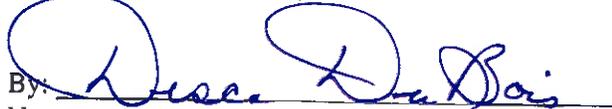
This Note may be exchanged or transferred but only as provided in the Loan Agreement.

It is hereby certified, recited and declared that all acts, conditions and prerequisites required to exist, happen and be performed precedent to and in the execution, delivery and the issuance of this Note do exist, have happened and have been performed in due time, form and manner as required by law, and that the issuance of this Note is in full compliance with and does not exceed or violate any constitutional or statutory limitation.

IN WITNESS WHEREOF, the Town has caused this Note to be executed in its name as of the date hereinafter set forth.

The date of this Promissory Note is August 21, 2008.

TOWN OF LAKE PARK, FLORIDA

By: 

Name:

Title: Mayor

PROMISSORY NOTE

KNOW ALL MEN BY THESE PRESENTS that the undersigned maker, Town of Lake Park, Florida (the "Town"), a political subdivision and municipality created and existing pursuant to the Constitution and the laws of the State of Florida, for value received, promises to pay from the sources hereinafter provided, to the order of Bank of America, N.A. or registered assigns (hereinafter, the "Bank"), the principal sum of \$309,550.00 or such lesser amount as shall be outstanding hereunder, together with interest on the principal balance outstanding at the rate of \_\_\_% per annum based upon a year of 360 days consisting of twelve thirty day months. This Note is issued in conjunction with a Loan Agreement, dated of even date herewith, between the Town and the Bank (the "Loan Agreement") and is subject to all the terms and conditions of the Loan Agreement.

Principal of and interest on this Note are payable in immediately available funds constituting lawful money of the United States of America at such place as the Bank may designate to the Town.

The Town shall pay the Bank interest hereon in arrears on October 1, 2008 and on each April 1 and October 1 thereafter. The Town shall pay the Bank the principal hereof in installments due on each April 1 as set forth in the table below, and the entire unpaid principal balance, together with all accrued and unpaid interest hereon, shall be due and payable in full on April 1, 2028 (the "Maturity Date").

Principal Due Date (April 1)	Payment Amount	Principal Due Date (April 1)	Payment Amount
2009		2019	
2010		2020	
2011		2021	
2012		2023	
2013		2024	
2014		2025	
2015		2026	
2016		2027	
2017		2028	
2018			

All payments by the Town pursuant to this Note shall apply first to accrued interest, then to other charges due the Bank, and the balance thereof shall apply to the principal sum due.

This Note may be prepaid in whole or in part on any date, with three (3) days prior written notice to the Bank by payment in an amount equal to the principal amount to be prepaid plus accrued interest thereon to the date of plus the Prepayment Fee. For purposes hereof, the Prepayment Fee will be the sum of fees calculated separately for each Prepaid Installment, as follows:

(i) The Bank will first determine the amount of interest which would have accrued each month for the Prepaid Installment had it remained outstanding until the applicable Original Payment Date, using the interest rate applicable to the Prepaid Installment under this Agreement.

(ii) The Bank will then subtract from each monthly interest amount determined in (i), above, the amount of interest which would accrue for that Prepaid Installment if it were reinvested from the date of prepayment or redemption through the Original Payment Date, using the Treasury Rate.

(iii) If (i) minus (ii) for the Prepaid Installment is greater than zero, the Bank will discount the monthly differences to the date of prepayment or redemption by the Treasury Rate. The Bank will then add together all of the discounted monthly differences for the Prepaid Installment.

The following definitions will apply to the calculation of the Prepayment Fee:

(i) "Original Payment Dates" mean the dates on which the prepaid or redeemed principal would have been paid if there had been no prepayment or redemption. If any of the principal would have been paid later than the end of the fixed rate interest period in effect at the time of prepayment or redemption, then the Original Payment Date for that amount will be the last day of the interest period.

(ii) "Prepaid Installment" means the amount of the prepaid or redeemed principal which would have been paid on a single Original Payment Date.

(iii) "Treasury Rate" means the yield on the Treasury Constant Maturity Series with maturity equal to the Original Payment Date of the Prepaid Installment which are principal payments (calculated as of the date of redemption in accordance with accepted financial practice and rounded to the nearest quarter-year), as reported in Federal Reserve Statistical Release H.15, Selected Interest Rates of the Board of Governors of the Federal Reserve System, or any successor publication. If no maturity exactly corresponding to such Original Payment Date appears in Release H.15, the Treasury Rate will be determined by linear interpolation between the yields reported in Release H.15. If for any reason Release H.15 is no longer published, the Holder shall select a comparable publication to determine the Treasury Rate.

Upon the occurrence of an Event of Default (as defined in the Loan Agreement) then the Bank may declare the entire debt then remaining unpaid hereunder immediately due and payable; and in any such default and acceleration, the Town shall also be obligated to pay (but only from the Budgeted Revenues) as part of the indebtedness evidenced by this Note, all costs of collection and enforcement hereof, including such fees as may be incurred on appeal or incurred in any proceeding under bankruptcy laws as they now or hereafter exist, including specifically but without limitation, claims, disputes and proceedings seeking adequate protection or relief from the automatic stay. If any payment hereunder is not made within fifteen (15) days after it is due, then the Town shall also be obligated to pay, from any legally available funds of the Town, as a part of the indebtedness evidenced by this Note a late payment fee in the amount of 4% of delinquent payment, which late payment shall be due and payable immediately.

Interest at the maximum lawful rate per annum shall be payable on the entire principal balance owing hereunder from and after the occurrence of and during the continuation of a default described in the preceding paragraph, irrespective of a declaration of maturity.

The Town to the extent permitted by law hereby waives presentment, demand, protest and notice of dishonor.

This Note is payable solely from the Budgeted Revenues to the extent provided in the Loan Agreement. Notwithstanding any other provision of this Note, the Town is not and shall not be liable for the payment of the principal of and interest on this Note or otherwise monetarily liable in connection herewith from any property other than as provided in the Loan Agreement.

All terms, conditions and provisions of the Loan Agreement are by this reference thereto incorporated herein as a part of this Note. Terms used herein in capitalized form and not otherwise defined herein shall have the meanings ascribed thereto in the Loan Agreement.

This Note may be exchanged or transferred but only as provided in the Loan Agreement.

It is hereby certified, recited and declared that all acts, conditions and prerequisites required to exist, happen and be performed precedent to and in the execution, delivery and the issuance of this Note do exist, have happened and have been performed in due time, form and manner as required by law, and that the

issuance of this Note is in full compliance with and does not exceed or violate any constitutional or statutory limitation.

IN WITNESS WHEREOF, the Town has caused this Note to be executed in its name as of the date hereinafter set forth.

The date of this Promissory Note is August 21, 2008.

TOWN OF LAKE PARK, FLORIDA

By: 

Name:

Title: Mayor

**INTERLOCAL AGREEMENT BETWEEN THE TOWN OF LAKE PARK  
AND THE LAKE PARK COMMUNITY REDEVELOPMENT AGENCY**

THIS INTERLOCAL AGREEMENT is made and entered into this 20 day of August, 2008 by and between the TOWN OF LAKE PARK, a municipal corporation of the State of Florida (hereinafter referred to as "TOWN") and the LAKE PARK COMMUNITY REDEVELOPMENT AGENCY, a Florida public agency established pursuant to Chapter 163, Part III, Florida Statutes (hereinafter referred to as "CRA").

**WITNESSETH:**

**WHEREAS**, the CRA is undertaking certain improvements to alleyways within the Park Avenue Corridor and is also acquiring land for the construction of a municipal parking facility, which improvements and facility (hereinafter referred to as "IMPROVEMENTS") are within the community redevelopment area of the TOWN of Lake Park; and

**WHEREAS**, the TOWN believes that the IMPROVEMENTS serve a public purpose, and wishes to support the IMPROVEMENTS by providing a grant to the CRA; and

**WHEREAS**, after completion of the IMPROVEMENTS, the CRA shall be responsible for the subsequent maintenance of the IMPROVEMENTS.

**NOW THEREFORE**, in consideration of the mutual covenants, promises, and agreements herein contained, the parties agree as follows:

1. The above recitals are true, correct and incorporated herein.
2. The TOWN agrees to provide the CRA with a grant in amount of \$ 2,420,000 (hereinafter referred to as "GRANT").
3. The TOWN is obtaining the funds with which to make the grant from a loan (the "LOAN") the TOWN is obtaining from a bank.
4. In consideration for the GRANT the CRA agrees to assume all responsibility for design, bidding, contract preparation, and contract administration necessary for the IMPROVEMENTS, including payment(s) to contractor(s) pursuant to all applicable governmental laws and regulations and will comply with all applicable statutes and permitting requirements in the selection of contractors and the installation of the IMPROVEMENTS.

5. The CRA shall obtain or provide all labor and materials necessary for the design and installation of the IMPROVEMENTS. The CRA also agrees to assume financial responsibility for the completion of any portions of the IMPROVEMENTS that are not fully funded by the GRANT set forth in Paragraph 2, above.
6. As it relates to this Interlocal Agreement, and upon providing reasonable notice, the TOWN may initiate a financial systems analysis and/or an internal fiscal control evaluation of the CRA's use of the proceeds from the GRANT by an independent auditing firm employed by the TOWN at any time TOWN deems necessary.
7. The CRA shall be responsible for the subsequent maintenance of the IMPROVEMENTS. The CRA shall be solely responsible for obtaining and complying with all necessary permits, approvals and authorizations from any federal, state, regional agency or local government if any are required for the IMPROVEMENTS.
8. While the CRA has no obligation to repay the GRANT, if the CRA does make a voluntary payment to the TOWN, the TOWN will use such payment to pay debt service on the LOAN.
9. Each party shall be liable for its own actions and negligence and to the extent permitted by law the CRA shall indemnify, defend and hold harmless the TOWN against any actions, claims or damages arising out of the CRA's negligence in connection with this Interlocal Agreement or the performance by the CRA as it may relate to this Interlocal Agreement. The foregoing indemnification shall not constitute a waiver of sovereign immunity beyond the limits set forth in Florida Statutes, Section 786.28, nor shall the same be construed to constitute agreement by either party to indemnify the other party for such other party's negligence, willful or intentional acts or omissions.
10. Pursuant to this Agreement, the CRA shall, maintain in force its status as an insured governmental special district, and shall provide evidence of this insurance prior to the TOWN's execution of this Interlocal Agreement.

11. The CRA may require each contractor engaged by the CRA for work associated with the IMPROVEMENTS to maintain Worker's Compensation coverage in accordance with Florida Statutes, and;
  - a. Commercial General Liability coverage, including vehicle coverage, in combined single limits of not less than ONE MILLION DOLLARS (\$1,000,000.00). The TOWN shall be included in the coverage as an additional insured.
  - b. A payment and performance bond for the total amount of the IMPROVEMENTS in accordance with Florida Statute 255.05.
12. In the event of termination of this Interlocal Agreement, the CRA shall not be relieved of any liability for damages sustained by the TOWN by virtue of any breach of the Interlocal Agreement by the CRA.
13. The TOWN and CRA agree that no person shall, on the grounds of race, color, national origin, sexual orientation, religion or creed, sex, age, or handicap be discriminated against in performance of this Interlocal Agreement.
14. In the event that any section, paragraph, sentence, clause or provision hereof is held invalid by a court of competent jurisdiction, such holding shall not affect the remaining portions of this Interlocal Agreement and the same shall remain in full force and effect.
15. This Interlocal Agreement shall be construed and governed by the laws of the State of Florida. Any legal action necessary to enforce this Interlocal Agreement shall be held in Palm Beach County.
16. Any costs or expenses (including reasonable attorney's fees) associated with the enforcement of the terms and conditions of this Interlocal Agreement shall be born by the respective parties; provided, however, that this clause pertains only to the parties to its Interlocal Agreement.
17. Except as expressly permitted herein to the contrary, no modification, amendments, or alteration in the terms or conditions contained herein shall be effective unless contained in a written document executed with the same formality and equality of dignity herewith.

18. Each party agrees to abide by all applicable governmental codes, laws, orders, rules and regulations.
19. Neither party shall be deemed to assume any liability for the negligent or wrongful acts, or omissions of the other party. Nothing contained herein shall be construed as a waiver, by either party of the liability limits established in Section 768.28, Florida Statutes.
20. This Interlocal Agreement represents the entire understanding among the parties, and supercedes all other negotiations, or agreements, written or oral, relating to this Agreement.

**IN WITNESS WHEREOF**, the parties have executed this Interlocal Agreement and it is effective on the date first above written.

LAKE PARK COMMUNITY  
REDEVELOPMENT AGENCY

By: *Debra DuBois*  
Chair

ATTEST:

By: *Vivian Mandy Lemly*  
Agency Clerk

APPROVED AS TO FORM AND  
LEGAL SUFFICIENCY

By: *[Signature]*  
Date: *August 20, 2008*

TOWN OF LAKE PARK

By: *Debra DuBois*  
Mayor

ATTEST:

By: *Vivian Mandy Lemly*  
Town Clerk





Bank of America  
FL4-577-04-04  
4501 Tamiami Trail North  
Suite 400  
Naples, FL 34103

Tel 239.659.2278  
Fax 239.659.2284

July 18, 2008

Ms. Anne Costello  
Finance Director  
Town of Lake Park, FL  
535 Park Avenue  
Lake Park, FL 33403

**RE: "PROPOSALS FOR REVENUE NOTE, SERIES 2008A AND SERIES 2008B"**

Dear Ms. Costello,

Bank of America, N.A. (hereafter the "Bank") is pleased to offer the Town of Lake Park, Florida (hereafter the "Borrower") the following financing proposal (hereafter the "Loan"), in response to your Request for Proposal.

**Contact Information**

Holly Kuhlman  
Sr. Vice President/Sr. Credit Products Officer  
Bank of America  
4501 Tamiami Trail N, Suite 400  
Naples, Florida 34103  
Phone (239) 659-2275  
Email:[holly.kuhlman@bankofamerica.com](mailto:holly.kuhlman@bankofamerica.com)

Linda A. Mason  
Sr. Vice President/Sr. Client Manager  
Bank of America  
625 N Flagler Drive  
West Palm Beach, FL 33401  
Phone: (561) 838-2329  
Email:[linda.a.mason@bankofamerica.com](mailto:linda.a.mason@bankofamerica.com)

**TERMS AND CONDITIONS**

**Loan Amount:** \$4,928,350 Public Improvement Revenue Note, Series 2008A (Tax-Exempt)  
\$309,550 Public Improvement Revenue Note, Series 2008B (Taxable)

**Purpose:** The purpose of the two loans is to (i) to provide the funds required for the acquisition, construction, and equipping of certain improvements to the Town's alleyway system and Marina, the acquisition of Sanitation and Recreation Department vehicles, and land for the construction of a municipal parking facility, and settlement of certain Pension liabilities of the Town (the "Projects") and, (ii) pay the cost of issuance of the Notes.

**Maturity Date:** April 1, 2028

**Repayment Terms:** Interest payment shall be due semi-annually commencing on October 1, 2008 and then on each April 1 and October 1 thereafter until maturity. Interest will be calculated on a 30/360 day count basis. Principal payments commencing on April 1, 2009 and each April 1 thereafter, and shall be in amounts to produce debt service in accordance with the amortization schedule provided by the Financial Advisor.

**Interest Rate:**

**Public Improvement Revenue Note, Series 2008A (Tax-Exempt)**

A bank qualified tax exempt rate of interest equivalent to 97% of the 10 year treasury. As of July 18, 2008, the 10 year treasury was 4.047% indicating an indicative fixed rate of interest of 3.93%. The actual rate shall be set two days prior to closing.

In the event it is determined that the note is not a tax exempt note standard gross up provisions shall apply. The Bank will require legal opinions acceptable to the Bank and the Bank's counsel that this is a tax exempt bank qualified loan.

**Public Improvement Revenue Note, Series 2008B (Taxable)**

A taxable rate of interest equivalent to 179% of the 10 year treasury. As of July 18, 2008, the 10 year treasury was 4.047% indicating an indicative fixed rate of interest of 7.24%. The actual rate shall be set two days prior to closing.

**Pre-payments:**

The Bank's standard prepayment language shall apply. The prepayment language is detailed in Exhibit A attached to this response.

**Par Call Option:**

**Public Improvement Revenue Note, Series 2008A (Tax-Exempt)**

For an additional 13 basis point premium to the above quoted interest rates, the Borrower may, at its option, purchase an option to prepay the loan in full at any time ten years or more after closing without risk of any termination fee regardless of the interest rate environment at the time of payoff.

**Public Improvement Revenue Note, Series 2008B (Taxable)**

For an additional 21 basis point premium to the above quoted interest rates, the Borrower may, at its option, purchase an option to prepay the loan in full at any time ten years or more after closing without risk of any termination fee regardless of the interest rate environment at the time of payoff.

The Par Call Option language is detailed in Exhibit B attached to this response.

**Fees and Expenses:**

The City's Counsel, Holland & Knight, LLP shall prepare all necessary closing documents including attorney opinion and validity of the tax exempt status of the loan. All such documents shall be acceptable to the Bank and its counsel. The Borrower shall pay the Bank's cost for the legal review of all documents which shall not exceed \$3,500. The loan shall be subject to final Bank and Bank counsel review and acceptance of the documents. The bank shall find all covenants and terms acceptable at their sole discretion.

**Security:**

The Loan will be secured by a pledge of the Pledged Revenues, as defined in the Resolution, consisting of a pledge by the Town to appropriate in its annual budget, from Non-Ad Valorem Revenues lawfully available to the Town in each fiscal year, amounts sufficient for the payment of principal of and interest on the Notes as such shall become due.

**Additional  
Indebtedness:**

The Loans will be subject to an additional bonds test of 1.35x.

**Reporting:** Borrower shall provide their annual CAFR within 270 days from the Borrower's fiscal year end

**Material Adverse Change:** This proposal is conditioned upon there having occurred no act, omission or undertaking which would, singly or in the aggregate, have a materially adverse effect upon the business, assets, liabilities, financial condition, results of operations or business prospects of the Borrower or upon the ability of the Borrower to perform any material obligations arising under the Loan Documents.

Very truly yours,

**BANK OF AMERICA**



Holly Kuhlman  
Senior Vice President  
Senior Credit Products Officer

CC: Mark Raymond, Esq.  
**HOLLAND & KNIGHT LLP**  
222 Lakeview Avenue, Suite 1000  
West Palm Beach, FL 33401  
Via: E-mail [mark.raymond@hklaw.com](mailto:mark.raymond@hklaw.com)

Clark D. Bennett, Financial Advisor to the Town  
**SPECTRUM MUNICIPAL SERVICES, INC.**  
630 U.S. Highway One, Suite 103  
North Palm Beach, FL 3340  
Via: E-mail [cdb@spectmunicipal.com](mailto:cdb@spectmunicipal.com)

**EXHIBIT A - Muni Prepayment Language – Tax Exempt (excluding Par Call Option)**

The notes may be prepaid in whole, or in part, on any date, with three (3) days prior written notice to the Bank by payment in an amount equal to the principal amount to be prepaid plus accrued interest thereon to the date of prepayment plus the Prepayment Fee. For purposes hereof, the Prepayment Fee will be the sum of fees calculated separately for each Prepaid Installment, as follows:

(i) The Bank will first determine the amount of interest which would have accrued each month at the Taxable Equivalent Rate for the Prepaid Installment had it remained outstanding until the applicable Original Payment Date, using the interest rate applicable to the Prepaid Installment under this Agreement.

(ii) The Bank will then subtract from each monthly interest amount determined in (i), above, the amount of interest which would accrue for that Prepaid Installment if it were reinvested from the date of prepayment or redemption through the Original Payment Date, using the Treasury Rate.

(iii) If (i) minus (ii) for the Prepaid Installment is greater than zero, the Bank will discount the monthly differences to the date of prepayment or redemption by the Treasury Rate. The Bank will then add together all of the discounted monthly differences for the Prepaid Installment.

The following definitions will apply to the calculation of the Prepayment Fee:

(i) "Original Payment Dates" mean the dates on which the prepaid or redeemed principal would have been paid if there had been no prepayment or redemption. If any of the principal would have been paid later than the end of the fixed rate interest period in effect at the time of prepayment or redemption, then the Original Payment Date for that amount will be the last day of the interest period.

(ii) "Prepaid Installment" means the amount of the prepaid or redeemed principal which would have been paid on a single Original Payment Date.

(iii) "Taxable Equivalent Rate" means the interest rate per annum derived from the following formula: interest rate on the Note divided by the difference of (1 minus the Maximum Corporate Income Tax Rate). The "Maximum Corporate Income Tax Rate" is the highest marginal federal income tax rate charged to U.S. corporations in effect at the time of the prepayment calculation. The "Maximum Corporate Income Tax Rate" is currently 35% (or 0.35 in numerical terms).

(iv) "Treasury Rate" means the yield on the Treasury Constant Maturity Series with maturity equal to the Original Payment Date of the Prepaid Installment which are principal payments calculated as of the date of prepayment in accordance with accepted financial practice and rounded to the nearest quarter-year, as reported in Federal Reserve Statistical Release H.15, Selected Interest Rates of the Board of Governors of the Federal Reserve System, or any successor publication. If no maturity exactly corresponding to such Original Payment Date appears in Release H.15, the Treasury Rate will be determined by linear interpolation between the yields reported in Release H.15. If for any reason Release H.15 is no longer published, the Bank shall select a comparable publication to determine the Treasury Rate.

**Exhibit B - Muni Prepayment Language – Tax Exempt (Including Par Call Provision)**

The [Bonds, Notes, Certificates, Borrower Note - \*conform to defined terms] may be [prepaid, redeemed - \*Use Applicable Language] in whole, or in part, on [any date - \*Use for Fixed Rate Transactions][at the end of any Interest Rate Period - \*Use For Variable Rate Transactions], with three (3) days prior written notice to the [Bondholder, Noteholder, Certificate Holder, Bank, Lender - \*conform to defined terms] by payment of an amount equal to the principal amount to be [prepaid/ redeemed - \*Use Applicable Language] plus accrued interest thereon to the date of [prepayment/redemption - \*Use Applicable Language] plus the Prepayment Fee. For purposes hereof, the Prepayment Fee will be the sum of fees calculated separately for each Prepaid Installment, as follows:

(i) The Bank will first determine the amount of interest which would have accrued each month at the Taxable Equivalent Rate for the Prepaid Installment had it remained outstanding until the applicable Original Payment Date, using the interest rate applicable to the Prepaid Installment under this Agreement.

(ii) The Bank will then subtract from each monthly interest amount determined in (i), above, the amount of interest which would accrue for that Prepaid Installment if it were reinvested from the date of prepayment or redemption through the Original Payment Date, using the Treasury Rate.

(iii) If (i) minus (ii) for the Prepaid Installment is greater than zero, the Bank will discount the monthly differences to the date of prepayment or redemption by the Treasury Rate. The Bank will then add together all of the discounted monthly differences for the Prepaid Installment.

The following definitions will apply to the calculation of the Prepayment Fee:

(i) "Original Payment Dates" mean the dates on which the prepaid or redeemed principal would have been paid if there had been no prepayment or redemption. If any of the principal would have been paid later than the end of the fixed rate interest period in effect at the time of prepayment or redemption, then the Original Payment Date for that amount will be the last day of the interest period.

(ii) "Prepaid Installment" means the amount of the prepaid or redeemed principal which would have been paid on a single Original Payment Date.

(iii) "Taxable Equivalent Rate" means the interest rate per annum derived from the following formula: [interest rate on the Bond, Note, Certificate, Borrower Note - \*Use Applicable Term] divided by the difference of (1 minus the Maximum Corporate Income Tax Rate). The "Maximum Corporate Income Tax Rate" is the highest marginal federal income tax rate charged to U.S. corporations in effect at the time of the prepayment calculation. The "Maximum Corporate Income Tax Rate" is currently 35% (or 0.35 in numerical terms).

(iv) "Treasury Rate" means the yield on the Treasury Constant Maturity Series with maturity equal to the Original Payment Date of the Prepaid Installment which are principal payments (calculated as of the [date of redemption/prepayment - \*Use Applicable Language] in accordance with accepted financial practice and rounded to the nearest quarter-year), as reported in Federal Reserve Statistical Release H.15, Selected Interest Rates of the Board of Governors of the Federal Reserve System, or any successor publication. If no maturity exactly corresponding to such Original Payment Date appears in Release H.15, the Treasury Rate will be determined by linear interpolation between the yields reported in Release H.15. If for any reason Release H.15 is no longer published, the [Bondholder, Noteholder, Certificate Holder, Bank, Lender, \*conform to defined terms] shall select a comparable publication to determine the Treasury Rate.

On and after [Insert Par Call Date] the [Bonds, Notes, Certificates, Borrower Note - \*conform to defined terms] may be [prepaid, redeemed - \*Use Applicable Language] in whole, but not in part, on [the first business day of each [month][quarter][six month period][year] - \*Use for Fixed Rate Transactions][at the end of any Interest Rate Period - \*Use For Variable Rate Transactions], with three (3) days prior written notice to the [Bondholder, Noteholder, Certificate Holder, Bank, Lender - \*conform to defined terms] by

payment of an amount equal to the principal then outstanding plus accrued interest thereon to the date of [prepayment, redemption - \*Use Applicable Language].