

RESOLUTION NO. 2009-12

A RESOLUTION OF THE CITY OF LAKE WALES, FLORIDA, AUTHORIZING THE ISSUANCE OF THE NOT TO EXCEED \$2,000,000 CITY OF LAKE WALES, FLORIDA REFUNDING REVENUE NOTE, SERIES 2009, TO CURRENTLY REFUND THE ISSUER'S OUTSTANDING PUBLIC IMPROVEMENT REFUNDING REVENUE BONDS, SERIES 1997 AND THE EQUIPMENT LEASE-PURCHASE AGREEMENT #22904; PLEDGING CERTAIN FRANCHISE FEES TO SECURE PAYMENT OF THE PRINCIPAL OF AND INTEREST ON SUCH NOTE; DESIGNATING THE NOTE FOR THE EXCEPTION FOR CERTAIN TAX-EXEMPT OBLIGATIONS CONTAINED IN SECTION 265 OF THE INTERNAL REVENUE CODE OF 1986; AUTHORIZING THE NEGOTIATED SALE OF THE NOTE; ACCEPTING THE COMMITMENT OF SUNTRUST BANK TO PURCHASE SUCH NOTE; PROVIDING FOR THE RIGHTS OF HOLDERS OF SUCH NOTE; MAKING CERTAIN COVENANTS AND AGREEMENTS IN CONNECTION THEREWITH; AND PROVIDING FOR AN EFFECTIVE DATE.

BE IT RESOLVED BY THE CITY COMMISSION OF THE CITY OF LAKE WALES, FLORIDA, that:

SECTION 1. *Definitions.* Unless the context otherwise requires, terms used in this Resolution shall have the meanings specified in this section.

"Act" means the Constitution of the State of Florida, Chapter 166, Florida Statutes, the Charter of the Issuer, and other applicable provisions of law.

"Additional Obligations" shall mean additional obligations issued or incurred in compliance with the terms, conditions and limitations contained herein and which (i) shall have a lien on the Franchise Fees equal to that of the outstanding bonds, (ii) shall be payable from the Franchise Fees on a parity with the Series 2009 Note, and (iii) shall rank equally in all other respects with the Series 2009 Note.

"Authorized Denominations" means \$100,000 and \$100 increments in excess thereof.

"Business Day" means any day except any Saturday or Sunday or day on which the Original Purchaser is closed.

"City Attorney" shall mean the City Attorney of the Issuer.

"City Commission" shall mean the City Commission of the City of Lake Wales, Florida.

"City Manager" shall mean the City Manager or assistant City Manager of the Issuer.

"Clerk" shall mean the City Clerk or assistant or deputy City Clerk of the Issuer, or such other person as may be duly authorized by the City Commission to act on his or her behalf.

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

"Commitment" means the letter of commitment of the Original Purchaser.

"Escrow Agent" shall mean U.S. Bank National Association, with respect to the Issuer's Refunded 1997 Bonds.

"Escrow Deposit Agreement" shall mean that certain Escrow Deposit Agreement to be entered into by and between the Issuer and the Escrow Agent in substantially the form attached hereto as Exhibit E.

"Franchise Fees" shall mean the fees levied and collected by the Issuer from Florida Power Corporation pursuant to Ordinance No. 92-21 duly enacted by the Issuer on November 17, 1992 with a term of thirty (30) years from the date thereof, by reason of having granted to said company the right to supply electricity to the Issuer and its inhabitants.

"Issuer" means the City of Lake Wales, Florida, a municipal corporation of the State of Florida.

"Maturity Date" means October 1, 2014, or such other earlier date as may be agreed to in a resolution supplemental hereto.

"Mayor" means the Mayor of the Issuer, or in his or her absence or inability to act, the Vice Mayor of the Issuer or such other person as may be duly authorized by the City Commission to act on his or her behalf.

"Original Purchaser" means SunTrust Bank, Orlando, Florida.

"Owner" or "Owners" means the Person or Persons in whose name or names the Series 2009 Note shall be registered on the books of the Issuer kept for that purpose in accordance with provisions of this Resolution.

"Paying Agent" and/or "Registrar" as it relates to the Series 2009 Note shall mean the City Manager.

"Person" or "Persons" means natural persons, firms, trusts, estates, associations, corporations, partnerships and public bodies.

"Refunded Bonds" means, collectively, the Refunded 1997 Bonds and the Refunded LP Agreement.

"Refunded 1997 Bonds" means the Issuer's outstanding Public Improvement Refunded Revenue Bonds, Series 1997 issued pursuant to Resolution No. 96-24, adopted by the City Commission on December 17, 1996, as amended and supplemented.

"Refunded LP Agreement" means the Equipment Lease-Purchase Agreement #22904 entered into pursuant to Resolution No. 2007-19, adopted by the City Commission on October 8, 2007.

"Resolution" means this Resolution, pursuant to which the Series 2009 Note is authorized to be issued, including any supplemental resolutions.

"Series 2009 Note" means the City of Lake Wales, Florida Refunding Revenue Note, Series 2009 authorized herein.

"State" means the State of Florida.

SECTION 2. Authority for this Resolution. This Resolution is adopted pursuant to the provisions of the Act.

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

(A) It is in the best interest of the Issuer and the residents thereof that the Issuer authorize the issuance of the Series 2009 Note for the purpose of currently refunding the Refunded Bonds, and to pay costs associated with the respective issuance thereof.

(B) From the proceeds of the Series 2009 Note and other funds available therefore, including amounts on deposit in the Bond Amortization Account related to the Refunded 1997 Bonds, there shall be deposited pursuant to the Escrow Deposit Agreement, a sum which will be sufficient to make timely payments of all presently outstanding principal, redemption premium, and interest in respect to the Refunded 1997 Bonds, as the same become due and/or are redeemable. Such funds shall also be sufficient to pay when due all expenses, if any, described in the Escrow Deposit Agreement.

(C) The funds available to make timely payments of all presently outstanding principal, redemption premium, and interest in respect to the Refunded LP Agreement shall be held in trust by the Issuer and be used to prepay the Refunded LP Agreement on October 1, 2009.

(D) As of the issuance of the Series 2009 Note and the defeasance of the Refunded 1997 Bonds the Franchise Fees will not be pledged or encumbered in any manner.

(E) The costs associated with the issuance of the Series 2009 Note shall be deemed to include legal fees and expenses, expenses for estimates of costs and of revenues, accounting expenses, attorney fees of the Original Purchaser of the Series 2009 Note, fees and expenses for the Escrow Agent, and such other fees and expenses as may be necessary or incidental for the financing

herein authorized.

(F) The principal of and interest and redemption premium on the Series 2009 Note and all other payments shall be payable solely from the Franchise Fees. The Issuer shall never be required to levy ad valorem taxes on any real or personal property therein to: (1) pay the principal of and interest on the Series 2009 Note herein authorized; or (2) make any other payments provided for herein. The Series 2009 Note shall not constitute a lien upon any properties owned by or located within the boundaries of the Issuer or upon any property other than the Franchise Fees.

(G) The Franchise Fees will be sufficient to pay all principal of and interest and redemption premium on the note to be issued hereunder, as same become due, and to make all required deposits or payments required by this Resolution.

(H) The Issuer desires to qualify the Series 2009 Note for the exception contained in Section 265(b)(3) of the Code to the provisions contained in Section 265(b) of the Code which deny financial institutions any deduction for interest expense allocable to tax-exempt obligations acquired after August 7, 1986, and to designate the Series 2009 Note for the purpose of qualifying for such exception.

(I) Because of the characteristics of the Series 2009 Note, prevailing market conditions, and additional savings to be realized from an expeditious sale of the Series 2009 Note, it is in the best interest of the Issuer to accept the Commitment of the Original Purchaser attached hereto as Exhibit A to purchase the Series 2009 Note at a private negotiated sale. Prior to the issuance of the Series 2009 Note, the Issuer shall receive from the Original Purchaser a Purchaser's Certificate, the form which is attached hereto as Exhibit B and a Disclosure Letter containing the information required by Section 218.385, Florida Statutes, the form of which is attached hereto as Exhibit C.

(J) In consideration of the purchase and acceptance of the Series 2009 Note authorized to be issued hereunder by those who shall be the Owners thereof from time to time, this Resolution shall constitute a contract between the Issuer and the Owners.

SECTION 4. Authorization of Refunding. There is hereby authorized the current refunding of the Refunded Bonds.

SECTION 5. Authorization of the Note. Subject and pursuant to the provisions hereof, an obligation of the Issuer to be known as the "City of Lake Wales, Florida Refunding Revenue Note, Series 2009" in the aggregate principal amount of not to exceed \$2,000,000 is authorized to be issued.

SECTION 6. Description of the Series 2009 Note. The Series 2009 Note shall be dated the date of its execution and delivery, which shall be a date agreed upon by the Issuer and the Original Purchaser, and shall have such other terms and provisions, including an interest rate not exceeding the maximum interest rates permitted by the Act, interest adjustment provisions pertaining to the tax-exempt status of the Series 2009 Note, principal and interest payment terms, maturity date, and prepayment provisions as stated herein and/or in the form of the Series 2009

Note contained herein. The Series 2009 Note is to be in substantially the form set forth in Exhibit D hereof, together with such changes as shall be approved by the Mayor, such approval to be conclusively evidenced by the execution thereof by the Mayor. The Series 2009 Note shall be executed on behalf of the Issuer with the manual signature of the Mayor and shall be attested with the manual signature of the City Clerk. In case any one or more of the officers who shall have signed or sealed the Series 2009 Note shall cease to be such officer of the Issuer before the Series 2009 Note so signed and sealed has been actually sold and delivered, such Series 2009 Note may nevertheless be sold and delivered as herein provided and may be issued as if the person who signed or sealed such Series 2009 Note had not ceased to hold such office. The Series 2009 Note may be signed and sealed on behalf of the Issuer by such person who at the actual time of the execution of the Series 2009 Note shall hold the proper office of the Issuer, although, at the date of the Series 2009 Note, such person may not have held such office or may not have been so authorized.

SECTION 7. Registration and Exchange of the Series 2009 Note; Persons Treated as Owners. The Series 2009 Note will initially be registered to the Original Purchaser. So long as the Series 2009 Note shall remain unpaid, the Registrar will keep books for the registration and transfer of the Series 2009 Note. The Series 2009 Note shall be transferable only upon such registration books and in Authorized Denominations.

The Person in whose name a Series 2009 Note shall be registered shall be deemed and regarded as the absolute owner thereof for all purposes, and payment of principal and interest on such Series 2009 Note shall be made only to or upon the written order of the Owner. All such payments shall be valid and effectual to satisfy and discharge the liability upon such Series 2009 Note to the extent of the sum or sums so paid.

SECTION 8. Payment of Principal and Interest; Limited Obligation. The Issuer promises that it will promptly pay the principal of and interest on the Series 2009 Note at the place, on the dates and in the manner provided therein according to the true intent and meaning hereof and thereof. The Series 2009 Note shall not be or constitute a general obligation or indebtedness of the Issuer as "bonds" within the meaning of Article VII, Section 12 of the Constitution of Florida, but shall be payable solely from the Franchise Fees in accordance with the terms of the Resolution. No holder of any Series 2009 Note issued hereunder shall ever have the right to compel the exercise of any ad valorem taxing power to pay such Series 2009 Note, or be entitled to payment of such Series 2009 Note from any funds of the Issuer except from the Franchise Fees as described in the Resolution.

SECTION 9. Terms of the Series 2009 Note.

(A) The Series 2009 Note shall bear interest from its date, payable semi-annually on the first day of April and the first day of October of each year, commencing on April 1, 2010, calculated on the basis of twelve 30-day months and a 360-day year. The interest rate is locked until September 30, 2009 at a rate of 3.19%. If the Series 2009 Note does not close by September 30, 2009, the actual interest rate would be set three (3) days prior to closing using the following formula: $67\% \times (3\text{-year U.S. Dollar Swap Rate} + 2.62\%)$.

(B) Amortization payments on the Series 2009 Note will be based on a five-year amortization with the combined interest and principal payments being substantially equal on an annual basis as specified in the Series 2009 Note.

(C) Upon at least seven (7) days prior written notice, the Series 2009 Note shall be subject to prepayment at the option of the Issuer, in whole or in part, on any date at a price equal to the then outstanding principal amount thereof plus the Prepayment Fee plus accrued interest to the date fixed for prepayment. For purposes hereof, the Prepayment Fee shall be calculated as follows:

The Prepayment Fee shall be equal to the present value of the difference between (1) the amount that would have been realized by the Original Purchaser on the prepaid amount for the remaining term of the loan at the Federal Reserve H.15 Statistical Release rate for fixed-rate payers in interest rate swaps for a term corresponding to the term of the Series 2009 Note, interpolated to the nearest month, if necessary, that was in effect three Business Days prior to the origination date of the Series 2009 Note and (2) the amount that would be realized by the Original Purchaser by reinvesting such prepaid funds for the remaining term of the loan at the Federal Reserve H.15 Statistical Release rate for fixed-rate payers in interest rate swaps, interpolated to the nearest month, that was in effect three Business Days prior to the loan repayment date; both (1) and (2) discounted at the current rate. Should the present value have no value or a negative value, the Issuer may repay with no additional fee. Should the Federal Reserve no longer release rates for fixed-rate payers in interest rate swaps, the Original Purchaser may substitute the Federal Reserve H.15 Statistical Release with another similar index. The Original Purchaser shall provide the Issuer with a written statement explaining the calculation of the premium due, which statement shall, in absence of manifest error, be conclusive and binding.

(D) Principal prepayments shall be applied to the Note in the inverse order of maturity or principal payment dates.

(E) All payments by the Issuer pursuant to this Note shall apply first to accrued interest, then to other charges due the Owner, and the balance thereof shall apply to principal.

(F) The Series 2009 Note may be transferred in Authorized Denominations not less than \$100,000 to an "accredited investor" within the meaning of the Securities Act of 1933, as amended, and Regulation D thereunder.

SECTION 10. *Covenants of the Issuer.*

(A) The Issuer will provide the holder of the Series 2009 Note with annual audited statements within 210 days of fiscal year end, together with an annual budget within 30 days of adoption, together with any other information the Original Purchaser may reasonably request.

(B) The Issuer will maintain compliance with all federal, state and local regulations regarding the purpose of the Series 2009 Note.

SECTION 11. Issuance of Additional Obligations. No Additional Obligations, payable on a parity with the Series 2009 Note then outstanding pursuant to this Resolution, shall be issued except upon the conditions and in the manner herein provided. The Issuer may issue one or more series of Additional Obligations upon compliance with the following conditions:

(A) The Issuer's Finance Director shall deliver a certificate (1) stating that the books and records of the issuer relating to the Franchise Fees have been examined by him or her; (2) setting forth the amount of the Franchise Fees which have been received by the Issuer during any twelve (12) consecutive months designated by the issuer within the twenty-four (24) months immediately preceding the date of delivery of such Additional Obligations (the "Test Period") with respect to which such statement is made; and (3) stating that the amount of the Franchise fees received during the Test Period equals at least 1.50 times the maximum annual debt service of all outstanding Series 2009 Notes, any Additional Obligations outstanding at that time and the to be issued Additional Obligations.

(B) The supplemental resolution authorizing the issuance of the Additional Obligations shall recite that all of the covenants contained herein will be applicable to such Additional Obligations.

SECTION 12. Events of Default; Remedies of Noteholder. The following shall constitute Events of Default: (i) if the Issuer fails to pay any payment of principal of or interest on the Series 2009 Note within fifteen (15) days after the same becomes due and payable; (ii) if the Issuer defaults in the performance or observance of any covenant or agreement contained in this Resolution or the Series 2009 Note (other than set forth in (i) above) and fails to cure the same within thirty (30) days following written notice; or (iii) filing of a petition by or against the Issuer relating to bankruptcy, reorganization, arrangement or readjustment of debt of the Issuer or for any other relief relating to the Issuer under the United States Bankruptcy Code, as amended, or any other insolvency act or law now or hereafter existing, or the involuntary appointment of a receiver or trustee for the Issuer, and the continuance of any such event for 90 days undismissed or undischarged.

Upon the occurrence and during the continuation of any Event of Default, the Owner of the Series 2009 Note may, in addition to any other remedies set forth in this Resolution or the Series 2009 Note, either at law or in equity, by suit, action, mandamus or other proceeding (including specific performance) in any court of competent jurisdiction, protect and enforce any and all rights under the laws of the State, or granted or contained in this Resolution, and may enforce and compel the performance of all duties required by this Resolution, or by any applicable statutes to be performed by the Issuer or by any officer thereof and (ii) declare the entire indebtedness evidenced by the Series 2009 Note to be immediately due and payable whereupon it shall be due immediately. In any such default, the Issuer shall also be obligated to pay as part of the indebtedness evidenced by the Series 2009 Note, all costs of collection and enforcement hereof, including such reasonable attorneys' fees as may be incurred, including on appeal or incurred in any proceeding under bankruptcy laws as they now or hereafter exist.

SECTION 13. Application of the Series 2009 Note Proceeds. The proceeds received from the sale of the Series 2009 Note shall be applied by the Issuer (together with the legally available funds currently held by the Issuer as described below) simultaneously with the delivery of such Series 2009 Note to the Original Purchaser, as follows:

(A) An amount equal to the Redemption Price of the Refunded 1997 Bonds on the redemption date thereof, at 100% of the principal amount thereof, plus interest accruing on the principal amount of the outstanding Refunded 1997 Bonds, without regards to any interest earnings thereon, shall be deposited into an irrevocable escrow account entered pursuant to the Escrow Deposit Agreement, a form of which is attached hereto as Exhibit E, and be used for the purpose of currently refunding the Refunded 1997 Bonds accounting for the funds currently held by the Issuer for payment of the amount due on the Refunded 1997 Bonds on October 1, 2009 in the amount of \$344,264.38 (consisting of \$295,000 for principal and \$49,264.38 for interest); and

(B) An amount equal to the purchase price of \$138,526.49 under the Refunded LP Agreement shall be held in trust by the Issuer until October 1, 2009 when the Issuer shall pay such amount to the Lessor under the Refunded LP Agreement (at which time, the Issuer shall also pay the lease payment due on October 1, 2009 of \$12,724.11 from legally available funds of the Issuer not constituting proceeds of the Series 2009 Note); and

(C) The remaining proceeds of the Series 2009 Note proceeds shall be applied to the payment of costs and expenses, including legal fees and expenses, relating to the issuance of the Series 2009 Note which must be paid upon delivery of the Note.

SECTION 14. Designation of the Series 2009 Note. The Issuer hereby designates the Series 2009 Note as a "qualified tax-exempt obligation" within the meaning of Section 265(b)(3) of the Code. The Issuer and any subordinate entities of the Issuer and any issuer of "tax-exempt" debt that issues "on behalf of" the Issuer do not reasonably expect during the calendar year 2009 to issue more than \$30,000,000 of "tax-exempt" obligations including the Series 2009 Note, exclusive of any private activity bonds as defined in Section 141(a) of the Code (other than qualified 501(c)(3) bonds as defined in Section 145 of the Code).

SECTION 15. Taxability.

(A) If the tax laws or regulations are amended to cause interest on the Series 2009 Note to become taxable to the extent not otherwise taxable on the date of issuance hereof, or in the event the Original Purchaser is unable to deduct any other amounts as a result of purchasing or carrying the Series 2009 Note, or in the event of a change in the alternative minimum tax or in the method of calculating the alternative maximum tax to which the Original Purchaser may be subject, or in the event of any other tax action which would otherwise decrease the after-tax yield to the Original Purchaser (in each case other than because of a Determination of Taxability described in (b) below; in the event of a Determination of Taxability the provisions of paragraph

(b) below would apply), and, in all events, all rights to appeal or contest such determination or declaration have expired or been exhausted and such determination or declaration remains effective, the interest rate on the Series 2009 Note shall be adjusted by the Original Purchaser so as to preserve the after-tax yield to the Original Purchaser. The Original Purchaser shall certify to the Issuer in writing the additional amount, if any, due to the Original Purchaser as a result of an adjustment pursuant to this paragraph. To the extent an adjustment to the interest rate on the Series 2009 Note is not effective within three months of the event giving rise to the adjustment, the additional interest due as a result of such adjustment shall be paid with interest thereon compounded monthly at the rate which is equal to the interest rate on the Series 2009 Note; provided, however, in no event shall such interest rate exceed the maximum rate permitted by law. All unpaid amounts determined to be owing as a result of such calculation shall be due and payable within thirty (30) days after written notice of the amount of such adjustment.

(B) The following definitions will apply to the Taxability of the Series 2009 Note:

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

(ii) "Determination of Taxability" shall mean interest on the Series 2009 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 Original Purchaser hereof for federal income tax purposes under the Code and all rights to appeal or contest such determination or declaration have expired or been exhausted and such determination or declaration remains effective.

(C) Upon the occurrence of a Determination of Taxability, the interest rate on the Series 2009 Note shall be adjusted to a rate equal to 154% of the interest rate otherwise borne hereby (the "Adjusted Interest Rate") calculated on the basis of a 360-day year consisting of twelve 30-day months for the actual number of days elapsed, as of and from the date such Determination of Taxability is applicable with respect to the Series 2009 Note (the "Accrual Date"); and (i) the Issuer shall on the next interest payment date (or if the Series 2009 Note shall have matured, within 30 days after written demand by the Original Purchaser) hereon pay to the Original Purchaser an amount equal to the sum of (1) the difference between (A) the total interest that would have accrued on the Series 2009 Note at the Adjusted Interest Rate from the Accrual Date to such next interest payment date (or maturity date), and (B) the actual interest paid by the Issuer on the Series 2009 Note from the Accrual Date to such next interest payment date (or maturity date), and (2) any interest and penalties required to be paid as a result of any additional federal income taxes imposed upon the Original Purchaser hereof and/or former Original Purchaser hereof arising as a result of such Determination of Taxability; and (ii) from and after the Date of the Determination of Taxability, the Series 2009 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 the Series 2009 Note until such time as the federal statute of limitations under which the interest on the Series 2009 Note could be declared taxable under the Code shall have expired.

SECTION 16. Escrow Deposit Agreement. The Issuer hereby selects U.S. Bank National Association as Escrow Agent. The Issuer hereby authorizes the Mayor to execute the Escrow Deposit Agreement and the City Clerk to attest the same under the seal of the Issuer, and to deliver the Escrow Deposit Agreement to the Escrow Agent for its execution. The Escrow Deposit Agreement shall be in substantially the form attached hereto as Exhibit E, with such changes, amendments, modifications, omissions and additions as may be approved by the Mayor. Execution by the Mayor of the Escrow Deposit Agreement shall be deemed to be conclusive evidence of approval of such changes.

SECTION 17. General Authority. The members of the City Commission of the Issuer and the Issuer's officers, attorneys and other agents and employees are hereby authorized to perform all acts and things required of them by this Resolution or desirable or consistent with the requirements hereof for the full, punctual and complete performance of all of the terms, covenants and agreements contained in the Series 2009 Note and this Resolution, and they are hereby authorized to execute and deliver all documents which shall be required by Bond Counsel or the initial purchasers of the Series 2009 Note to effectuate the sale of the Series 2009 Note to said initial purchasers.

SECTION 18. Paying Agent and Registrar. The City Manager is hereby appointed as Paying Agent and Registrar with respect to the Series 2009 Note.

SECTION 19. Tax Covenant. The Issuer covenants to the purchasers of the Series 2009 Note that the Issuer will not make any use of the proceeds of the Series 2009 Note at any time during the term of the Series 2009 Note which, if such use had been reasonably expected on the date the Series 2009 Note were issued, would have caused such Series 2009 Note to be "arbitrage bonds" within the meaning of the Code. The Issuer will comply with the requirements of the Code and any valid and applicable rules and regulations promulgated thereunder necessary to ensure the exclusion of interest on the Series 2009 Note from the gross income of the holders thereof for purposes of federal income taxation.

SECTION 20. Series 2009 Note Mutilated, Destroyed, Stolen or Lost. In case the Series 2009 Note shall become mutilated, or be destroyed, stolen or lost, the Issuer shall issue and deliver a new note of like tenor as the note so mutilated, destroyed, stolen or lost, 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 Owner furnishing the Issuer proof of ownership thereof and indemnity reasonably satisfactory to the Issuer and complying with such other reasonable regulations and conditions as the Issuer may prescribe and paying such expenses as the Issuer may incur. The note so surrendered shall be canceled.

SECTION 21. Impairment of Contract. The Issuer covenants with the Owners of the Series 2009 Note that it will not, without the written consent of the Owners of the Series

2009 Note, enact any ordinance or adopt any resolution which repeals, impairs or amends in any manner adverse to the Owners the rights granted to the Owners of the Series 2009 Note hereunder.

SECTION 22. Personal Liability Exemption. No recourse under or upon any obligation, covenant or agreement of this Resolution or the Series 2009 Note or for any claim based thereon or otherwise in respect thereof, shall be had against any City Commission Members, the Mayor, the City Manager, the Clerk and the City Attorney, as such, of the Issuer, past, present or future, either directly or through the Issuer it being expressly understood (a) that no personal liability whatsoever shall attach to, or is or shall be incurred by, the City Commission Members, the Mayor, the City Manager, the Clerk and the City Attorney, as such, of the Issuer, under or by reason of the obligations, covenants or agreements contained in this Resolution or implied therefrom, and (b) that any and all such personal liability, either at common law or in equity or by constitution or statute, of, and any and all such rights and claims against, every such City Commission Member, the Mayor, the City Manager, the Clerk and the City Attorney, as such, are waived and released as a condition of, and as a consideration for, the execution of this Resolution and the issuance of the Series 2009 Note, on the part of the Issuer.

SECTION 23. 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 24. Rules of Interpretation. Unless expressly indicated otherwise, references to sections or articles are to be construed as references to sections or articles of this instrument as originally executed. Use of the words "herein," "hereby," "hereunder," "hereof," "hereinbefore," "hereinafter" and other equivalent words refer to this Resolution and not solely to the particular portion in which any such word is used.

SECTION 25. Captions. The captions and headings in this Resolution are for convenience only and in no way define, limit or describe the scope or intent of any provisions or sections of this Resolution.

SECTION 26. No Third Party Beneficiaries. Except such other persons as may be expressly described in this Resolution or in the Series 2009 Note, nothing in this Resolution or in the Series 2009 Note, expressed or implied, is intended or shall be construed to confer upon any person, other than the Issuer and the Owner, any right, remedy or claim, legal or equitable, under and by reason of this Resolution, or any provision thereof, or of the Series 2009 Note, all provisions thereof being intended to be and being for the sole and exclusive benefit of the Issuer and the persons who shall from time to time be the holders.

SECTION 27. Applicable Provisions of Law. This Resolution shall be governed by and construed in accordance with the laws of the State of Florida.

SECTION 28. Repealer. All resolutions or parts thereof in conflict herewith are

hereby repealed.

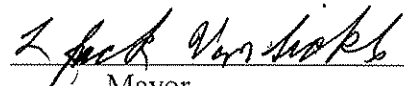
SECTION 29. Effective Date. This Resolution shall be effective immediately upon its adoption.

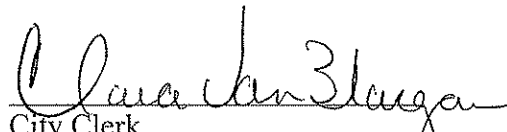
DULY RESOLVED this 15th day of September, 2009.

CITY COMMISSION OF THE CITY OF
LAKE WALES, FLORIDA

(SEAL)

ATTEST:


Mayor


City Clerk