

RESOLUTION NO. 37-10-11

A RESOLUTION OF THE TOWN COMMISSION OF THE TOWN OF LAKE PARK, FLORIDA, APPROVING THE FORM AND AUTHORIZING THE EXECUTION AND DELIVERY OF A LOAN AGREEMENT; AUTHORIZING AND APPROVING THE ISSUANCE OF A NOTE BY THE TOWN IN CONNECTION WITH SAID LOAN AGREEMENT RELATIVE TO THE FINANCING OF THE ACQUISITION, CONSTRUCTION AND EQUIPPING OF CERTAIN STORMWATER DRAINAGE IMPROVEMENTS AND RELATED CAPITAL EXPENDITURES; PLEDGING PLEDGED REVENUES TO REPAY THE NOTE; AUTHORIZING THE PROPER OFFICIALS OF THE TOWN TO DO ALL OTHER THINGS DEEMED NECESSARY OR ADVISABLE IN CONNECTION WITH THE LOAN AGREEMENT AND SAID NOTE; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the Town of Lake Park, Florida (the "Town"), is authorized by the Florida Constitution and the provisions of F.S. Chapter 166, as amended and supplemented; F.S. Section 403.0893, as amended and supplemented; F.S. Chapter 197, as amended and supplemented; the Town Charter of the Town; and other applicable provisions of law (collectively, the "Act") to construct, reconstruct, improve, and extend stormwater utility systems and to issue revenue bonds and other debts or assess benefited properties as needed to finance in whole or in part the cost of a stormwater system and to establish just and, equitable rates, fees, and charges for the services and facilities provided by the stormwater system; and

WHEREAS, pursuant to Ordinance 09-2008 enacted by the Town Commission on second reading on August 6, 2008, the Town has created a stormwater utility system for the management, maintenance, operation, construction, improvement and financing of stormwater related infrastructure; and

WHEREAS, the Town has determined it is necessary to reconstruct approximately 600 feet of paved alleyway, including the installation of drainage pipes and structures, base replacement, asphalt milling and paving, pavement striping, signage, dumpster enclosures, concrete curbing, electrical and lighting and related miscellaneous construction to improve stormwater drainage in a certain portion of the Town (collectively, the "Project"); and

WHEREAS, Seacoast National Bank (the "Financial Institution") has agreed to make a loan to the Town in an amount of not exceeding \$350,000 to be used by the Town to finance the costs of the Project, including, but not limited to, planning, design, engineering and architectural costs; and

WHEREAS, the Financial Institution's commitment to provide a loan to the Town is conditioned upon the Town agreeing to secure its obligations under the Note (as defined herein) with a pledge of Pledged Revenues (as defined in the herein described Loan Agreement)

to pay principal of, redemption premium, if any, and interest on the Note issued under the Loan Agreement (as defined herein); and

WHEREAS, the Town deems it to be in its best interest to enter into a loan agreement with the Financial Institution, the form of which is attached hereto as Exhibit A (the "Loan Agreement"), for the purpose of setting forth the terms and provisions by which the Financial Institution will permit the Town to borrow not exceeding \$350,000 in aggregate principal amount; and

WHEREAS, the form of the Note, the terms and the rights, security and remedies of the holder of the Note shall be as prescribed in the Loan Agreement.

NOW, THEREFORE, BE IT RESOLVED BY THE TOWN COMMISSION OF THE TOWN OF LAKE PARK, FLORIDA THAT:

SECTION 1. Definitions. Any term not otherwise defined in this Resolution shall have the meaning ascribed to such term in the Loan Agreement.

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

SECTION 3. Resolution Constitutes Contract. In consideration of the acceptance of the Note authorized to be issued hereunder and under the Loan Agreement by those who shall hold the same from time to time, this Resolution shall be deemed to be and shall constitute a contract between the Town, and such Noteholder and the covenants and agreements herein set forth to be performed by said Town shall be for the equal benefit, protection and security of the Noteholder.

SECTION 4. The Loan Agreement. The Loan Agreement, in substantially the form submitted to this meeting as Exhibit A, be and the same is hereby approved. The Mayor or the Vice-Mayor is hereby authorized and directed to execute, and the Town Clerk, or any Deputy Town Clerk to attest, the Loan Agreement and to deliver the same to the Financial Institution substantially in the form presented to this meeting, but with such changes, insertions and omissions (upon advice of the Town Attorney and Bond Counsel) as shall be approved by the Mayor or Vice-Mayor (such approval to be conclusively evidenced by the execution and delivery thereof), and the Town Clerk, or any Deputy Town Clerk is hereby authorized and directed to affix and attest the seal of the Town thereto. Additionally, the execution and delivery of the Loan Agreement shall be subject to delivery by the Financial Institution of a truth-in-bonding statement and disclosure statement as required by Section 218.385 of the Florida Statutes.

SECTION 5. Authorization of the Note; Negotiated Sale of the Note. Subject and pursuant to the provisions of this Resolution and the Loan Agreement, an obligation of the Town, to be known as "Town of Lake Park, Florida Revenue Note, Series 2011" (with such other designation as the Town shall deem appropriate at the time of execution and delivery thereof, the "Note") is hereby authorized to be issued in aggregate principal amount of not exceeding THREE

HUNDRED FIFTY THOUSAND DOLLARS (\$350,000) for the purpose of the costs of the Project. The Town hereby authorizes the negotiated sale of the Note to the Financial Institution pursuant to the provisions of this Resolution and the Loan Agreement.

SECTION 6. Designation of Note as Town's "Qualified Tax-Exempt Obligation." The Town (including all subordinate entities and any entities that issue debt on behalf of the Town) does not expect to issue more than \$10,000,000 in tax-exempt obligations during the calendar year ending December 31, 2011, and, therefore, the Town hereby designates the Note, as the Town's "qualified tax-exempt obligation," as such term is defined in Section 265(b)(3)(B) of the Internal Revenue Code of 1986, as amended (the "Code").

SECTION 7. Description of the Note. The text of the Note shall be substantially in the form attached as Exhibit A to the Loan Agreement, with such omissions, insertions and variations as may be necessary and desirable. The Note shall be in typewritten form and shall be dated the date of its delivery and bear interest from its date at the rate or rates set forth in the Note.

All payments of principal of and interest on the Note shall be payable in any coin or currency of the United States of America which, at the time of payment, is legal tender for the payment of public and private debts and shall be made to the Noteholder thereof by check mailed to the Noteholder at the address designated in writing by the Noteholder for purposes of payment or by bank wire or bank transfer as such Noteholder may specify in writing to the Town or otherwise as the Town and such Noteholder may agree.

SECTION 8. Execution of the Note; Appointment of Registrar and Paying Agent. The Note shall be executed in the name of the Town by the manual or facsimile signature of the Mayor (or in his absence, the Vice-Mayor) and the official seal shall be affixed thereto, or imprinted or reproduced thereon, and attested by the manual or facsimile signature of the Town Clerk. In case any one or more of the officers, who shall have signed or sealed the Note, shall cease to be such officer of the Town, as the case may be, before the Note so signed and sealed shall have been actually delivered, such Note may nevertheless be delivered as herein provided and may be issued as if the person who signed or sealed such Note had not ceased to hold such office. Any Note may be signed and sealed on behalf of the Town by such person who at the actual time of the execution of such Note shall hold the proper office, although at the date the Note shall actually be delivered, such person may not have held such office or may not have been so authorized.

The Director of Finance is hereby appointed to serve as Registrar and Paying Agent for the Note.

SECTION 9. Application of Note Proceeds. Proceeds of the Note shall be used for purposes of financing the costs of the Project.

SECTION 10. Tax Covenant. In order to maintain the exclusion from gross income for purposes of Federal income taxation of interest on the Note, the Town shall comply with each requirement of the Code necessary to maintain the exclusion of interest on the Note

from gross income for Federal income tax purposes. In furtherance of the covenant contained in the preceding sentence, the Town agrees to continually comply with the provisions of the Tax Certificate to be executed by the Town, at the time the Note is issued, as such certificate may be amended from time to time, as a source of guidance for achieving compliance with the Code (herein referred to as the "Tax Certificate").

The Town shall make any and all payments required to be made to the United States Department of the Treasury in connection with the Note pursuant to Section 148(f) of the Code from amounts on deposit in the funds and accounts established under this Resolution and available therefor.

Notwithstanding any other provision of this Resolution to the contrary, so long as necessary in order to maintain the exclusion from gross income of interest on the Note for Federal income tax purposes, the covenants contained in this Section shall survive the payment of the Note and the interest thereon, including any payment or defeasance thereof.

The Town shall not use or permit the use of any of the proceeds of the Note, or any other funds of the Town, directly or indirectly, to acquire any securities, obligations or other investment property, and shall not take or permit to be taken any other action or actions, which would cause any Note to be an "arbitrage bond" as defined in Section 148 of the Code.

SECTION 11. Modification or Amendment. No modification or amendment of this Resolution or of any resolution amendatory thereof or supplemental thereto, may be made without the consent in writing of the Financial Institution.

SECTION 12. Additional Authorization. That the Mayor, Vice-Mayor, the Town Clerk, and any other proper official of the Town, be and each of them is hereby authorized and directed to execute and deliver any and all documents and instruments, and to do and cause to be done any and all acts and things necessary or proper for carrying out the transactions contemplated by this Resolution and the Loan Agreement.

SECTION 13. Severability of Invalid Provisions. If any one or more of the covenants, agreements or provisions of this Resolution should be held contrary to any express provision of law or contrary to the policy of express law, though not expressly prohibited, or against public policy, or shall for any reason whatsoever be held invalid, then such covenants, agreements or provisions shall be null and void and shall be deemed separate from the remaining covenants, agreements or provisions, and shall in no way affect the validity of any of the other provisions of this Resolution.


SECTION 14. Effective Date. This Resolution shall take effect upon its adoption.

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

	AYE	NAY
MAYOR JAMES DUBOIS	<u>✓</u>	<u> </u>
VICE-MAYOR KENDALL R. RUMSEY	<u>✓</u>	<u> </u>
COMMISSIONER STEVE HOCKMAN	<u>✓</u>	<u> </u>
COMMISSIONER JEANINE LONGTIN	<u> </u>	<u>✓</u>
COMMISSIONER TIM STEVENS	<u>Absent</u>	

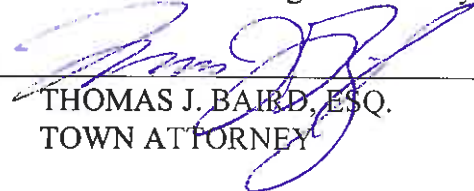
The Town Commission thereupon declared the foregoing Resolution NO. _____ duly passed and adopted this 19 day of October 2011.

TOWN OF LAKE PARK, FLORIDA

BY: 
 JAMES DUBOIS
 MAYOR

ATTEST: 
 VIVIAN M. LEMLEY
 TOWN CLERK
 FLORIDA

Approved as to firm and legal sufficiency

BY: 
 THOMAS J. BAIRD, ESQ.
 TOWN ATTORNEY