

**RESOLUTION NO. 2001-08**

**A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF WINTER PARK, FLORIDA, AMENDING AND RESTATING RESOLUTION NO. 1992-08, DULY ADOPTED BY THE CITY COMMISSION ON APRIL 28, 2008, THE TITLE OF WHICH IS SET FORTH HEREIN, IN ORDER TO REFLECT CHANGES TO THE LIQUIDITY FACILITY PROVIDER AND THE REMARKETING AGENT NAMED THEREIN, WITH RESPECT TO THE CHANGE IN INTEREST RATE MODE FOR THE CITY'S OUTSTANDING ELECTRIC REVENUE BONDS, SERIES 2005A AND B; AND PROVIDING AN EFFECTIVE DATE.**

**BE IT RESOLVED BY THE CITY COMMISSION OF THE CITY OF WINTER PARK, FLORIDA:**

**ARTICLE I**

**AUTHORITY AND FINDINGS**

**SECTION 1.01 AUTHORITY FOR THIS RESOLUTION.** This Resolution is adopted pursuant to the provisions of Chapter 166, Parts I and II, Florida Statutes; Chapter 86, Article III of the Code of Ordinances of the City of Winter Park, Florida; Ordinance No. 2521-03 of the City enacted on June 24, 2003 (the "Bond Ordinance"); and other applicable provisions of law; and is supplemental to and amendatory of Resolution No. 1898-05, adopted on May 9, 2005 (the "Resolution").

**SECTION 1.02 DEFINITIONS.** The definitions set forth in the Resolution are herein incorporated by reference.

**SECTION 1.03 FINDINGS.**

(i) Resolution No. 1992-08 was adopted on April 28, 2008 in order to facilitate a Mode Change with respect to the City's Electric Revenue Bonds, Series 2005A and B (the "Bonds"), by, among other things, appointing a Liquidity Facility Provider from whom a Liquidity Facility will be purchased; appointing a Remarketing Agent for the Bonds and authorizing the execution and delivery of a Remarketing Agreement with such Remarketing Agent, and making certain amendments to the Resolution.

(ii) The City has determined, based upon the advice of its Financial Advisor, that it is in its best financial interest to change the Liquidity Facility Provider and the Remarketing Agent in order to obtain the most favorable terms in a Liquidity Facility for the Bonds.

**ARTICLE II**

**AMENDED AND RESTATED RESOLUTION**

**SECTION 2.01 RESOLUTION NO. 1992-08 AMENDED AND RESTATED.**

Resolution No. 1992-08 is hereby amended and the title and body are restated in entirety as follows:

**RESOLUTION NO. 1992-08**

**A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF WINTER PARK, FLORIDA, SUPPLEMENTING AND AMENDING IN CERTAIN RESPECTS RESOLUTION NO. 1898-05 OF THE CITY ADOPTED ON MAY 9, 2005, APPROVING A CHANGE IN INTEREST RATE MODE FROM AN AUCTION RATE MODE TO ANOTHER AUTHORIZED INTEREST RATE MODE FOR THE CITY'S OUTSTANDING ELECTRIC REVENUE BONDS, SERIES 2005A AND B; PROVIDING FOR THE PURCHASE OF A LIQUIDITY FACILITY, THE EXECUTION AND DELIVERY OF THE LIQUIDITY FACILITY DOCUMENTS AND THE APPOINTMENT OF THE LIQUIDITY FACILITY PROVIDER; AUTHORIZING THE EXECUTION AND DELIVERY OF A REMARKETING AGREEMENT WITH RESPECT TO SAID BONDS AND APPOINTING THE REMARKETING AGENT; AUTHORIZING THE EXECUTION AND DELIVERY OF A TENDER AGENT AGREEMENT WITH RESPECT TO SAID BONDS AND APPOINTING THE TENDER AGENT; APPROVING THE COVENANTS REQUIRED BY THE BOND INSURER IN ORDER TO FACILITATE THE MODE CHANGE; AMENDING THE RESOLUTION WITH RESPECT TO THE BANK BONDS PROVISIONS THEREIN; AUTHORIZING THE CITY'S AUTHORIZED OFFICERS, THE CITY'S FINANCIAL ADVISOR, THE CITY ATTORNEY, BOND COUNSEL AND DISCLOSURE COUNSEL TO DO ALL THINGS NECESSARY AND APPROPRIATE TO ACCOMPLISH THE MODE CHANGE; AUTHORIZING THE PREPARATION AND DELIVERY OF A REOFFERING MEMORANDUM FOR THE BONDS; AND PROVIDING AN EFFECTIVE DATE.**

**BE IT RESOLVED BY THE CITY COMMISSION OF THE CITY OF WINTER PARK, FLORIDA:**

**ARTICLE I**

**AUTHORITY AND FINDINGS**

**SECTION 1.01 AUTHORITY FOR THIS RESOLUTION.** This Resolution is adopted pursuant to the provisions of Chapter 166, Parts I and II, Florida Statutes; Chapter 86, Article III of the Code of Ordinances of the City of Winter Park, Florida; Ordinance No. 2521-03 of the City enacted on June 24, 2003 (the “Bond Ordinance”); and other applicable provisions of law; and is supplemental to and amendatory of Resolution No. 1898-05, adopted on May 9, 2005 (the “Resolution”).

**SECTION 1.02 DEFINITIONS.** The definitions set forth in the Resolution are herein incorporated by reference.

**SECTION 1.03 FINDINGS.**

A. The City’s Electric Revenue Bonds, Series 2005A, and Electric Revenue Bonds, Series 2005B, were issued on May 27, 2005 in the aggregate principal amounts of \$42,025,000 and \$7,775,000, respectively, and, pursuant to the Final Terms Certificate, dated May 27, 2005, were issued in an Auction Rate Mode, a mode permitted under the Resolution.

B. Due to a serious disruption in the municipal marketplace for auction rate securities, one or more auction failures with respect to the Bonds have occurred resulting in a higher than anticipated current interest rate on the Bonds and the City, based upon the advice of its Financial Advisor and the underwriters of the Bonds, has determined to change the interest rate Mode for the Bonds as is permitted by, and in accordance with, the Resolution (the “Mode Change”).

C. In order to accomplish the Mode Change, it is necessary to agree to certain covenants required by the Bond Insurer; to amend the Resolution with respect to the Bank Bonds provisions therein; to purchase a Liquidity Facility from a Liquidity Facility Provider and to execute and deliver the Liquidity Facility Documents; to appoint a Remarketing Agent for the Bonds and to execute and deliver a Remarketing Agreement, and to appoint a Tender Agent for the Bonds and to enter into a Tender Agent Agreement.

**ARTICLE II**

**APPROVAL OF MODE CHANGE;  
APPROVAL OF COVENANTS OF BOND INSURER**

**SECTION 2.01 MODE CHANGE.** A change from the Auction Rate Mode to another interest rate Mode authorized by the Resolution is hereby approved.

**SECTION 2.02 APPROVAL OF COVENANTS FOR THE BENEFIT OF THE BOND INSURER.** The consent of Financial Security Assurance Inc., the Bond Insurer

for the Bonds, is required to change the Auction Rate Mode to another variable interest rate Mode authorized by the Resolution. The Bond Insurer has agreed to such consent subject only to compliance by the City with the covenants set forth below, and the City hereby approves and agrees to comply with such covenants:

(i) The redemption or term-out feature of Bank Bonds held by the Liquidity Facility Provider under the Liquidity Facility Documents and the redemption or term-out feature of any Additional Parity Bonds which become Bank Bonds pursuant to the Liquidity Facility applicable thereto shall not be less than seven (7) years;

(ii) The City shall pay to the Bond Insurer a fee equal to five (5) basis points per annum payable in advance, with the fee for the initial two (2) years payable in advance.

(iii) The City will not issue Additional Parity Bonds under the Bond Ordinance bearing variable rates of interest or convert Additional Parity Bonds to bear interest at a variable rate which would result in total principal amount of variable rate indebtedness in excess of 30% of the aggregate principal amount of Bonds outstanding at the time of such issuance or conversion.

The proper officials of the City are hereby authorized to execute and deliver to the Bond Insurer a supplemental resolution, agreement or letter evidencing approval of the aforesaid covenants in the form approved by Bond Counsel and the City's Financial Advisor, the execution and delivery of such supplemental resolution, agreement or letter by the Mayor or his designee, and the City Clerk, or her designee, being conclusive evidence of such approval.

**SECTION 2.03 THIRD PARTY BENEFICIARY.** The Bond Insurer is hereby deemed a third-party beneficiary of the terms set forth herein and is hereby granted the right to enforce such terms against the City either at law or in equity. Any default in the terms hereof shall constitute an event of default under the Resolution.

### **ARTICLE III**

#### **AMENDMENTS TO RESOLUTION**

##### **SECTION 3.01 AMENDMENTS TO RESOLUTION.**

(a) The definition of "Bond Service Requirement" set forth in Section 1.02 of the Resolution is hereby amended to read as follows:

" 'Bond Service Requirement' for any Bond Year, as applied to the Bonds of any series, shall mean the sum of:

(1) The amount required to pay the interest becoming due on Bonds to which the Bond Service Requirement relates during the Bond Year (including, in the case of Variable Rate Bonds, the interest becoming due calculated in accordance with the assumptions provided by the resolution authorizing the issuance of such Variable Rate Bonds), except to the extent that such interest shall have been provided by payments

into the Sinking Fund (hereinafter established and defined) out of Bond proceeds for a specified period of time;

(2) The amount required to pay the principal of Serial Bonds maturing during the Bond Year;

(3) The amount of Amortization Installments for Term Bonds required to be deposited in the Bond Amortization Account during the Bond Year, and the amount required to pay the Compounded Amount due on any Capital Appreciation Bonds maturing in such Bond Year. In computing annual Bond Service Requirements in any year, the Term Bonds maturing in any year in which Term Bonds mature shall be excluded, and the annual Amortization Installments for Term Bonds shall be deemed to be serial maturities.

For all purposes of this Resolution, if, with respect to any series or portion of a series of Bonds, the Issuer enters into a Qualified Swap Agreement providing for payments to the Issuer which are pledged to the payment of interest on such Bonds, in an amount equal to interest on a notional amount equal to the principal amount of such Bonds outstanding, based upon a fixed rate or a variable index or formula different from that used to calculate interest on such Bonds, and provided that the conditions of Section 9.03U of this Resolution shall have been satisfied, then the effective rate of interest to the Issuer with respect to such Bonds taking into account (a) the actual interest rate borne by such Bonds, (b) payments to be received by the Issuer pursuant to such Qualified Swap Agreement and (c) payment obligations of the Issuer to the counterparty under the Qualified Swap Agreement, all based upon interest on such notional amount as determined by reference to a fixed rate or variable rate index or formula, shall be used for purposes of this definition as the actual rate of interest with respect to such Bonds. If, however, the applicable agreement ceases to constitute a "Qualified Swap Agreement" providing for "Qualified Swap Payments" in accordance with the terms of this Resolution, the assumptions provided by this paragraph shall not be used with respect to any calculations made after the time the agreement ceased to comply with such requirements.

If 2 series of Variable Rate Bonds, or 2 maturities within a series, are issued simultaneously with inverse floating interest rates providing a composite fixed interest rate for such Bonds taken as a whole, and such series or maturities are required to be outstanding in equal principal amounts, such composite fixed rate shall be used in determining the Bond Service Requirement with respect to such Variable Rate Bonds.

For the purpose of the calculation of the Bond Service Requirement as of any date for any Bonds constituting Variable Rate Bonds, which are not related to a Qualified Swap Agreement, such Bonds shall be deemed to bear interest at the greater of (1) the rate of interest per annum then shown in the most recent 25-Bond Revenue Index for revenue bonds maturing in 30 years, published by *The Bond Buyer*, and (2) the average interest rate per annum for such Bonds during the 12 month period preceding such date; provided, however, that whenever such Bonds shall be converted to Fixed Rate Mode, the Bond Service Requirement for all affected Bonds shall be recalculated as of the conversion date using such fixed rate.

For the purposes of the calculation of the Bond Service Requirement as of any date for any Bank Bonds outstanding, interest shall be calculated at the rate required to be paid on Bank Bonds pursuant to the Liquidity Facility Documents and principal

shall be deemed to be due on the date and in the amounts that such Bank Bonds are required to be paid or mandatorily redeemed pursuant to the Liquidity Facility Documents if earlier than provided herein.”

(b) Section 5.12 of the Resolution is hereby amended to read as follows:

**“SECTION 5.12 BANK BONDS.** Unless otherwise agreed by the Bond Insurer, Bank Bonds shall bear interest at a rate per annum that does not exceed the rate to be specified in the applicable Liquidity Facility Documents. Bank Bonds shall be subject to mandatory redemption as provided in the Liquidity Facility, provided that the term of any Bank Bonds shall not be less than seven (7) years. Bank Bonds shall not be tendered for purchase. If less than all Outstanding Series 2005 Bonds are redeemed at the option of the Issuer, Bank Bonds shall be redeemed prior to any other Outstanding Series 2005 Bonds.”

#### **ARTICLE IV**

##### **AUTHORIZATION OF PURCHASE OF LIQUIDITY FACILITY; APPOINTMENT OF LIQUIDITY FACILITY PROVIDER; AUTHORIZATION FOR EXECUTION AND DELIVERY OF STANDBY BOND PURCHASE AGREEMENT**

**SECTION 4.01 LIQUIDITY FACILITY.** The purchase of a Liquidity Facility is hereby authorized. The Liquidity Facility shall be a Standby Bond Purchase Agreement issued by Dexia Credit Local acting through its New York Branch (the “Liquidity Facility Provider”). The proper officials of the City are hereby authorized to execute and deliver the Standby Bond Purchase Agreement in substantially the form presented to this meeting and the Mayor, or his designee, and the City Clerk, or her designee, are hereby authorized to execute and deliver the final form of the Liquidity Facility Documents, subject to the approval of the Standby Bond Purchase Agreement by Bond Counsel, the execution of said Standby Bond Purchase Agreement by the Mayor, or his designee, and the City Clerk, or her designee, being conclusive evidence of such approval. To the extent that the terms of the Standby Bond Purchase Agreement conflict with the provisions set forth in the Resolution regarding the remarketing and the optional and mandatory tenders of the Bonds, the provisions of the Standby Bond Purchase Agreement shall govern.

#### **ARTICLE V**

##### **APPOINTMENT OF TENDER AGENT; AUTHORIZATION FOR EXECUTION AND DELIVERY OF TENDER AGENT AGREEMENT**

**SECTION 5.01 TENDER AGENT.** The Bank of New York Trust Company, N.A., is hereby appointed as Tender Agent for the Bonds. The Tender Agent Agreement in substantially the form presented to this meeting is hereby approved and the Mayor, or his designee, and the Clerk, or her designee, are hereby authorized to execute and deliver the final form of the Tender Agent Agreement, subject to the approval of Bond Counsel, the execution and delivery of said Tender Agreement by the Mayor, or his designee, and the City Clerk, or her designee, being conclusive evidence of such approval.

**ARTICLE VI**

**APPOINTMENT OF REMARKETING AGENT;  
AUTHORIZATION OF EXECUTION AND DELIVERY OF  
REMARKETING AGREEMENT**

**SECTION 6.01 REMARKETING AGENT FOR THE BONDS.** Morgan Keegan & Company, Inc., Winter Park, Florida, is hereby appointed as Remarketing Agent for the Bonds. The Remarketing Agreement in substantially the form presented to this meeting is hereby approved and the Mayor, or his designee, and the City Clerk, or her designee, is hereby authorized to execute and deliver the final form of the Remarketing Agreement, subject to the approval of Bond Counsel, the execution and delivery of said Remarketing Agreement by the Mayor, or his designee, and the City Clerk, or her designee, being conclusive evidence of such approval.

**ARTICLE VII**

**REOFFERING MEMORANDUM;  
EFFECTIVE DATE**

**SECTION 7.01 REOFFERING MEMORANDUM.** The preparation and delivery of a Reoffering Memorandum in order to facilitate the Mode Change and the remarketing of the Bonds is hereby authorized.

**SECTION 7.02 EFFECTIVE DATE.** This resolution shall take effect immediately upon its passage.

**ARTICLE III**

**SEVERABILITY AND EFFECTIVE DATE**

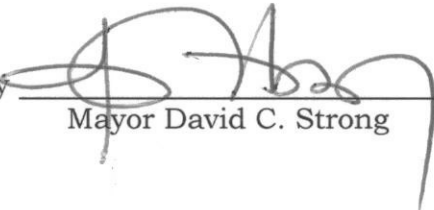
**SECTION 3.01 SEVERABILITY.** If any one or more provisions of this amending resolution are declared void by a court of competent jurisdiction, the remaining provisions shall continue to be in full force and effect.

**SECTION 3.02 EFFECTIVE DATE.** This resolution shall take effect immediately upon its passage.

**ADOPTED** after reading by title at a regular meeting of the City Commission of the City of Winter Park, Florida, held in City Hall, Winter Park, Florida, on this 9<sup>th</sup> day of June, 2008.

(SEAL)

CITY OF WINTER PARK, FLORIDA

By   
Mayor David C. Strong

ATTESTED:

  
City Clerk Cynthia S. Bonham