

**RESOLUTION NO. 2055-10**

A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF WINTER PARK, FLORIDA, SUPPLEMENTING ORDINANCE NO. 2801-10 OF THE CITY WHICH AUTHORIZED THE ISSUANCE OF NOT EXCEEDING \$3,000,000 PARK AVENUE REFUNDING IMPROVEMENT REVENUE BONDS, SERIES 2010, OF THE CITY TO FINANCE THE COST OF REFUNDING THE OUTSTANDING PARK AVENUE IMPROVEMENT REVENUE BONDS, SERIES 1998, OF THE CITY; PROVIDING FOR THE PAYMENT OF SUCH BONDS FROM LEGALLY AVAILABLE NON AD VALOREM FUNDS OF THE CITY BUDGETED AND APPROPRIATED FOR SUCH PURPOSE; MAKING CERTAIN COVENANTS AND AGREEMENTS IN CONNECTION THEREWITH; AND PROVIDING AN EFFECTIVE DATE.

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

**ARTICLE I****AUTHORITY, DEFINITIONS AND FINDINGS**

**SECTION 1.01 AUTHORITY.** This Resolution is adopted pursuant to the provisions of Chapter 166, Part II, Florida Statutes; Chapter 86, Article III, Code of Ordinances of the City of Winter Park, Florida; and other applicable provisions of law; and is supplemental to the Ordinance.

**SECTION 1.02 DEFINITIONS.** Unless the context otherwise requires, the terms defined in this section shall have the meanings specified in this section. Terms not otherwise defined in this section shall have the meanings ascribed to them by the Ordinance. Words importing singular number shall include the plural number in each case and vice versa, and words importing persons shall include firms and corporations.

"Authorized Investments" shall mean any of the following if and to the extent the same are permitted by the investment policy of the City:

(1) Government Obligations which are held in a custody or trust account by a bank or savings and loan association which is either (a) a "qualified public depository" under the laws of the

State of Florida or (b) has capital, surplus and undivided profits of not less than \$50,000,000, and which is a member of the Federal Deposit Insurance Corporation ("FDIC");

(2) bonds, debentures, notes, participation certificates or other evidences of indebtedness payable in cash issued, or the principal of and interest on which are unconditionally guaranteed by, the following federal agencies whose obligations represent the full faith and credit of the United States of America: the Export-Import Bank of the United States; the Government National Mortgage Association; the Farmers Home Administration or Rural Development, as applicable; the Federal Housing Administration; or the Maritime Administration;

(3) United States dollar denominated time and demand deposits in any domestic commercial bank which is a member of FDIC and is a "qualified public depository" under the laws of the State of Florida;

(4) repurchase agreements fully and continuously secured by Government Obligations, with any bank, trust company, national banking association or savings and loan association which is a member of FDIC and is a "qualified public depository" under the laws of the State of Florida; or with any registered government bond broker/dealer which is subject to the jurisdiction of the Securities Investors' Protection Corporation; provided, (a) such Government Obligations are held by the City or a third party which is (i) a Federal Reserve Bank, or (ii) a bank or savings and loan association which is a member of FDIC and is a "qualified public depository" under the laws of the State of Florida; and the City shall have received written confirmation from the third party that it holds such Government Obligations; and (b) a perfected first security interest in or title to such Government Obligations is created or obtained for the benefit of the City;

(5) any other investments authorized or permitted from time to time by Section 218.415, Florida Statutes, or any other law of the State of Florida controlling the investment of surplus public funds of a municipality.

"Bond Registrar" shall mean the City Clerk of the City, who shall maintain the registration books of the City and be responsible for the transfer of the Bonds, and who shall also be the paying agent for the Bonds and interest thereon.

"Bond Year" shall mean the one year period ending on a principal payment date for the Bonds.

"Bonds" shall mean the Park Avenue Refunding Improvement Revenue Bonds, Series 2010, herein authorized to be issued.

"City" shall mean the City of Winter Park, Florida.

"Code" shall mean the Internal Revenue Code of 1986, as amended, together with the applicable regulations thereunder, and, if applicable, under the Internal Revenue Code of 1954, as amended; and any successor provisions.

"Commission" shall mean the City Commission of the City.

"Commitment" shall mean the proposal of the Purchaser, dated May 17, 2010, with respect to the Bonds.

"Debt Service Requirement" for any Bond Year, as applied to the Bonds, shall mean the sum of the amount required to pay the interest and principal becoming due on the Bonds during such Bond Year.

"Federal Securities" shall mean, collectively, (1) Government Obligations; (2) certificates evidencing ownership of portions of such obligations described in (1) held by a bank or trust company as custodian, under which the owner of the investment is the real party in interest and has the right to proceed directly and independently against the obligor on the underlying obligations if such underlying obligations are not available to satisfy any claim against the custodian; or (3) municipal obligations that have been advance refunded, are secured by an escrow within which are held obligations described in (1) and have been rated in the highest rating category by Moody's, none of which described in (1), (2) or (3) above are subject to redemption prior to maturity at the option of the obligor.

"Fiscal Year" shall mean the period commencing on October 1 of each year and ending on the succeeding September 30, or such other annual period as may be prescribed by law from time to time for the City.

"Government Obligations" shall mean any securities that are direct obligations of, or obligations the timely payment of principal of and interest on which is fully and unconditionally guaranteed by, the United States of America.

"Holder of Bonds" or "Bondholders" or any similar term shall mean any person who shall be the Registered Owner of any such Bond or Bonds.

"Moody's" shall mean Moody's Investors Service, New York, New York.

"Non Ad Valorem Revenues" shall mean legally available revenues of the City derived from sources other than ad valorem taxation.

"Ordinance" shall mean Ordinance No. 2801-10 of the City which authorized the issuance of the Bonds.

"Purchaser" shall mean Citizens Bank of Florida.

"Record Date" shall mean the fifteenth day of the month preceding the applicable interest payment date for the Bonds.

"Refunded Bonds" shall mean all the outstanding Park Avenue Improvement Revenue Bonds, Series 1998, of the City.

"Refunding" shall mean the current refunding of the Refunded Bonds.

"Resolution" shall mean, collectively, this resolution and all resolutions amendatory hereof or supplemental hereto.

**SECTION 1.03 FINDINGS.** It is hereby ascertained, determined and declared that:

A. It is necessary and desirable to implement the Refunding for the reasons stated in the Ordinance.

B. The funds needed for the Refunding shall be derived from the sale of the Bonds and, if necessary, other legally available funds of the City.

C. The principal of and interest on the Bonds and all required sinking fund and other payments shall be payable from Non Ad Valorem Revenues budgeted and appropriated as provided herein. Neither the City nor the State of Florida or any political subdivision thereof or governmental authority or body therein shall ever be required to levy ad valorem taxes to pay the principal, prepayment premium, if any, and interest on the Bonds or to make any of the sinking fund or other payments required by this Resolution, the Ordinance or the Bonds; and



such Bonds shall not constitute a lien upon or pledge of any property owned by or situated within the corporate territory of the City, nor prevent the City from subsequently pledging any of the Non Ad Valorem Revenues for the payment of the principal, prepayment or redemption premium, if any, and interest on any other obligations of the City.

D. It is anticipated that the Non Ad Valorem Revenues, to the extent budgeted and appropriated in each year by the Commission, will be sufficient to pay all principal, prepayment premium, if any, and interest on the Bonds to as the same become due, and to make all sinking fund payments required by this Resolution.

E. The relatively small size of the principal amount of the Bonds and the nature of the security for their payment would not produce an adequate response at a public sale offering; therefore, a negotiated sale of the Bonds will result in the most favorable financing plan and is in the best interest of the City.

F. The Bond Buyer "20-Bond GO Index" (the "Index") published immediately prior to the first day of the month during which this Resolution was adopted, was 4.28%. Three hundred basis points above the Index is the statutory interest rate limit (the "Interest Rate Limit") applicable to the Bonds for a sale in June 2010.

G. The Purchaser has by the Commitment, offered to purchase the Bonds at the price of par, at the rate set forth in the Commitment, resulting in an average net interest cost rate, computed as of the date of adoption of this Resolution, less than the Interest Rate Limit.

H. The Bonds will not be "private activity bonds" as defined in Section 141 of the Code.

I. The City (and all subordinate entities thereof) does not reasonably expect to issue tax-exempt obligations (other than "private activity bonds") in excess of \$30,000,000 aggregate face amount in calendar year 2010.

**SECTION 1.04 RESOLUTION TO CONSTITUTE CONTRACT.** In consideration of the acceptance of the Bonds authorized to be issued hereunder by those who shall hold the same from time to time, this Resolution (including the Ordinance) shall be deemed to be and shall constitute a contract between the City and such Bondholders. The covenants and agreements herein set forth to be performed by the City shall be for the equal benefit, protection and security of the legal Holders of any and all of such Bonds, all of which shall be of equal rank and without preference, priority or distinction of any of the Bonds over any other thereof, except as expressly provided therein and herein.

## **ARTICLE II**

### **REFUNDING; DESCRIPTION, DETAILS AND FORM OF BONDS**

**SECTION 2.01 REFUNDING.** The Refunding has been authorized by the Ordinance. The cost of the Refunding may include, but need not be limited to, legal and financing expenses; expenses for estimates of costs and of revenues; expenses for computer schedules; the fees of fiscal agents, financial advisors or consultants; and such other costs and expenses as may be necessary or incidental to the financing herein authorized.

**SECTION 2.02 AUTHORIZATION AND SALE OF BONDS.** Subject and pursuant to the provisions of this Resolution, the Ordinance has authorized the issuance of obligations of the City to be known as "Park Avenue Refunding Improvement Revenue Bonds, Series 2010," in the aggregate principal amount of not exceeding \$3,000,000 for the Refunding. Bonds in the aggregate principal amount of \$2,370,000 are necessary for the Refunding and subject to receipt of disclosure and truth-in-bonding statements required by Section 218.385, Florida Statutes, are hereby awarded and sold to the Purchaser at the price of par.

**SECTION 2.03 DESCRIPTION OF BONDS.** The Bonds shall be issued in the form of a single fully-registered Bond, without coupons; shall be dated the date of their delivery; shall bear interest at the rate of 3.49% per annum, calculated on a 30/360-day year basis, such interest to be payable on January 1, 2011, and semiannually thereafter on January 1 and July 1 of each year until maturity; shall be payable in principal installments on July 1 in the years and amounts as specified in the Bond form contained in Section 2.10 of this Resolution; and shall all mature on July 1, 2021. If any payment day is not a business day, then payment will be due on the next succeeding business day, with interest accrued to and including such business day.

The Bonds shall be payable with respect to both principal and interest in lawful money of the United States of America, by mail (or wire transfer in accordance with written instructions furnished in advance by the Registered Owner) to the Registered Owners at their addresses as they appear on the registration books at 5:00 p.m. (eastern time) on the Record Date. Upon final payment of principal and interest at maturity, the Bonds shall be surrendered to the City.

**SECTION 2.04 EXECUTION OF BONDS.** The Bonds shall be executed by the Mayor or Vice Mayor of the City, and the corporate seal of the City or a facsimile thereof shall be affixed thereto or reproduced thereon and attested by the City Clerk of the City. The authorized signatures for the Mayor or Vice Mayor and City Clerk, shall be either manual or in facsimile. The Certificate of Authentication of the Bond Registrar shall appear on the Bonds, and no Bond shall be valid or obligatory for any purpose or be entitled to any security or benefit under this Resolution unless such certificate shall have been duly executed on such Bond. The authorized signature for the Bond Registrar shall be either manual or in facsimile; provided, however, that at least one of the above signatures, including that of the authorized signature for the Bond Registrar, appearing on the Bonds shall at all times be a manual signature. In case any one or more of the officers who shall have signed or sealed any of the Bonds shall cease to be such officer of the City before the Bonds so signed and sealed shall have been actually sold and delivered, such Bonds may nevertheless be sold and delivered as herein provided and may be issued as if the person who signed or sealed such Bonds had not ceased to hold such office. Any Bonds may be signed and sealed on behalf of the City by such person as at the actual time of the execution of such Bonds shall hold the proper office, although at the date of such Bonds such person may not have held such office or may not have been so authorized.

**SECTION 2.05 NEGOTIABILITY.** The Bonds shall be and have all the qualities and incidents of negotiable instruments under the laws of the State of Florida, and each successive Holder, in accepting any of the Bonds, shall be conclusively deemed to have agreed that such Bonds shall be and have all of the qualities and incidents of negotiable instruments under the laws of the State of Florida.

**SECTION 2.06 REGISTRATION.** The Bond Registrar shall be responsible for maintaining the books for registration and transfer of the Bonds.

Upon surrender to the Bond Registrar for transfer of any Bond, duly endorsed for transfer and duly executed by the Registered Owner or his attorney duly authorized in writing, the Bond Registrar shall deliver in the name of the transferee, a new fully registered Bond of the same maturity and interest rate and for the principal amount which the Registered Owner is entitled to receive.

All Bonds presented for transfer or payment (if so required by the City or the Bond Registrar) shall be accompanied by a written instrument or instruments of transfer, in form and with guaranty of signature reasonably satisfactory to the City or the Bond Registrar, duly executed by the Registered Owner or by his duly authorized attorney.

The Bond Registrar or the City may require payment from the Registered Owner or transferee of a sum sufficient to cover any tax, fee or other governmental charge that may be imposed in connection with any transfer of the Bonds. Such charges and expenses shall be paid before any new Bond shall be delivered.

Interest on the Bonds shall be paid to the Registered Owners whose names appear on the books of the Bond Registrar as of 5:00 p.m. (eastern time) on the Record Date. New Bonds delivered upon any transfer shall be valid obligations of the City, evidencing the same debt as the Bonds surrendered, shall be secured by this Resolution, and shall be entitled to all of the security and benefits hereof to the same extent as the Bonds surrendered.

The City and the Bond Registrar may treat the Registered Owner of any Bond as the absolute owner thereof for all purposes, whether or not such Bond shall be overdue, and shall not be bound by any notice to the contrary.

#### **SECTION 2.07 DISPOSITION OF BONDS PAID OR REPLACED.**

Whenever any Bond shall be delivered to the Bond Registrar for cancellation, upon payment of the principal amount thereof, or for replacement or transfer, such Bond shall, after cancellation, either be retained or destroyed by the Bond Registrar, as authorized by law.

#### **SECTION 2.08 BONDS MUTILATED, DESTROYED, STOLEN OR LOST.**

In case any Bond shall become mutilated, or be destroyed, stolen or lost, the City, acting through the Bond Registrar, may in its discretion issue and deliver a new Bond of like tenor as the Bond so mutilated, destroyed, stolen, or lost, in exchange and substitution for such mutilated Bond, upon surrender and cancellation of such mutilated Bond or in lieu of and substitution for the Bond destroyed, stolen or lost, and upon the Registered Owner furnishing satisfactory proof of his ownership and the loss thereof (if lost, stolen or destroyed) and indemnity satisfactory to the City, and complying with such other reasonable regulations and conditions as the City may prescribe and paying (in advance if so required by the City or

the Bond Registrar) such taxes, governmental charges, attorneys fees, and other expenses as the City and/or the Bond Registrar may reasonably charge and/or actually incur. All Bonds so surrendered shall be cancelled by the Bond Registrar. If any such Bond shall have matured or will mature within 45 days, instead of issuing a substitute Bond, the City may pay the same, upon being indemnified as aforesaid, and if such Bond be lost, stolen or destroyed, without surrender thereof.

Any such duplicate Bonds issued pursuant to this section shall constitute original contractual obligations on the part of the City, whether or not the lost, stolen or destroyed Bonds be at any time found by anyone.

**SECTION 2.09 PROVISIONS FOR PREPAYMENT.** The outstanding principal payment installments of the Bonds may be prepaid in whole or in part prior to their respective payment dates, at the option of the City, at any time, at the price of the par amount of such principal payment installments to be prepaid, together with accrued interest to the date of prepayment, but without prepayment premium or penalty.

Notice of such optional prepayment shall, at least 10 business days prior to the prepayment date, be hand-delivered, telecopied (evidenced by a written transmission report) or e-mailed (evidenced by a written return receipt) by the Bond Registrar to each Holder of Bonds at his address as it appears of record on the books of the Bond Registrar as of 15 days prior to the date fixed for prepayment. Interest shall cease to accrue on the principal amount of the Bonds duly called for prepayment on the prepayment date, if payment thereof has been duly provided. Under such circumstances the privilege of transfer of the Bonds shall be suspended.

**SECTION 2.10 FORM OF BONDS.** The text of the Bonds, together with the Certificate of Authentication of the Bond Registrar, shall be substantially of the following tenor, with such omissions, insertions and variations as may be necessary or desirable and authorized or permitted by this Resolution or any subsequent resolution adopted prior to the issuance thereof; or as may be necessary to comply with applicable laws, rules and regulations of the United States Government and the State of Florida in effect upon the issuance thereof:

No. R-1  
\$2,370,000

UNITED STATES OF AMERICA  
STATE OF FLORIDA  
COUNTY OF ORANGE  
CITY OF WINTER PARK  
PARK AVENUE REFUNDING IMPROVEMENT REVENUE BOND, SERIES 2010

KNOW ALL MEN BY THESE PRESENTS, that the City of Winter Park, Florida (the "City"), for value received hereby promises to pay to Citizens Bank of Florida, or registered assigns, solely from the special funds hereinafter mentioned, the principal sum specified above on July 1 in the years and in the principal installments as follows:

<u>Year</u>	<u>Amount</u>
2011	\$190,000
2012	185,000
2013	195,000
2014	200,000
2015	205,000
2016	215,000
2017	220,000
2018	225,000
2019	235,000
2020	245,000
2021	255,000

and to pay solely from such special funds, interest on the balance of such principal sum from time to time remaining unpaid, from the date of this Bond, at the rate of 3.49% per annum, payable on January 1, 2011, and on January 1 and July 1 of each year, by check mailed (or wire transfer in accordance with written instructions furnished in advance by the Registered Owner) to the Registered Owner at his address as it appears at 5:00 p.m. (eastern time) on the fifteenth day of the month preceding the applicable interest payment date, on the registration books of the City kept by the Bond Registrar. If any payment day is not a business day, then payment will be due on the next succeeding business day, with interest accrued to and including such business day. The principal of and interest on this Bond are payable in lawful money of the United States of America. Upon final payment



of principal and interest, this Bond shall be surrendered to the City.

This Bond represents an authorized issue of Bonds issued to finance the cost of refunding the outstanding Park Avenue Improvement Revenue Bonds, Series 1998, of the City, under the authority of and in full compliance with the Constitution and Statutes of the State of Florida, including particularly Chapter 166, Part II, Florida Statutes, and other applicable provisions of law; and Ordinance No. 2801-10 of the City and Resolution No. \_\_\_\_\_ of the City Commission of the City (collectively, the "Resolution"); and is subject to all the terms and conditions of the Resolution.

This Bond and the interest hereon are payable from Non Ad Valorem Revenues budgeted and appropriated by the City for such purposes; all as defined, in the manner and to the extent provided in the Resolution.

It is expressly agreed by the Registered Owner of this Bond that such Registered Owner shall never have the right to require or compel the levy of ad valorem taxes for the payment of the principal of and interest on this Bond or for the making of any sinking fund or other payment specified in the Resolution. This Bond and the indebtedness evidenced thereby shall not constitute an indebtedness of the City within the meaning of any constitutional or statutory provision or limitation.

This Bond may be transferred only upon the books of the City kept by the Bond Registrar upon surrender thereof at the principal office of the Bond Registrar with an assignment duly executed by the Registered Owner or his duly authorized attorney, but only in the manner, subject to the limitations and upon payment of a sum sufficient to cover any tax, fee or governmental charge, if any, that may be imposed in connection with any such transfer, as provided in the Resolution. Upon any such transfer, there shall be executed in the name of the transferee, and the Bond Registrar shall deliver, a new registered Bond in the same principal amount, maturity and interest rate as this Bond.

It is hereby certified and recited that all acts, conditions and things required to exist, to happen and to be performed precedent to and in the issuance of this Bond exist, have happened and have been performed in regular and due form and time as required by the Statutes and Constitution of the State of Florida applicable thereto; and that the issuance of

this Bond does not violate any constitutional or statutory limitation.

This Bond is subject to prepayment under the terms and conditions stated in Section 2.09 of the Resolution.

This Bond is and has all the qualities and incidents of a negotiable instrument under the laws of the State of Florida.

This Bond shall not be valid or become obligatory for any purpose or be entitled to any security or benefit under the Resolution until the certificate of authentication hereon shall have been executed by the Bond Registrar.

IN WITNESS WHEREOF, the City of Winter Park, Florida, has issued this Bond and has caused the same to be executed by its Mayor or Vice Mayor, and its corporate seal or a facsimile thereof to be affixed, impressed, imprinted, lithographed or reproduced hereon and attested by the City Clerk, all as of July \_\_, 2010.

CITY OF WINTER PARK

(SEAL)

\_\_\_\_\_  
Mayor [Vice Mayor]

ATTESTED:

\_\_\_\_\_  
City Clerk

**BOND REGISTRAR'S CERTIFICATE OF AUTHENTICATION**

This Bond represents the Bonds of the issue described in the Resolution.

CITY CLERK, Winter Park, Florida  
as Bond Registrar  
  
\_\_\_\_\_

Date of Authentication: July \_\_, 2010

The following abbreviations, when used in the inscription on the face of the within Bond, shall be construed as though they were written out in full according to applicable laws or regulations:

TEN COM - as tenants in common	UNIF GIF/TRANS MIN ACT - _____ (Cust.)
TEN ENT - as tenants by the entireties	Custodian for _____ (Minor)
JT TEN - as joint tenants with right of survivorship and not as tenants in common	under Uniform Gifts/Transfers to Minors Act of _____ (State)

Additional abbreviations may also be used though not in list above.

## ASSIGNMENT

FOR VALUE RECEIVED, the undersigned sells, assigns and transfers to \_\_\_\_\_

\_\_\_\_\_  
(PLEASE INSERT NAME, ADDRESS AND SOCIAL SECURITY OR OTHER IDENTIFYING NUMBER OF ASSIGNEE) the within Bond and does hereby irrevocably constitute and appoint \_\_\_\_\_ as his agent to transfer the Bond on the books kept for registration thereof, with full power of substitution in the premises.

Dated: \_\_\_\_\_

NOTICE: The signature to this assignment must correspond with the name of the Registered Owner as it appears upon the face of the within Bond in every particular, without alteration or enlargement or change whatever.

Signature guaranteed:

\_\_\_\_\_  
Signature guarantee by guarantor institution participating in Securities Transfer Agents Medallion Program, or in other guarantee program acceptable to Bond Registrar

## **ARTICLE III**

### **APPLICATION OF BOND PROCEEDS**

**SECTION 3.01 APPLICATION OF BOND PROCEEDS.** The proceeds received from the sale of the Bonds shall be applied by the City simultaneously with their delivery to the purchaser thereof, as follows:

A. The City shall pay all costs and expenses in connection with the preparation, issuance and sale of the Bonds.

B. The remaining proceeds of the sale of the Bonds shall be deposited with the paying agent for the Refunded Bonds.

## **ARTICLE IV**

### **PAYMENT OF BONDS; FLOW OF FUNDS; REDEMPTION OF REFUNDED BONDS**

**SECTION 4.01 PAYMENT OF BONDS.** Neither the Bonds nor the interest thereon shall be or constitute a general indebtedness of the City within the meaning of any constitutional or statutory provision or limitation, but shall be payable from Non Ad Valorem Revenues as provided below. No Holder or Holders of any Bonds issued hereunder shall ever have the right to require or compel the exercise of the ad valorem taxing power of the City or taxation in any form of any property therein for payment thereof, or be entitled to payment of such principal and interest from any other funds of the City.

The City will budget and appropriate in each Bond Year, from Non Ad Valorem Revenues, an amount sufficient to pay the Debt Service Requirement and all other payments required by this Resolution for such Bond Year. However, this covenant shall not be deemed a pledge of or creation of a lien upon any of such Non Ad Valorem Revenues, nor prevent the City from subsequently pledging any of its Non Ad Valorem Revenues for the payment of the principal, redemption premium, if any, and interest on any other obligations of the City.

**SECTION 4.02 CREATION OF SINKING FUND.** The Sinking Fund is hereby created and established.

The Sinking Fund shall constitute a trust fund for its purposes, and shall be kept separate and distinct from all other funds of the City and used only for the purposes and in the manner provided by this Resolution. It shall be continuously secured in the same manner as municipal deposits are authorized to be secured by the laws of the State of Florida. The cash required to be accounted for in the Sinking Fund may be deposited in a single bank account, provided that adequate accounting records are maintained to reflect and control the restricted allocation of the cash on deposit therein for the various purposes of the Sinking Fund. The designation and establishment of the Sinking Fund shall not be construed to require the establishment of any completely independent, self-balancing fund, as such term is commonly defined and used in governmental accounting, but rather is intended solely to constitute an earmarking of Non Ad Valorem Revenues for certain purposes and to establish certain priorities for application of such Non Ad Valorem Revenues as provided by this Resolution.



**SECTION 4.03 APPLICATION OF REVENUES.** For as long as any of the principal of and interest on any of the Bonds shall be outstanding and unpaid, or until payment has been provided for as permitted by this Resolution, or until there shall have been set apart in the Sinking Fund, a sum sufficient to pay when due the entire principal of the Bonds remaining unpaid, together with interest accrued or to accrue thereon, the City covenants with the Holders of any and all Bonds as follows:

**A. SINKING FUND.** The Non Ad Valorem Revenues, as budgeted and appropriated in accordance with Section 4.01 above, shall be deposited, as received, in the Sinking Fund. Such Non Ad Valorem Revenues shall first be applied in such sums as will be sufficient to pay all or 1/6<sup>th</sup> of all, as applicable, interest becoming due on the Bonds on the next interest payment date and all or 1/12<sup>th</sup> of all, as applicable, principal becoming due on the Bonds on the next principal payment date therefor, plus the amount of any prior deficiencies. In the event the first interest or principal payment date shall occur either more or less than 6 months or 12 months, as the case may be, after the delivery of the Bonds, then any semiannual payments required above shall be adjusted accordingly to provide for the payment of such principal and interest. Furthermore, in the event the final maturity date shall occur less than 12 months after the immediately preceding principal and interest payment date, then the payments required above shall be adjusted accordingly to provide for the final payment of such principal and interest at maturity.

Credit shall be allowed against the total interest and principal due on the next interest and/or principal payment date for any other funds on hand and available for such purposes in the Sinking Fund.

**B. COMPLETION OF FUNDING REQUIREMENT.** The City shall not be required to make any further applications or allocations to the Sinking Fund when the sums applied and allocated thereto are and remain at least equal to the sum of all of the annual Debt Service Requirements then due and becoming due in all ensuing years for the Bonds then outstanding.

**C. BALANCE OF REVENUES.** Thereafter, the balance of any Non Ad Valorem Revenues remaining after the above required payments (including deficiencies for prior payments) have been made, may be used by the City for any lawful purpose.

**D. INVESTMENT AND DISPOSITION OF INVESTMENT INCOME.** Money on deposit in the Sinking Fund may be invested and reinvested only

in Authorized Investments maturing not later than the dates on which the money therein will be needed. Any and all income received by the City from such investments shall be deposited into the Sinking Fund.

**SECTION 4.04 REDEMPTION OF REFUNDED BONDS.** The Refunded Bonds are hereby called for redemption, as a whole, as of July 16, 2010, or such later date as selected by the Finance Director of the City, at a price of par plus accrued interest to the redemption date, without premium. The Notice of Redemption of the Refunded Bonds shall be in substantially the following form:

NOTICE OF REDEMPTION  
CITY OF WINTER PARK, FLORIDA  
PARK AVENUE IMPROVEMENT REVENUE BONDS, SERIES 1998

NOTICE IS HEREBY GIVEN by the City of Winter Park, Florida (the "City"), that all of its outstanding Park Avenue Improvement Revenue Bonds, Series 1998, dated July 15, 1998, originally issued on July 29, 1998, which mature on July 1 in the years and bear CUSIP numbers as follows:

<u>Year</u>	<u>Amount</u>	<u>Interest Rate</u>	<u>CUSIP</u>
2011	\$ 190,000	4.70%	
2012	195,000	4.80	
2013	205,000	4.85	
2017	930,000	5.00	
2021	1,130,000	5.00	

and which are redeemable as a whole on July 16, 2010 (the "Redemption Date"), at the option of the City, at the redemption price of the principal amount of each bond to be redeemed, together with interest accrued thereon to the date fixed for redemption, without premium, will be redeemed on the Redemption Date.

Payment of the redemption price, plus accrued interest, of such bonds will be made on the Redemption Date at the Jacksonville, Florida, office of The Bank of New York Mellon Trust Company, N.A., the paying agent for the bonds, upon surrender thereof. Interest on such bonds being redeemed will cease to accrue from and after such redemption date.

Dated and mailed this June \_\_, 2010.

CITY OF WINTER PARK, FLORIDA

By \_\_\_\_\_  
Finance Director

The City shall, at least 30 days prior to such Redemption Date, cause the same to be mailed by or on behalf of the bond registrar and paying agent for the Refunded Bonds, to all registered owners of Refunded Bonds at their addresses on the books of the bond registrar.

## **ARTICLE V**

### **CERTAIN COVENANTS AND REMEDIES**

**SECTION 5.01 ANNUAL AUDIT.** The City shall after the close of each Fiscal Year, cause the books, records and accounts relating to the Non Ad Valorem Revenues to be properly audited by an independent certified public accountant. Such audit shall contain, but not be limited to, the statements required by generally accepted accounting principles applicable to governmental units, and after consultation with bond counsel to the City, a certificate by the accountant disclosing any breach on the part of the City of any covenant herein. A copy of such annual audit shall be furnished to the Purchaser (if it is then a Holder) upon its request, within 210 days after the close of the Fiscal Year. Furthermore, a copy of the annual budget for the City shall be furnished to the Purchaser (if it is then a Holder) upon its request, within 90 days of its approval. Any other material financial information pertaining to the City, and within its control, shall be furnished to the Purchaser upon its request.

**SECTION 5.02 REMEDIES.** Any trustee or any Holder of Bonds issued under the provisions hereof acting for the Holders of all Bonds may by suit, action, mandamus or other proceedings in any court of competent jurisdiction, protect and enforce any and all rights, including the right to the appointment of a receiver, existing under the laws of the State of Florida, or granted and contained herein, and may enforce and compel the performance of all duties herein required or by any applicable statutes to be performed by the City or by any officer thereof. Nothing herein, however, shall be construed to grant to any Holder of such Bonds any lien on any property of or within the corporate boundaries of the City, except as provided herein. No Holder of Bonds, however, shall have any right in any manner whatever to affect, disturb or prejudice the security of this Resolution or to enforce any right hereunder except in the manner herein provided, and all proceedings at law or in equity shall be instituted and maintained for the benefit of all Holders of Bonds.

**SECTION 5.03 TAX EXEMPTION.** The City at all times while the Bonds and the interest thereon are outstanding will comply with the requirements of the Code to the extent necessary to preserve the exemption from federal income taxation of the interest on the Bonds. The City Manager or Finance Director of the City is authorized to make or effect any election, selection, choice, consent, approval or waiver on behalf of the City with respect to the Bonds as the City is required to make or give under

the federal income tax laws, for the purpose of assuring, enhancing or protecting favorable tax treatment or characterization of the Bonds or interest thereon or assisting compliance with requirements for that purpose, reducing the burden or expense of such compliance, reducing the rebate amount or payments of penalties thereon, or making payments in lieu thereof, or obviating such amounts or payments, as determined by such officer. Any action of such officer in that regard shall be in writing and signed by the officer.

Furthermore, the Bonds are hereby designated "qualified tax-exempt obligations" under Section 265(b)(3)(B) of the Code.

## **ARTICLE VI**

### **MISCELLANEOUS PROVISIONS**

**SECTION 6.01 MODIFICATION OR AMENDMENT.** No adverse material modification or amendment of this Resolution or of any ordinance or resolution amendatory hereof or supplemental hereto may be made without the consent in writing of the Holders of 51% or more in aggregate principal amount of all the Bonds so affected by such modification or amendment; provided, however, that no modification or amendment shall permit a change in the maturity of the Bonds or a reduction in the rate of interest thereon, or in the amount of principal obligation thereof, or affect the promise of the City to pay the principal of and interest on the Bonds as the same shall become due from the Non Ad Valorem Revenues as budgeted and appropriated, or reduce the percentage of the Holders of the Bonds required to consent to any adverse material modification or amendment hereof without the consent of the Holders of all Bonds.

**SECTION 6.02 SEVERABILITY OF INVALID PROVISIONS.** If any one or more of the covenants, agreements or provisions herein contained shall 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 separable from the remaining covenants, agreements or provisions and shall in no way affect the validity of any of the other provisions hereof or of the Bonds issued hereunder.

**SECTION 6.03 DEFEASANCE.** If, at any time, the City shall have paid, or shall have made provision for the payment of, the principal, interest and redemption or prepayment premiums, if any, with respect to the Bonds, then, and in that event, the covenant of the City to budget and appropriate the Non Ad Valorem Revenues in favor of the Bondholders shall be no longer in effect. For purposes of the preceding sentence, deposit of sufficient cash and/or principal and interest of Federal Securities in irrevocable trust with a banking institution or trust company, for the sole benefit of the applicable Bondholders, to make timely payment of the principal, interest and prepayment premiums, if any, on the outstanding Bonds, shall be considered "provision for payment."

**SECTION 6.04 INTERESTED PARTIES.** Nothing in this Resolution expressed or implied is intended or shall be

construed to confer upon, or to give to, any person or entity, other than the City, the Bond Registrar, the paying agent and the Bondholders, any right, remedy or claim under or by reason of this Resolution or any covenant, condition or stipulation hereof, and all covenants, stipulations, promises and agreements contained in this Resolution, by and on behalf of the City, shall be for the sole and exclusive benefit of the City, the Bond Registrar, the paying agent and the Bondholders.

**SECTION 6.05 USE OF FUNDS FOR REFUNDED BONDS.** The money and investments in the sinking fund and reserve account established in the proceedings authorizing the issuance of the Refunded Bonds may, at the option of the City, be transferred to the Sinking Fund established in this Resolution, be used for payment of the Refunded Bonds or be used for other lawful purposes of the City.

**SECTION 6.06 REPEAL OF INCONSISTENT RESOLUTIONS.** All resolutions or parts thereof in conflict with this Resolution are hereby repealed to the extent of such conflict.

**SECTION 6.07 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 14<sup>th</sup> day of June, 2010.

CITY OF WINTER PARK, FLORIDA

(SEAL)

By Kenneth W. Bradley  
Mayor

ATTESTED:

By Antonia Doreham  
City Clerk