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**LOAN AGREEMENT**

**Dated December 1, 2016**

**By and Between**

**THE CITY OF DEBARY, FLORIDA**

**(the "City")**

**and**

**WHITNEY BANK D/B/A HANCOCK BANK**

**(the "Bank")**

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(The Table of Contents for this Loan Agreement is for convenience of reference only and is not intended to define, limit or describe the scope or intent of any provisions of this Loan Agreement.)

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## LOAN AGREEMENT

This **LOAN AGREEMENT** (the "Agreement"), made and entered into this 1st day of December, 2016, by and between **THE CITY OF DEBARY, FLORIDA** (the "City"), a municipal corporation duly organized under the laws of the State of Florida and its successors and assigns, and **WHITNEY BANK D/B/A HANCOCK BANK**, a Mississippi State Chartered Bank, and its successors (the "Bank").

### WITNESSETH:

**WHEREAS**, capitalized terms used in these recitals and not otherwise defined shall have the meanings specified in Article I of this Agreement; and

**WHEREAS**, pursuant to a Loan Agreement dated as of May 27, 2009 between the City and Wachovia Bank, National Association, the City previously issued its \$5,000,000 Stormwater Utility Assessment Revenue Note, Series 2009, to finance stormwater related improvements, which are currently outstanding in the principal amount of \$4,000,000 (the "Series 2009 Note");

**WHEREAS**, the City, pursuant to the provisions of the Florida Constitution, Chapter 166, Florida Statutes, as amended and supplemented, the Charter of the City, a referendum held on November 7, 2006 and any other applicable provisions of law (all of the foregoing, collectively, the "Act"), and Resolution No. 16-24, adopted by the City on October 5, 2016, is authorized to borrow money, issue bonds, notes or other obligations to finance the refunding of the Series 2009 Note; and

**WHEREAS**, the City desires to issue its Stormwater Utility Assessment Refunding Revenue Bond, Series 2016 (the "Bond"), in the principal amount not to exceed \$4,000,000, to finance the refunding of the Series 2009 Note in order to achieve debt service savings for the City; and

**WHEREAS**, the City does not expect to issue more than \$10 million in tax-exempt obligations during calendar year 2016; and

**WHEREAS**, after review of the proposal submitted by the Bank in response to a request for proposals issued by the City, Public Financial Management, Inc., the City's financial advisor, has recommended that the City award the sale of the Bond to Whitney Bank d/b/a Hancock Bank.

**WHEREAS**, the Bank has agreed to purchase the City's Bond in the aggregate principal amount of \$4,000,000 upon the terms and conditions of this Agreement;

**NOW, THEREFORE**, the parties hereto agree as follows:

## ARTICLE I

### DEFINITION OF TERMS

**Section 1.01. Definitions.** Capitalized terms used in this Agreement and not otherwise defined shall have the respective meanings as follows:

"Act" shall have the meaning assigned to that term in the recitals hereof.

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

"Bank" shall mean Whitney Bank d/b/a Hancock Bank, and its successors.

"Bond" shall mean the City's Stormwater Utility Assessment Refunding Revenue Bond, Series 2016 issued pursuant to the Resolution and this Agreement.

"Bond Counsel" shall mean, initially, Greenberg Traurig, P.A., Orlando, Florida, or any other attorney at law or firm of attorneys of nationally recognized standing in matters pertaining to the federal tax exemption of interest on obligations issued by states and political subdivisions as approved by the City.

"Bond Rate" shall mean 1.65% per annum.

"Bondholder" shall mean the Bank as the holder of the Bond and any subsequent registered holder of the Bond.

"Business Day" shall mean any day except any Saturday or Sunday or day on which the Bank's offices in Dothan, Alabama are closed.

"City" shall mean the City of DeBary, Florida, a municipal corporation.

"Charter" means the charter of the City of DeBary, Florida.

"Code" shall mean the Internal Revenue Code of 1986, as amended from time to time, and the applicable rules and regulations promulgated thereunder.

"Default Rate" shall mean the lesser of (a) six percent (6%) or (b) the maximum rate permitted by Florida law.

"Determination of Taxability" shall mean, with respect to the Bond, the circumstance that shall be deemed to have occurred if interest paid or payable on the Bond becomes includable for federal income tax purposes in the gross income of the Bondholder, or the Bond is not a "qualified tax-exempt obligation" under Section 265(b)(3)(B) of the Code as a consequence of any act, omission or event whatsoever, and regardless of whether the same was within or beyond the control of the City. A Determination of Taxability will be deemed to have occurred upon (a) the receipt by the City or the Bondholder of an original or a copy of an Internal Revenue

Service Technical Advice Memorandum or Statutory Notice of Deficiency which holds that any interest payable on the Bond is includable in the gross income of the Bondholder or the Bond is not a "qualified tax-exempt obligation"; (b) the issuance of any public or private ruling of the Internal Revenue Service that any interest payable on the Bond is includable in the gross income of the Bondholder or the Bond is not a "qualified tax-exempt obligation"; or (c) receipt by the City or the Bondholder of an opinion of Bond Counsel to the effect that any interest on the Bond has become includable in the gross income of the Bondholder for federal income tax purposes or the Bond is not a "qualified tax-exempt obligation." For all purposes of this definition, a Determination of Taxability will be deemed to occur on the date as of which the interest on the Bond is deemed includable in the gross income of the Bondholder or the Bond is deemed not to be a "qualified tax-exempt obligation".

In the case of (a) and (b) above, no Determination of Taxability shall be deemed to occur unless the City has been given timely written notice that such a determination has been made by the Internal Revenue Service and an opportunity to participate in and seek, at its own expense, a final administrative determination or determination by a court of competent jurisdiction (from which no further right of appeal exists) as to the existence of such event of taxability; provided that the City, at its own expense, delivers to the Bank an opinion of Bond Counsel acceptable to the Bank to the effect that such appeal or action for judicial or administrative review is not without merit and there is a reasonable possibility that the judgment, order, ruling or decision from which such appeal or action for judicial or administrative review is taken will be reversed, vacated or otherwise set aside.

"Event of Default" shall mean an Event of Default as defined in Section 5.01 of this Agreement.

"Final Maturity Date" shall mean the date on which all principal and all unpaid interest accrued on the Bond shall be due and payable in full, which date shall be, if not sooner due to acceleration or prepayment, June 1, 2023.

"Fiscal Year" shall mean the twelve month period commencing October 1 of each year and ending on the succeeding September 30, or such other twelve month period as the City may designate as its "fiscal year" as permitted by law.

"Legally Available Non-Ad Valorem Revenues" means all revenues of the City not derived from ad valorem taxation and which are lawfully available to be used to pay debt service on the Bond less the amounts required for the payment of services and programs that are for Essential Governmental Services (as defined in the Resolution).

"Non-Ad Valorem Revenues" shall mean amounts budgeted and appropriated by the City in its annual budget from revenues of the City not derived from ad valorem taxation and which are lawfully available to be used to pay debt service on amounts due under the Bond as the same shall become due, all as more particularly set forth in the Resolution.

"Pledged Revenues" shall mean the Stormwater Utility Assessments and, to the extent that Stormwater Utility Assessments are insufficient to pay amounts due under the Bond, the Non-Ad Valorem Revenues.

"Project" means those stormwater related capital projects financed by the Series 2009 Note.

"Resolution" shall mean Resolution No. 16-24 adopted by the City on October 5, 2016 which, among other things, authorized the execution and delivery of this Agreement and the issuance of the Bond.

"Revenue Fund" shall mean the Revenue Fund established pursuant to Section 4.03 hereof.

"Series 2009 Note" shall mean the City's Stormwater Utility Assessment Revenue Note, Series 2009 dated May 27, 2009 issued in the original aggregate principal amount of \$5,000,000, currently outstanding in the aggregate principal amount of \$4,000,000 and maturing December 1, 2016.

"Series 2012 Note" shall mean the City's Stormwater Utility Assessment Refunding Revenue Note, Series 2012 dated December 6, 2012 issued in the original aggregate principal amount of \$4,000,000.

"Series 2016 Fire Station Bond" shall mean the City's Fire Station Bond, Series 2016 dated April 27, 2016 issued in the original aggregate principal amount of \$1,880,000.

"Series 2016 Water Line Assessment Revenue Bond" shall mean the City's Water Line Assessment Revenue Bond, Series 2016 dated January 15, 2016 issued in the original aggregate principal amount of \$555,000.

"Stormwater Ordinance" means Ordinance No. 05-05 of the City enacted on February 28, 2005, as amended and supplemented.

"Stormwater Utility Assessments" shall mean those special assessments imposed and collected pursuant to the Stormwater Ordinance.

**Section 1.02. Interpretation.** Unless the context clearly requires otherwise, words of masculine gender shall be construed to include correlative words of the feminine and neuter genders and vice versa, and words of the singular number shall be construed to include correlative words of the plural number and vice versa. Any capitalized terms used in this Agreement not herein defined shall have the meaning ascribed to such terms in the Resolution. This Agreement and all the terms and provisions hereof shall be construed to effectuate the purpose set forth herein and to sustain the validity hereof.

**Section 1.03. Titles and Headings.** The titles and headings of the Articles and Sections of this Agreement, which have been inserted for convenience of reference only and are not to be considered a part hereof, shall not in any way modify or restrict any of the terms and provisions hereof, and shall not be considered or given any effect in construing this Agreement or any provision hereof or in ascertaining intent, if any question of intent should arise.

## ARTICLE II

### REPRESENTATIONS AND WARRANTIES OF THE PARTIES

**Section 2.01. Representations and Warranties of City.** The City represents and warrants to the Bank as follows:

(a) Existence. The City is a municipal corporation of the State of Florida, duly created and validly existing under the laws of the State of Florida, with full legal right, power and authority to enact the Stormwater Ordinance, to adopt the Resolution, to enter into this Agreement, to perform its obligations hereunder and to issue and deliver the Bond to the Bank. The making, execution and performance of this Agreement on the part of the City and the issuance and delivery of the Bond have been duly authorized by all necessary action on the part of the City and will not violate or conflict with the Act, or any agreement, indenture or other instrument by which the City or any of its material properties is bound.

(b) Validity, Etc. This Agreement, the Bond and the Resolution are or will be valid and binding obligations of the City enforceable against the City in accordance with their respective terms, except to the extent that enforceability may be subject to valid bankruptcy, insolvency, reorganization, moratorium or similar laws relating to or from time to time affecting the enforcement of creditors' rights and except to the extent that the availability of certain remedies may be precluded by general principles of equity.

(c) No Financial Material Adverse Change. Except as noted in the financial statements and letters to the City's auditors provided by the City to the Bank, or as disclosed separately by the City to Bank in writing, there are no actions, proceedings or investigations pending against the City or affecting the City (or any basis therefor known to the City) which, either in any case or in the aggregate, are likely to result in any material adverse change in the financial condition, business, prospects, affairs or operations of the City, or in any material impairment of the right or ability of the City to carry on its operations as now conducted or proposed to be conducted, or in any material liability on the part of the City and none which questions the validity of this Agreement, the Bond or the Resolution or of any action taken or to be taken in connection with the transactions contemplated hereby or thereby.

(d) Powers of City. The City has the legal power and authority to pledge the Pledged Revenues to the repayment of the Bond as described herein.

**Section 2.02. Representations and Warranties of Bank.** The Bank represents and warrants to the City as follows:

(a) Existence. The Bank is a state banking association, with full power to enter into this Agreement, to perform its obligations hereunder and to purchase the Bond. The performance of this Agreement on the part of the Bank and the purchase of the Bond have been duly authorized by all necessary action on the part of the Bank and will not violate or conflict with applicable law or any material agreement, indenture or other instrument by which the Bank or any of its material properties is bound.

(b) Validity. This Agreement is a valid and binding obligation of the Bank enforceable against the Bank in accordance with its terms, except to the extent that enforceability may be subject to valid bankruptcy, insolvency, reorganization, moratorium or similar laws relating to or from time to time affecting the enforcement of creditors' rights (and specifically creditors' rights as the same relate to national banks) and except to the extent that the availability of certain remedies may be precluded by general principles of equity.

(c) Knowledge and Experience. The Bank (i) has such knowledge and experience in financial and business matters that it is capable of evaluating the merits and risks of investing in the Bond, (ii) has received and reviewed such financial information concerning the City as it has needed in order to fairly evaluate the merits and risks of investing in the Bond; (iii) is an "accredited investor" as such term is defined in Regulation D to the Securities Act of 1933; and (iv) is purchasing the Bond as an investment for its own account and not with a view toward resale to the public.

### ARTICLE III

#### THE BOND

**Section 3.01. The Bond**. The Bond shall be substantially in the form set forth as Exhibit "A" to this Agreement. The general terms of the Bond shall be as follows:

(a) Amount of Bond. The Bond shall have a total principal amount not to exceed Four Million Two Hundred Thousand Dollars (\$4,000,000).

(b) Interest. The Bond will mature June 1, 2023. Interest will be due and payable semi-annually commencing June 1, 2017 and each December 1 and June 1 thereafter. Principal payments will be due and payable annually commencing June 1, 2017 and each June 1, thereafter, as set forth in Schedule I to the Bond. The amount outstanding under the Bond shall bear interest at the Bond Rate from the date of issuance of the Bond until paid. Upon the occurrence of one or more of the events specified in Sections 3.02 of this Agreement, the Bond Rate shall be adjusted as therein and herein provided. Interest on the Bond shall be computed on the basis a 360 day year comprised of twelve (12) thirty (30) day months.

**Section 3.02. Adjustments to the Bond Rate**. The Bond Rate shall be subject to adjustment by the Bank if a Determination of Taxability shall occur. This adjustment shall survive payment of the Bond until such time as the federal statute of limitations under which the interest on the Bond could be declared taxable under the Code shall have expired. In the event of a Determination of Taxability, the interest on the Bond shall be adjusted to cause the yield on the Bond, after payment of any increase in tax, to equal what the yield on the Bond would have been in the absence of such Determination of Taxability. Upon an Event of Default and during the continuance thereof, the Bond shall bear interest at the Default Rate.

The above adjustments shall be cumulative, but in no event shall the interest on the Bond exceed the maximum rate permitted by law. The above adjustments to the interest rate on the Bond shall be effective for all periods during which tax treatment of the interest on the Bond by the Bondholder is affected. Proper partial adjustment shall be made if the tax law change is

effective after the first day of the Bondholder's tax year or if the interest on the Bond does not accrue for the entire tax year of the Bondholder. Adjustments which create a circular calculation because the interest on the Bond is affected by the calculation shall be carried out sequentially, increasing the interest on the Bond accordingly in each successive calculation using as the new value the increase in the interest rate on the Bond, until the change on the interest rate on the Bond caused by the next successive calculation of the adjustment is de minimis.

**Section 3.03. Compliance with Section 215.84.** The City represents, warrants, and covenants that the Bond Rate, as currently calculated in accordance with Section 215.84, Florida Statutes, is in compliance with Section 215.84, Florida Statutes.

**Section 3.04. Conditions Precedent to Purchase of Bond.** Prior to or simultaneously with the delivery of the Bond by the City there shall be delivered to the Bank the following, each in form and substance reasonably acceptable to the Bank:

(a) an opinion of the City's counsel, to the City and the Bank for the exclusive reliance by the addressees, in the form attached hereto as Exhibit "C."

City counsel will not render an opinion concerning the Determination of Taxability of any issued Bond; the Federal and State of Florida tax-exempt status of the interest income and documentary taxes arising from the Loan Agreement, the Bond and this transaction; and any matters assigned to Bond Counsel pursuant to the Loan Agreement. The opinion of the City counsel will be based on the facts in existence and laws in effect on the date of the opinion letter and will disclaim any obligation to update the opinion regardless of whether changes in such facts or laws come to the counsel's attention after the delivery of the opinion. The opinion will be limited to the law of the State of Florida and will not express an opinion with respect to the laws of any other state or jurisdiction and will not render an opinion concerning securities laws of State of Florida and Federal government. The opinion of the City counsel will assume that the execution, delivery and performance of the loan documents are within the power of the Bank, and will not violate or result in a breach of any term or provision of any agreement, judgment, non-Florida Statute, decree or administrative order to which Bank is subject and will assume that the loan documents, in the exact form as reviewed by City counsel, will be duly authorized, completed, executed and delivered by the City and Bank.

(b) an opinion of Bond Counsel stating that such counsel are of the opinion that: (i) assuming compliance by the City with certain covenants relating to requirements contained in the Code (a) interest on the Bond is excluded from gross income for purposes of federal income taxation, and (b) interest on the Bond is not an item of tax preference for purposes of the federal alternative minimum tax imposed on individuals and corporations; and (ii) the Bond is a "qualified tax-exempt obligation" within the meaning of Section 265(b)(3) of the Code.

(c) a copy of a completed and executed Form 8038-G to be filed with the Internal Revenue Service by Bond Counsel.

(d) copies of appropriate Florida Division of Bond Finance forms to be filed with the Florida Division of Bond Finance by Bond Counsel;

(e) A certificate of the City as to compliance with the financial calculations as set forth in Exhibit "B" attached hereto based upon the maximum annual debt service on the Bonds and other debt payable from the Stormwater Utility Revenues or secured by or payable from Available Non-Ad Valorem Revenues; and

(f) such other documents as the Bank and its counsel reasonably may request.

When the documents and items mentioned in clauses (a) through (e), inclusive, of this Section shall have been delivered to the Bank, and when the Bond shall have been executed as required by this Agreement, and all conditions of the Resolution have been met, the City shall deliver the Bond to or upon the order of the Bank, but only against and upon the City's receipt of the purchase price of the Bond by wire transfer from the Bank.

**Section 3.05. Registration of Transfer; Assignment of Rights of Bank.** The City shall keep at the office of the City Clerk in the City's records the registration of the Bond and the registration of transfers of the Bond as provided in this Agreement. Subject to the restriction set forth in the fourth paragraph of this Section, the transfer of the Bond may be registered only upon the books kept for the registration of the Bond and registration of transfer thereof upon surrender thereof to the City together with an assignment duly executed by the Bondholder or its attorney or legal representative in the form of the assignment set forth on the form of the Bond attached as Exhibit "A" to this Agreement; provided, however, that the Bond may be transferred only in whole and not in part. In the case of any such registration of transfer, the City shall execute and deliver in exchange for the applicable Bond a new Bond registered in the name of the transferee. In all cases in which the Bond shall be transferred hereunder, the City shall execute and deliver at the earliest practicable time a new Bond in accordance with the provisions of this Agreement. The City may make a charge for every such registration of transfer of the Bond sufficient to reimburse it for any tax or other governmental charges (other than charges imposed by the City) required to be paid with respect to such registration of transfer, but no other charge shall be made for registering the transfer hereinabove granted. The Bond shall be issued in fully registered form and shall be payable in any coin or currency of the United States.

The registration of transfer of the Bond on the registration books of the City shall be deemed to effect a transfer of the rights and obligations of the Bondholder under this Agreement to the transferee. Thereafter, such transferee shall be deemed to be the Bondholder under this Agreement and shall be bound by all provisions of this Agreement that are binding upon the Bondholder. The City and the transferor shall execute and record such instruments and take such other actions as the City and such transferee may reasonably request in order to confirm that such transferee has succeeded to the capacity of Bondholder under this Agreement and the Bond.

In the event the Bond is mutilated, lost, stolen, or destroyed, the City shall execute a new Bond of like date and denomination as that mutilated, lost, stolen or destroyed, provided that, in the case of any mutilated Bond, such mutilated Bond shall first be surrendered to the City, and in the case of any lost, stolen, or destroyed Bond, there first shall be furnished to the City evidence, satisfactory to the City, of such loss, theft or destruction together with an indemnity satisfactory to the City.

The registered owner of the Bond is hereby granted power to transfer absolute title thereof by assignment thereof to a bona fide purchaser for value (present or antecedent) without notice of prior defenses or equities or claims of ownership enforceable against such owner's assignor or any person in the chain of title and before the maturity of such Bond; provided, however, that the Bond may be transferred only in whole and not in part and provided further, that no transfer shall be permitted absent the City's (and the Bank's) receipt of a letter in form and substance similar to the one delivered by the Bank pursuant to Section 218.385, Florida Statutes from such proposed transferee. Every prior registered owner of the Bond shall be deemed to have waived and renounced all of such owner's equities or rights therein in favor of every such bona fide purchaser, and every such bona fide purchaser shall acquire absolute title thereto and to all rights represented thereby.

Nothing in this Agreement or in the Bond shall be construed to prohibit the Bank from granting a participation or participations in the Bond to any other bank or banks affiliated with the Bank or any subsidiary thereof. No such bank participant shall, however, be a registered holder of any Bond or any portion thereof.

**Section 3.06. Ownership of the Bond.** The person in whose name the Bond is registered shall be deemed and regarded as the absolute owner thereof for all purposes, and payment of or on account of such Bond shall be made only to the registered owner thereof or such owner's legal representative. All such payments shall be valid and effectual to satisfy and discharge the liability upon the Bond, and interest thereon, to the extent of the sum or sums so paid.

**Section 3.07. Use of Proceeds of Bond Permitted Under Applicable Law.** The City represents, warrants and covenants that the proceeds of the Bond will be used solely to refund the Series 2009 Note and pay costs of issuance relating to the issuance of the Bond.

## ARTICLE IV

### COVENANTS OF THE CITY

**Section 4.01. Performance of Covenants.** The City covenants that it will perform faithfully at all times its covenants, undertakings and agreements contained in the Resolution, this Agreement and the Bond.

**Section 4.02. Payment of the Bond.**

(a) The City covenants that it will promptly pay the principal of and interest on the Bond at the place, on the dates and in the manner provided herein and in the Bond, in accordance with the terms thereof. Pursuant to Section 4.03 hereof, the City hereby covenants to impose and collect the Stormwater Utility Assessments in sufficient amounts to pay principal and interest on the Bond when due until the repayment in full of the Bond. The Bond shall share a first parity lien on Stormwater Utility Assessments with the Series 2012 Note.

(b) The Bond will be a limited obligation of the City secured solely by the Pledged Revenues and is payable from the Pledged Revenues as provided in the Resolution and herein.

The Bond will not constitute a general debt, liability or obligation of the City or the State of Florida or any political subdivision thereof within the meaning of any constitutional or statutory provision. Neither the faith and credit nor the taxing power of the City or of the State of Florida or any political subdivision thereof is pledged to the payment of the principal of or interest on the Bond and the Bondholder shall never have the right to compel any exercise of any ad valorem taxing power of the City or of the State of Florida or any political subdivision thereof, directly or indirectly to enforce such payment, nor require the City to levy and collect any particular amount of Available Non-Ad Valorem Revenues. The Bond shall not constitute a lien upon any property of the City except upon the Pledged Revenues.

**Section 4.03. Pledged Revenues.** The City currently imposes and collects the Stormwater Utility Assessments pursuant to the Stormwater Ordinance. The payment of principal of and interest on the Bond and the Series 2012 Note shall be secured equally and ratably by a first priority pledge and lien upon the Stormwater Utility Assessments collected by the City and all amounts in the Revenue Fund. The City hereby creates the Revenue Fund and shall deposit all Stormwater Utility Assessments, upon receipt, as well as any amounts budgeted and appropriated by the City, to the Revenue Fund. Pursuant to the Resolution, the City has irrevocably pledged the Pledged Revenues to the payment of principal of and interest on the Bond; provided, however, that the City is authorized and retains the right to pledge the Pledged Revenues to the payment of any additional debt as permitted by Section 4.07 hereof. Notwithstanding anything in this Agreement to the contrary, the City shall not be obligated to increase the current rate of Stormwater Utility Assessments to pay amounts due on the Bond or by this Agreement, however, the City agrees that it will not decrease the current rate of Stormwater Utility Assessments. The City covenants to take all steps necessary (including legal action should it be necessary) to diligently enforce and collect the Stormwater Utility Assessments and not impair in any way the City's ability to collect the Stormwater Utility Assessments in sufficient amounts to meet the debt service payments on the Bond. The City covenants to not repeal the Stormwater Ordinance nor amend or modify the Stormwater Ordinance in any manner which would impair or adversely affect the power and obligation of the City to collect the Stormwater Utility Assessments or adversely affect in any manner the pledge of the Pledged Revenues made pursuant to the Resolution, or the rights of the holders of its Bond Obligations (including the Bond). The City covenants that pursuant to the Ordinance, the City will levy the Stormwater Utility Assessments each year against all lands and properties within the City specifically benefited by the services of the Project, and will collect such Stormwater Utility Assessments in a manner provided by law. If any Stormwater Utility Assessment shall be either in whole or part annulled, vacated or set aside by a judgment of any court, or if the City shall be satisfied that any such Stormwater Utility Assessment is so irregular or defective that the same cannot be enforced or collected, or if the City shall have omitted to make any such Stormwater Utility Assessment when it might have done so, the City covenants that it will take all necessary steps to cause the new Stormwater Utility Assessments to be made for the whole or any part thereof against any property benefited by the Project, in the manner provided by law, and in any case any such second Stormwater Utility Assessment or an initial Stormwater Utility Assessment for one that shall have been omitted, shall be either in whole or in part annulled, vacated, or set aside, or be unenforceable or uncollectible by reason of defect or irregularity, the City shall obtain and make other Stormwater Utility Assessments until a valid assessment shall be made. To the extent that Stormwater Utility Assessments are insufficient to pay amounts due on the Bond or by this Agreement, the City has covenanted to budget and appropriate Non-Ad

Valorem Revenues as set forth in the Resolution. The Series 2012 Note, the Series 2016 Fire Station Bond and the 2016 Water Line Assessment Revenue Bond are also outstanding and are secured by a covenant to budget and appropriate from Non-Ad Valorem Revenues.

NOTWITHSTANDING ANYTHING HEREIN TO THE CONTRARY, THIS LOAN AGREEMENT AND THE BOND, WHEN DELIVERED BY THE CITY PURSUANT TO THE TERMS OF THIS LOAN AGREEMENT AND THE RESOLUTION, SHALL NOT BE OR CONSTITUTED AS AN INDEBTEDNESS OF THE CITY OR THE STATE OF FLORIDA (THE "STATE"), WITHIN THE MEANING OF ANY CONSTITUTIONAL OR STATUTORY LIMITATIONS OF INDEBTEDNESS, BUT SHALL BE PAYABLE SOLELY FROM THE PLEDGED REVENUES, AS PROVIDED IN THIS LOAN AGREEMENT AND THE RESOLUTION. THIS LOAN AGREEMENT AND THE BOND DO NOT PLEDGE AD VALOREM TAXATION AND DO NOT PLEDGE THE FULL FAITH AND CREDIT OR TAXING POWER OF THE CITY, THE STATE, OR ANY POLITICAL SUBDIVISION THEREOF. THE BONDHOLDER SHALL NEVER HAVE THE RIGHT TO COMPEL THE EXERCISE OF THE AD VALOREM TAXING POWER OF THE CITY OR THE STATE, OR TAXATION IN ANY FORM OF ANY PROPERTY THEREIN TO PAY THE AMOUNTS DUE UNDER THIS LOAN AGREEMENT AND THE BOND OR THE INTEREST THEREON.

**Section 4.04. Tax Covenant.** The City covenants to the purchasers of the Bond provided for in this Agreement that the City will not make any use of the proceeds of the Bond or the Project at any time during the term of the Bond which, if such use had been reasonably expected on the date the Bond was issued, would have caused the Bond to be an "arbitrage bond" within the meaning of the Code. The City 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 Bond from the gross income of the holders thereof for purposes of federal income taxation.

**Section 4.05. Budget and Other Financial Information.** The City shall, without cost to the Bondholder:

(a) Within one hundred and eighty (180) days following the end of each Fiscal Year of the City, or on such earlier date as available, provide the Bondholder, with a copy of the City's audited financial statements for the preceding Fiscal Year, current year operating budget, capital improvement plan, an updated schedule of Stormwater Utility Assessments collected; and

(b) Provide the Bondholder, upon request, with a copy of its resolution adopting its annual budget within thirty (30) days of the adoption of the same, a completed budget book upon the completion of the same, and such other financial information regarding the City as the Bondholder may reasonably request.

**Section 4.06. Prepayment.** Upon ten (10) Business Days' written notice, the Bond shall be subject to prepayment without penalty at the option of the City in whole on any date or in part on any principal payment date. Any prepayments shall be applied to the principal installments last maturing under the Bond. The prepayment price shall equal the principal amount thereof to

be prepaid, plus accrued interest to the date fixed for prepayment, and shall be in multiples of \$1,000.

**Section 4.07. Limitation on Additional Debt Secured by Stormwater Utility Assessments.** The City agrees not to issue additional obligations payable from Stormwater Utility Assessments on a parity with the Bond and the Series 2012 Note, unless it provides a certificate to the Bondholder from the Finance Administrator of the City stating that (a) no Event of Default under this Agreement then exists or would exist with the passage of time or the giving of notice, and (b) for the twelve (12) months immediately preceding the issuance of the additional obligations for which audited financial statements are available, the maximum annual debt service coverage for the Bond, any other obligations secured by the Stormwater Utility Assessments and the proposed parity debt exceeds 1.25:1.00. For purposes of this calculation, the numerator shall be calculated based upon the last full fiscal year of the City which has been audited by an independent certified public accountant, and the denominator shall be calculated based upon the maximum annual debt service of all City debt secured by Stormwater Utility Assessments including the proposed debt service. For purposes of calculating maximum annual debt service, the interest rate on variable rate indebtedness shall be deemed to be the greater of 6% or the actual interest rate borne by the variable rate debt for the month immediately preceding such calculation. The City may not incur debt with a lien on Stormwater Utility Assessments which is senior to the lien of the Bondholder. The City may incur debt, without limitation, with a lien on Stormwater Utility Assessments which is junior and subordinate to the lien of the Bondholder, if such debt expressly states as much.

Notwithstanding the foregoing, (i) the requirements of the above paragraph shall not apply to any refinancing in whole of the Bond, and (ii) the requirements of the above paragraph shall not apply to any refinancing in whole of the Series 2012 Note which results in annual debt service savings in each year.

**Section 4.08. Limitation on Additional Debt Secured by Covenant to Budget and Appropriate.** . So long as the Bond is outstanding, the City may only issue additional debt secured by a covenant to budget and appropriate in the event that the Legally Available Non-Ad Valorem Revenues equal or exceed 125% of the maximum annual debt service on the Bond, any other debt of the City secured by or payable from Legally Available Non-Ad Valorem Revenues, and the proposed additional debt as evidenced by a certificate of the City's Finance Director.

## ARTICLE V

### EVENTS OF DEFAULT AND REMEDIES

**Section 5.01. Events of Default.** Each of the following is hereby declared an "Event of Default:"

(a) payment of the principal of the Bond is not made within ten (10) Business Days of when the same shall become due and payable; or

(b) payment of any installment of interest on the Bond is not made within ten (10) Business Days of when the same shall become due and payable; or

(c) the City shall default in the due and punctual performance of any other of the covenants, conditions, agreements and provisions contained in the Bond, the Resolution or in this Agreement and such default shall continue for thirty (30) days after written notice shall have been received by the City from the Bondholder specifying such default and requiring the same to be remedied; provided, however, that if, in the reasonable judgment of the Bondholder, the City shall proceed to take such curative action which, if begun and prosecuted with due diligence, cannot be completed within a period of thirty (30) days, then such period shall be increased to such extent as shall be necessary to enable the City to diligently complete such curative action;

(d) the filing of a petition by or against the City relating to bankruptcy, reorganization, arrangement or readjustment of debt of the City or for any other relief relating to the City 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 City, where such event continues for at least 120 days undismissed or undischarged; or

(e) the City shall default in the payment of any other bonds or notes payable from Stormwater Utility Revenues.

**Section 5.02. Exercise of Remedies.** Upon the occurrence and during the continuance of an Event of Default, the Bondholder may, by a notice in writing to the City, declare the principal of the Bond (if not then due and payable) to be immediately due and payable, and upon such declaration, the same shall be immediately due and payable, anything contained in the Bond or this Agreement to the contrary notwithstanding. Upon the occurrence and during the continuance of an Event of Default, the Bondholder may proceed to protect and enforce its rights under the laws of the State of Florida or under this Agreement by such suits, actions or special proceedings in equity or at law, or by proceedings in the office of any board or officer having jurisdiction, either for the specific performance of any covenant or agreement contained herein or in aid or execution of any power herein granted or for the enforcement of any proper legal or equitable remedy, as the Bondholder shall deem most effective to protect and enforce such rights. Without limiting the generality of the foregoing, the Bondholder shall have the right to bring a mandamus action to require the City to perform its obligations under Article IV of this Agreement.

In the enforcement of any remedy under this Agreement, to the extent permitted by law, the Bondholder shall be entitled to sue for, enforce payment of and receive any and all amounts then or during any default becoming, and at any time remaining, due from the City for principal, interest or otherwise under any of the provisions of this Agreement or of the Bond then unpaid, together with any and all costs and expenses of collection and of all proceedings hereunder and under the Bond (including, without limitation, reasonable legal fees in all proceedings, including administrative, appellate and bankruptcy proceedings), but payable from the Pledged Revenues, without prejudice to any other right or remedy of the Bondholder, and to recover and enforce any judgment or decree against the City, but solely as provided herein and in the Bond, for any portion of such amounts remaining unpaid and interest, costs, and expenses as above provided,

and to collect (but only from the Pledged Revenues) in any manner provided by law, the monies adjudged or decreed to be payable.

**Section 5.03. Remedies Not Exclusive.** No remedy herein conferred upon or reserved to the Bondholder is intended to be exclusive of any other remedy or remedies herein provided, and each and every such remedy shall be cumulative and shall be in addition to every other remedy given hereunder; provided, however, notwithstanding anything to the contrary herein, the sole and exclusive source of the funds for payment of the Bond and all costs, fees, expenses and other obligations of the City under this Agreement and the Bond shall be the Pledged Revenues.

**Section 5.04. Waivers, Etc.** No delay or omission of the Bondholder to exercise any right or power accruing upon any default shall impair any such right or power or shall be construed to be a waiver of any such default or any acquiescence therein; and every power and remedy given by this Agreement to the Bondholder may be exercised from time to time and as often as may be deemed expedient.

The Bondholder may waive any default which in its opinion shall have been remedied before the entry of final judgment or decree in any suit, action or proceeding instituted by it under the provisions of this Agreement or before the completion of the enforcement of any other remedy under this Agreement, but no such waiver shall be effective unless in writing and no such waiver shall extend to or affect any other existing or any subsequent default or defaults or impair any rights or remedies consequent thereon.

## ARTICLE VI

### MISCELLANEOUS PROVISIONS

**Section 6.01. Covenants of City, Etc.; Successors.** All of the covenants, stipulations, obligations and agreements contained in this Agreement and the Resolution shall be deemed to be covenants, stipulations, obligations and agreements of the City to the full extent authorized or permitted by law, and all such covenants, stipulations, obligations and agreements shall be binding upon the successor or successors thereof from time to time, and upon any officer, board, commission, authority, agency or instrumentality to whom or to which any power or duty affecting such covenants, stipulations, obligations and agreements shall be transferred by or in accordance with law.

**Section 6.02. Term of Agreement.** This Agreement shall be in full force and effect from the date hereof until the Bond and all other sums payable to the Bondholder hereunder have been paid in full and shall survive the termination of this Agreement in relation to those provisions that deal with retroactive cost increases for the Bondholder in relation to the tax status of the Bond.

**Section 6.03. Notice of Changes in Fact.** Promptly after the City becomes aware of the same, (a) to the extent such materially and substantially impairs the City's ability to honor its obligations under this Agreement, the City will notify the Bondholder of any changes in any material fact or circumstance represented or warranted by the City in this Agreement or in connection with the issuance of the Bond, and (b) the City will notify the Bondholder of any

default under this Agreement, specifying in each case the nature thereof and what action the City has taken, is taking and/or proposes to take with respect thereto.

**Section 6.04. Amendments and Supplements.** This Agreement may be amended or supplemented from time to time only by a writing duly executed by each of the City and the Bondholder.

**Section 6.05. Notices.** Any notice, demand, direction, request or other instrument authorized or required by this Agreement to be given to or filed with the City or the Bondholder, shall be deemed to have been sufficiently given or filed for all purposes of this Agreement if and when sent by U.S. first class mail and certified mail, return receipt requested:

- (a) As to the City:  
City of DeBary, Florida  
Attention: City Manager  
16 Colomba Road  
DeBary, Florida 32713
  
- (b) As to the Bondholder:  
Whitney Bank d/b/a Hancock Bank  
Attention: Senior Vice President – Public Finance  
113 Designer Circle  
Dothan, Alabama 36303

Either party may, by notice sent to the other, designate a different or additional address to which notices under this Agreement are to be sent.

**Section 6.06. Benefits Exclusive.** Except as herein otherwise provided, nothing in this Agreement, expressed or implied, is intended or shall be construed to confer upon any person, firm or corporation, other than the City and the Bondholder, any right, remedy or claim, legal or equitable, under or by reason of this Agreement or any provision hereof, this Agreement and all its provisions being intended to be and being for the sole and exclusive benefit of the City and the Bondholder.

**Section 6.07. Severability.** In case any one or more of the provisions of this Agreement, any amendment or supplement hereto or of the Bond shall for any reason be held to be illegal or invalid, such illegality or invalidity shall not affect any other provision of this Agreement, any amendment or supplement hereto or the Bond, but this Agreement, any amendment or supplement hereto and the Bond shall be construed and enforced at the time as if such illegal or invalid provisions had not been contained therein, nor shall such illegality or invalidity or any application thereof affect any legal and valid application thereof from time to time. In case any covenant, stipulation, obligation or agreement contained in the Bond or in this Agreement shall for any reason be held to be in violation of law, then such covenant, stipulation, obligation, or agreement shall be deemed to be the covenant, stipulation, obligation or agreement of the City to the full extent from time to time permitted by law.

**Section 6.08. Payments Due on Saturdays, Sundays and Holidays.** In any case where the date of maturity of interest on or principal of the Bond or the date fixed for prepayment of the

Bond shall not be a Business Day, then payment of such interest or principal shall be made on the next succeeding Business Day with the same force and effect as if paid on the date of maturity or the date fixed for prepayment, and no interest on any such principal amount shall accrue for the period after such date of maturity or such date fixed for prepayment.

**Section 6.09. Counterparts.** This Agreement may be executed in any number of counterparts, each of which when so executed and delivered, shall be an original; but such counterparts shall together constitute but one and the same Agreement, and, in making proof of this Agreement, it shall not be necessary to produce or account for more than one such counterpart.

**Section 6.10. Applicable Law.** This Agreement shall be governed exclusively by and construed in accordance with the applicable laws of the State of Florida. Exclusive venue for litigation arising out of or concerning this Agreement shall be in a court of proper jurisdiction in Volusia County, Florida or in the U.S. District Court for the Middle District of Florida, Orlando Division.

**Section 6.11. No Personal Liability.** Notwithstanding anything to the contrary contained herein or in the Bond, or in any other instrument or document executed by or on behalf of the City in connection herewith, no stipulation, covenant, agreement or obligation of any present or future member of the City Council, officer, attorney, employee or agent of the City, officer, employee or agent of a successor to the City, in any such person's individual capacity, and no such person, in his or her individual capacity, shall be liable personally for any breach or non-observance of or for any failure to perform, fulfill or comply with any such stipulations, covenants, agreements, liability, debt, judgment or obligations, nor shall any recourse be had for the payment of the principal of or interest on any Bond or for any claim based thereon or on any such stipulation, covenant, agreement, liability, debt, judgment or obligation, against any such person, in his or her individual capacity, either directly or through the City or any successor to the City, under any rule or law or equity, statute or constitution or by the enforcement of any assessment or penalty or otherwise and all such liability of any such person, in his or her individual capacity, is hereby expressly waived and released.

**Section 6.12. Incorporation by Reference.** All of the terms and obligations of the Resolution and the Exhibits hereto are hereby incorporated herein by reference as if all of the foregoing were fully set forth in this Agreement. All recitals appearing at the beginning of this Agreement are hereby incorporated herein by reference.

**Section 6.13. Waiver of Jury Trial.** THE CITY AND THE BANK EACH HEREBY KNOWINGLY, VOLUNTARILY, AND INTENTIONALLY WAIVE ANY RIGHT TO TRIAL BY JURY ON ANY MATTER ARISING OUT OF OR IN CONNECTION WITH THIS AGREEMENT, THE BOND OR THE RESOLUTION (COLLECTIVELY, THE "LOAN DOCUMENTS") OR THE RELATIONSHIPS AMONG THE PARTIES CONTEMPLATED BY THE LOAN DOCUMENTS, INCLUDING ANY COURSE OF CONDUCT, COURSE OF DEALING, STATEMENTS (WHETHER VERBAL OR WRITTEN) OR ACTIONS OF ANY PARTY. THE WAIVER SET FORTH HEREIN SHALL BE APPLICABLE TO EACH AND EVERY LOAN DOCUMENT EXECUTED OR TO BE EXECUTED BY THE PARTIES IN CONNECTION WITH THE TRANSACTIONS CONTEMPLATED HEREBY, IT BEING

SPECIFICALLY AGREED THAT IT SHALL NOT BE NECESSARY FOR THE PARTIES TO INCLUDE A WAIVER OF JURY TRIAL PROVISION IN THE BALANCE OF THE LOAN DOCUMENTS. THIS PROVISION IS A MATERIAL INDUCEMENT FOR THE BANK EXTENDING CREDIT TO THE CITY. FURTHER, THE CITY HEREBY CERTIFIES THAT NO REPRESENTATIVE OR AGENT OF THE BANK OR COUNSEL TO THE BANK HAS REPRESENTED, EXPRESSLY OR OTHERWISE, THAT THE BANK WOULD NOT, IN THE EVENT OF SUCH LITIGATION, SEEK TO ENFORCE THIS WAIVER OF JURY TRIAL.

**SIGNATURE PAGE FOR LOAN AGREEMENT**

**IN WITNESS WHEREOF**, the parties hereto have caused this Agreement to be duly executed as of the date first set forth herein.

**CITY OF DEBARY, FLORIDA**

(SEAL)

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

ATTEST:

By: \_\_\_\_\_  
Warren Graham, City Clerk

**WHITNEY BANK D/B/A HANCOCK BANK**

By: \_\_\_\_\_  
Steven E. Cole  
Senior Vice President – Public Finance



**EXHIBIT A**

**FORM OF BOND**

ANY HOLDER SHALL, PRIOR TO BECOMING A HOLDER, EXECUTE A PURCHASER'S CERTIFICATE IN THE FORM ATTACHED TO THE RESOLUTION (HEREIN DEFINED) CERTIFYING, AMONG OTHER THINGS, THAT SUCH HOLDER IS AN "ACCREDITED INVESTOR" AS SUCH TERM IS DEFINED IN THE SECURITIES ACT OF 1933, AS AMENDED, AND REGULATION D THEREUNDER.

**CITY OF DEBARY, FLORIDA  
STORMWATER UTILITY ASSESSMENT REFUNDING REVENUE BOND,  
SERIES 2016**

<b>Principal Sum</b>	<b>Maturity Date</b>	<b>Date of Issuance</b>
\$4,000,000	June 1, 2023	December 1, 2016

KNOW ALL MEN BY THESE PRESENTS that the CITY OF DEBARY, FLORIDA (the "City"), for value received, hereby promises to pay, solely from the Pledged Revenues described in the within mentioned Agreement, to the order of WHITNEY BANK D/B/A HANCOCK BANK, a Mississippi State Chartered Bank, or its assigns (the "Holder"), at such place as the Holder may from time to time designate in writing, the Principal Sum stated above pursuant to that certain Loan Agreement by and between the Holder and the City, dated December 1, 2016 (the "Agreement"), together with interest thereon as hereinafter provided until the Maturity Date (hereinabove defined) or the date the principal amount of this Bond is paid in the manner hereinafter set forth 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, which payments shall be made to the Holder hereof by check mailed to the Holder at the address designated in writing by the Holder for purposes of payment or by bank wire or bank transfer as such Holder may specify in writing to the City or otherwise as the City and the Holder may agree.

This Bond shall bear interest at a fixed rate equal to 1.65% per annum, which shall be calculated on the basis of a 360 day year comprised of twelve (12) thirty (30) day months and payable semi-annually commencing June 1, 2017 and each December 1 and June 1 thereafter.

Upon the occurrence of any Determination of Taxability, as defined in the Agreement, this Bond shall bear interest (from the date when such Determination of Taxability is deemed to have occurred), as set forth in the Agreement. The Bond Rate shall also be adjusted as set forth in Section 3.02 of the Agreement. Upon the City's written request, the Holder shall provide to the City such documentation to evidence any adjustment to the Bond Rate and the calculations made in connection therewith.

The repayment schedule of principal and interest at the Bond Rate on this Bond is set forth in Schedule I attached hereto and made a part hereof.

Upon ten (10) Business Days' written notice, the Bond shall be subject to prepayment at the option of the City in whole on any date or in part on any principal payment date. Any prepayments shall be applied to the sums last maturing under the Bond. The prepayment price shall equal the principal amount thereof to be prepaid, plus accrued interest to the date fixed for prepayment, and shall be in multiples of \$1,000.

Notice having been given as aforesaid, the principal amount stated in such notice or the whole thereof, as the case may be, shall become due and payable on the prepayment date stated in such notice, together with interest accrued and unpaid to the prepayment date on the principal amount then being paid. If, on the prepayment date, funds for the payment of the principal amount or portion thereof to be prepaid, together with interest to the prepayment date on such principal amount, shall have been given to the Holder, as above provided, then from and after the prepayment date interest on such principal amount, or portion thereof, of this Bond shall cease to accrue. If said funds shall not have been so paid on the prepayment date, the principal amount of this Bond shall continue to bear interest until payment thereof at the rate or rates provided for herein.

All payments made by the City hereon shall apply first to accrued interest, then to other charges due the Holder, and the balance thereof shall apply to the principal amount then due on this Bond.

This Bond is authorized to be issued in the outstanding aggregate principal amount equal to the Principal Sum under the authority of and in full compliance with the Constitution and statutes of the State of Florida, including, particularly, Chapter 166, Florida Statutes, as amended and supplemented, and other applicable provisions of law, a referendum held on November 7, 2006, the City's Resolution No. 16-24 adopted October 5, 2016 (the "Resolution"), and is subject to all terms and conditions of said Resolution and the Agreement. Any term used in this Bond and not otherwise defined shall have the meaning ascribed to such term in the Resolution or the Agreement, as the case may be. The Stormwater Utility Assessments are levied and collected pursuant to Ordinance No. 05-05 of the City enacted on February 28, 2005, as amended and supplemented.

The principal of and interest on this Bond do not constitute a general obligation or indebtedness of the City, and the Holder shall never have the right to require or compel the levy of taxes on any property of or in the City for the payment of the principal of and interest on or for any other matter under or relating to this Bond. The principal of and interest on this Bond and any amounts due under the Agreement are not secured by a lien upon the Project, or upon any property of or in the City, but are secured solely by the Pledged Revenues in the manner provided herein and in the Agreement and are secured by Stormwater Utility Assessments on a parity basis with the City's existing Series 2012 Note. Reference is made to the Agreement for the provisions relating to the security for payment of this Bond and the duties and obligations of the City hereunder and under the Agreement.

The City has designated this Bond as a "qualified tax-exempt obligation" pursuant to Section 265(b)(3) of the Code.

Notwithstanding any provision in this Bond to the contrary, in no event shall the interest contracted for, charged or received in connection with this Bond (including any other costs or considerations that constitute interest under the laws of the State of Florida which are contracted for, charged or received) exceed the maximum rate of nonusurious interest allowed under the State of Florida as presently in effect and to the extent an increase is allowable by such laws, but in no event shall any amount ever be paid or payable by the City greater than the amount contracted for herein. In the event the maturity of this Bond is accelerated or prepaid in accordance with the provisions hereof, then such amounts that constitute payments of interest, together with any costs or considerations which constitute interest under the laws of the State of Florida, may never exceed an amount which would result in payment of interest at a rate in excess of that permitted by law, as presently in effect and to the extent an increase is allowable by such laws; and excess interest, if any, shall be cancelled automatically as of the date of such acceleration, or, if theretofore paid, shall be credited on the principal amount of this Bond unpaid, but such crediting shall not cure or waive any default under the Agreement or Resolution.

THIS BOND, WHEN DELIVERED BY THE CITY PURSUANT TO THE TERMS OF THE AGREEMENT AND THE RESOLUTION, SHALL NOT BE OR CONSTITUTE AN INDEBTEDNESS OF THE CITY OR THE STATE OF FLORIDA (THE "STATE"), WITHIN THE MEANING OF ANY CONSTITUTIONAL, STATUTORY OR CHARTER LIMITATIONS OF INDEBTEDNESS, BUT SHALL BE PAYABLE SOLELY FROM THE PLEDGED REVENUES, AS PROVIDED IN THE AGREEMENT AND THE RESOLUTION. THE AGREEMENT AND THIS BOND DO NOT PLEDGE AD VALOREM TAXATION AND DO NOT PLEDGE THE FULL FAITH AND CREDIT OR TAXING POWER OF THE CITY, THE STATE OF FLORIDA, OR ANY POLITICAL SUBDIVISION THEREOF. THE HOLDER SHALL NEVER HAVE THE RIGHT TO COMPEL THE EXERCISE OF THE AD VALOREM TAXING POWER OF THE CITY OR THE STATE, OR TAXATION IN ANY FORM OF ANY PROPERTY THEREIN TO PAY THE AMOUNTS DUE UNDER THE AGREEMENT AND THIS BOND OR THE INTEREST THEREON.

Upon the occurrence of an Event of Default the principal of this Bond may become or be declared due and payable before the Maturity Date in the manner, with the effect and subject to the conditions set forth in the Agreement and Resolution. The Holder shall also have such other remedies as described in the Agreement.

The City hereby waives presentment, demand, protest and notice of dishonor. This Bond is governed and controlled by the Agreement and the Resolution and reference is hereby made thereto regarding interest rate adjustments, acceleration, and other matters.

[REMAINDER OF PAGE INTENTIONALLY LEFT BLANK]

**IN WITNESS WHEREOF**, the City has caused this Bond to be signed by the Interim Mayor, on behalf of the City Council, either manually or with facsimile signature, and the seal of the City to be affixed hereto or imprinted or reproduced hereon, and attested by the Clerk of the City, either manually or with facsimile signature, and this Bond to be dated the Date of Issuance set forth above.

**CITY OF DEBARY, FLORIDA**

(SEAL)

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

ATTEST:

By: \_\_\_\_\_  
Warren Graham, City Clerk

ASSIGNMENT

FOR VALUE RECEIVED the undersigned sells, assigns and transfers unto

---

(please print or typewrite name, address and tax identification number of assignee)

the within Bond and all rights thereunder, and hereby irrevocably constitutes and appoints

---

(Name of Attorney)

to transfer the within Bond on the books kept for registration thereof, with full power of substitution in the premises.

Name of Bondholder: \_\_\_\_\_

By: \_\_\_\_\_

Schedule I

<u>Period Ending</u>	<u>Principal</u>	<u>Interest</u>	<u>Total</u>
June 1, 2017			
December 1, 2017			
June 1, 2018			
December 1, 2018			
June 1, 2019			
December 1, 2019			
June 1, 2020			
December 1, 2020			
June 1, 2021			
December 1, 2021			
June 1, 2022			
December 1, 2022			
June 1, 2023			
December 1, 2023			

## **EXHIBIT B**

### **FORM OF COMPLIANCE CERTIFICATE**

The City hereby certifies to Whitney Bank d/b/a Hancock Bank in connection with such bank's loan to the City that the City is in compliance with the required covenant as follows:

1. All legally Available Non-Ad Valorem Revenues shall mean all revenues of the City derived from any source whatsoever, other than ad valorem taxation on real and personal property, and are legally available to make the loan repayments required under the loan, but only after provision has been made by the City for payment of services and programs which are for essential public purposes affecting the health welfare and safety of the inhabitants of the City or which are legally mandated by applicable law (the "Legally Available Non-Ad Valorem Revenues").

2. For each fiscal year during the term of the loan, and prior to the incurrence of additional debt secured by a covenant to budget and appropriate from all Legally Available Non-Ad Valorem Revenues, as defined above, the average of the prior two years Legally Available Non Ad Valorem Revenues, must cover existing and projected maximum annual debt service on debt secured by and/or payable from such Revenues by at least 1.25x. For purposes of calculating maximum annual debt service, variable rate debt shall be assumed to bear interest at the higher of 6% per annum or the actual interest rate borne by the debt for the month preceding the date of calculation. Moreover, for purposes of the calculation below, Legally Available Non-Ad Valorem revenues may include Stormwater Utility Assessments pledged to the loan.

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3. The City's legally available Non-Ad Valorem Revenues for the prior two fiscal years are as follows:

<u>Revenues</u>	<u>FY 2014</u>	<u>FY2015</u>
Total Revenues (Per CAFR)		
Less: Ad Valorem Revenues		
Total Non-Ad Valorem Revenues		
Less: Restricted Funds:		
[Solid Waste]		
[Street Ltg]		
[Orlandia]		
[Flood]		
[Storm Cap Imp]		
[Gen Fund Gas]		
[Non-Major]		
<b>Adjusted Non Ad-Valorem Revenues</b>		

<u>Expenditures</u>	<u>FY 2014</u>	<u>FY2015</u>
Essential Expenditures		
General Government		
Public Safety		
Total Essential Expenditures		
Less: Essential Expenditures Paid		
from Ad Valorem Funds Net of		
Ad Valorem Debt Service Levy or		
Designated Ad Valorem Revenues		
Adjusted Essential Expenditures		
Legally Available Non-Ad Valorem Revenues		
(Adjusted Non-Ad Valorem Revenues less		
Adjusted Essential Expenditures)		

**The City's debt service coverage ratio is as follows:**  
Average Legally Available Non-Ad Valorem Revenues

**Maximum Annual Debt Service:**  
Series 2012 and 2016 MADS  
Subject Loan: \$4,400,000 @ 2.33% - prin amort based  
on schedule provided in loan note

**\* Debt Service for Subject Loans assumed as indicated above. Upon establishment of actual rate, the debt service calculation will be revised.**

Ratio (Must be at least 1.25x)

WITNESS my hand this 1st day of December 2016.

**CITY OF DEBARY, FLORIDA**

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

**EXHIBIT C**  
**FORM OF CITY COUNSEL OPINION**