

RESOLUTION NO. 2004-119

A RESOLUTION OF THE BOARD OF COUNTY COMMISSIONERS OF NASSAU COUNTY, FLORIDA AUTHORIZING THE AMENDMENT OF THE REVENUE NOTE, SERIES 2000 OF THE COUNTY WITH AN INCREASED PRINCIPAL AMOUNT AND DELIVERY OF THE THIRD AMENDMENT TO LOAN AGREEMENT WITH SUNTRUST BANK REFLECTING AN INCREASE IN THE PRINCIPAL AMOUNT THEREUNDER TO \$30,000,000, EXTENDING THE MATURITY DATE THEREOF, PROVIDING FOR PRINCIPAL AMORTIZATION THEREOF, PERMITTING A REVOLVING CREDIT FACILITY BETWEEN THE COUNTY AND SUNTRUST BANK, PLEDGING CERTAIN MITIGATION REVENUES AND MAKING OTHER AMENDMENTS WITH RESPECT THERETO PROVIDING FOR REPEAL OF INCONSISTENT PROVISIONS; PROVIDING FOR SEVERABILITY; AND PROVIDING AN EFFECTIVE DATE.

BE IT ADOPTED BY THE BOARD OF COUNTY COMMISSIONERS OF THE NASSAU COUNTY, FLORIDA, that:

**SECTION 1. AUTHORITY FOR THIS RESOLUTION.** This Resolution is enacted pursuant to the provisions of Chapter 125, Florida Statutes; and other applicable provisions of law.

**SECTION 2. FINDINGS.** It is hereby ascertained, determined and declared that:

A. Nassau County, Florida (the "County") was provided with a proposed amendment to its existing loan agreement with SunTrust Bank (the "Bank") in the form attached hereto as Exhibit A which increases the amount which may be loaned thereunder to \$30,000,000, extends the maturity date thereof, provides for principal amortization thereof, provides that the loan facility provided thereby shall be a revolving facility such that amounts can be borrowed, repaid, prepaid and re-borrowed pursuant to the terms thereof, pledges certain mitigation revenues and makes certain other amendments.

B. The execution and delivery of such amendment is hereby determined to be in the best financial interest of the County. It is necessary and desirable to provide for the execution and delivery of a Third Amendment to Loan Agreement and the issuance of an amended Note of the County to implement such a amendment. Amounts due under such Loan Agreement as so amended and the amended Note shall be payable from certain mitigation revenues as described therein and from other non-ad valorem revenues of the County and any bond issued by the County to pay or redeem such amended Note and to be secured by the County's covenant to budget and appropriate from legally available non-ad valorem revenues each year monies sufficient to pay the principal and interest on such obligation.

**SECTION 3. AUTHORIZING AMENDED NOTE.** The issuance by the County of not exceeding \$30,000,000 principal amount amended Revenue Note, Series 2000 (the "Note") of the County is hereby authorized.

**SECTION 4. APPROVAL OF FORM OF LOAN AGREEMENT AND NOTE.** The form of the Third Amendment to Loan Agreement and the amended Note attached thereto both attached to this Resolution as Exhibit A is hereby approved and the and Chairman or Vice Chairman of the Board of County Commissioners and the Clerk of the Board of County Commissioners are hereby authorized to execute and deliver such instruments in such form with such changes deemed by them to be appropriate, such determination to be conclusively evidenced by their execution thereof, and to take such other actions as shall be necessary to implement the Loan.

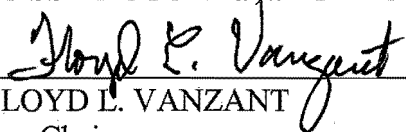
**SECTION 5. REPEAL OF INCONSISTENT PROVISIONS.** All resolutions or parts thereof in conflict with this Resolution are hereby repealed to the extent of such conflict.

**SECTION 6. SEVERABILITY.** In the event that any portion or section of this Resolution is determined to be invalid, illegal or unconstitutional by a court of competent jurisdiction, such decision shall in no manner affect the remaining portions or sections of this Resolution shall remain in full force and effect.


**SECTION 7. EFFECTIVE DATE.** This Resolution shall take effect immediately upon its final passage and adoption.

PASSED AND ADOPTED this 23<sup>rd</sup> day of August, 2004.

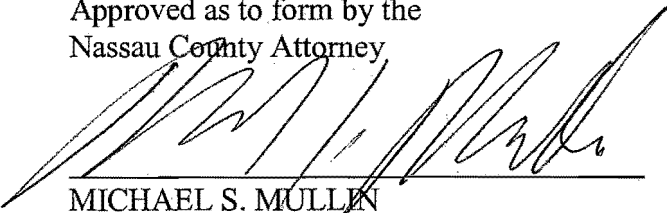
BOARD OF COUNTY COMMISSIONERS  
NASSAU COUNTY, FLORIDA

  
\_\_\_\_\_  
FLOYD L. VANZANT  
Its: Chairman

ATTEST:

  
\_\_\_\_\_  
J. M. "CHIP" OXLEY, JR.  
Its: Ex-Officio Clerk

Approved as to form by the  
Nassau County Attorney

  
\_\_\_\_\_  
MICHAEL S. MULLIN

### THIRD AMENDMENT TO LOAN AGREEMENT

This Third Amendment to Loan Agreement (this "Amendment") is dated August \_\_, 2004 by and between **Nassau County, Florida** (the "County") and **SunTrust Bank** (the "Lender").

#### WITNESSETH

WHEREAS, the parties hereto have previously executed and delivered that certain Loan Agreement dated May 22, 2000 (the "Original Agreement"), that certain First Amendment to Loan Agreement dated July 23, 2001 (the "First Amendment") and that certain Second Amendment to Loan Agreement dated March 31, 2003 (together with the First Amendment and the Original Agreement, collectively, the "Amended Agreement"). The Amended Agreement, together with this Amendment, is collectively referred to herein as the "Loan Agreement." Capitalized terms used herein and not defined are used as defined in the Original Agreement; and

WHEREAS, the parties hereto desire to amend the Amended Agreement as hereinafter set forth.

NOW, THEREFORE, in consideration of the mutual covenants and agreements recited in the Amended Agreement and this Amendment, the receipt and sufficiency of which are hereby acknowledged, the parties hereto agree as follows:

1. The definition of "Pledged Funds" in Section 1 of the Amended Agreement is hereby amended to provide as follows:

"Pledged Funds" means all Mitigation Revenues, the Non-Ad Valorem Revenues budgeted and appropriated by the County for the payment of the Note and any proceeds of any bonds issued by the County for the purpose of redeeming or paying the Note.

2. Section 1 of the Amended Agreement is hereby amended to add the following definition (in alphabetical order): "Mitigation Revenues" means all revenue received by the County in connection with any sale by the County of any land used for environmental mitigation purposes.

3. The definition of "Project" in the Agreement is hereby amended to provide as follows:

"Project" shall mean the acquisition by the County of land to be used for environmental mitigation purposes by the County or any third person; the acquisition and construction of a new jail; the acquisition and construction of a new courthouse; the renovation of the existing courthouse; the construction of the North End Marine Park; the construction of certain road improvements, improvements to the Emergency Operations Center, infrastructure to within five feet of the site of the Health Department, capital projects for the Sheriff's Department; and all other capital projects which may be approved from time to

time by the Board. **[CONSIDER REMOVING FROM DEFINITION PROJECTS THAT ARE NOW COMPLETE]**

4. The loan provided in Section 3.A of the Amended Agreement is hereby amended to increase the principal amount thereof to \$30,000,000.

5. Section 3 of the Amended Agreement is hereby amended to provide a new subsection 3.C as follows:

C. Revolving Loan Feature. The loan facility created hereby shall be a revolving loan, such that the County may, after repaying or prepaying any portion of the loan, so long as at least \$1 principal amount thereof remains outstanding, re-borrow in accordance with the provisions of Section 3.B. Notwithstanding the provision for revolving credit contained herein, the maximum principal amount available shall be reduced, and the County shall make sufficient payments to Lender to reduce the principal balance, as follows:

(1) \$20,000,000 on the earlier of (i) the issuance by the County of long-term debt to finance any acquisition of land by the County to be used for environmental mitigation purposes by the County or any third person or (ii) August \_\_, 2005.

(2) \$1,333,333 on May 1, 2006.

(3) \$1,333,333 on May 1, 2007.

(4) \$1,333,334 on May 1, 2008.

6. Section 4 of the Amended Agreement is hereby amended such that (1) the maturity of the Note shall be changed from March 30, 2005 to May 1, 2009; and (2) the principal balance due under the Note shall be repaid by the County so that no more than (a) \$10,000,000 is outstanding upon the earlier of (i) the issuance by the County of long-term debt to finance any acquisition of land by the County to be used for environmental mitigation purposes by the County or any third person or (ii) August \_\_, 2005; (b) \$8,666,667 is outstanding on May 1, 2006; (c) \$7,333,334 is outstanding on May 1, 2007; (d) \$6,000,000 is outstanding on May 1, 2008.

7. Section 9 of the Amended Agreement is hereby amended to add and include that the lien upon the portion of the Pledged Funds derived from Mitigation Revenues shall be a senior lien until the Note is paid such that no amount of the loan advanced for the acquisition of land used for environmental mitigation purposes is outstanding. After such occurrence, all Mitigation Revenues shall no longer be secured by a lien (senior or otherwise), pledged by the County or included in the definition of "Pledged Funds."

8. Section 10.E of the Amended Agreement is hereby amended by substituting the following provision in lieu of the second paragraph in the Original Agreement:

On or before the Business Day prior to each date fixed for the payment of principal or interest on the Note, the County shall deposit (1) during the period there remains an outstanding loan the proceeds of which were used to acquire land for environmental mitigation purposes, from Mitigation Revenues to the Sinking Fund the amounts sufficient to pay the interest and principal becoming due on the Note on the next payment date thereof, and (2) to the extent funds available from clause (1) are insufficient therefor or are not to be applied therefor because no loan the proceeds of which were used to acquire land for environmental mitigation purposes is outstanding, from Non-Ad Valorem Revenues to the Sinking Fund the amounts sufficient to pay the interest and principal becoming due on the Note on the next payment date thereof.

9. Section 10 of the Amended Agreement is hereby amended to provide a new subsection 10.H as follows:

H. Mitigation Land Revenues. There is hereby created a trust fund named "Mitigation Revenues Trust Fund" to be held by the County. All Mitigation Revenues shall be deposited therein and used solely for the purpose of paying debt service on the Note when proceeds of the loan have been used for environmental mitigation purposes and remain outstanding. If the Note is outstanding in an amount such that no proceeds of such loan are attributable to environmental mitigation purposes, amounts in such Mitigation Revenues Trust Fund shall be expended solely for future acquisitions of land to be used for environmental mitigation purposes.

10. The form of the Note is hereby amended as described in Exhibit A hereto.

11. Except as amended hereby, the Amended Agreement shall remain in full force and effect.

\* \* \*

(Signature page to follow)

IN WITNESS WHEREOF, the parties hereto have duly executed this Amendment as of the date first above written.

**BOARD OF COUNTY  
COMMISSIONERS NASSAU COUNTY,  
FLORIDA**

\_\_\_\_\_  
FLOYD L. VANZANT  
Its: Chairman

ATTEST:

\_\_\_\_\_  
J. M. "CHIP" OXLEY, JR.  
Its: Ex-Officio Clerk

Approved as to form by the  
Nassau County Attorney

\_\_\_\_\_  
MICHAEL S. MULLIN

**SUNTRUST BANK**

By \_\_\_\_\_  
BRUCE L. BAREFOOT  
Senior Vice President

EXHIBIT A

FORM OF NOTE

NO. R-4

NASSAU COUNTY, FLORIDA  
REVENUE NOTE, SERIES 2000

RATE OF INTEREST	MATURITY DATE	DATE OF ISSUE
Variable, as set out below	May 1, 2009	August __, 2004

REGISTERED OWNER: SUNTRUST BANK

PRINCIPAL AMOUNT: \$30,000,000

KNOW ALL MEN BY THESE PRESENTS, that Nassau County, Florida (the "County"), for value received, hereby promises to pay to the Registered Owner on the dates set forth below the principal amounts set forth below (or such lesser amount which has been advanced (as recorded on the advance grid attached hereto))

<u>Date</u>	<u>Principal Amount</u>
The earlier of (i) the issuance by the County of long-term debt to finance any acquisition of land by the County to be used by the County or any third person for environmental mitigation purposes or (ii) August __, 2005	\$20,000,000
May 1, 2006	\$1,333,333
May 1, 2007	\$1,333,333
May 1, 2008	\$1,333,333

with a final payment on the Maturity Date specified above of the principal amount then outstanding pursuant to the terms of that certain Loan Agreement dated May 19, 2000, as amended by the First Amendment to Loan Agreement dated July 18, 2001, by the Second Amendment to Loan Agreement dated March 31, 2003, and by the Third Amendment to Loan Agreement dated the Date of Issue hereof, all between the County and the Registered Owner (collectively, the "Agreement"), plus interest thereof from the Date of Issue set forth above to the date of payment thereof, at the Stated Rate until payment of the Principal amount above stated, such interest to be calculated on a 360-day year consisting of twelve 30-day months. This Note shall bear interest at a fluctuating rate of interest equal to (A) 45% of the Prime Rate if this Note is a qualified tax-exempt obligation within the meaning of Section 265(b)(3)(B) of the Internal

Revenue Code of 1986, as amended or (B) 55% of the Prime Rate if this Note is not a qualified tax-exempt obligation within the meaning of Section 265(b)(3)(B) of the Internal Revenue Code of 1986, as amended. The Rate of Interest on this Note is subject to adjustment as set forth in the Agreement under the definition of "Stated Rate." This Note may be prepaid in whole or in part prior to maturity. Prepayments shall be applied, first, to interest accrued as of the date of such prepayment, and second to reduction of the principal of each Advance hereunder in the order in which such Advances were made. Capitalized terms used herein and not defined are used as defined in the Agreement.

This Note is issued under the authority of Chapter 125, Florida Statutes, as amended and other applicable provisions of law, and pursuant and subject to the terms and conditions of Resolution duly adopted by the Board of County Commissioners of the County on May 15, 2000, as supplemented by resolutions duly adopted by the Board of County Commissioners of the County on June 11, 2001, on July 23, 2001, and on August \_\_, 2004 (all four of such resolutions, collectively, the "Resolution"), to which reference should be made to ascertain those terms and conditions.

Subject to the limitations and restriction set forth in the Agreement, the County has covenanted in the Agreement to pledge all revenue received by the County in connection with the sale by the County of any land used for environmental mitigation purposes and to budget and appropriate in each Fiscal Year while this Note is outstanding sufficient amounts, from legally available Non-Ad Valorem Revenues, to pay the principal of and interest on this Note during such Fiscal Year, as more particularly provided in the Agreement.

This Note shall not constitute a general obligation or indebtedness of the County, and the Lender shall never have the right to require or compel the levy of taxes on any property of or in the County for the payment of the principal of and interest on this Note. This Note shall not constitute a lien upon the Project, or upon any property of or in the County, but shall be payable solely from the Pledged Funds in the manner provided in the Agreement. Reference is made to the Agreement for the provisions relating to the security for payment of this Note and the duties and obligations of the County hereunder.

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

\* \* \*

(Signature page to follow)



IN WITNESS WHEREOF, the Board of County Commissioners of Nassau County, Florida, has caused this Note to be executed by the Chairman, and attested by the Clerk, either manually or with their facsimile signatures, and its seal or a facsimile thereof to be affixed, impressed, imprinted, lithographed or reproduced hereon, and this Note to be dated August \_\_, 2004.

**BOARD OF COUNTY  
COMMISSIONERS NASSAU COUNTY,  
FLORIDA**

---

FLOYD L. VANZANT  
Its: Chairman

ATTEST:

---

J. M. "CHIP" OXLEY, JR.  
Its: Ex-Officio Clerk

Approved as to form by the  
Nassau County Attorney

---

MICHAEL S. MULLIN

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

TEN COM - as tenants in common

JT TEN - as joint tenants with right of survivorship

TEN ENT - as tenants by the entireties and not as tenants in common

UNIF GIF MIN ACT - \_\_\_\_\_ UNIF TRANS MIN ACT - \_\_\_\_\_

(Cust.)

(Cust.)

Custodian for \_\_\_\_\_ Custodian for \_\_\_\_\_

(Minor)

(Minor)

under Uniform Gifts to Minor under Uniform Transfers to

Minors Act of \_\_\_\_\_ Minors Act of \_\_\_\_\_

(State)

(State)

Additional abbreviations may also be used though not in the 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 note and does hereby irrevocably constitute and appoint

---

\_\_\_\_\_ as his agent to transfer the note on the books kept for registration thereof, with full power of substitution in the premises.

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

Signature guaranteed:

---

NOTICE: Signature must be guaranteed by an institution which is a participant in the Securities Transfer Agent Medallion Program (STAMP) or similar program.

---

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

---

(Authorized Officer)