

RESOLUTION NO. 2013 - 049

A RESOLUTION OF THE TOWN OF SOUTHWEST RANCHES, FLORIDA, AUTHORIZING THE ISSUANCE OF ITS REFUNDING AND IMPROVEMENT REVENUE BOND, SERIES 2013 IN THE PRINCIPAL AMOUNT OF NOT TO EXCEED \$2,750,000 TO REFUND A PORTION OF AN OUTSTANDING LOAN, AS MORE FULLY DESCRIBED HEREIN, AND FINANCE THE ACQUISITION AND CONSTRUCTION OF CERTAIN CAPITAL PROJECTS; AUTHORIZING THE PRIVATE NEGOTIATED SALE OF THE BOND TO TD BANK, N.A. PURSUANT TO THE TERMS AND CONDITIONS OF A LOAN AGREEMENT WITH THE FLORIDA MUNICIPAL LOAN COUNCIL, THE TOWN OF SOUTHWEST RANCHES, FLORIDA AND TD BANK, N.A.; APPROVING THE EXECUTION AND DELIVERY OF SAID LOAN AGREEMENT; MAKING SUCH DETERMINATIONS AS ARE REQUIRED TO AFFORD THE BOND "BANK QUALIFIED" STATUS; PROVIDING CERTAIN OTHER MATTERS IN CONNECTION WITH THE ISSUANCE OF THE BOND; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, participating governmental units have created the Florida Municipal Loan Council (the "Council") pursuant to a certain Interlocal Agreement and pursuant to Chapter 163, Part I, Florida Statutes, for the purpose of issuing its bonds to make loans to participating governmental units for qualified projects; and

WHEREAS, the Town of Southwest Ranches, Florida (the "Issuer") is a municipal corporation duly created and existing pursuant to the Constitution and laws of the State of Florida; and

WHEREAS, the Issuer determined that it is necessary and desirable and in the best interest of the inhabitants of the Issuer to refinance a portion of the loan previously undertaken from the Council by the Issuer dated as of November 15, 2001 (the "Refunded Loan") in order to achieve debt service savings; and

WHEREAS, the Issuer has determined that it is necessary and desirable and in the best interest of the inhabitants of the Issuer to finance the construction and acquisition of certain capital projects, including park improvements (the "Project"); and

WHEREAS, it is determined to be in the best interest of the Borrower to issue its not to exceed \$2,750,000 Refunding and Improvement Revenue Bond, Series 2013 (the "Bond") secured by a Loan Agreement among the Issuer, the Council and TD Bank, N.A. (the "Loan Agreement") in substantially the form attached hereto as Exhibit A, to (i) refinance a portion of the Refunded Loan and (ii) finance the Project; and

WHEREAS, debt service on the Bond will be secured by a covenant to budget and appropriate legally available non-ad valorem revenue of the Issuer (the "Non-Ad Valorem Revenues"); and

WHEREAS, the Non-Ad Valorem Revenues shall be sufficient to pay all principal of and interest and prepayment premium, if any, on the Bond, as the same becomes due, and to make all deposits or payments required by this Resolution and the Loan Agreement; and

WHEREAS, the Issuer shall never be required to levy ad valorem taxes or use the proceeds thereof to pay debt service on the Bond or to make any other payments under this Resolution or the Loan Agreement. The Bond shall not constitute a lien on any property owned or situated within the limits of the Issuer; and

WHEREAS, the Issuer has received proposals from a number of financial institutions in response to the Issuer's request for proposals dated March 20, 2013; and

WHEREAS, it is hereby found, determined and declared that a negotiated sale of the Bond to TD Bank, N.A. (the "Lender"), is in the best interest of the Issuer because a privately placed bank loan and consequent impact of duration of maturity of the Bond will save the Issuer considerable time and expense as compared to selling the Bond in a public sale; and

WHEREAS, it is hereby ascertained, determined and declared that it is in the best interest of the Issuer to authorize the Town Administrator or the Town Financial Administrator to accept the offer from the Lender to purchase the Bond at a private negotiated sale upon the terms and conditions set forth in this Resolution, the Loan Agreement and in the loan commitment dated June 3, 2013 submitted by the Lender for the purchase of the Bond, a copy of which is attached hereto as Exhibit D (the "Commitment"); and

WHEREAS, the Lender will provide to the Issuer, prior to the sale of the Bond, a disclosure statement regarding the Bond containing the information required by Section 218.385(6), Florida Statutes.

NOW THEREFORE, BE IT RESOLVED BY THE TOWN COUNCIL OF THE TOWN OF SOUTHWEST RANCHES, FLORIDA, as follows:

SECTION 1. RECITALS. The foregoing recitals are true and correct and are incorporated herein by this reference.

SECTION 2. AUTHORITY. This Resolution is adopted pursuant to the Florida

Constitution; Chapter 166, Florida Statutes; the Charter of the Issuer; and other applicable provisions of law.

SECTION 3. AUTHORIZATION OF THE BOND. Subject and pursuant to the provisions of this Resolution, an obligation of the Issuer to be known as "Town of Southwest Ranches, Florida, Refunding and Improvement Revenue Bond, Series 2013" is hereby authorized to be issued under and secured by this Resolution and the Loan Agreement in the principal amount of not to exceed \$2,750,000, for the purposes of (i) refunding a portion of the Refunded Loan; (ii) financing the cost and acquisition of the Project; and (iii) paying the transaction costs associated with the Bond.

SECTION 4. AUTHORIZATION OF THE REFINANCING. The refinancing of a portion of the Refunded Loan is hereby authorized.

SECTION 5. AUTHORIZATION OF THE PROJECT. The financing of the acquisition and construction of the Project is hereby approved.

SECTION 6. NEGOTIATED SALE. Because of the characteristics of the Bond, prevailing market conditions, the ability of the Issuer to access direct purchase with the Lender and for the Issuer to receive the benefits of lower interest rates and issuance costs, it is hereby determined that it is in the best interest of the Issuer to accept the offer of the Lender to purchase the Bond at a private negotiated sale. Prior to the issuance of the Bond, the Issuer shall receive from the Lender a Purchaser's Certificate, the form of which is attached hereto as Exhibit B and the Disclosure Letter containing the information required by Section 218.385, Florida Statutes, a form of which is attached hereto as Exhibit C.

SECTION 7. BOND AMOUNT. The amount of the Bond shall not exceed \$2,750,000. The Bond shall be made as a tax-exempt borrowing, which shall include costs of issuance incurred by the Issuer, the Council, the Florida League of Cities, Inc. administrative fees and other ongoing costs, and shall bear interest and shall be repayable according to the terms and conditions set forth in the Loan Agreement with such changes, insertions and omissions as may be approved by the Mayor or Vice Mayor.

SECTION 8. TERMS OF THE BOND. The Town Administrator or the Town Finance Administrator is hereby authorized to award the sale of the Bond on his determination that the Commitment submitted by the Lender for the purchase of the Bond, is within the following parameters: (i) the refunding of that portion of the Refunded Loan to be refunded by the Bond shall provide the Issuer with a net present value savings of not less than 3% of the par amount of the Refunded Loan so refunded, (ii) the final maturity shall not be later than November 1, 2025, and (iii) the interest rate of the Bond will not exceed 3.00%. The redemption provisions, if any, relating to the Bond shall be as provided in the Loan Agreement.

SECTION 9. APPROVAL OF LOAN AGREEMENT. The Mayor or Vice Mayor, as attested by the Town Clerk and approved as to form and correctness by the Town Attorney, or any other appropriate officers of the Issuer, are hereby authorized and directed to execute and deliver the Loan Agreement to evidence the Bond, to be entered into by and between the Issuer, the Bank and the Council in substantially the form attached hereto as Exhibit A with such changes, insertions and omissions as may be approved by the Mayor or Vice Mayor, the execution thereof being conclusive evidence of such approval.

SECTION 10. OTHER INSTRUMENTS. The Mayor, Vice Mayor, the Town Clerk, the Town Administrator, the Town Finance Administrator, the Town Attorney and other officers, attorneys and other agents and employees of the Issuer are hereby authorized to perform all acts and things required of them by this Resolution and the Loan Agreement or desirable or consistent with the requirements hereof for the full, punctual and complete performance of all of the terms, covenants and agreements contained in the Bond, this Resolution and the Loan Agreement and they are hereby authorized to execute and deliver all documents which shall be required by Bond Counsel, the Council or the Lender to effectuate the sale of the Bond. All action taken to date by the officers, attorneys and any other agents and employees of the Issuer in furtherance of the issuance of the Bond is hereby approved, confirmed and ratified.

SECTION 11. ADDITIONAL INFORMATION. The Bond and Loan Agreement shall not be executed and delivered unless and until the Issuer has received all information required by Section 218.385, Florida Statutes.

SECTION 12. PAYMENT OF PRINCIPAL AND INTEREST; LIMITED OBLIGATION. The Issuer promises that it will promptly pay the principal of and interest on the Bond at the place, on the dates and in the manner provided therein according to the true intent and meaning hereof and thereof. The Bond shall not be or constitute a general obligation or indebtedness of the Issuer as a "bond" within the meaning of Article VII, Section 12 of the Florida Constitution, but shall be payable solely from the Non-Ad Valorem Revenues in accordance with the terms of this Resolution and the Loan Agreement. No holder of the Bond issued hereunder shall ever have the right to compel the exercise of any ad valorem taxing power or taxation of any real or personal property thereon or the use or application of ad valorem tax revenues to pay the Bond, or be entitled to payment of the Bond from any funds of the Issuer except from the Non-Ad Valorem Revenues as described in this Resolution and Loan Agreement.

SECTION 13. SECTION 265 DESIGNATION OF THE SERIES 2013 BOND. The Issuer hereby designates the Bond in the amount which is issued hereunder, which shall be an amount not to exceed \$10,000,000 (which together with any previous tax-exempt debt of the Issuer issued in the calendar year 2013 totals less

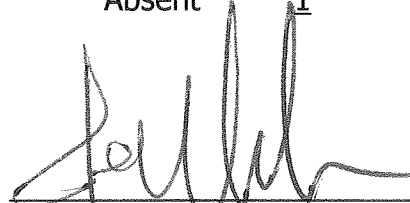
than \$10,000,000) as a "qualified tax-exempt obligation" for purposes of Section 265(b)(3)(B)(i) of the Internal Revenue Code of 1986, as amended. There are no entities which are subordinate to or which issue obligations on behalf of the Issuer. The Issuer hereby covenants and agrees not to take any action or to fail to take any action if such action or failure would cause the Bond to no longer be a "qualified tax-exempt obligation."

SECTION 14. EFFECTIVE DATE. This Resolution shall take effect immediately upon its adoption.

PASSED AND ADOPTED by the Town Council of the Town of Southwest Ranches, Florida, this 13th day of July, 2013 on a motion by Council Member McKay and seconded by Council Member Jablonski.

Nelson	<u>ABSENT</u>
Breitkreuz	<u>YES</u>
Fisikelli	<u>YES</u>
Jablonski	<u>YES</u>
McKay	<u>YES</u>

Ayes	<u>4</u>
Nays	<u>0</u>
Absent	<u>1</u>



Jeff Nelson, Mayor

ATTEST:



Erika Gonzalez-Santamaria, CMC, Town Clerk

APPROVED AS TO FORM AND CORRECTNESS



Keith Poliakoff, Town Attorney

EXHIBIT A

FORM OF LOAN AGREEMENT

EXHIBIT B

FORM OF PURCHASER'S CERTIFICATE

This is to certify that TD Bank, N.A. (the "Purchaser") has not required the Florida Municipal Loan Council (the "Council") or the Town of Southwest Ranches, Florida (the "Issuer") to deliver any offering document and has conducted its own investigation, to the extent it deems satisfactory or sufficient, into matters relating to business affairs or conditions (either financial or otherwise) of the Council and Issuer in connection with the issuance of the \$_____ Town of Southwest Ranches, Florida Refunding and Improvement Revenue Bond, Series 2013 (the "Bond"), and no inference should be drawn that the Purchaser, in the acceptance of said Bond, is relying on Bryant Miller Olive P.A. ("Bond Counsel"), Kraig A. Conn, Esquire ("Council's Counsel") or the Arnstein & Lehr, LLP ("Issuer's Counsel") as to any such matters other than the legal opinions rendered by Bond Counsel, Issuer's Counsel or Council's Counsel. Any capitalized undefined terms used herein not otherwise defined shall have the meaning set forth in the Loan Agreement, dated as of June 1, 2013, by and among the Council, the Issuer and the Purchaser (the "Loan Agreement").

We are aware that investment in the Bond involves various risks, that the Bond is not a general obligation of the Council or Issuer and that the payment of the Bond is secured solely from the sources described in the Loan Agreement (the "Bond Security").

We have made such independent investigation of the Bond Security as we, in the exercise of sound business judgment, consider to be appropriate under the circumstances. In making our investment decision, we have relied upon the accuracy of information which has been provided to us by the Council and Issuer.

We understand that both the Council and its program administrator are each "municipal entities" under Section 15B(e)(8) of the Securities Exchange Act of 1934 (15 U.S.C.A.) and are not a municipal advisor to the Issuer and are not acting as such in providing services in facilitating the issuance of the Bond. We also understand that neither the Council nor its program administrator are acting as a broker or dealer with respect to the Bond nor is the loan being distributed as securities or otherwise marketed by the Council.

We have knowledge and experience in financial and business matters and are capable of evaluating the merits and risks of our investment in the Bond and can bear the economic risk of our investment in the Bond.

We acknowledge and understand that the Loan Agreement is not being qualified under the Trust Indenture Act of 1939, as amended (the "1939 Act"), and is not being registered in reliance upon the exemption from registration under Section 3(a)(2) of the Securities Act of 1933, Section 517.051(1), Florida Statutes, and/or Section 517.061(7),

Florida Statutes, and that neither the Council, Bond Counsel, Issuer's Counsel nor the Council's Counsel shall have any obligation to effect any such registration or qualification.

We are not acting as a broker or other intermediary and understand that the Council is not acting in that capacity, and we are purchasing the Bond as an investment for our own account and not with a present view to a resale or other distribution to the public. We understand that the Bond may not be transferred without the filing of an investor letter from the new purchaser.

We are a bank, trust company, savings institution, insurance company, dealer, investment company, pension or profit-sharing trust, or qualified institutional buyer as contemplated by Section 517.061(7), Florida Statutes. We are not purchasing the Bond for the direct or indirect promotion of any scheme or enterprise with the intent of violating or evading any provision of Chapter 517, Florida Statutes.

DATED this _____ day of June, 2013.

TD BANK, N.A.

By: _____

Name: _____

Title: _____

EXHIBIT C

FORM OF DISCLOSURE LETTER

The undersigned, as purchaser, has negotiated with the Town of Southwest Ranches, Florida (the "Issuer") for the private purchase of its Refunding and Improvement Revenue Bond, Series 2013 (the "Bond") in the principal amount of \$_____. Prior to the award of the Bond, the following information is hereby furnished to the Issuer:

1. Set forth is an itemized list of the nature and estimated amounts of expenses to be incurred for services rendered to us (the "Purchaser") in connection with the issuance of the Bond (such fees and expenses to be paid by the Issuer):

Purchaser Counsel Fees – \$_____

2. (a) No other fee, bonus or other compensation is estimated to be paid by the Purchaser in connection with the issuance of the Bond to any person not regularly employed or retained by the Purchaser (including any "finder" as defined in Section 218.386(1)(a), Florida Statutes), except as specifically enumerated as expenses to be incurred by the Purchaser, as set forth in paragraph (1) above.

(b) No person has entered into an understanding with the Purchaser, or to the knowledge of the Purchaser, with the Issuer, for any paid or promised compensation or valuable consideration, directly or indirectly, expressly or implied, to act solely as an intermediary between the Issuer and the Purchaser or to exercise or attempt to exercise any influence to effect any transaction in the purchase of the Bond.

3. The amount of the underwriting spread expected to be realized by the Purchaser is \$0.00.

4. The management fee to be charged by the Purchaser is \$0.00.

5. Truth-in-Bonding Statement:

The Bond is being issued primarily to (i) refinance the loan previously undertaken from the Council by the Issuer dated as of November 15, 2001 and (ii) finance the acquisition and construction of certain capital projects, including park improvements.

Unless earlier redeemed, the Bond is expected to be repaid by November 1, 2025; at a fixed interest rate of 2.39%, total interest paid over the life of the Series 2013 Bond is estimated to be \$_____.

The Bond will be payable solely from the Non-Ad Valorem Revenues, as such term is defined in Loan Agreement, dated as of June 1, 2013, between the Issuer, the Council and the undersigned (the "Loan Agreement"). Issuance of the Bond is estimated to result in an annual average of approximately \$_____ of Non-Ad Valorem Revenues of the Issuer not being available to finance other projects of the Issuer during the life of the Bond.

7. The name and address of the Purchaser is as follows:

TD Bank, N.A.
5900 North Andrews Avenue, 2nd Floor
Fort Lauderdale, Florida 33309

IN WITNESS WHEREOF, the undersigned has executed this Disclosure Letter on behalf of the Purchaser this _____ day of June, 2013.

TD BANK, N.A.

By: _____

Name: _____

Title: _____

EXHIBIT D
COMMITMENT