

**RESOLUTION NO. 2001-59**

**A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF SOUTHWEST RANCHES, FLORIDA AUTHORIZING THE ISSUANCE OF A NOT TO EXCEED \$1,000,000 TOWN OF SOUTHWEST RANCHES, FLORIDA, PROMISSORY NOTE IN FAVOR OF REPUBLIC SECURITY BANK FOR THE PURPOSE OF ACQUIRING LAND; APPROVING THE EXECUTION AND DELIVERY OF LOAN DOCUMENTS; PROVIDING FOR THE REPAYMENT OF SUCH PROMISSORY NOTES FROM CERTAIN AVAILABLE REVENUES OF THE TOWN OF SOUTHWEST RANCHES, FLORIDA; PROVIDING FOR CERTAIN OTHER MATTERS IN CONNECTION WITH THE DELIVERY OF SUCH PROMISSORY NOTES; AND PROVIDING AN EFFECTIVE DATE.**

WHEREAS, it is necessary for the Town of Southwest Ranches to borrow an amount not to exceed \$1,000,000 for the purpose of acquiring that certain parcel of land identified in Resolution No. 2001-54; and

WHEREAS, the Town Council has elected to sign a promissory note in favor of Republic Security Bank.

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

Section 1. That the Mayor, Town Administrator and Town Attorney of the Town of Southwest Ranches, a municipal corporation organized and validly existing under the laws of the State of Florida (the "Town"), are hereby authorized and directed to execute and deliver the necessary loan documents (the "Loan Documents") to borrow an amount not to exceed \$1,000,000 from Republic Security Bank (the "Bank") under a promissory note (the "Note") for the purpose of acquiring that certain parcel of land identified in Resolution No. 2001-54, such borrowing to be on the terms described in Option 3 of the proposal of the Bank dated April 24,

2001, attached as Exhibit "A" (the "Proposal Letter"); with execution thereof being conclusive evidence of such approval.

**Section 2.** To secure the payment of all of the Town's obligations to the Bank under the Note, the Town is authorized to pledge to the Bank the Town's revenues received from franchise fees and utility taxes and the earnings thereon under the Loan Documents and subject to the provisions of Exhibit "A".

**Section 3.** To further secure the payment of all of the Town's obligation to the Bank under the Note, the Town shall annually budget and appropriate from available non-ad valorem revenues an amount sufficient to pay all amounts due to the Bank under the Note in the applicable budget year under the Loan Documents and subject to the provisions of Exhibit "A".

**Section 4. Approval of Loan Agreement.** The Town hereby approves the form and content of the Loan Agreement by and between the Town and the Bank, presented at this meeting and attached hereto as Exhibit "B," including the form of Note attached to the Loan Agreement as Exhibit "1" thereto. The Mayor, Town Administrator and Town Attorney are hereby authorized to execute and deliver the Loan Agreement on behalf of the Town, in substantially the form presented at this meeting, with such changes, modifications, deletions and insertions as the Mayor, Town Administrator and Town Attorney may deem necessary and appropriate, such execution and delivery to be conclusive evidence of the approval thereof by the Town.

**Section 5. Award of Note by Negotiated Sale.** Because of the nature of the Note, the maturity of the Note and the prevailing market conditions, the negotiated sale of the Note to the Bank in substantial accordance with the Bank's Proposal Letter is hereby found to be in the best

interests of the Town. Provided, however, that the provisions of this Resolution and the Loan Agreement shall control to the extent of any conflict with the Proposal Letter.

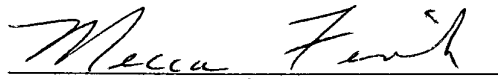
Section 6. That the Mayor, Town Administrator and Town Attorney are each authorized and directed to execute any and all certifications or other agreements or any other documents required by the Town Council as a prerequisite or precondition to making the loan in the Loan Documents, and any such representation made therein shall be deemed to be made on behalf of the Town. All action taken to date by the officers of the Town in furtherance of the issuance of the Notes and the making of the loan is hereby approved, confirmed and ratified.

Section 7. That no such Loan Document shall be executed until the Town shall have received all disclosure information required by Chapter 218, Florida Statutes.

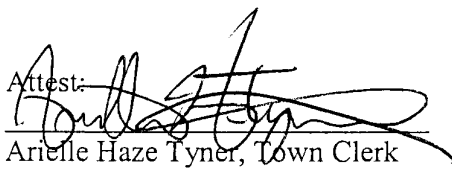
Section 8. This Resolution shall become effective upon its passage and adoption.

ADOPTED by the Town Council of the Town of Southwest Ranches, Florida, this

24 day of May 2001.

  
\_\_\_\_\_  
Mecca Fink, Mayor

Attest:

  
\_\_\_\_\_  
Arielle Haze Tyner, Town Clerk

Approved as to Form and Correctness:

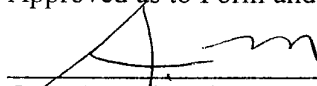
  
\_\_\_\_\_  
Gary A. Poliakoff, J.D., Town Attorney



EXHIBIT "A"

110 East Broward Blvd.  
Suite 102  
Fort Lauderdale, Florida 33301  
Phone: 954-762-8920  
Fax: 954-762-8918

April 24, 2001

John Canada  
Town Administrator  
Town of Southwest Ranches  
c/o 3111 Stirling Road  
Ft. Lauderdale, FL 33312

Dear Mr. Canada:

Set forth below is a preliminary outline of terms that may be appropriate for your request. This is not a loan commitment or an agreement of any kind by Republic Security Bank. Neither this term sheet nor any other discussions between us shall imply any obligation on the part of Republic Security Bank to continue to discuss or enter into any future agreement with respect to any financing. Notwithstanding the exchange of term sheets such as this one, or correspondence or discussions relating to financing, whether or not containing expressions suggesting an agreement or understanding, no such commitment or agreement will exist unless and until it is embodied in a formal document and executed specifically as a loan commitment or other agreement by an authorized officer of Republic Security Bank. This term sheet is transmitted CONFIDENTIALLY for the sole use of the individual(s) and entity(ies) shown above, and it may not be forwarded or disclosed to others without the express consent of Republic Security Bank.

**BORROWER:** Town of Southwest Ranches

**LOAN:** Approximately \$4,000,000.00, not to exceed 100% of purchase price.

**FEE:** None

**INTEREST RATE:**

Option 1	Option 2	Option 3
5.1% fixed for 5 years	5% fixed for first 3 years; then adjusting every 3 years to 70% of prevailing Prime Rate	Start rate of 4.8% adjustable monthly to be 64% of prevailing Prime Rate

[LIST AUTHORIZING ORDINANCE OR RESOLUTION FOR EACH FRANCHISE]

"Governing Body" means the Town Council of the Town, or its successor in function.

"Mayor" means the Mayor of the Town and such other person as may be duly authorized to act on the Mayor's behalf.

"Non-Ad Valorem Revenues" means all revenues of the Town derived from any source other than ad valorem taxation on real or personal property, which are legally available to make the payments required under this Agreement.

"Noteholder" or "Holder" means the registered owner (or its authorized representative) of the Notes.

"Note" means the Series 2001 Promissory Note authorized to be issued by the Town in the aggregate principal amount no to exceed \$1,000,000, the form of which is attached as Exhibit "1" hereto.

"Project" means the acquisition of land as more particularly described in Resolution 2001-54, adopted by the Governing Body on May 10, 2001.

"Public Service Tax" means the taxes levied and collected by the Town imposed by Ordinances 2000-2, 2000-3 and 2000-7 of the Town or otherwise on the purchase of electricity, water, sewer, metered or bottled gas, telephone service, telegraph service and cable television service sold or used in the Town pursuant to Section 166.231, Florida Statutes.

"Republic" means Republic Security Bank, the initial purchaser of the Note.

"Resolution" means Resolution 2001-59, adopted by the Governing Body on May 24, 2001, authorizing the issuance of the Note, as the same may from time to time be amended, modified or supplemented.

"State" means the State of Florida.

"Town" means the Town of Southwest Ranches, a Florida municipal corporation, or its successor.

"Town Administrator" means the Town Administrator of the Town and such other person as may be duly authorized to act on his or her behalf.

**SECTION 2. PURCHASE AND SALE OF NOTE.** Subject to and in accordance with the provisions of this Agreement, the Town agrees to issue, and Republic agrees to purchase, the Note.

The Town shall use the proceeds from the sale of the Note to finance the Project and for no other purpose.

### SECTION 3. DESCRIPTION OF NOTE.

A. The Note shall be issued in one (1) typewritten certificate and shall be dated the Dated Date. The Note shall bear interest from the Dated Date at an initial rate of \_\_\_\_%. On the \_\_\_\_ day of each month, beginning July \_\_, 2001, the interest rate on the Note shall be automatically adjusted to sixty four percent (64%) of the interest rate listed in the previous edition of the Wall Street Journal as the "Prime Rate". Principal of the Note will be payable in one hundred twenty (120) monthly installments, with the first installment payable one month from the Dated Date. Accrued interest on the Note will be payable monthly on each principal payment date. The principal repayment schedule shall be calculated to approximate a ten year level debt amortization schedule, based on the initial rate borne by the Note. Interest on the Note shall be calculated on the basis of a 360 day year consisting of twelve thirty day months.

The interest rate on the Note shall further be adjusted upon the occurrence of an "Event of Taxability" as set forth on the form of Note attached as Exhibit "1" hereto.

B. Details of the Note. Details of the Note shall be as provided in the form of Note attached as Exhibit "1" hereto. The Note shall be in registered form, contain substantially the same terms and conditions as set forth in Exhibit "1" hereto, shall be payable in lawful money of the United States of America, and the principal thereof, interest thereon and any other payments thereunder shall be payable by check, wire, draft or bank transfer to the Holder at such address as may be provided in writing by such Holder to the Town Administrator. So long as the Note shall remain outstanding, the Town shall maintain and keep books for the registration and transfer of the Note.

The Note shall be and have all the qualities and incidents of negotiable instruments under the law merchant and the Uniform Commercial Code of the State of Florida, subject to the provisions for registration of transfer contained in this Agreement and in the Note.

The Note may be assigned as to principal and interest by Republic, or any assignee or successor-in-interest of Republic. Such assignment shall only be effective, and the Town obligated to pay such assignee, upon written notice of assignment being provided to the Town Administrator at 3111 Stirling Road, Fort Lauderdale, Florida 33312 (or such future address as may serve as the address of the Town); provided, however, the written notice of assignment must be received by the Town Administrator no later than the close of business on the fifth Business Day prior to a payment date in order to carry the right to receive the interest and principal payment due on such payment date. The Town may charge the registered owner of the Note for the registration of every such assignment of the Note sufficient to reimburse it for any tax, fee or any other governmental charge required to be paid, except for any such governmental charge imposed by the Town, with respect to the registration of such assignment, and may require that such amounts be paid before any such

assignment of the Note shall be effective.

**SECTION 4. EXECUTION OF NOTE.** The Note shall be executed in the name of the Town by the Mayor and the seal of the Town shall be imprinted, reproduced or lithographed on the Note and attested to by the Town Administrator. Both the Mayor or the Town Administrator shall execute the Note manually, and not by facsimile. If any officer whose signature appears on the Note ceases to hold office before the delivery of the Note, such signature shall nevertheless be valid and sufficient for all purposes. In addition, the Note may bear the signature of, or may be signed by, such persons as at the actual time of execution of the Note shall be the proper officers to sign the Note although at the date of the Note or the date of delivery thereof such persons may not have been such officers.

**SECTION 5. NOTE MUTILATED, DESTROYED, STOLEN OR LOST.** If the Note is mutilated, destroyed, stolen or lost, the Town may, in its discretion (i) deliver a duplicate replacement Note, or (ii) pay a Note that has matured or is about to mature. A mutilated Note shall be surrendered to and canceled by the Town Administrator or its duly authorized agent. The Holder must furnish the Town or its agent proof of ownership of any destroyed, stolen or lost Note; post satisfactory indemnity; comply with any reasonable conditions the Town or its agent may prescribe; and pay the Town's or its agent's reasonable expenses.

Any such duplicate Note shall constitute an original contractual obligation on the part of the Town whether or not the destroyed, stolen, or lost Note be at any time found by anyone, and such duplicate Note shall be entitled to equal and proportionate benefits and rights as to lien on, and source of and security for payment from, the funds pledged to the payment of the Note so mutilated, destroyed, stolen or lost.

**SECTION 6. PROVISIONS FOR REDEMPTION.** The Note may be prepaid in whole or in part at any time prior to maturity without premium or penalty in the manner provided in the form of Note attached as Exhibit "1" hereto.

**SECTION 7. NOTE NOT TO BE GENERAL INDEBTEDNESS OF THE TOWN.** The Note shall not be or constitute a general obligation or indebtedness of the Town within the meaning of the Constitution of Florida, but shall be payable from and secured solely in the manner described in Section 8 hereof, in the manner and to the extent herein provided. No Holder shall ever have the right to compel the exercise of the ad valorem taxing power of the Town or taxation in any form on any real or personal property to pay the Note or the interest thereon, nor shall any Holder be entitled to payment of such principal and interest from any funds of the Town other than the Franchise Fees, the Public Service Tax or other Non-Ad Valorem Revenues. The Holder shall have no lien upon the Project.

**SECTION 8. PLEDGE OF REVENUES; COVENANT TO BUDGET AND APPROPRIATE.**

A. Pledge of Franchise Fees and Public Service Tax. The payment of the principal of, premium, if any, and interest on the Note shall be secured forthwith equally and ratably by an irrevocable lien on and pledge of the Franchise Fees and the Public Service Tax, prior and superior to all other liens or encumbrances on the Franchise Fees or the Public Service Tax, and the Town hereby irrevocably pledges the Franchise Fees and the Public Service Tax to the payment of the principal of, premium, if any, and interest on the Note as the same shall become due. Such pledge of the Franchise Fees and the Public Service Tax shall be cumulative to the extent not paid, and shall continue until the Note has been paid in full.

The Town covenants that for so long as the Note shall remain unpaid, it will continue to impose the Franchise Fees and the Public Service Tax, and will not amend or repeal the provisions of the resolutions, ordinances and/or agreements of the Town that impose the Franchise Fees or the Public Service Tax as of the date hereof so as to reduce the rate at which the Franchise Fees or the Public Service Tax is imposed or the services or commodities subject to Franchise Fees or the Public Service Tax, or otherwise modify the proceedings of the Town relevant to the Franchise Fees or the Public Service Tax in any manner so as to impair or adversely affect the ability of the Town to impose and collect the Franchise Fees or the Public Service Tax.

The Town represents that the Franchise Fees and the Public Service Tax are not pledged or encumbered in any manner. The Town further represents that the revenues generated by the Franchise Fees and the Public Service Tax are estimated to be sufficient to pay the principal of, premium, if any, and interest on the Note as the same shall become due.

B. Covenant to Budget and Appropriate. In addition to the foregoing, the Town hereby covenants to budget and appropriate in its Annual Budget, by amendment if necessary, from Non-Ad Valorem Revenues, amounts sufficient to pay the principal of and interest on the Note coming due in such Fiscal Year, until the Note has been paid in full. Such covenant to budget and appropriate such non-Ad Valorem Revenues shall be cumulative to the extent not paid, and continue until such Non-Ad Valorem Revenues in amounts sufficient to make all payments shall have been budgeted, appropriated and actually paid. Notwithstanding the foregoing covenant of the Town, the Town does not covenant to maintain any services or programs, now provided or maintained by the Town, which generate Non-Ad Valorem Revenues.

**SECTION 9. OPERATING BUDGET; FINANCIAL STATEMENTS.** Before the first day of each Fiscal Year the Governing Body shall prepare, approve and adopt in the manner prescribed by law, a detailed Annual Budget. Such Annual Budget shall provide for revenues sufficient to comply with the Town's obligations hereunder, including any unsatisfied obligations from prior Fiscal Years. The budget for each Fiscal Year shall provide that the Franchise Fees and Public Service Tax revenues shall be at least 1.25 times the principal and interest due on the Note in such Fiscal Year. The Town shall annually provide to Republic a copy of the Annual Budget and the Town's audited financial statements prepared in accordance with law, each within thirty (30) days



of its completion.

**SECTION 10. ISSUANCE OF ADDITIONAL PARITY OBLIGATIONS PROHIBITED.** The Town will not issue any obligations or incur any liability payable from or secured by the Franchise Fees or the Public Service Tax and having a right to payment therefrom that is prior to or on a parity with the right to payment therefrom of the Note.

**SECTION 11. MODIFICATION, AMENDMENT OR SUPPLEMENT.** No modification, amendment or supplement of this Agreement may be made except by written instrument executed by Holder and the Town.

**SECTION 12. TAX COVENANTS.** It is the intention of the Town and all parties under its control that the interest on the Note be and remain excluded from gross income for federal income tax purposes and to this end the Town hereby represents to and covenants with each Holder of the Note issued hereunder that it will comply with the requirements applicable to it contained in Section 103 and Part IV of Subchapter B of Chapter 1 of the Code to the extent necessary to preserve the exclusion of interest on the Note issued hereunder from gross income for federal income tax purposes. Specifically, without intending to limit in any way the generality of the foregoing, the Town covenants and agrees:

- a) to refrain from using proceeds from the Note in a manner that might cause the Note to be classified as a private activity bond under Section 141(a) of the Code; and
- b) to refrain from taking any action that would cause the Note to become an arbitrage bond under Section 148 of the Code.

The Town understands that the foregoing covenants impose continuing obligations of the Town that will exist as long as the requirements of Section 103 and Part IV of Subchapter B of Chapter 1 of the Code are applicable to the Note.

**SECTION 13. EVENTS OF DEFAULT; REMEDIES.**

A. Events of Default. Any one or more of the following events shall be an "Event of Default":

- (i) The Town shall fail to pay the principal of or interest on the Note when due;
- (ii) The Town shall default under any obligation for the repayment of money;
- (iii) The Town shall (a) admit in writing its inability to pay its debts generally as they become due, (b) file (or have filed against it and not dismissed within 90 days) a petition in bankruptcy or take advantage of any insolvency act, (c) make an assignment for the general benefit of creditors, (d) consent to the appointment of a receiver for itself or for the whole or any substantial

part of its property, or (e) be adjudicated a bankrupt; or

(iv) The Town shall default in the due and punctual performance of any of its covenants, conditions, agreements and provisions contained herein, in the Resolution or in the Note, and such default shall continue for thirty (30) days after written notice specifying such default and requiring the same to be remedied shall have been given to the Town by the Holder of the Note; provided that such default shall not be an Event of Default if the Town within such 30 day period commences and carries out with due diligence to completion (although not necessarily within such thirty (30) day period) such action as is necessary to cure the same.

B. Remedies on Default. If an Event of Default shall have occurred and be continuing, the Holder may proceed to protect and enforce its rights hereunder by a suit, action or special proceeding in equity or at law, by mandamus or otherwise, either for the specific performance of any covenant or agreement contained herein or for enforcement of any proper legal or equitable remedy as such Holder shall deem most effectual to protect and enforce the rights aforesaid.

No remedy herein conferred upon or reserved to the Holder is intended to be exclusive of any other remedy or remedies, and each and every such remedy shall be cumulative, and shall be in addition to every other remedy given hereunder or now or hereafter existing at law or in equity.

No delay or omission of a Holder to exercise any right or power accruing upon any Event of Default shall impair any such right or power or shall be construed to be a waiver of any such Event of Default, or an acquiescence therein; and every power and remedy given by this article may be exercised from time to time, and as often as may be deemed expeditious by a Holder.

**SECTION 14. BANK QUALIFIED ISSUE.** The Town hereby designates the Note to be a "qualified tax-exempt obligation" within the meaning of Section 265(b) of the Code.

**SECTION 15. DEPOSIT RELATIONSHIP.** So long as Republic is the holder of the Note, the Town shall maintain its primary deposit relationship with Republic.

**SECTION 16. CLOSING COSTS.** The Town shall be responsible for paying all fees and costs in connection with the issuance of the Note, including, but not limited to, the fees and costs of Republic's counsel.

**SECTION 17. WAIVER OF JURY TRIAL.** REPUBLIC AND THE TOWN HEREBY KNOWINGLY, VOLUNTARILY AND INTENTIONALLY WAIVE THE RIGHT EITHER MAY HAVE TO A TRIAL BY JURY IN RESPECT TO ANY LITIGATION BASED HEREON, OR ARISING OUT OF, UNDER OR IN CONNECTION WITH THE RESOLUTION, THIS AGREEMENT, THE NOTE OR ANY AGREEMENT CONTEMPLATED TO BE EXECUTED IN CONJUNCTION HERewith, OR ANY COURSE OF CONDUCT, COURSE OF DEALING, STATEMENTS (WHETHER VERBAL OR WRITTEN), OR ACTIONS OF EITHER PARTY.

**SECTION 18. SEVERABILITY.** If any one or more of the covenants, agreements or provisions of this Agreement should be held contrary to any express provision of law or contrary to the policy of express law, though not expressly prohibited, or against public policy, or shall for any reason whatsoever be held invalid, then such covenants, agreements or provisions shall be null and void and shall be deemed separate from the remaining covenants, agreements or provisions of this Agreement or of the Note issued hereunder, which remaining covenants, agreements and provisions shall remain in full force and effect.

**SECTION 19. NO THIRD-PARTY BENEFICIARIES.** Except as herein otherwise expressly 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 parties hereto and a subsequent holder of the Note issued hereunder, 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 parties hereto and the holder from time to time of the Note issued hereunder.

**SECTION 21. PROPOSAL LETTER SUPERSEDED.** The provisions of this Agreement supersede the Proposal Letter from Republic to the Town dated April 24, 2001.

**SECTION 22. EFFECTIVE DATE.** This Agreement shall take effect immediately upon being executed by the parties hereto.

IN WITNESS WHEREOF, the parties hereto have hereunto set their hands and seals as of the day and year first above written.

[SEAL]

ATTEST:

\_\_\_\_\_  
JOHN CANADA, TOWN ADMINISTRATOR

Approved as to form and correctness

\_\_\_\_\_  
Becker & Poliakoff, P.A., Town Attorney

TOWN OF SOUTHWEST RANCHES

BY: \_\_\_\_\_  
MECCA FINK, MAYOR

REPUBLIC SECURITY BANK

BY: \_\_\_\_\_  
STEVEN C. SCHULTZ  
UNIT VICE PRESIDENT

EXHIBIT "1"

(Form of Note)

REGISTERED  
No. R-

REGISTERED  
\$1,000,000.00

UNITED STATES OF AMERICA  
STATE OF FLORIDA  
TOWN OF SOUTHWEST RANCHES  
PROMISSORY NOTE, SERIES 2001

Initial Interest Rate:

Maturity Date:

Dated Date:

\_\_\_\_\_ %

June \_\_, 2011

June \_\_, 2001

REGISTERED OWNER: REPUBLIC SECURITY BANK

PRINCIPAL AMOUNT: ONE MILLION DOLLARS

KNOW ALL MEN BY THESE PRESENTS, that the Town of Southwest Ranches, Florida, a municipal corporation of the State of Florida (hereinafter called the "Town") for value received, hereby promises to pay to the Registered Owner identified above, or to registered assigns or legal representatives, but solely from the revenues hereinafter mentioned, on the dates hereinafter provided, the Principal Amount identified above, and to pay, solely from such revenues, interest on the Principal Amount remaining unpaid from time to time, at the interest rate per annum identified above, subject to adjustment as hereinafter provided (the "Bond Rate"), until the entire Principal Amount has been repaid. Principal of and interest on this Note will be paid by bank wire, check, draft or bank transfer delivered to the Registered Owner hereof at his address as it appears on the registration books of the Town at the close of business on the fifth Business Day (as defined in the hereinafter described Agreement), of the month next preceding the interest payment date (the "Record Date").

On the \_\_\_\_\_ day of each month, beginning July \_\_, 2001, the interest rate on this Note shall be automatically adjusted to sixty four percent (64%) of the interest rate listed in the previous edition of the Wall Street Journal as the "Prime Rate" (the "Bond Rate").

Interest on this Note shall be calculated on the basis of a 360 day year consisting of twelve thirty day months.

Principal payments will be due on the Note in accordance with the following schedule:

Payment Date

Principal Amount Due

See amortization schedule attached as Exhibit "A"

Accrued interest on the Note will be payable monthly on the \_\_\_\_ day of each month, beginning July \_\_\_, 2001. Each date when principal and/or interest on this Note is due is a "Payment Date." If any Payment Date is not a Business Day, the payment otherwise due on such Payment Date shall be due on the preceding Business Day.

Any payment of principal hereof or interest hereon not paid when due shall bear interest from the due date until paid at the Bond Rate.

This Note is the entire authorized issue of notes in the aggregate principal amount of \$1,000,000, issued to finance the acquisition of the Project (as defined in the Agreement), pursuant to the authority of and in full compliance with the Constitution and laws of the State of Florida, including particularly Article VIII, Section 2 of the Constitution of the State of Florida, Chapter 166, Florida Statutes, the Charter of the Town, and Resolution No. 2001-59, adopted by the Town Council of the Town on May 24, 2001 (collectively, the "Act"), and a Loan Agreement between the Town and Republic Security Bank dated June \_\_\_, 2001 (the "Agreement").

This Note and the interest hereon are secured by and are payable from a prior lien upon and pledge of the Franchise Fees and the Public Service Tax (both as defined in the Agreement), in the manner and to the extent provided in the Agreement. This Note and the interest hereon are further secured by the Town's covenant to budget and appropriate in each of its Fiscal Years (as defined in the Agreement) from Non-Ad Valorem Revenues (as defined in the Agreement) amounts sufficient to pay the principal of and interest on this Note coming due in such Fiscal Year, until the Note has been paid in full. Reference is hereby made to the Agreement for the provisions, among others, relating to the terms and security for the Note, the custody and application of the proceeds of the Note, the rights and remedies of the Registered Owner of the Note; and the extent of and limitations on the Town's rights, duties and obligations, to all of which provisions the Registered Owner hereof for himself and his successors in interest assents by acceptance of this Note. All terms used herein in capitalized form, unless otherwise defined herein, shall have the meanings ascribed thereto in the Agreement.

For purposes of this Note, the following definitions shall apply:

- (1) "Code" means the Internal Revenue Code of 1986, as amended;
- (2) "Cost of Funds" means 100 multiplied by a fraction, the numerator of which is equal to the total interest expense of Republic Security Bank for its immediately preceding tax year and the denominator of which is equal to the average total assets of Republic Security Bank for such tax year, but not to exceed the cost of Fed Funds.
- (3) "Fully Taxable Equivalent" means the Bond Rate multiplied by 1.54,

expressed as a number and not as a percentage.

(4) "Maximum Corporate Tax Rate" means the maximum Federal income tax rate applicable to corporations, presently 35%.

(5) "Preference Reduction Rate" means the percentage reduction to be applied to the amount allowable as a deduction under Chapter I of the Code with respect to any financial institution preference item (as such term is defined in Section 291(e) of the Code), presently 20%. If this Note is not or ceases to be a "qualified tax-exempt obligation" as defined in Section 265(b) of the Code, the Preference Reduction Rate shall be deemed to increase from twenty percent (20%) to one hundred percent (100%).

(7) "TEFRA Adjustment" means an adjustment equal to the product of the Cost of Funds multiplied by the applicable Maximum Corporate Tax Rate multiplied by the applicable Preference Reduction Rate.

If for any reason the interest on this Note becomes includable in the gross income of the holder of this Note for Federal income tax purposes (an "Event of Taxability"), this Note shall bear interest from the earliest effective date of such Event of Taxability at a rate per annum equal to the interest rate otherwise borne by this Note multiplied by 1.54. In addition to the foregoing, the Town shall pay any additions to tax, penalties and interest, and any arrears in interest imposed upon the holder of this Note on account of an Event of Taxability. All such additional interest, additions to tax and penalties shall be paid on the next succeeding Payment Date following the date the holder was advised of such Event of Taxability.

No Event of Taxability shall be deemed to occur unless the Town has been given timely written notice of such occurrence by the holder of this Note and, to the extent permitted by law, an opportunity to participate in and seek, at the Town's own expense, a final administrative determination by the Internal Revenue Service or determination by a court of competent jurisdiction (from which no further right of appeal exists) as to the occurrence of such Event of Taxability; provided that the Town, at its own expense, delivers to the holder of this Note an opinion of bond counsel acceptable to such holder 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.

The interest rate borne by this Note shall also be adjusted automatically as of the effective date of any change in the Maximum Corporate Tax Rate or in the Preference Reduction Rate, to the product obtained by multiplying the Bond Rate by a fraction, the numerator of which is equal to the sum of (i) the product of the Fully Taxable Equivalent times 1 minus the Maximum Corporate Tax Rate in effect as of the date of adjustment, plus (ii) the TEFRA Adjustment in effect as of the date of adjustment, and the denominator of which is equal to the sum of (i) the product of the Fully Taxable Equivalent times 0.65, plus (ii) the TEFRA Adjustment in effect on the date of closing of the Note.

A certificate of the Holder as to any such additional amount or amounts, in the absence of manifest error, shall be final and conclusive. In determining such amount, the Holder may use any reasonable averaging and attribution methods.

THIS NOTE SHALL NOT BE DEEMED TO CONSTITUTE A GENERAL DEBT OR A PLEDGE OF THE FAITH AND CREDIT OF THE TOWN, OR A DEBT OR PLEDGE OF THE FAITH AND CREDIT OF THE STATE OF FLORIDA OR ANY POLITICAL SUBDIVISION THEREOF WITHIN THE MEANING OF ANY CONSTITUTIONAL, LEGISLATIVE OR CHARTER PROVISION OR LIMITATION, AND IT IS EXPRESSLY AGREED BY THE REGISTERED OWNER OF THIS NOTE THAT SUCH REGISTERED OWNER SHALL NEVER HAVE THE RIGHT, DIRECTLY OR INDIRECTLY, TO REQUIRE OR COMPEL THE EXERCISE OF THE AD VALOREM TAXING POWER OF THE TOWN OR ANY OTHER POLITICAL SUBDIVISION OF THE STATE OF FLORIDA OR TAXATION IN ANY FORM ON ANY REAL OR PERSONAL PROPERTY FOR THE PAYMENT OF THE PRINCIPAL OF, PREMIUM, IF ANY, AND INTEREST ON THIS NOTE OR FOR THE PAYMENT OF ANY OTHER AMOUNTS PROVIDED FOR IN THE AGREEMENT.

It is further agreed between the Town and the Registered Owner of this Note that this Note and the indebtedness evidenced hereby shall not constitute a lien upon the Project, or any part thereof, or any other tangible personal property of or in the Town. Neither the members of the governing body of the Town nor any person executing the Note shall be liable personally on the Note by reason of its issuance.

This Note shall be subject to prepayment at the option of the Town in whole or in part on any date at a price equal to the principal amount being prepaid plus accrued interest thereon. In the event of any partial prepayment of this Note, each partial payment shall be applied first to accrued interest hereon, and then to such principal installments as the Town shall designate, by notice in writing delivered to the Holder simultaneous with such partial prepayment.

The registration of this Note may be assigned upon the registration books upon delivery to the Town Administrator accompanied by a written instrument or instruments of assignment in the form provided herein, duly executed by the owner of this Note or by his attorney-in-fact or legal representative, containing written instructions as to the details of assignment of this Note, along with the social security number or federal employer identification number of such assignee. In all cases of an assignment of this Note the Town shall at the earliest practical time in accordance with the provisions of the Agreement enter the change of ownership in the registration books. The Town may charge the owner of such Note for the registration of every such assignment of a Note an amount sufficient to reimburse it for any tax, fee or any other governmental charge required (other than by the Town) to be paid with respect to the registration of such assignment, and may require that such amounts be paid before any such assignment of a Note shall be effective.

It is hereby certified and recited that all acts, conditions and things required to exist, to happen, and to be performed precedent to and in the issuance of this Note exist, have happened and

have been performed in regular and due form and time as required by the laws and Constitution of the State of Florida applicable hereto, and that the issuance of the Note does not violate any constitutional or statutory limitation or provision.

THE REGISTERED OWNER, BY ITS ACCEPTANCE OF THIS NOTE, AND THE TOWN, BY ITS ACCEPTANCE OF THE PROCEEDS OF THE NOTE, VOLUNTARILY AND INTENTIONALLY WAIVE THE RIGHT EITHER MAY HAVE TO A TRIAL BY JURY IN RESPECT TO ANY LITIGATION BASED HEREON, OR ARISING OUT OF, UNDER OR IN CONNECTION WITH THIS NOTE, THE AGREEMENT OR ANY AGREEMENT CONTEMPLATED TO BE EXECUTED IN CONJUNCTION HEREWITH, OR ANY COURSE OF CONDUCT, COURSE OR DEALING, STATEMENTS (WHETHER VERBAL OR WRITTEN) OR ACTIONS OF EITHER PARTY.

IN WITNESS WHEREOF, the Town of Southwest Ranches, Florida has issued this Note and has caused the same to be executed by the manual signature of the Mayor, and attested by the manual signature of the Town Administrator and its corporate seal or a facsimile thereof to be affixed or reproduced hereon, all as of the \_\_\_ day of June, 2001.

TOWN OF SOUTHWEST RANCHES, FLORIDA

(SEAL)

\_\_\_\_\_  
Mayor

ATTEST:

\_\_\_\_\_  
Town Administrator



FORM OF ASSIGNMENT

FOR VALUE RECEIVED, the undersigned hereby sells, assigns and transfers unto \_\_\_\_\_ the within Note and all rights thereunder, and hereby irrevocably constitutes and appoints \_\_\_\_\_ attorney to transfer the within Note in the books kept by the Town for the registration thereof, with full power of substitution in the premises.

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

SOCIAL SECURITY NUMBER OR  
FEDERAL IDENTIFICATION NUMBER  
OF ASSIGNEE

\_\_\_\_\_

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

[Form of Abbreviations]

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

TEN COM - as tenants in common

TEN ENT - as tenants by the entireties

JT TEN - as joint tenants with the right of survivorship and not as tenants in common

UNIFORM TRANS MIN ACT - \_\_\_\_\_ Custodian for \_\_\_\_\_ (Cust.) (Minor) under Uniform Transfers to Minors Act of \_\_\_\_\_ .

(State)

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

EXHIBIT "A"

Principal Repayment Schedule

[TO BE PROVIDED BY BANK]

EXHIBIT "B"

LOAN AGREEMENT

THIS LOAN AGREEMENT is entered into as of this \_\_\_ day of June, 2001, by and between REPUBLIC SECURITY BANK, a state banking association ("Republic), and the TOWN OF SOUTHWEST RANCHES, a Florida municipal corporation (the "Town").

In consideration of the mutual covenants and conditions hereinafter set forth, the parties hereto agree as follows:

**SECTION 1. DEFINITIONS.** As used herein, unless the context otherwise requires:

"Act" means, as applicable, Article VIII, Section 2 of the Constitution of the State of Florida, Chapter 166, Florida Statutes, the Charter of the Town of Southwest Ranches, Resolution No. 2001-59 adopted by the Town on May 24, 2001, and other applicable provisions of law.

"Agreement" means this Loan Agreement between Republic and the Town, as it may be amended from time to time.

"Annual Budget" means the annual budget prepared by the Town for each Fiscal Year in accordance with Section 9 below and in accordance with the laws of the State of Florida.

"Business Day" means any day which is not a Saturday, Sunday or legal holiday in Broward County, Florida.

"Chief Financial Officer" means the chief financial officer of the Town as defined in Section 218.403, Florida Statutes.

"Clerk" means the Town Clerk or any Deputy Clerk of the Town.

"Code" means the Internal Revenue Code of 1986, as amended, including the applicable regulations of the Department of the Treasury (including applicable final regulations, temporary regulations and proposed regulations), the applicable rulings of the Internal Revenue Service (including published Revenue Rulings and private letter rulings) and applicable court decisions.

"Costs of the Project" means with respect to the Project, all items of cost authorized by the Act, including the costs of issuance of the Note.

"Dated Date" means the date of issuance of the Note.

"Fiscal Year" means the period commencing on October 1 of each year and ending on the succeeding September 30, or such other consecutive 12-month period as may be hereafter designated as the fiscal year of the Town pursuant to general law.

"Franchise Fees" means the amounts received by the Town pursuant to

**TERM:**

Option 1	Option 2	Option 3
10 year amortization with 5 year call date**	10 year amortization	10 year amortization

\*\*Notwithstanding anything herein to the contrary, the Lender may, at its sole option, upon at least ninety (90) calendar days' prior written notice to the Borrower, declare the outstanding principal of any Note, any accrued and unpaid interest thereon and any other amount due hereunder to be due and payable in full as of the 5 year anniversary date (the "Call Date") of such Note. A failure to call this Note on any one Call Date shall not adversely affect the right of the Lender to call any Note on any subsequent Call Date.

**COLLATERAL:** Assignment of franchise fees and utility fees paid to the Town of Southwest Ranches

**DEPOSIT RELATIONSHIP:** Borrower to maintain primary deposit relationship with Republic Security Bank.

**PRE-PAYMENT PENALTY:**

Option 1	Option 2	Option 3
<u>1<sup>st</sup> year of loan term</u> Pre-payments in the first year of the loan may not exceed 10% of the outstanding principal balance or a 3% penalty will be applied by the Bank on the amount pre-paid.	<u>1<sup>st</sup> year of loan term</u> Pre-payments in the first year of the loan may not exceed 10% of the outstanding principal balance or a 1% penalty will be applied by the Bank on the amount pre-paid.	<u>1<sup>st</sup> year of loan term</u> None
<u>2<sup>nd</sup> year of loan term</u> Pre-payments in the second year of the loan may not exceed 10% of the outstanding principal balance or a 2% penalty will be applied by the Bank on the amount pre-paid.	<u>2<sup>nd</sup> year of loan term</u> None	<u>2<sup>nd</sup> year of loan term</u> None

John Canada  
Town Administrator  
Town of Southwest Ranches  
April 24, 2001  
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<u>3<sup>rd</sup> year of loan term</u>	<u>3<sup>rd</sup> year of loan term</u>	<u>3<sup>rd</sup> year of loan term</u>
Pre-payments in the second year of the loan may not exceed 10% of the outstanding principal balance or a 1% penalty will be applied by the Bank on the amount pre-paid.	None	None

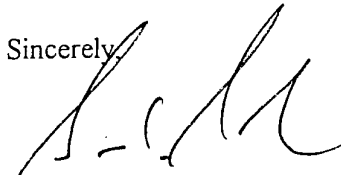
**OTHER TERMS:** The town will agree not to assign their utility and franchise fees until this loan is paid in full.

Documentation: All terms of this proposal would be subject to, among other things, Republic Security Bank's normal due diligence, credit approval process, and standard documentation requirements, including without limitation the following, each acceptable in all respects to Republic Security Bank.

- Agreement to Appropriate
- Promissory Note
- Letter of opinion from Town's attorney stating the Town is eligible to borrow and that the transaction is tax exempt.
- Other documentation as Republic Security Bank deems necessary

Should you have any questions or need any further information please feel free to call me at (954) 762-8908.

Sincerely,



Steven C. Schultz  
Unit Vice President