

R-16-054

MANATEE COUNTY, FLORIDA

REVENUE IMPROVEMENT NOTES, SERIES 2016

NOTE RESOLUTION

Adopted April 12, 2016

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RESOLUTION NO. R-16-054

A RESOLUTION OF THE BOARD OF COUNTY COMMISSIONERS OF MANATEE COUNTY, FLORIDA, AUTHORIZING THE ISSUANCE OF A SERIES OF NOTES IN THE INITIAL AGGREGATE PRINCIPAL AMOUNT OF NOT EXCEEDING \$36,000,000 AND DESIGNATED MANATEE COUNTY, FLORIDA, REVENUE IMPROVEMENT NOTES, SERIES 2016 (THE "NOTES") TO FINANCE ALL OR A PORTION OF THE COSTS OF CERTAIN CAPITAL PROJECTS; AUTHORIZING THE NEGOTIATED PRIVATE PLACEMENT OF THE NOTES WITH BANK OF AMERICA, N.A. (THE "LENDER"); APPROVING THE FORM OF AND AUTHORIZING THE EXECUTION AND DELIVERY OF A LOAN AGREEMENT BETWEEN THE COUNTY AND THE LENDER; AUTHORIZING THE CLERK TO MAKE CERTAIN DETERMINATIONS WITH RESPECT TO THE NOTES SUBJECT TO THE PARAMETERS SET FORTH IN THIS RESOLUTION; APPOINTING A PAYING AGENT AND REGISTRAR; PROVIDING FOR THE TERMS AND PAYMENT OF SUCH NOTES; PROVIDING FOR THE RIGHTS, SECURITY AND REMEDIES OF THE LENDER THEREOF; MAKING CERTAIN COVENANTS AND AGREEMENTS IN CONNECTION THEREWITH; PROVIDING FOR CERTAIN OTHER MATTERS IN CONNECTION THEREWITH; PROVIDING FOR SEVERABILITY; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, Manatee County, Florida, a political subdivision of the State of Florida (the "County") initiated a request for proposals ("RFP") from certain lending institutions to finance certain capital projects described on Exhibit "A" attached hereto; and

WHEREAS, in order to finance the Project, the County solicited financing proposals from various lending institutions, and as a result, Bank of America, N.A. (the "Lender") provided the overall best proposal to provide financing for the Project the County has elected to finance, taking into account interest rate and the term of the loan (the "Loan"); and

WHEREAS, such Loan will be evidenced by a loan agreement (the "Loan Agreement") in substantially the form attached hereto as Exhibit "B," by and between the County and the Lender, and the obligations of the County under the Loan Agreement to repay the Loan will be evidenced by the County issuing its Revenue Improvement Notes, Series 2016, in the initial aggregate principal amount of not exceeding \$36,000,000 (the "Notes"); and

WHEREAS, the Notes will be issued pursuant to the terms and provisions of this Resolution and the Loan Agreement.

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF COUNTY COMMISSIONERS OF MANATEE COUNTY, FLORIDA, AS FOLLOWS:

ARTICLE I
DEFINITIONS, FINDINGS AND STATUTORY AUTHORITY

Section 1. DEFINITIONS. In addition to the terms heretofore defined in the recitals set forth above, the following terms shall have the following meanings:

“ACT” shall mean the Constitution of the State of Florida, Part I of Chapter 125, Florida Statutes, as amended and supplemented, and other applicable provisions of law.

“AUTHORIZED DENOMINATION” shall mean, unless the County agrees otherwise, the Outstanding principal amount of the Notes.

“BOARD” shall mean the Board of County Commissioners of Manatee County, Florida, the governing body of the County.

“BOND COUNSEL” shall mean a firm or firms of nationally recognized attorneys-at-law selected by the County and experienced in the financing and refinancing of capital projects for governmental units through the issuance of tax-exempt revenue obligations under the exemption provided under Section 103(a) of the Code.

“NOTEHOLDER,” “HOLDER OF NOTES,” “OWNER,” “OWNERS,” “REGISTERED OWNERS” or any similar term, shall mean any person who shall be the registered owner of any Note or Notes Outstanding under the terms of this Resolution.

“NOTES” shall mean the County’s Revenue Improvement Notes, Series 2016.

“BUSINESS DAY” shall mean any day other than a Saturday, Sunday, legal holiday or a day on which the Payment Office of the Lender is lawfully closed.

“CLERK” shall mean the Clerk of the Board and Chief Financial Officer of the County, or such person who is authorized to act on her behalf.

“CODE” shall mean the Internal Revenue Code of 1986, as amended, and all subsequent tax legislation duly enacted by the Congress of the United States. Each reference to a section of the Code herein shall be deemed to include, if applicable, temporary or proposed regulations, revenue rulings and proclamations issued or amended with respect thereto.

“COUNTY” shall mean Manatee County, a political subdivision of the State of Florida.

“DEBT SERVICE FUND” shall mean that certain fund by that name created in Section 4.C of Article III hereof.

“DEFEASANCE OBLIGATIONS” shall mean any bonds or other obligations which constitute direct obligations of, or as to principal and interest are unconditionally guaranteed by, the United States of America including obligations of any federal agency or corporation to the extent unconditionally guaranteed by the United States of America.

“FISCAL YEAR” shall mean that period commencing on October 1 and continuing to and including the next succeeding September 30, or such other annual period as may be prescribed by law as the fiscal year of the County.

“INTEREST PAYMENT DATE” shall have the meaning set forth in the Loan Agreement.

“NON-AD VALOREM REVENUES” shall mean all revenues of the County derived from any source whatever other than ad valorem taxation on real and personal property, which are legally available for payment of debt service by the County.

“OUTSTANDING” shall mean, when used with reference to the Notes, as of any particular date, all Notes theretofore, or thereupon being, authenticated and delivered by the

Registrar under this Resolution, except (i) Notes theretofore or thereupon canceled by the Registrar or surrendered to the Registrar for cancellation; (ii) Notes with respect to which all liability of the County shall have been discharged in accordance with Article III, Section 4.H of this Resolution; (iii) Notes in lieu of or in substitution for which other Notes shall have been authenticated and delivered by the Registrar pursuant to any provision of this Resolution; (iv) Notes canceled because of prepayment prior to maturity; and (v) Notes held or purchased by the County, unless the County intends as evidenced by written communication to the Registrar that such Notes shall remain Outstanding.

“PAYING AGENT” shall mean the office of the Clerk, or if the Board shall so determine by subsequent proceedings, a bank or trust company appointed by subsequent proceedings of the Board to act as Paying Agent hereunder.

“PAYMENT OFFICE OF THE LENDER” shall have the meaning set forth in the Loan Agreement.

“PERMITTED INVESTMENTS” shall mean (i) U.S. Obligations and (ii) all other investments permitted under the laws of Florida.

“PLEDGED REVENUES” shall mean (i) the Non-Ad Valorem Revenues deposited in the Debt Service Fund created and established under this Resolution, (ii) investment income received from the investment of moneys in the Debt Service Fund, and (iii) any other moneys deposited in the Debt Service Fund or received by the Paying Agent in connection with the repayment of the Notes.

“PROJECT” shall mean the capital projects described on Exhibit “A” attached hereto.

“REGISTRAR” shall mean the office of the Clerk, or if the Board shall so determine by subsequent proceedings, any bank or trust company appointed by subsequent proceedings of the Board to act as Registrar hereunder.

“RESOLUTION” shall mean this Resolution as the same may from time to time be amended and supplemented in accordance with the terms hereof.

“TAX CERTIFICATE” shall mean the certificate as to arbitrage and instructions as to compliance with the provisions of Section 103(a) of the Code, executed by the County on the date of initial issuance and delivery of the Notes, as such Tax Certificate may be amended from time to time, and which serves as a source of guidance for achieving compliance with the Code.

“U.S. OBLIGATIONS” shall mean direct obligations of, or obligations the timely payment of principal of and interest on which are unconditionally guaranteed by, the United States of America, and, if determined by subsequent proceedings of the Board, certificates which evidence ownership of the right to the payment of the principal of, or interest on, such obligations.

Words of the masculine gender shall be deemed and construed to include correlative words of the feminine and neuter genders. Words importing the singular number shall include the plural number and vice versa unless the context shall otherwise indicate. The word “person” shall include corporations, associations, natural persons and public bodies unless the context shall otherwise indicate. Reference to a person other than a natural person shall include its successors.

Section 2. FINDINGS. It is hereby ascertained, determined and declared:

A. That the recitals hereinbefore mentioned are hereby adopted.

B. That the Board deems it necessary, desirable and in the best interest of the

citizens and residents of the County to issue the Notes to provide the funds necessary, together

with other legally available moneys, to finance all or a portion of the Project, as described on Exhibit “A.”

C. That the principal of and interest on the Notes to be issued pursuant to this Resolution will be paid from the Pledged Revenues, all as provided herein; and the ad valorem taxing power of the County will never be necessary or authorized to pay the principal of and interest on the Notes to be issued pursuant to this Resolution; and the Notes issued pursuant to this Resolution shall not constitute a lien upon any property whatsoever of or in the County and shall not be an indebtedness of the County within the meaning of any Constitutional, statutory or other limitation of Indebtedness, but shall be payable solely from the Pledged Revenues.

D. That the Pledged Revenues will be sufficient to pay the principal of and interest on the Notes to be issued pursuant to this Resolution, as the same becomes due and payable and any other payments provided for in this Resolution.

E. That the Board hereby determines, based on the nature of the financing of the Project, volatility in the capital markets and timing issues, that it will be in the best economic interest of the County to obtain the Loan from the Lender pursuant to the Loan Agreement and to evidence the Loan by the issuance of the Notes and private placement thereof to the Lender.

F. That the final terms of the Loan and the Notes, if not set forth in this Resolution, shall be set forth in the Loan Agreement, subject to the parameters set forth herein.

Section 3. AUTHORITY FOR THIS RESOLUTION. This Resolution is adopted pursuant to the Act.

Section 4. RESOLUTION CONSTITUTES CONTRACT. In consideration of the acceptance of the Notes authorized to be issued hereunder by those who shall hold the same from time to time, this Resolution shall be deemed to be and shall constitute a contract between the

County and such Owners and the covenants and agreements herein set forth to be performed by said County shall be for the equal benefit, protection and security of the Owners of any and all of such Notes all of which shall be of equal rank and without preference, priority, or distinction of any of the Notes over any other thereof except as expressly provided therein and herein.

ARTICLE II
AUTHORIZATIONS, TERMS, EXECUTION AND REGISTRATION OF NOTES

Section 1. AUTHORIZATION OF NOTES. Subject and pursuant to the provisions of this Resolution, obligations of the County to be known as “Revenue Improvement Notes, Series 2016,” are hereby authorized to be issued in the initial aggregate principal amount of not exceeding THIRTY-SIX MILLION DOLLARS (\$36,000,000) (the “Notes”), to be issued, delivered and secured as provided herein. The Notes shall be issued for the purpose described in Section 2 of Article I hereof and to pay all or a portion of the cost of issuing the Notes. The actual principal amount of the Notes shall be equal to the initial principal amount of the Loan and such amount shall be set forth in the executed Notes and in the Loan Agreement.

Section 2. GENERAL DESCRIPTION OF NOTES. The Notes shall be issued in registered certificated form, shall be in the denomination equal to the principal amount of the Notes so issued and shall, subject to earlier prepayment, mature on the maturity date set forth in the Loan Agreement. Principal shall be payable at the designated office of the Paying Agent.

The Notes (initially issued in one (1) typewritten certificate) shall be dated the date of initial issuance of such Notes. The Notes shall bear interest on the outstanding principal amount of the Notes at the interest rate or rates per annum determined in accordance with the Loan Agreement. Interest on the Notes shall be payable on the interest payment dates set forth in the Loan Agreement. Unless all of the Notes are earlier redeemed or prepaid in accordance with the terms of the Loan Agreement, the Outstanding principal of the Notes shall be payable at maturity.

Principal of and interest on the Notes shall be payable at the office of the Paying Agent (the designated corporate trust office of the Paying Agent if the office of the Clerk is not the Paying Agent). The Notes shall be numbered in such manner as may be prescribed by the Registrar.

The Notes shall be payable, with respect to interest and principal, 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.

Notwithstanding the foregoing, if all of the Notes are registered in the name of the Lender, payment shall be effected by payment to the Lender of the principal and interest then due without surrender of the Note; including prepayments, such payment to be evidenced by the records of the County and the Lender and such records shall be conclusive and binding upon the County and the Lender absent manifest error. Payment to the Lender shall be made by wire transfer in accordance with instructions provided by the Lender or in such other manner as agreed upon by the County and the Lender.

Upon a prepayment in whole, the County understands that the Lender will promptly thereafter surrender the Notes to the County marked "satisfied" or "paid in full." If, on the prepayment date, funds for the payment of the principal amount to be prepaid, together with accrued and unpaid interest to the prepayment date on such principal amount, shall have been provided to the Owner, as above provided, then from and after the prepayment date interest on such principal amount of the Notes which are prepaid shall cease to accrue. If said funds shall not have been so paid on the prepayment date, the principal amount of such Notes shall continue to bear interest until payment thereof at the applicable interest rate determined in accordance with the Loan Agreement.

Section 3. EXECUTION OF NOTES. The Notes shall be executed in the name of the County by the signature of the Chairperson of the Board, and its official seal shall be affixed thereto or imprinted or reproduced thereon and attested by the Clerk. The signatures of said Chairperson and Clerk on the Notes may be manual or facsimile signatures. In case any one or more of the officers who shall have signed or sealed any of the Notes shall cease to be such officer of the County before the Notes so signed and sealed shall have been actually sold and delivered, such Notes may nevertheless be sold and delivered as herein provided and may be issued as if the person who signed or sealed such Notes had not ceased to hold such office. Any Note may be signed and sealed on behalf of the County by such person who at the actual time of the execution of such Note shall hold the proper office, although at the date such Notes shall be actually delivered such person may not hold office or may not be so authorized.

The Notes shall bear thereon a certificate of authentication, in the form set forth in the Loan Agreement, executed manually by the Registrar. Only such Notes as shall bear thereon such certificate of authentication shall be entitled to any right or benefit under this Resolution, and no Note shall be valid or obligatory for any purpose until such certificate of authentication shall have been duly executed by the Registrar. Such certificate of the Registrar upon any Note executed on behalf of the County shall be conclusive evidence that the Note has been so authenticated and that the Owner thereof is entitled to the benefits of this Resolution.

Section 4. NEGOTIABILITY, REGISTRATION AND CANCELLATION. At the option of the registered owner thereof and upon surrender thereof at the designated corporate trust office of the Registrar with a written instrument of transfer satisfactory to the Registrar duly executed by the registered owner or its duly authorized attorney and upon payment by such Owner of any charges which the Registrar may make as provided in this Section, the Notes may be

exchanged for Notes of the same maturity of any other Authorized Denominations if the County has consented to any other Authorized Denomination.

The Registrar shall keep books for the registration of Notes and for the registration of transfers of Notes. Subject to the next succeeding sentences, the Notes shall be transferable by the Owner thereof in person or by his attorney duly authorized in writing only upon the books of the County kept by the Registrar and only upon surrender thereof together with a written instrument of transfer satisfactory to the Registrar duly executed by the Owner or his duly authorized attorney. The Notes are only transferable to an “accredited investor” within the meaning of Rule 501 of the Securities Act of 1933, as amended and supplemented (the “33 Act”) or a qualified institutional buyer under Rule 144A of the 33 Act, and upon surrender thereof at the office of the Registrar (the designated corporate trust office of the Registrar if the office of the Clerk is not the Registrar) with a written instrument of transfer satisfactory to the Registrar duly executed by the registered Owner or his duly authorized attorney. Upon the transfer of any such Note, the County shall issue in the name of the transferee a new Note or Notes. There shall only be one (1) Owner of the Notes at any one time.

The County, the Paying Agent and the Registrar shall deem and treat the person in whose name any Note shall be registered upon the books kept by the Registrar as the absolute Owner of such Note, whether such Note shall be overdue or not, for the purpose of receiving payment of, or on account of, the principal of and interest on such Note as the same become due and for all other purposes. All such payments so made to any such Owner or upon his order shall be valid and effectual to satisfy and discharge the liability such Note to the extent of the sum or sums so paid, and neither the County, the Paying Agent nor the Registrar shall be affected by any notice to the contrary.

In all cases in which the privilege of exchanging Notes or transferring Notes is exercised, the County shall execute, and the Registrar shall authenticate and deliver, Notes in accordance with the provisions of this Resolution. All Notes surrendered in any such exchanges or transfers shall forthwith be delivered to the Registrar and canceled by the Registrar in the manner provided in this Section. There shall be no charge for any such exchange or transfer of Notes, but the County or the Registrar may require the payment of a sum sufficient to pay any tax, fee or other governmental charge required to be paid with respect to such exchange or transfer.

All Notes paid at or before maturity shall be delivered to the Registrar when such payment is made, and such Notes, together with all Notes purchased by the County with the intent of cancellation, shall thereupon be promptly canceled. Notes so canceled may at any time be destroyed by the Registrar, who shall execute a certificate of destruction in duplicate by the signature of one of its authorized officers described by the Notes so destroyed, and one executed certificate shall be filed with the County, and the other executed certificate shall be retained by the Registrar.

Section 5. NOTES MUTILATED, DESTROYED, STOLEN OR LOST. In case any Note shall become mutilated, destroyed, stolen or lost, the County may execute and the Registrar shall authenticate and deliver a new Note of like series, date, maturity and denomination as the Note so mutilated, destroyed, stolen or lost; provided that, in the case of any mutilated Note, such mutilated Note shall first be surrendered to the County and, in the case of any lost, stolen or destroyed Note, there shall first be furnished to the County and the Registrar evidence of such loss, theft, or destruction satisfactory to the County and the Registrar, together with indemnity satisfactory to them. In the event any such Note shall be about to mature or have matured instead of issuing a duplicate Note, the County may pay the same without surrender thereof. The County

and the Registrar may charge the Owner of such Note their reasonable fees and expenses in connection with this transaction. Any Note surrendered for replacement shall be canceled in the same manner as provided in Section 4 of this Article II.

Any such duplicate Notes issued pursuant to this Section shall constitute additional contractual obligations on the part of the County, whether or not the lost, stolen or destroyed Notes be at any time found by anyone, and such duplicate Notes shall be entitled to equal and proportionate benefits and rights as to lien on and source and security for payment from the Pledged Revenues with all other Notes issued hereunder.

Section 6. FORM OF NOTES. The Notes shall be typewritten on “safety” paper. The text of the Notes shall be of substantially the form attached as Exhibit A to the Loan Agreement.

Section 7. NEGOTIATED SALE OF NOTES; DELEGATION OF AUTHORITY; PARAMETERS. The Board hereby finds that, due to the volatile market conditions and in order to efficiently finance the Project, in whole or in part, it would be in the best interest of the County that the Notes be sold on a negotiated private placement basis. The County’s Financial Advisor shall file with the Clerk a written summary of the final details of the Notes. Such written summary shall be entered into Board records as an attachment to this Resolution. Notwithstanding anything in this Section 7 to the contrary, the County has the absolute right, in its sole discretion, to not execute the Loan Agreement and issue the Notes and no contract between the County and the Lender, either expressed or implied, is intended before the Loan Agreement and the Notes are executed.

Section 8. LOAN AGREEMENT. The form, terms and provisions of the Loan Agreement for the making of the Loan consistent with the provisions of this Resolution substantially in the form attached hereto as Exhibit “B” between the County and the Lender, as

submitted to this meeting, is hereby approved and accepted. The Chairperson or the Vice Chairperson, in the absence of the Chairperson, are each hereby authorized and directed to execute and deliver the Loan Agreement in the form submitted to this meeting, with such changes, insertions and deletions thereto as are necessary or desirable for carrying out the purposes thereof as may be approved by the Chairperson or the Vice Chairperson, in the absence of the Chairperson, upon the advice of the County Attorney and Bond Counsel, the execution of said Loan Agreement and delivery to the Lender being conclusive evidence of such approval.

ARTICLE III
COVENANTS, FUNDS AND APPLICATION THEREOF

Section 1. NOTES NOT TO BE INDEBTEDNESS OF THE COUNTY. The Notes shall not be or constitute an indebtedness of the County within the meaning of any Constitutional, statutory or other limitation or indebtedness, but shall be payable solely from a lien on and pledge of the Pledged Revenues. No Owner or Owners of any Notes issued hereunder shall ever have the right to compel the exercise of the ad valorem taxing power of the County, or taxation in any form on any real property therein to pay the Notes or the interest thereon.

It is further agreed between the County and the Noteholders that the Notes and the obligations evidenced thereby shall not constitute a lien upon the Project or on any other property of or in the County, but shall constitute a lien only on the Pledged Revenues pledged thereto, all in the manner provided in this Resolution.

Section 2. NOTES SECURED BY LIEN ON AND PLEDGE OF THE PLEDGED REVENUES. The payment of the principal of and interest on all of the Notes issued hereunder shall be secured forthwith equally and ratably by a lien on and pledge of the Pledged Revenues in an amount sufficient to pay the principal of and interest on the Notes, herein authorized, and to

make the required payments into the Debt Service Fund, hereinafter created, and all other payments provided for in this Resolution as the same become due and payable.

THE NOTES DO NOT CONSTITUTE A GENERAL OBLIGATION OR INDEBTEDNESS, OR A PLEDGE OF THE FAITH, CREDIT OR TAXING POWER, OF THE COUNTY OR OF THE STATE OF FLORIDA OR ANY AGENCY OR POLITICAL SUBDIVISION THEREOF, BUT ARE A LIMITED, SPECIAL OBLIGATION OF THE COUNTY, THE PRINCIPAL OF, PREMIUM, IF ANY, AND INTEREST ON WHICH ARE PAYABLE FROM AND SECURED SOLELY BY THE PROCEEDS OF THE PLEDGED REVENUES. NEITHER THE COUNTY, THE STATE OF FLORIDA, NOR ANY AGENCY OR POLITICAL SUBDIVISION THEREOF WILL BE OBLIGATED (1) TO EXERCISE ITS AD VALOREM TAXING POWER OR ANY OTHER TAXING POWER IN ANY FORM ON ANY REAL OR PERSONAL PROPERTY TO PAY THE PRINCIPAL OF, PREMIUM, IF ANY, OR INTEREST ON THE NOTES, OR OTHER COSTS INCIDENT THERETO, OR (2) TO PAY THE SAME FROM ANY FUNDS OF THE COUNTY EXCEPT FROM THE PROCEEDS OF THE PLEDGED REVENUES DESCRIBED HEREIN. THE LOAN DOES NOT CONSTITUTE A LIEN UPON THE PROJECT OR ANY OTHER PROPERTY OF OR IN THE COUNTY BUT CONSTITUTE A LIEN ONLY ON THE PROCEEDS OF THE PLEDGED REVENUES IN THE MANNER DESCRIBED HEREIN.

Section 3. APPLICATION OF NOTE PROCEEDS. All moneys received by the County from the sale of the Notes authorized and issued pursuant to this Resolution shall be disbursed in the following manner:

A. The net proceeds derived from the sale of the Notes shall be deposited as received from time to time in a fund in a bank or trust company in the State which is eligible under

State laws to receive deposits of County funds, which fund is hereby created, established and designated as the "Construction Fund" together with other moneys lawfully available therefor, if any. There is hereby created and established in the Construction Fund a separate line item to be known as the "Cost of Issuance Cost Center," into which shall be deposited on the date of original issuance and delivery of the Notes an amount sufficient to pay the costs of issuance of the Notes, unless the County elects to pay all costs of issuance of the Notes from another source. No withdrawals shall be made from the Construction Fund in an amount in excess of \$75,000 at any one time, except for amounts in the Cost of Issuance Cost Center without the written approval of the Clerk or her designee, and only upon receipt of a written requisition executed by the duly authorized official of the County responsible for the construction management of the Project, specifying the purpose for which such withdrawal is to be made and certifying that such purpose is one of the purposes provided for in Exhibit "A" attached hereto. If, for any reason, the moneys in the Construction Fund, or any part thereof, are not necessary for, or are not applied to, the purposes of completion of the Project, as such Project may be changed by subsequent proceedings of the Board, then such surplus proceeds shall be deposited, upon certification of the Clerk, that such surplus proceeds are not needed for the purposes of the Construction Fund, in the following order:

1. First, to the Debt Service Account in the amounts determined by subsequent proceedings of the Board; and
2. Second, the balance, if any, to the County to be used for any lawful capital purpose.

The moneys deposited in the Construction Fund may, pending their use for the purposes provided in this Resolution, be temporarily invested in Permitted Investments maturing not later

than the dates on which such moneys will be needed for the purposes of the Construction Fund. Subject to the provisions of the Code and the Tax Certificate, all the earnings and investment income from such investments shall remain in and become a part of said Construction Fund and be used for the purposes of the Construction Fund.

Any moneys received by the County from the State or from the United States of America or any agencies thereof for the purpose of financing any part of the Project, may be deposited in the Construction Fund and used in the same manner as the Note proceeds are used therein; provided, however, that such moneys shall not be so deposited in the event and to the extent that the County has incurred debt or has effected an inter-fund loan in anticipation of the receipt of such moneys; and provided further, that separate accounts may be established in the Construction Fund for moneys received pursuant to the provisions of this paragraph whenever required by federal or State regulations.

All of the proceeds from the sale of the Notes deposited hereunder shall be and constitute trust funds for the purposes hereinabove provided, and there is hereby created a lien upon such moneys, until so applied, in favor of the Owners of the Notes.

Section 4. COVENANTS OF THE COUNTY. As long as any of the principal of, any premium or interest on any of the Notes shall be outstanding and unpaid, the County covenants with the Owners of any and all of the Notes issued pursuant to this Resolution as follows:

A. Covenant to Budget and Appropriate. The County hereby covenants to appropriate in its annual budget, by amendment if required, in each Fiscal Year, Non-Ad Valorem Revenues sufficient to pay the principal of, any premium and interest on the Notes, as the same become due and payable. Notwithstanding the foregoing, the County does not covenant to maintain

any services or programs, now provided or maintained by the County, which generate Non-Ad Valorem Revenues.

To the extent that the County is in compliance with the covenant contained above and the covenants set forth in Paragraph E of this Section 4, and has budgeted and appropriated in each Fiscal Year Non-Ad Valorem Revenues sufficient to pay the principal of and interest on the Notes as the same become due and payable, this Resolution and the obligations of the County contained herein shall not be construed as a limitation on the ability of the County to pledge or covenant to pledge its Non-Ad Valorem Revenues for other legally permissible purposes.

Upon deposit of Non-Ad Valorem Revenues appropriated in each Fiscal Year into the Debt Service Fund, such Non-Ad Valorem Revenues shall become Pledged Revenues, and the Holders of the Notes shall have a first lien on such Pledged Revenues until the principal of, any premium and interest on the Notes shall be paid or deemed paid within the meaning of this Resolution.

B. Tax Covenant.

1. In order to maintain the exclusion of the interest on the Notes from gross income for federal income tax purposes pursuant to Section 103(a) of the Code, and for no other purpose, the County covenants to comply with each applicable requirement of the Code. In furtherance of the covenant contained in the preceding sentence, the County agrees to comply with the provisions of the Tax Certificate executed by the County on the date of initial issuance and delivery of the Notes.

2. The County covenants that the County shall make any and all payments required to be made to the United States Department of the Treasury in connection with

the Notes pursuant to Section 148(f) of the Code from amounts on deposit in the fund and accounts established in connection with the Notes or from other legally available funds of the County.

3. Notwithstanding any other provision of this Resolution to the contrary, as long as necessary in order to maintain the exclusion of the interest on the Notes from gross income for federal income tax purposes, the covenants contained in this Section shall survive the payment of the Notes and the interest thereon, including any payment or discharge thereof pursuant to Section 4.H. of this Article III.

C. Establishment of the Debt Service Fund. There is hereby created and established with the Clerk: a Debt Service Fund. The Debt Service Fund shall constitute a trust fund for the benefit of the Holders of the Notes until so applied in accordance with the terms hereof.

D. Disposition of Pledged Revenues. The Clerk shall deposit the Non-Ad Valorem Revenues budgeted and appropriated into the Debt Service Fund at such times (but in no case later than the Business Day next preceding an Interest Payment Date) and in such amounts as shall be sufficient to make full and timely payments of the principal of and interest on the Notes, as the same become due and payable, in each year that the Notes are outstanding and unpaid. The Clerk may invest the moneys on deposit in the Debt Service Fund in Permitted Investments to mature not later than such times as shall be necessary to pay debt service on the Notes (whether at maturity, by prepayment, or otherwise).

E. Additional Debt of the County Payable from Non-Ad Valorem Revenues. In each Fiscal Year, the County will not issue non-self-supporting revenue debt of the County payable from its Non-Ad Valorem Revenues unless: (i) the total outstanding maximum annual non-self-supporting revenue debt service, including the non-self supporting revenue debt service

on the debt proposed to be issued, does not exceed fifty percent (50%) of the gross Non-Ad Valorem Revenues (all legally available Non-Ad Valorem Revenues of the County from whatever source including investment income) of the County received by the County in the immediately preceding Fiscal Year; (ii) the gross Non-Ad Valorem Revenues for the preceding Fiscal Year were at least 4.00 times average annual debt service of all indebtedness of the County payable from its Non-Ad Valorem Revenues, including the debt proposed to be issued, in the current and all future Fiscal Years, and (iii) the net available Non-Ad Valorem Revenues of the County for the preceding Fiscal Year were at least 1.10 times average annual debt service of all indebtedness of the County payable from its Non-Ad Valorem Revenues including the debt proposed to be issued.

As used above, the term “non-self-supporting revenue debt” shall mean all revenue debt obligations in whatever form except such revenue debt obligations which are payable from a specific enterprise fund or are otherwise self-liquidating, and the term “net available Non-Ad Valorem Revenues” shall mean “gross Non-Ad Valorem Revenues,” as defined above, minus costs of operation and maintenance obligations of the County (except any such costs paid from ad valorem taxes) plus legally available unencumbered cash balances on hand at the end of the most recent Fiscal Year.

Except as provided below, for the purpose of calculating average annual debt service on any indebtedness which bears interest at a variable rate, such indebtedness shall be deemed to bear interest at the greater of (i) 1.25 times the most recently published Bond Buyer Revenue Bond 30-Year Index, or (ii) 1.25 times actual average interest rate during the prior Fiscal Year of the County. If such variable rate indebtedness is to be secured by the County’s covenant to budget and appropriate Non-Ad Valorem Revenues and in lieu of cash, any debt service

reserve fund for such indebtedness is funded with a reserve surety or letter of credit, such indebtedness shall be deemed to bear interest at the maximum rate.

As used above, the term “maximum rate” means the maximum rate of interest such variable rate debt may bear at any particular time, which rate shall not exceed the rate of interest allowed under Florida law and will be determined by the County at the time such variable rate debt is issued.

The County covenants to comply with any other anti-dilution tests it is subject to in connection with the use of its Non-Ad Valorem Revenues.

F. Books and Records. The County will keep books and records of each Fiscal Year of the receipt of its Non-Ad Valorem Revenues in accordance with generally accepted accounting principles for government units, and any Owner or Owners of Notes issued pursuant to this Resolution shall have the right at all reasonable times to inspect the records, accounts and data of the County relating thereto.

The County covenants that within two hundred seventy (270) days of the close of each Fiscal Year it will cause to be prepared and filed with the Clerk and mailed to all Owners who shall have filed their names and addresses with the Clerk for such purpose a statement setting forth in respect of the preceding Fiscal Year:

1. the total amounts deposited to the credit of the Debt Service Fund created under the provisions of this Resolution;
2. the principal amount of all Notes paid, purchased or redeemed; and
3. the amounts on deposit at the end of such Fiscal Year to the credit of the Debt Service Fund.

G. Remedies. Any Owner of Notes or any trustee acting for such Owners in the manner hereinafter provided, may either at law or in equity, by suit, action, mandamus or other proceedings in any court of competent jurisdiction, protect and enforce any and all rights under the laws of the State of Florida, or granted and contained in this Resolution, and may enforce and compel the performance of all duties required by this Resolution or by any applicable statutes to be performed by the County or by any officer thereof.

The Owner or Owners of Notes in an aggregate principal amount of not less than fifty one per centum (51%) of Notes issued under this Resolution then Outstanding may by a duly executed certificate in writing appoint a trustee for Owners of Notes issued pursuant to this Resolution with authority to represent such Owners in any legal proceedings for the enforcement and protection of the rights of such Owners. Such certificate shall be executed by such Owners or their duly authorized attorneys or representatives, and shall be filed in the office of the Clerk.

Acceleration of the payment of principal of and interest on the Notes shall not be a remedy available to the Owners of the Notes. The County, however, agrees to pay interest on the Notes at the Default Rate established under the Loan Agreement until such Event of Default shall have been cured.

H. Discharge and Satisfaction of Notes. Unless otherwise agreed to by the Lender, in its sole discretion, this Section H shall not apply while all of the Notes are owned by the Lender. The covenants, liens and pledges entered into, created or imposed pursuant to this Resolution may be fully discharged and satisfied with respect to the Notes in anyone or more of the following ways:

1. by paying the principal of and interest on Notes when the same shall become due and payable;

2. by depositing in the Debt Service Fund or such other funds or accounts which are irrevocably pledged to the payment of the Notes as the County may hereafter create and establish by proper proceedings moneys which, together with other moneys lawfully available therefor and deposited therein, if any, shall be sufficient at the time of such deposit to pay the principal of the Notes and the interest thereon as the same become due on said Notes on or prior to the maturity date thereof; or

3. by depositing in the Debt Service Fund or such other funds or accounts which are irrevocably pledged to the payment of the Notes as the County may hereafter create and establish by proper proceedings moneys which, together with other moneys lawfully available therefor and deposited therein, if any, when invested in Defeasance Obligations will provide moneys which shall be sufficient to pay the principal of the Notes and interest thereon as the same shall become due on said Notes on or prior to the maturity date thereof.

Notwithstanding the foregoing, all references to the discharge and satisfaction of Notes shall include the discharge of any portion of the Notes.

Upon such payment or deposit in the amount and manner provided in this Section 4.H, the Notes shall no longer be deemed to be outstanding for the purposes of this Resolution and all liability of the County with respect to the Notes shall cease, terminate and be completely discharged and extinguished, and the Owners thereof shall be entitled for payment solely out of the moneys or securities so deposited.

ARTICLE IV **MISCELLANEOUS PROVISIONS**

Section 1. MODIFICATION OR AMENDMENT. No modification or amendment of this Resolution or of any resolution amendatory thereof or supplemental thereto or of the Loan

Agreement, may be made without the consent in writing of the Owners of 100% in principal amount of the Notes then Outstanding.

Section 2. PURCHASE OF NOTES. The County may at any time purchase any of the Notes at prices not greater than the par amount and accrued interest to the date of purchase.

Section 3. SEVERABILITY OF INVALID PROVISIONS. If any one or more of the covenants, agreements or provisions of this Resolution 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, and shall in no way affect the validity of any of the other provisions of the Resolution or of the Notes issued hereunder.

Section 4. FURTHER AUTHORIZATIONS. The Chairperson of the Board, the Vice Chairperson, the Clerk, the County Administrator, the Financial Management Department Director, and any other authorized official of the County, are hereby authorized and directed to execute and deliver any and all documents and instruments, including but not limited to entering into a paying agent and registrar agreement if so required and to do and cause to be done any and all acts and things necessary or proper for carrying out the transactions contemplated by this Resolution.

Section 5. EFFECTIVE DATE. This Resolution shall take effect immediately upon its adoption.

**MANATEE COUNTY, a political
subdivision of the State of Florida**

By: its Board of County Commissioners

By: _____

Name: Vanessa Baugh
Title: Chairperson

Date: April 12, 2016

ATTEST: ANGELINA COLONNESO
CLERK OF THE CIRCUIT
COURT AND COMPTROLLER

By: _____
Deputy Clerk

EXHIBITS TO RESOLUTION No. R-16-054

Exhibit "A" Description of Project

Exhibit "B" Form of Loan Agreement

EXHIBIT "A"

Description of Project

Project #	Project Name	Debt issue	Debt Service Funding Source

*The County reserves the right to substitute and / or eliminate any of the above for the capital projects

EXHIBIT “B”

Form of Loan Agreement

WPB 383720375v1