

**RESOLUTION NO. 24-\_\_-\_\_**

RESOLUTION SUPPLEMENTING AN AMENDED AND RESTATED TRANSPORTATION FACILITIES BOND RESOLUTION ENTITLED: "A RESOLUTION AMENDING IN CERTAIN RESPECTS AND RESTATING IN ITS ENTIRETY RESOLUTION NO. 86-4-12 OF THE BOARD OF COUNTY COMMISSIONERS OF LEE COUNTY, FLORIDA ADOPTED ON APRIL 10, 1986, ENTITLED: "A RESOLUTION AUTHORIZING THE ISSUANCE BY LEE COUNTY OF NOT EXCEEDING \$100,000,000 IN THE AGGREGATE PRINCIPAL AMOUNT OF TRANSPORTATION FACILITIES REVENUE BONDS, SERIES 1987 TO FINANCE THE COST OF REFUNDING CERTAIN OUTSTANDING OBLIGATIONS OF THE COUNTY AND CONSTRUCTING AND ACQUIRING CERTAIN IMPROVEMENTS TO VARIOUS BRIDGES AND OTHER TRANSPORTATION FACILITIES LOCATED WITHIN THE COUNTY; PLEDGING THE NET REVENUES DERIVED FROM SUCH BRIDGES AND TRANSPORTATION FACILITIES TO SECURE PAYMENT OF THE PRINCIPAL OF AND INTEREST ON SAID BONDS; PROVIDING FOR THE RIGHTS OF THE HOLDERS OF SAID BONDS; PROVIDING FOR THE ISSUANCE OF ADDITIONAL BONDS; AND PROVIDING FOR AN EFFECTIVE DATE FOR THIS RESOLUTION," AUTHORIZING THE REFUNDING OF ALL OR A PORTION OF THE COUNTY'S OUTSTANDING TRANSPORTATION FACILITIES REFUNDING REVENUE BONDS, SERIES 2014; AUTHORIZING THE ISSUANCE OF NOT EXCEEDING \$55,000,000 AGGREGATE PRINCIPAL AMOUNT OF LEE COUNTY, FLORIDA TRANSPORTATION FACILITIES REFUNDING REVENUE BONDS, SERIES 2024 IN ORDER TO REFUND SUCH BONDS; MAKING CERTAIN COVENANTS AND AGREEMENTS IN CONNECTION WITH THE ISSUANCE OF SUCH BONDS; AUTHORIZING A DELEGATED NEGOTIATED SALE OF SAID BONDS; DELEGATING CERTAIN AUTHORITY TO THE CHAIRMAN AND VICE-CHAIRMAN FOR THE AUTHORIZATION, EXECUTION AND DELIVERY OF A BOND PURCHASE AGREEMENT WITH RESPECT THERETO, AND THE APPROVAL OF THE TERMS AND

DETAILS OF SAID BONDS; AUTHORIZING THE DISTRIBUTION OF A PRELIMINARY OFFICIAL STATEMENT AND THE EXECUTION AND DELIVERY OF AN OFFICIAL STATEMENT WITH RESPECT THERETO; APPOINTING THE PAYING AGENT AND REGISTRAR FOR SAID BONDS; AUTHORIZING EXECUTION AND DELIVERY OF AN ESCROW DEPOSIT AGREEMENT AND APPOINTING AN ESCROW AGENT THERETO; AUTHORIZING MUNICIPAL BOND INSURANCE RELATING TO SUCH BONDS; APPROVING THE EXECUTION AND DELIVERY OF A CONTINUING DISCLOSURE CERTIFICATE; AND PROVIDING AN EFFECTIVE DATE.

**BE IT RESOLVED BY THE BOARD OF COUNTY COMMISSIONERS OF LEE COUNTY, FLORIDA:**

**SECTION 1. FINDINGS.** It is hereby found and determined that:

(A) On the date hereof, the Board of County Commissioners of Lee County, Florida (the "Issuer") adopted an Amended and Restated Transportation Facilities Bond Resolution (the "Resolution"), the title of which is quoted in the title of this Supplemental Resolution (as defined in the Resolution), authorizing, among other things, the issuance of bonds for the purpose of financing and refinancing the acquisition and construction of certain transportation related capital improvements within the Issuer, as more particularly described in such Resolution.

(B) Pursuant to Resolution No. 86-4-12, adopted on April 16, 1986, as amended (the "Existing Resolution"), the Issuer has heretofore issued its Lee County, Florida Transportation Facilities Refunding Revenue Bonds, Series 2014 (the "Series 2014 Bonds"), in order to refinance certain transportation related capital improvements within the Issuer.

(C) The Issuer hereby deems it in its best interests to refund all or a portion of the Series 2014 Bonds (collectively, the "Refunded Bonds") in order to achieve debt service savings and in order to make necessary and desirable changes to the Existing Resolution. The specific maturities (or portions thereof) of the Refunded Bonds to be refunded shall be determined by the Chairman, upon the advice of the Issuer's financial advisor, Dunlap & Associates, Inc. (the "Financial Advisor"), in accordance with the provisions hereof and of the Resolution and as shall be set forth in the hereinafter defined Purchase Agreement.

(D) The Resolution provides for the issuance of Additional Bonds for the refunding of the Refunded Bonds upon meeting certain requirements set forth herein and in the Resolution.

(E) There is hereby authorized the payment and refunding of the Refunded Bonds in order to achieve debt service savings and in order to make necessary and desirable changes to the Existing Resolution, all in the manner as provided by this Supplemental Resolution. For the payment and refunding of the Refunded Bonds, the Issuer shall, as provided herein, deposit part of the proceeds derived from the sale of its Series 2024 Bonds, together with other legally available moneys of the Issuer, in an escrow deposit trust fund (the "Escrow Fund"), which, other than a cash deposit, shall be utilized to purchase U.S. Treasury Obligations or other obligations constituting Refunding Securities under the Resolution (the "Refunding Securities"), which shall be sufficient, together with investment earnings thereon and any cash deposit therein, to pay the Refunded Bonds as the same become due and payable or are redeemed prior to maturity, all as provided herein and in the Escrow Deposit Agreement, between the Issuer and U.S. Bank Trust Company, National Association, as Escrow Agent (the "Escrow Deposit Agreement"). Subsequent to the defeasance of the Refunded Bonds, the Refunded Bonds shall no longer be payable from or be secured by any portion of the Pledged Funds (as defined in the Resolution).

(F) The Issuer deems it to be in its best interest to issue its Lee County, Florida Transportation Facilities Refunding Revenue Bonds, Series 2024 (the "Series 2024 Bonds") in order to effect the refunding of the Refunded Bonds.

(G) Due to the potential volatility of the market for tax-exempt obligations such as the Series 2024 Bonds and the complexity of the transactions relating to such Series 2024 Bonds, it is in the best interest of the Issuer to sell the Series 2024 Bonds by a delegated, negotiated sale, allowing the Issuer to enter the market at the most advantageous time, rather than at a specified advertised date, thereby permitting the Issuer to obtain the best possible price and interest rate for the Series 2024 Bonds.

(H) The Issuer anticipates receiving a favorable offer to purchase the Series 2024 Bonds from BofA Securities, Inc., as representative of itself and the other underwriters set forth in the hereinafter described Purchase Agreement (collectively, the "Underwriters"), all within the parameters set forth herein.

(I) Inasmuch as the Issuer desires to sell the Series 2024 Bonds at the most advantageous time and not wait for a scheduled meeting of the Board of County Commissioners of Lee County, Florida (the "Board"), so long as the herein described parameters are met, the Issuer hereby determines to delegate the award and sale of the Series 2024 Bonds to the Chairman of the Board within such parameters, and, in his absence or unavailability, to the Vice-Chairman of the Board.

(J) The covenants, pledges and conditions in the Resolution shall be applicable to the Series 2024 Bonds herein authorized and said Series 2024 Bonds shall be on a parity in all respects with any Additional Bonds (as defined in the Resolution) hereafter issued pursuant to the Resolution and shall constitute "Bonds" within the meaning of the Resolution.

(K) The Resolution provides for the issuance of the Series 2024 Bonds and that such Series 2024 Bonds shall mature on such dates and in such amounts, shall bear such rates of interest, shall be payable in such places and shall be subject to such redemption provisions as shall be determined by Supplemental Resolution adopted by the Issuer; and it is now appropriate that the Issuer set forth the parameters and mechanism to determine such terms and details.

(L) The Issuer will be current in all deposits into the various accounts and subaccounts established by the Resolution upon issuance of the Series 2024 Bonds and all payments heretofore required to have been deposited or made by the Issuer under the provisions of the Resolution shall have been made and the Issuer will be in compliance with the covenants and agreements of the Resolution upon issuance of the Series 2024 Bonds.

(M) The Series 2024 Bonds shall not constitute a general obligation or pledge of the faith, credit or taxing power of the Issuer, the State of Florida, or any political subdivision thereof, within the meaning of any constitutional or statutory provisions. Neither the Issuer, the State of Florida, nor any political subdivision thereof shall be obligated (i) to exercise its ad valorem taxing power in any form on any real or personal property of or in the Issuer to pay the principal of the Series 2024 Bonds, the interest thereon, or other costs incidental thereto, or (ii) to pay the same from any other funds of the Issuer except from the Pledged Funds, in the manner provided in the Resolution.

**SECTION 2. DEFINITIONS.** When used in this Supplemental Resolution, the capitalized terms defined in the Resolution shall have the meanings therein stated, except as to the definition of “Authorized Investments” which is hereby amended to read as follows:

**"Authorized Investments"** shall mean any investments that may be made by the Issuer under applicable law and which are allowed under the Issuer's investment policy; provided that any uninsured tax-exempt obligations permitted by the Issuer's investment policy shall be rated by at least one of the Rating Agencies in any one of the two highest rating categories at the time of investment.

**SECTION 3. AUTHORITY FOR RESOLUTION.** This Supplemental Resolution is adopted pursuant to the provisions of the Act.

**SECTION 4. AUTHORIZATION OF THE REFUNDING OF THE REFUNDED BONDS.** The Issuer hereby authorizes the refunding of the Refunded Bonds in order to achieve debt service savings subject in all respects to the award of the Series 2024 Bonds in accordance with this Supplemental Resolution.

**SECTION 5. DESCRIPTION OF THE SERIES 2024 BONDS.** The Issuer hereby authorizes the issuance of a Series of Bonds pursuant to the Resolution in an

aggregate principal amount not to exceed \$55,000,000 to be known as the "Lee County, Florida Transportation Facilities Refunding Revenue Bonds, Series 2024" (or such other designation as shall be determined by the Chairman) for the principal purpose of refunding the Refunded Bonds. The aggregate principal amount of Series 2024 Bonds to be issued pursuant to this Supplemental Resolution shall be determined by the Chairman, upon the advice of the Financial Advisor, provided such aggregate principal amount does not exceed \$55,000,000.

The Series 2024 Bonds shall be dated as of their date of delivery (or such other date as shall be determined by the Chairman), shall be issued in the form of fully registered Bonds in denominations of \$5,000 or any integral multiple thereof, shall be numbered consecutively from one upward in order of maturity preceded by the letter "R," shall bear interest from their dated date, payable semi-annually, on April 1 and October 1 of each year (each, an "Interest Date"), commencing on April 1, 2025 (or such other date or dates as shall be determined by the Chairman).

The principal of or Redemption Price, if applicable, on the Series 2024 Bonds is payable upon presentation and surrender of the Series 2024 Bonds at the designated corporate trust office of the Paying Agent (as appointed pursuant to Section 13 hereof). Interest payable on the Series 2024 Bonds on any Interest Date will be paid by check or draft mailed to the Holder in whose name such Bond shall be registered at the close of business on the date which shall be the fifteenth day (whether or not a business day) of the calendar month next preceding such Interest Date, or, at the request and expense of such Holder, by bank wire transfer for the account of such Holder. Interest on the Series 2024 Bonds will be computed on the basis of a 360-day year of twelve 30-day months. All payments of principal of or Redemption Price, if applicable, and interest on the Series 2024 Bonds shall be payable 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.

The Series 2024 Bonds shall bear interest at such rates and yields, shall mature on October 1 of each of the years and in the principal amounts corresponding to such years, and shall have such redemption provisions as determined by the Chairman subject to the conditions set forth in Section 6 hereof. All of the terms of the Series 2024 Bonds will be included in a Bond Purchase Agreement, which shall be in substantially the form attached hereto and made a part hereof as Exhibit A (the "Purchase Agreement"). The Chairman is hereby authorized to execute the Purchase Agreement in substantially the form attached hereto as Exhibit A with such modifications as he deems appropriate upon satisfaction of the conditions described in Section 6 hereof and such execution and delivery shall be conclusive evidence of the approval of any such modifications.

**SECTION 6. CONDITIONS TO EXECUTION OF PURCHASE AGREEMENT.** The Purchase Agreement shall not be executed by the Chairman until such time as all of the following conditions have been satisfied:

(A) Receipt by the Chairman of a written offer to purchase the Series 2024 Bonds by the Underwriters substantially in the form of the Purchase Agreement attached hereto as Exhibit A, said offer to provide for, among other things, (i) not exceeding \$55,000,000 aggregate principal amount of Series 2024 Bonds, (ii) an underwriting discount (including management fee and expenses) not in excess of 0.50% of the par amount of the Series 2024 Bonds, (iii) a true interest cost of not more than 5.00% per annum, (iv) present value savings of at least 3.00% of the par amount of the Refunded Bonds, as determined by the Financial Advisor, and (v) the maturities of the Series 2024 Bonds, with the final maturity being not later than October 1, 2035.

(B) With respect to any redemption terms for the Series 2024 Bonds, the first call date may be no later than October 1, 2034 and there shall be no call premium for Series 2024 Bonds to be redeemed. Term Bonds may be established with such Sinking Account Installments as the Chairman deems appropriate. If determined by the Chairman to be in the best interest of the Issuer, based upon the advice of the Financial Advisor, the Series 2024 Bonds may be issued as non-callable bonds.

(C) Receipt by the Chairman of a disclosure statement and a truth-in-bonding statement of the Underwriters dated the date of the Purchase Agreement and complying with Section 218.385, Florida Statutes.

(D) Receipt of a good faith deposit in an amount not less than 1% of the par amount of the Series 2024 Bonds described on the cover page of the Preliminary Official Statement.

(E) A determination by the Chairman, upon advice of the Issuer's Financial Advisor, whether any Series 2024 Bonds shall be secured by a municipal bond insurance policy as provided in Sections 15 and 16 hereof and whether there shall be a subaccount in the Reserve Subaccount and how it shall be funded.

(F) The Chairman shall have determined, upon the advice of the Financial Advisor, which specific maturities of the Series 2014 Bonds (or portions thereof) shall be refunded in connection with the issuance of the Series 2024 Bonds and only the maturities (and portions, if any) thereof so determined by the Chairman shall constitute Refunded Bonds hereunder.

Upon satisfaction of all the requirements set forth in this Section 6, the Chairman is authorized to execute and deliver the Purchase Agreement containing terms complying with the provisions of this Section 6 and the Series 2024 Bonds shall be sold to the Underwriters pursuant to the provisions of such Purchase Agreement. The Chairman shall rely upon the advice of the Issuer's Financial Advisor as to satisfaction of the conditions provided in this Section 6.

**SECTION 7. REDEMPTION PROVISIONS.** The Series 2024 Bonds may be redeemed prior to their respective maturities from any moneys legally available therefor, upon notice as provided in the Resolution, and upon the terms and provisions as shall be determined by the Chairman pursuant to Section 6 hereof.

**SECTION 8. BOOK-ENTRY.** Notwithstanding the provisions set forth in Section 2.08 of the Resolution, the Series 2024 Bonds shall be initially issued in the form of a separate single certificated fully registered Series 2024 Bond for each of the maturities of the Series 2024 Bonds. Upon initial issuance, the ownership of each such Series 2024 Bond shall be registered in the registration books kept by the Registrar in the name of Cede & Co., as nominee of DTC. As long as the Series 2024 Bonds shall be registered in the name of Cede & Co., all payments of interest on the Series 2024 Bonds shall be made by the Paying Agent by check or draft or by bank wire transfer to Cede & Co., as Holder of the Series 2024 Bonds, upon presentation of the Series 2024 Bonds to be paid, to the Paying Agent.

With respect to Series 2024 Bonds registered in the registration books kept by the Registrar in the name of Cede & Co., as nominee of DTC, the Issuer, the Registrar and the Paying Agent shall have no responsibility or obligation to any direct or indirect participant in the DTC book-entry program (the "Participants"). Without limiting the immediately preceding sentence, the Issuer, the Registrar and the Paying Agent shall have no responsibility or obligation with respect to (A) the accuracy of the records of DTC, Cede & Co. or any Participant with respect to any ownership interest on the Series 2024 Bonds, (B) the delivery to any Participant or any other Person other than a Bondholder, as shown in the registration books kept by the Registrar, of any notice with respect to the Series 2024 Bonds, including any notice of redemption, or (C) the payment to any Participant or any other Person, other than a Bondholder, as shown in the registration books kept by the Registrar, of any amount with respect to principal of, Redemption Price, if any, or interest on the Series 2024 Bonds. The Issuer, the Registrar and the Paying Agent may treat and consider the Person in whose name each Series 2024 Bond is registered in the registration books kept by the Registrar as the Holder and absolute owner of such Bond for the purpose of payment of principal, Redemption Price, if any, and interest with respect to such Bond, for the purpose of giving notices of redemption and other matters with respect to such Bond, for the purpose of registering transfers with respect to such Bond, and for all other purposes whatsoever. The Paying Agent shall pay all principal of, Redemption Price, if any, and interest on the Series 2024 Bonds only to or upon the order of the respective Holders, as shown in the registration books kept by the Registrar, or their respective attorneys duly authorized in writing, as provided herein and all such payments shall be valid and effective to fully satisfy and discharge the Issuer's obligations with respect to payment of principal of, Redemption Price, if any, and interest on the Series 2024 Bonds to the extent of the sum or sums so paid. No Person other than a Holder, as shown in the registration books kept by the Registrar, shall receive a certificated Bond evidencing the obligation of the Issuer to make payments of principal, Redemption Price, if any, and

interest pursuant to the provisions of the Resolution. Upon delivery by DTC to the Issuer of written notice to the effect that DTC has determined to substitute a new nominee in place of Cede & Co., and subject to the provisions in the Resolution with respect to transfers during the 15 days next preceding an Interest Date or first mailing of notice of redemption, the words "Cede & Co." in this Supplemental Resolution shall refer to such new nominee of DTC; and upon receipt of such notice, the Issuer shall promptly deliver a copy of the same to the Registrar and the Paying Agent.

Upon (A) receipt by the Issuer of written notice from DTC (i) to the effect that a continuation of the requirement that all of the Outstanding Series 2024 Bonds be registered in the registration books kept by the Registrar in the name of Cede & Co., as nominee of DTC, is not in the best interest of the beneficial owners of the Series 2024 Bonds or (ii) to the effect that DTC is unable or unwilling to discharge its responsibilities and no substitute depository willing to undertake the functions of DTC hereunder can be found which is willing and able to undertake such functions upon reasonable and customary terms, or (B) determination by the Issuer that such book-entry only system is burdensome or undesirable to the Issuer and compliance with any applicable DTC rules and procedures, the Series 2024 Bonds shall no longer be restricted to being registered in the registration books kept by the Registrar in the name of Cede & Co., as nominee of DTC, but may be registered in whatever name or names Holders shall designate, in accordance with the provisions of the Resolution. In such event, the Issuer shall issue and the Registrar shall authenticate, transfer and exchange the Series 2024 Bonds of like principal amount and maturity, in denominations of \$5,000 or any integral multiple thereof to the Holders thereof. The foregoing notwithstanding, until such time as participation in the book-entry only system is discontinued, the provisions set forth in the Blanket Issuer Letter of Representations previously executed by the Issuer and delivered to DTC shall apply to the payment of principal of, premium, if any, and interest on the Series 2024 Bonds.

#### **SECTION 9. APPLICATION OF SERIES 2024 BOND PROCEEDS.**

The proceeds derived from the sale of the Series 2024 Bonds shall, simultaneously with the delivery of the Series 2024 Bonds to the Underwriters, be applied by the Issuer as follows:

(A) A sufficient amount of Series 2024 Bond proceeds, together with other legally available moneys, shall be deposited in the Escrow Fund and, other than a cash deposit, shall be invested in Refunding Securities in the manner set forth in the Escrow Deposit Agreement, which investments shall mature at such times and in such amounts which, together with such cash deposit, shall be sufficient to pay the principal of and interest on the Refunded Bonds as the same mature or are redeemed in accordance with the terms of the Escrow Deposit Agreement.

(B) A sufficient amount of the Series 2024 Bond proceeds shall be applied to the payment of the costs and expenses relating to the issuance of the Series 2024 Bonds, including a premiums on any municipal bond insurance policy and Reserve Subaccount



Insurance Policy provided for the Series 2024 Bonds as described in Sections 15 and 17 hereof.

**SECTION 10. TRANSFER OF CERTAIN MONEYS.** The Refunded Bonds will be refunded from proceeds of the Series 2024 Bonds and from other legally available funds of the Issuer. Any excess moneys on deposit in the Sinking Account of the Enterprise Fund established for the benefit of the Refunded Bonds pursuant to the Resolution and not required to remain on deposit therein may be transferred to the Escrow Fund.

**SECTION 11. PRELIMINARY OFFICIAL STATEMENT.** The Issuer hereby authorizes the distribution and use of the Preliminary Official Statement in substantially the form attached hereto as Exhibit B in connection with offering the Series 2024 Bonds for sale. If between the date hereof and the date of the Preliminary Official Statement, it is necessary to make insertions, modifications or changes in the Preliminary Official Statement, the Chairman is hereby authorized to approve such insertions, deletions, changes and modifications. The Chairman is hereby authorized to deem the Preliminary Official Statement "final" within the meaning of Rule 15c2-12(b) under the Securities Exchange Act of 1934, as amended. Execution of a certificate by the Chairman deeming the Preliminary Official Statement "final" as described above shall be conclusive evidence of the approval of any insertions, changes or modifications.

**SECTION 12. OFFICIAL STATEMENT.** Subject in all respects with the satisfaction of the conditions set forth in Section 6 hereof, the Chairman is hereby authorized and directed to execute and deliver a final Official Statement, dated the date of the execution of the Purchase Agreement, which shall be in substantially the form of the Preliminary Official Statement, in the name and on behalf of the Issuer, and thereupon to cause such Official Statement to be delivered to the Underwriters with such insertions, deletions, changes and modifications as may be approved by the Chairman. Said Official Statement, including any such changes, insertions, deletions, changes and modifications as approved by the Chairman, and the information contained therein are hereby authorized to be used in connection with the sale of the Series 2024 Bonds to the public. Execution by the Chairman of the Official Statement shall be deemed to be conclusive evidence of approval of such changes.

**SECTION 13. APPOINTMENT OF PAYING AGENT AND REGISTRAR.** Subject in all respects with the satisfaction of the conditions set forth in Section 6 hereof, U.S. Bank Trust Company, National Association, Jacksonville, Florida, is hereby designated Registrar and Paying Agent for the Series 2024 Bonds. The Chairman and the Clerk are hereby authorized to enter into any agreement which may be necessary to effect the transactions contemplated by this Section 13 and by the Resolution.

**SECTION 14. AUTHORIZATION TO EXECUTE ESCROW DEPOSIT AGREEMENT.** Subject in all respects to the satisfaction of the conditions set forth in

Section 6 hereof, the Issuer hereby authorizes and directs the Chairman and the Clerk to execute the Escrow Deposit Agreement and to deliver the Escrow Deposit Agreement to U.S. Bank Trust Company, National Association, Jacksonville, Florida, which is hereby appointed as Escrow Agent. The Escrow Deposit Agreement shall be in substantially the form of the Escrow Deposit Agreement attached hereto as Exhibit C with such insertions, deletions, changes and modifications, including the date of such Escrow Deposit Agreement, as may be approved by said Chairman and Clerk. Execution by the Chairman and the Clerk of the Escrow Deposit Agreement shall be deemed to be conclusive evidence of approval of such changes.

**SECTION 15. MUNICIPAL BOND INSURANCE.** Subject in all respects to the satisfaction of the conditions set forth in Section 6 hereof, if the Chairman determines, upon the advice of the Issuer's Financial Advisor, that all or any portion of the Series 2024 Bonds will be insured by a municipal bond insurance policy, the Issuer hereby authorizes the payment of the principal of and interest on the Series 2024 Bonds to be insured (the "Insured Series 2024 Bonds") pursuant to the municipal bond insurance policy (the "Series 2024 Bond Insurance Policy") to be issued by either Assured Guaranty Inc. ("Assured Guaranty") or Build America Mutual Insurance Company ("BAM"). In connection therewith, the Issuer hereby delegates to the Chairman, upon the advice of the Financial Advisor, the authority to select between Assured Guaranty and BAM the Insurer that offers and commits to provide its standard municipal bond insurance policy which results in the lowest overall cost to the Issuer of the Series 2024 Bonds considering all relevant factors, including the terms of their respective commitments. For purposes of the Resolution, the selected insurance company, if any, shall constitute the "Insurer" of the Series 2024 Bonds and the Series 2024 Bond Insurance Policy shall constitute a "Bond Insurance Policy." The Chairman is hereby authorized to execute such documents and instruments necessary to cause the Insurer to insure the Insured Series 2024 Bonds.

**SECTION 16. PROVISIONS RELATING TO SERIES 2024 BOND INSURANCE POLICY.** If the Chairman determines that all or any portion of the Series 2024 Bonds will be insured by the Series 2024 Bond Insurance Policy, payment for the premium for such insurance is hereby authorized from proceeds of the Series 2024 Bonds and the provisions of this Section 16 and Exhibits D or E hereto, as the case may be, shall apply with respect to the Series 2024 Bonds that are insured. Exhibits D and E hereto contain certain provisions relating to the respective standard municipal bond insurance policies of Assured Guaranty and BAM, respectively. If the Chairman determines that none of the Series 2024 Bonds are to be insured and the Series 2024 Bond Insurance Policy is not issued in connection with the Series 2024 Bonds, the provisions of this Section 16 and Exhibits D and E hereto will be deemed null and void and will be of no force or effect.

Subject in all respects to the satisfaction of the conditions set forth in Section 6 hereof, so long as the Series 2024 Bond Insurance Policy issued by the Insurer is in full force and effect and the Insurer has not defaulted in its payment obligations under the Series

2024 Bond Insurance Policy, the Issuer agrees to comply with the provisions contained in Exhibits D or E hereto, as the case may be, notwithstanding anything in this Resolution to the contrary. Upon advice of Bond Counsel, the Chairman is authorized to enter into an agreement with the Insurer to modify some or all of the provisions provided in Exhibits D or E in order that such provisions conform to the written commitment provided by the Insurer.

**SECTION 17. RESERVE SUBACCOUNT.** (A) The Resolution provides that the Issuer may establish separate subaccounts in the Reserve Subaccount for any Series of Bonds. If the Chairman determines, upon the advice of the Issuer's Financial Advisor, that a separate subaccount in the Reserve Subaccount for Series 2024 Bonds is appropriate, the Issuer shall establish the "Series 2024 Reserve Subaccount" (the "Series 2024 Reserve Subaccount"). If such Subaccount is established, the Issuer shall hold the Series 2024 Reserve Subaccount as a separate account solely for the benefit and securing only the payment of debt service on the Series 2024 Bonds in accordance with Section 4.05(B)(4) of the Resolution.

(B) At the time of issuance of the Series 2024 Bonds, the Issuer shall deposit in the Reserve Account or the Series 2024 Reserve Subaccount, as the case may be (i) cash, (ii) a Reserve Subaccount Insurance Policy to be issued by either Assured Guaranty or BAM, and/or existing Reserve Account Insurance Policy or Policies which shall equal the amount set forth in the Official Statement pursuant to Section 6 hereof. In the event a Reserve Subaccount Insurance Policy is issued, the Chairman is hereby authorized and directed to execute and deliver in the name and on behalf of the Issuer an Insurance Agreement (the "Reserve Subaccount Insurance Agreement") from Assured Guaranty or BAM substantially in the forms attached hereto as Exhibits F and G, as the case may be, with such changes, amendments, omissions and as shall be approved by the Chairman, his/her execution and delivery thereof being conclusive evidence of such approval, in order to cause Assured Guaranty or BAM, respectively, to issue such Reserve Subaccount Insurance Agreement.

(C) If the Series 2024 Reserve Subaccount is established, the amount of the Reserve Subaccount Requirement for the Series 2024 Bonds shall be determined by the Chairman based upon the advice of the Financial Advisor.

(D) As long as the Reserve Subaccount Insurance Policy, if any, issued by either Assured Guaranty or BAM and deposited in the Reserve Subaccount or Series 2024 Reserve Subaccount, as the case may be, in connection with the issuance of the Series 2024 Bonds shall be in full force and effect, the Issuer agrees to comply with the provisions of the Reserve Subaccount Insurance Agreement.

**SECTION 18. SECONDARY MARKET DISCLOSURE.** Subject in all respects to the satisfaction of the conditions set forth in Section 6 hereof, the Issuer hereby covenants and agrees that, in order to provide for compliance by the Issuer with the

secondary market disclosure requirements of Rule 15c2-12 of the Security and Exchange Commission (the "Rule"), it will comply with and carry out all of the provisions of the Continuing Disclosure Certificate to be executed by the Issuer and dated the dated date of the Series 2024 Bonds, as it may be amended from time to time in accordance with the terms thereof. The Continuing Disclosure Certificate shall be substantially in the form of Exhibit H hereto with such changes, amendments, modifications, omissions and additions as shall be approved by the Chairman who is hereby authorized to execute and delivery such Certificate. Notwithstanding any other provision of the Resolution, failure of the Issuer to comply with such Continuing Disclosure Certificate shall not be considered an Event of Default under the Resolution; provided, however, to the extent permitted by law, the sole and exclusive remedy of any Series 2024 Bondholder for the enforcement of the provisions of the Continuing Disclosure Certificate shall be an action for mandamus or specific performance, as applicable, by court order, to cause the Issuer to comply with its obligations under this Section 18 and the Continuing Disclosure Certificate. For purposes of this Section 18, "Series 2024 Bondholder" shall mean any person who (A) has the power, directly or indirectly, to vote or consent with respect to, or to dispose of ownership of, any Series 2024 Bonds (including persons holding Series 2024 Bonds through nominees, depositories or other intermediaries), or (B) is treated as the owner of any Series 2024 Bond for federal income tax purposes.

**SECTION 19. GENERAL AUTHORITY.** The members of the Board, the Clerk and County Manager of the Issuer and the officers, attorneys and other agents or employees of the Issuer are hereby authorized to do all acts and things required of them by this Supplemental Resolution, the Resolution, the Official Statement, the Escrow Deposit Agreement, the Continuing Disclosure Certificate or the Purchase Agreement or desirable or consistent with the requirements hereof or the Resolution, the Official Statement, the Escrow Deposit Agreement, the Continuing Disclosure Certificate or the Purchase Agreement for the full punctual and complete performance hereof or thereof. Each member, employee, attorney and officer of the Issuer or the Board, the Clerk and the County Manager is hereby authorized and directed to execute and deliver any and all papers and instruments and to be and cause to be done any and all acts and things necessary or proper for carrying out the transactions contemplated hereunder. In the Chairman's absence of unavailability, the Vice-Chairman is hereby authorized to do all things required or authorized of the Chairman hereunder, including execution of all agreements described herein.

**SECTION 20. SEVERABILITY OF INVALID PROVISIONS.** If any one or more of the covenants, agreements or provisions herein contained shall 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 separable from the remaining covenants, agreements and provisions and shall in

no way affect the validity of any of the other provisions hereof or of the Series 2024 Bonds issued hereunder.

**SECTION 21. RESOLUTION TO CONTINUE IN FORCE.** Except as herein expressly provided, the Resolution and all the terms and provisions thereof are and shall remain in full force and effect.

**SECTION 22. EFFECT OF RECITALS.** To the extent that there are typographical and/or administrative errors that do not change the tone, tenor, or concept of this Supplemental Resolution, then this Supplemental Resolution may be revised without subsequent approval by the Board of County Commissioners.

**SECTION 23. EFFECTIVE DATE.** This Supplemental Resolution shall become effective immediately upon its adoption.

**DULY ADOPTED,** in Regular Session, this 3rd day of September, 2024.

**BOARD OF COUNTY COMMISSIONERS  
OF LEE COUNTY, FLORIDA**

(SEAL)

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

ATTEST:

\_\_\_\_\_  
Clerk

APPROVED AS TO FORM  
AND LEGAL SUFFICIENCY:

\_\_\_\_\_  
County Attorney

**EXHIBIT A**

**FORM OF BOND PURCHASE AGREEMENT**

**EXHIBIT B**

**FORM OF PRELIMINARY OFFICIAL STATEMENT**

**EXHIBIT C**

**FORM OF ESCROW DEPOSIT AGREEMENT**



**EXHIBIT D**

**INSURANCE PROVISIONS FOR ASSURED GUARANTY INC.**

**EXHIBIT E**

**INSURANCE PROVISIONS FOR BUILD AMERICA  
MUTUAL ASSURANCE COMPANY**

**EXHIBIT F**

**ASSURED GUARANTY INSURANCE AGREEMENT**

**EXHIBIT G**

**BAM RESERVE SUBACCOUNT INSURANCE AGREEMENT**

**EXHIBIT H**

**FORM OF CONTINUING DISCLOSURE CERTIFICATE**

**EXHIBIT A**

**FORM OF BOND PURCHASE AGREEMENT**

\$[\_\_\_\_\_]  
Lee County, Florida  
Transportation Facilities Refunding Revenue Bonds, Series 2024

**BOND PURCHASE AGREEMENT**

[\_\_\_\_\_], 2024

Board of County Commissioners of  
Lee County, Florida  
2115 Second Street  
Fort Myers, Florida 33901

Ladies and Gentlemen:

BofA Securities, Inc. (the "Underwriter") offers to enter into this Bond Purchase Agreement (the "Bond Purchase Agreement") with Lee County, Florida (the "County"), which, upon acceptance of this offer by the County, will be binding upon the County and the Underwriter. This offer is made subject to acceptance by the County by execution of this Bond Purchase Agreement and, if not so accepted, will be subject to withdrawal by the Underwriter, upon written notice by the Underwriter to the County at any time prior to its acceptance by the County.

The Underwriter represents that it is authorized to enter into this Bond Purchase Agreement and to take any other actions that may be required on behalf of the Underwriter.

All capitalized terms not otherwise defined in this Bond Purchase Agreement shall have the same meanings as set forth in the Bond Resolution or the Official Statement, as each are defined in this Bond Purchase Agreement.

1. **Purchase and Sale of Bonds.**

(a) Subject to the terms and conditions and in reliance upon the representations, warranties and covenants set forth in this Bond Purchase Agreement, the Underwriter agrees to purchase from the County, and the County agrees to sell to the Underwriter on the Closing Date (as defined in this Bond Purchase Agreement), all, but not less than all, of the \$[\_\_\_\_\_].00 aggregate principal amount of Lee County, Florida, Transportation Facilities Refunding Revenue Bonds, Series 2024 (the "Series 2024 Bonds"), at the aggregate purchase price of \$[\_\_\_\_\_] (representing the principal amount of the Series 2024 Bonds of \$[\_\_\_\_\_] [plus/less net original issue premium/discount] of \$[\_\_\_\_\_] and less Underwriter's discount of \$[\_\_\_\_\_]). The Series 2024 Bonds shall be dated the date of delivery, bear interest at the rates, be re-offered to the public at prices reflecting the yields, mature on the dates and be subject to redemption, all as set forth on attached Schedule I to this Bond Purchase Agreement. The Series 2024 Bonds are more fully described in the Preliminary Official Statement, dated [\_\_\_\_\_], 2024, relating to the Series 2024 Bonds (the "Preliminary Official Statement"). Such Preliminary Official Statement as amended to delete preliminary language and reflect the final terms of the Series 2024 Bonds, and as amended and supplemented prior to the Closing (as such term is defined in this Bond Purchase Agreement) with such changes as shall be

approved by the County and the Underwriter, is herein referred to as the "Official Statement." At Closing, the Underwriter agrees to execute and deliver an initial issue price certificate acceptable to Bond Counsel and the Underwriter in a form similar to Exhibit "C" attached hereto.

The Underwriter intends to make an initial public offering of the Series 2024 Bonds, solely pursuant to the Official Statement, at the initial offering prices or yields set forth in the Official Statement, reserving, however, the right to change such initial offering prices or yields after the initial public offering as the Underwriter shall deem necessary in connection with the marketing of the Series 2024 Bonds (but in all cases subject to the requirements of paragraphs (g)-(k) of this Section 1) and to offer and sell the Series 2024 Bonds to certain dealers (including dealers depositing the Series 2024 Bonds into investment trusts) at concessions to be determined by the Underwriter (but in all cases subject to the requirements of paragraphs (g)-(k) of this Section 1).

(b) The Series 2024 Bonds shall be issued pursuant to Resolution No. 86-4-12 adopted by the Board of County Commissioners of Lee County, Florida (the "Board") on April 16, 1986, as amended and restated pursuant to an Amended and Restated Transportation Facilities Revenue Bond Resolution No. 2024-[\_\_] adopted by the Board on September 3, 2024, as supplemented and amended from time to time (the "Master Resolution"), and particularly as supplemented by Resolution No. 2024-[\_\_] adopted by the Board on September 3, 2024 (the "2024 Resolution", together with the Master Resolution, the "Bond Resolution"). The Series 2024 Bonds shall be substantially in the form described in the Bond Resolution and shall be issued in compliance with Constitution and laws of the State of Florida, including Chapter 125, Florida Statutes, County Home Rule Ordinance No. 86-11, enacted on April 16, 1986, and other applicable provisions of law (collectively, the "Act"). The Underwriter has delivered to the County a disclosure letter containing the information required by Section 218.385, Florida Statutes, which letter is attached as Schedule II.

(c) The Series 2024 Bonds are being issued for the purposes of, together with other legally available funds: (i) currently refunding [all or a portion] of the Outstanding Transportation Facilities Refunding Revenue Bonds, Series 2014 maturing on or after October 1, 2025 (the "Refunded Bonds") and (ii) paying the costs of issuance of the Series 2024 Bonds, including the premium for a reserve account insurance policy (the "Policy") to be issued by Assured Guaranty Inc. (the "Insurer").

(d) The County authorizes the Underwriter to use and distribute copies of the Official Statement and copies of the Bond Resolution in connection with the public offering and sale of the Series 2024 Bonds. The Preliminary Official Statement and/or the Official Statement may be delivered in printed and/or electronic form to the extent permitted by applicable rules of the Municipal Securities Rulemaking Board (herein, the "MSRB") and as may be agreed by the County and the Underwriter.

(e) The County consents to and ratifies the use by the Underwriter of the Preliminary Official Statement for the purposes of marketing the Series 2024 Bonds in connection with the original public offer, sale and distribution of the Series 2024 Bonds by the Underwriter. As of its date, the Preliminary Official Statement was deemed "final" (except for permitted omissions) by the County for purposes of Rule 15c2-12 promulgated under the Securities Exchange Act of 1934, as amended (the "Rule").



(f) The County shall deliver, or cause to be delivered, to the Underwriter copies of the final Official Statement (dated the date of this Bond Purchase Agreement) relating to the Series 2024 Bonds, and shall cause copies of the Official Statement, in sufficient quantity for the Underwriter to comply with Rule G-32 of the MSRB and the Rule to be available to the Underwriter within seven (7) business days of the execution of this Bond Purchase Agreement. The County agrees to deliver to the Underwriter such reasonable quantities of the Preliminary Official Statement and Official Statement and such reasonable quantities of the Bond Resolution as the Underwriter may request for use in connection with the offering and sale of the Series 2024 Bonds. On or before the Closing Date, the Underwriter shall file, or cause to be filed, the Official Statement with the MSRB.

(g) The Underwriter agrees to assist the County in establishing the issue price of the Series 2024 Bonds and shall execute and deliver to the County at Closing an "issue price" or similar certificate substantially in the form attached hereto as Exhibit C, together with the supporting pricing wires or equivalent communications, with modifications to such certificate as may be deemed appropriate or necessary, in the reasonable judgment of the Underwriter, the County and Bond Counsel, to accurately reflect, as applicable, the sales price or prices or the initial offering price or prices to the public of the Series 2024 Bonds.

(h) Except for the maturities set forth in Schedule I to Exhibit C attached hereto, the County will treat the first price at which 10% of each maturity of the Series 2024 Bonds (the "10% test") is sold to the public as the issue price of that maturity (if different interest rates apply within a maturity, each separate CUSIP number within that maturity will be subject to the 10% test). At or promptly after the execution of this Bond Purchase Agreement, the Underwriter shall report to the County the price or prices at which the Underwriters have sold to the public each maturity of Series 2024 Bonds. If at that time the 10% test has not been satisfied as to any maturity of the Series 2024 Bonds, the Underwriter agrees to promptly report to the County the prices at which the Series 2024 Bonds of that maturity have been sold by the Underwriters to the public. That reporting obligation shall continue until the earlier of the date upon which the 10% test has been satisfied as to the Series 2024 Bonds of that maturity or the Closing Date.

(i) The Underwriter confirms that it has offered the Series 2024 Bonds to the public on or before the date of this Bond Purchase Agreement at the offering price or prices (the "initial offering price"), or at the corresponding yield or yields, set forth in the Official Statement. Schedule I to Exhibit C sets forth, as of the date of this Bond Purchase Agreement, the maturities, if any, of the Series 2024 Bonds for which the 10% test have not been satisfied and for which the County and the Underwriters agree that the restrictions set forth in the next sentence shall apply, which will allow the County to treat the initial offering price to the public of each such maturity as of the sale date as the issue price of that maturity (the "hold-the-offering-price rule"). So long as the hold-the-offering-price rule remains applicable to any maturity of the Series 2024 Bonds, the Underwriter will neither offer nor sell unsold Series 2024 Bonds of that maturity to any person at a price that is higher than the initial offering price to the public during the period starting on the sale date and ending on the earlier of the following:

- (i) the close of the fifth (5<sup>th</sup>) business day after the sale date; or

(ii) the date on which the Underwriter has sold at least 10% of that maturity of the Series 2024 Bonds to the public at a price that is no higher than the initial offering price to the public.

Upon the County's request, the Underwriter shall promptly advise the County or the County's municipal advisor when the Underwriter has sold 10% of that maturity of the Series 2024 Bonds to the public at a price that is no higher than the initial offering price to the public, if that occurs prior to the close of the fifth (5th) business day after the sale date.

The County acknowledges that, in making the representation set forth in this subsection, the Underwriter will rely on (i) the agreement of each Underwriter to comply with the requirements for establishing the issue price of the Series 2024 Bonds, including, but not limited to, its agreement to comply with the hold-the-offering-price rule, as set forth in an agreement among underwriters and the related pricing wires, (ii) in the event a selling group has been created in connection with the initial sale of the Series 2024 Bonds to the public, the agreement of each dealer who is a member of the selling group to comply with the requirements for establishing the issue price of the Series 2024 Bonds, including, but not limited to, its agreement to comply with the with the hold-the-offering-price rule, as set forth in a selling group agreement and the related pricing wires, and (iii) in the event that an Underwriter is a party to a third-party distribution agreement that was employed in connection with the initial sale of the Series 2024 Bonds to the public, the agreement of each broker-dealer that is a party to such agreement to comply with the requirements for establishing the issue price of the Series 2024 Bonds, including, but not limited to, its agreement to comply with the hold-the-offering-price rule, as set forth in the third-party distribution agreement and the related pricing wires. The County further acknowledges the Underwriter shall be solely liable for its failure to comply with its agreement regarding the hold the offering price rule and that the Underwriter shall be liable for the failure of any dealer who is a member of a selling group, or of any broker-dealer that is a party to a third-party distribution agreement to comply with its agreement regarding the requirements for establishing the issue price of the Series 2024 Bonds, including, but not limited to, its agreement to comply with the hold-the-offering-price rule as applicable to the Series 2024 Bonds.

(j) The Underwriter confirms that:

(i) any agreement among underwriters, any selling group agreement and each third-party distribution agreement (to which any Underwriter is a party) relating to the initial sale of the Series 2024 Bonds to the public, together with the related pricing wires, contains or will contain language obligating the Underwriter, each dealer who is a member of the selling group, and each broker-dealer that is a party to such third-party distribution agreement, as applicable, to (A)(1) report the prices at which it sells to the public the unsold Series 2024 Bonds of each maturity allotted to it until it is notified by the Underwriter that either the 10% test has been satisfied as to the Series 2024 Bonds of that maturity or all Series 2024 Bonds of that maturity have been sold to the public and (2) comply with the hold-the-offering-price rule, if applicable, in each case if and for so long as directed by the Underwriter and as set forth in the related pricing wires, (B) promptly notify the Underwriter of any sales of the Series 2024 Bonds that, to its knowledge, are made to a purchaser who is a related party to an underwriter participating in the initial sale of the Series 2024 Bonds to the public (each such term being used as defined below), and

(C) acknowledge that, unless otherwise advised by the Underwriter, dealer or broker-dealer, the Underwriter shall assume that each order submitted by the dealer or broker-dealer is a sale to the public; and

(ii) any agreement among underwriters relating to the initial sale of the Series 2024 Bonds to the public, together with the related pricing wires, contains or will contain language obligating each Underwriter that is a party to a third-party distribution agreement to be employed in connection with the initial sale of the Series 2024 Bonds to the public to require each broker-dealer that is a party to such third-party distribution agreement to (A) report the prices at which it sells to the public the unsold Series 2024 Bonds of each maturity allotted to it until it is notified by the Underwriter that either the 10% test has been satisfied as to the Series 2024 Bonds of that maturity or all Series 2024 Bonds of that maturity have been sold to the public and (B) comply with the hold-the-offering-price rule, if applicable, in each case if and for so long as directed by the Underwriter and as set forth in the related pricing wires.

(k) The Underwriter acknowledges that sales of any Series 2024 Bonds to any person that is a related party to an Underwriter shall not constitute sales to the public for purposes of this section. Further, for purposes of this section:

(i) "public" means any person other than an underwriter or a related party,

(ii) "underwriter" means (A) any person that agrees pursuant to a written contract with the County (or with the lead underwriter to form an underwriting syndicate) to participate in the initial sale of the Series 2024 Bonds to the public and (B) any person that agrees pursuant to a written contract directly or indirectly with a person described in clause (A) to participate in the initial sale of the Series 2024 Bonds to the public (including a member of a selling group or a party to a third-party distribution agreement participating in the initial sale of the Series 2024 Bonds to the public),

(iii) a purchaser of any of the Series 2024 Bonds is a "related party" to an underwriter if the underwriter and the purchaser are subject, directly or indirectly, to (i) more than 50% common ownership of the voting power or the total value of their stock, if both entities are corporations (including direct ownership by one corporation of another), (ii) more than 50% common ownership of their capital interests or profits interests, if both entities are partnerships (including direct ownership by one partnership of another), or (iii) more than 50% common ownership of the value of the outstanding stock of the corporation or the capital interests or profit interests of the partnership, as applicable, if one entity is a corporation and the other entity is a partnership (including direct ownership of the applicable stock or interests by one entity of the other).

(iv) "sale date" means the date of execution of this Bond Purchase Contract by all parties.

2. **Events Requiring Disclosure.** If, after the date of this Bond Purchase Agreement and during the Disclosure Period (as defined in Section 5(w) hereof), any event shall occur which

might or would cause the Official Statement, as then supplemented or amended, to contain any untrue statement of a material fact or to omit to state a material fact necessary to make the statements therein, in the light of the circumstances under which they were made, not misleading, the County shall notify the Underwriter thereof, and, if in the opinion of Disclosure Counsel, Bond Counsel and Underwriter's Counsel such event requires the preparation and publication of a supplement or amendment to the Official Statement, the County will at its own expense (unless such supplement or amendment is a result of information provided by the Underwriter) forthwith prepare and furnish to the Underwriter a sufficient number of copies of an amendment of or supplement to the Official Statement (in form and substance satisfactory to the Underwriter) which will supplement or amend the Official Statement so that it will not contain an untrue statement of a material fact or omit to state a material fact necessary in order to make the statements therein, in light of the circumstances existing at such time, not misleading. The Underwriter agrees to promptly notify the County if it becomes aware of such event.

3. **Good Faith Wire.** In connection with the execution of this Bond Purchase Agreement, the Underwriter has delivered to the County a wire transfer credited to the order of the County in immediately available federal funds in the aggregate amount of 1% of the principal amount of Series 2024 Bonds shown in the Preliminary Official Statement or [\_\_\_\_\_][ Dollars (\$[\_\_\_\_\_].00) (the "Good Faith Wire"), as security for the performance by the Underwriter of their obligation to accept and to pay for the Series 2024 Bonds. If the County does not accept this offer, such wire transfer shall be promptly returned to the Underwriter by wire transfer credited to the order of the Underwriter in the amount of the Good Faith Wire, in federal funds to the Underwriter. If this offer is accepted, such Good Faith Wire shall be held by the County and credited against the purchase price of the Series 2024 Bonds at Closing. In the event of the County's failure to deliver the Series 2024 Bonds at the Closing, or if the County shall be unable at or prior to the Closing to satisfy the conditions to the obligations of the Underwriter contained in this Bond Purchase Agreement (unless such conditions are waived by the Underwriter), or if the obligations of the Underwriter shall be terminated for any reason permitted by this Bond Purchase Agreement, the County shall return such Good Faith Wire immediately to the Underwriter by wire transfer credited to the order of the Underwriter in the amount of the Good Faith Wire, in federal funds to the Underwriter, and receipt by the Underwriter of such Good Faith Wire shall constitute a full release and discharge of all claims by the Underwriter against the County arising out of the transactions contemplated by this Bond Purchase Agreement. In the event that the Underwriter fails other than for a reason permitted under this Bond Purchase Agreement to accept and pay for the Series 2024 Bonds upon their tender by the County at the Closing, said Good Faith Wire shall be retained by the County and such retention shall represent full liquidated damages and not as a penalty, for such failure and for any and all defaults on the part of the Underwriter and the retention of such funds shall constitute a full release and discharge of all claims, rights and damages for such failure and for any and all such defaults. Interest on the Good Faith Wire shall accrue solely to the benefit of the County and shall not offset the amount due from the Underwriter at Closing or be payable to the Underwriter in the event the Good Faith Wire is returned to the Underwriter. It is understood by both the County and the Underwriter that actual damages in the circumstances as described in the preceding sentences may be difficult or impossible to compute; therefore, the funds represented by the Good Faith Wire are a reasonable estimate of the liquidated damages in this type of situation.

4. **Closing.** The settlement for the payment and delivery of the Series 2024 Bonds (herein, the "Closing") will occur before 1:00 p.m., Eastern Time, on [\_\_\_\_\_], 2024, or at such other time or on such earlier or later date as shall have been mutually agreed upon by the County and the Underwriter. Before 1:00 p.m. Eastern Time on the date of the Closing, the County shall deliver the Series 2024 Bonds in definitive form to the Underwriter, through the facilities of The Depository Trust Company ("DTC") utilizing the DTC FAST system of registration, bearing CUSIP numbers and duly executed and authenticated. If for any reason the FAST system of registration is not used, the Series 2024 Bonds will be made available for checking and packaging one business day prior to the Closing at the offices of DTC or such other place as may be designated by the Underwriter. The County has provided DTC with its blanket issuer letter of representations. The Underwriter will accept such delivery and pay the purchase price of the Series 2024 Bonds described in Section 1(a) above (less the Good Faith Wire previously received by the County) by a wire transfer credited to the order of the County in immediately available federal funds. Payment for and delivery of the Series 2024 Bonds shall be made at such place as the County and Underwriter shall mutually agree. The date of the Closing is called the "Closing Date."

5. **Representations, Warranties, and Covenants of the County.** The County by its acceptance of this Bond Purchase Agreement represents, warrants and covenants to the Underwriter as of the date of this Bond Purchase Agreement that:

(a) The County is, and will be on the Closing Date, a political subdivision of the State of Florida (the "State") duly created and validly existing under the Constitution and laws of the State.

(b) The County represents, warrants and covenants that the Board has full legal right, power and authority to: (i) adopt the Bond Resolution; (ii) execute and deliver this Bond Purchase Agreement, the Continuing Disclosure Certificate dated [\_\_\_\_\_], 2024 (the "Continuing Disclosure Certificate"), and the Official Statement and to have executed and delivered the Interlocal Agreement dated June 11, 2002 with the City of Sanibel, Florida (the "Sanibel Interlocal Agreement") and the Second Amendment to the Lee County/City of Cape Coral East-West Corridor Interlocal Agreement with the City of Cape Coral, Florida, dated November 26, 2002 (the "Cape Coral Interlocal Agreement" and together with the Sanibel Interlocal Agreement, the "Interlocal Agreements"); (iii) issue, sell, execute and deliver the Series 2024 Bonds to the Underwriter, as provided in this Bond Purchase Agreement; (iv) secure the Series 2024 Bonds in the manner contemplated by the Bond Resolution; and (v) carry out and consummate all other transactions contemplated by the preceding documents and instruments; provided, however, that no representation is made by the County concerning compliance with the federal securities laws or the securities or Blue Sky laws or the legality of the Series 2024 Bonds for investment under the laws of the various states.

(c) The County represents, warrants and covenants that the Board has duly adopted the Bond Resolution and has duly authorized or ratified: (i) the execution, delivery and performance of this Bond Purchase Agreement, the Escrow Deposit Agreement with [\_\_\_\_\_] dated [\_\_\_\_\_], 2024 (the "Escrow Deposit Agreement") and the Continuing Disclosure Certificate, and the issuance, sale, execution and delivery of the Series 2024 Bonds; (ii) the delivery and distribution of the Preliminary Official Statement and the use, distribution and delivery of the Official Statement; and (iii) the taking of any and all such action

as may be required on the part of the County to carry out, give effect to and consummate the transactions contemplated by the preceding documents and instruments; provided, however, that no representation is made by the County concerning compliance with the federal securities laws or securities or Blue Sky laws or the legality of the Series 2024 Bonds for investment under the laws of the various states.

(d) The County represents, warrants and covenants that this Bond Purchase Agreement, when executed and delivered by the parties, will, and the Bond Resolution, the Escrow Deposit Agreement, the Interlocal Agreements and the Continuing Disclosure Certificate do, constitute the legal, valid and binding obligations of the County enforceable in accordance with their terms, except as enforcement may be limited by bankruptcy, insolvency, moratorium or other laws affecting creditors' rights generally or subject to the exercise of the State's police power and to judicial discretion in appropriate cases.

(e) The County will at Closing be in compliance, in all material respects, with this Bond Purchase Agreement, the Bond Resolution, the Escrow Deposit Agreement, the Interlocal Agreements and the Continuing Disclosure Certificate.

(f) The County represents, warrants and covenants that when paid for by the Underwriter at Closing in accordance with the provisions of this Bond Purchase Agreement, and when authenticated by the Bond Registrar, the Series 2024 Bonds will be duly authorized, executed, issued and delivered and will constitute legal, valid and binding obligations of the County enforceable in accordance with their terms and the terms of the Bond Resolution, except as may be limited by bankruptcy, insolvency, moratorium or other laws affecting creditors' rights generally or subject to the exercise of the State's police power and to judicial discretion in appropriate cases.

(g) The County represents, warrants and covenants that the Bond Resolution creates a valid pledge of, and lien upon, the Pledged Funds to the extent set forth in the Bond Resolution.

(h) The County represents, warrants and covenants that at Closing, all approvals, consents and orders of and filings with any governmental authority or agency that would constitute a condition precedent to the issuance of the Series 2024 Bonds or the execution and delivery of or the performance by the County of its obligations under this Bond Purchase Agreement, the Escrow Deposit Agreement, the Continuing Disclosure Certificate, the Series 2024 Bonds, the Interlocal Agreements or the Bond Resolution will have been obtained or made and any consents, approvals and orders so received or filings so made will be in full force and effect; provided, however, that no representation is made by the County concerning compliance with the federal securities laws or the securities or Blue Sky laws of the various states or the legality of the Series 2024 Bonds for investment under the laws of the various states.

(i) The County represents, warrants and covenants that except as described in the Preliminary Official Statement and Official Statement, the County is not in breach of or in default under any applicable law or administrative regulation of the State or the United States of America, or any applicable judgment or decree or any trust agreement, loan agreement, bond, note, resolution, ordinance, agreement or other instrument to which the County is a party or is otherwise

subject, the consequence of which or the correction of which would materially and adversely affect the collection of the Pledged Funds; and the execution and delivery of this Bond Purchase Agreement, the Series 2024 Bonds, the Escrow Deposit Agreement and the Continuing Disclosure Certificate, and the adoption of the Bond Resolution and compliance with the provisions of each of such agreements or instruments do not and will not conflict with or constitute a breach or violation of or default under any applicable law or administrative regulation of the State or the United States of America or any applicable judgment or decree or any material provision of any trust agreement, loan agreement, bond, note, resolution, ordinance, agreement or other instrument to which the County is a party or is otherwise subject.

(j) The County represents, warrants and covenants that other than as disclosed in the Preliminary Official Statement and Official Statement, the adoption by the Board and performance by the County of the Bond Resolution and the authorization, execution, delivery and performance of the County's obligations under this Bond Purchase Agreement, the Escrow Deposit Agreement, the Continuing Disclosure Certificate, the Series 2024 Bonds, the Interlocal Agreements and any other agreement or instrument to which the County is a party, used or contemplated for use in consummation of the transactions contemplated by this Bond Purchase Agreement or by the Official Statement, and compliance with the provisions of each such instrument, do not and will not conflict with, or constitute or result in: (i) a violation of the Constitution of the State, or any existing law, administrative regulation, rule, decree or order, state or federal, or the Charter of the County; or (ii) a breach of or default under a material provision of any agreement, indenture, lease, note or other instrument to which the County, or its properties or any of the officers of the County as such is subject; or (iii) the creation or imposition of any prohibited lien, charge or encumbrance of any nature whatsoever upon any of the revenues, credit, property or assets of the County under the terms of the Constitution of the State or any law, instrument or agreement.

(k) The County represents, warrants and covenants that except as otherwise described in the Official Statement, there shall not have been any material adverse change since September 30, 2023 in the results of operations or financial condition of the County or in the physical condition of the Transportation Facilities, other than changes in the ordinary course of business or in the normal operation of the County.

(l) The County represents, warrants and covenants that the financial statements and other historical financial information contained in the Official Statement fairly represent the financial position and results of operations of the County as of the dates and for the periods set forth in such financial statements in accordance with generally accepted accounting principles applied consistently.

(m) The County represents, warrants and covenants that between the time of the execution of this Bond Purchase Agreement by the County and Closing, the County will not execute or issue any bonds or notes secured by the Pledged Funds superior to or on a parity with the Series 2024 Bonds, without the written consent of the Underwriter.

(n) The County will furnish such information, execute such instruments and take such other action in cooperation with the Underwriter at the Underwriter's expense as the Underwriter may reasonably request to qualify the Series 2024 Bonds for offer and sale and to

determine the eligibility of the Series 2024 Bonds for investment under the Blue Sky or other securities laws and regulations of such states and other jurisdictions of the United States of America as the Underwriter may designate, provided that the County shall not be required to file a general consent to service of process or qualify to do business in any jurisdiction or become subject to service of process in any jurisdiction in which the County is not now subject to such service. It is understood that the County is not responsible for compliance with or the consequences of failure to comply with applicable Blue Sky or other securities laws and regulations or the legality of the Series 2024 Bonds for investment under the laws of the various states.

(o) The County represents, warrants and covenants that other than as described in the Preliminary Official Statement and Official Statement, there is no claim, action, suit, proceeding, inquiry or investigation, at law or in equity, or before or by any court, public board or body pending, or, to the best knowledge of the County, threatened against or affecting the County: (i) to restrain or enjoin the issuance or delivery of any of the Series 2024 Bonds or the collection of Gross Revenues or the refunding of the Refunded Bonds; (ii) in any way contesting or affecting: (1) the authority for the issuance of the Series 2024 Bonds; (2) the validity or enforceability of the Series 2024 Bonds, the Bond Resolution, this Bond Purchase Agreement, the Escrow Deposit Agreement, the Interlocal Agreements and the Continuing Disclosure Certificate; or (3) the power of the Board to adopt the Bond Resolution and for the County to execute and deliver the Series 2024 Bonds, this Bond Purchase Agreement, the Escrow Deposit Agreement and the Continuing Disclosure Certificate and for the County to consummate the transactions contemplated by the Bond Resolution, and this Bond Purchase Agreement; (iii) in any way contesting the existence or powers of the County or the Board or the title to office of any member of the Board; or (iv) in any way contesting the completeness, accuracy or fairness of the Official Statement.

(p) The County will not knowingly take or omit to take any action, which action or omission would adversely affect the exclusion from gross income for federal income tax purposes of the interest on the Series 2024 Bonds under the Internal Revenue Code of 1986, as amended.

(q) Other than described in the Official Statement, the County has not entered into any contract or arrangement of any kind which might give rise to any lien or encumbrances on the revenues of the other assets, properties, funds or interests, if any, pledged pursuant to the Bond Resolution, other than as described in the Official Statement.

(r) Any certificate signed by any official of the County and delivered to the Underwriter in connection with the issuance, sale and delivery of the Series 2024 Bonds shall be deemed to be a representation and warranty by the County to the Underwriter as to the statements made in such certificate.

(s) The County represents, warrants and covenants that the description of the Series 2024 Bonds in the Official Statement conforms in all material respects to the Series 2024 Bonds.

(t) The County will apply the proceeds of the Series 2024 Bonds in accordance with the Bond Resolution and as contemplated by the Official Statement.



(u) Neither the County nor anyone authorized to act on its behalf, directly or indirectly, has offered the Series 2024 Bonds for sale to, or solicited any offer to buy the Series 2024 Bonds from, anyone other than the Underwriter.

(v) The County represents, warrants and covenants that all proceedings of the Board relating to the adoption of the Bond Resolution, the approval of the Continuing Disclosure Certificate, the Escrow Deposit Agreement, this Bond Purchase Agreement and the Official Statement and the approval and authorization of the issuance and sale of the Series 2024 Bonds were, or will be prior to Closing, conducted at duly convened meetings of the Board with respect to which all required notices were duly given to the public at which quorums were at all material times present and no authority or proceeding for the issuance of the Series 2024 Bonds has been or will be repealed, rescinded, or revoked.

(w) (i) For the purposes of this Bond Purchase Agreement, the term "Disclosure Period" shall mean the earlier of (1) ninety (90) days from the End of the Underwriting Period, or (2) the time when the Official Statement is available to any person from EMMA, but in no case less than twenty-five (25) days following the End of the Underwriting Period.

(ii) For the purposes of this Bond Purchase Agreement, the term "End of the Underwriting Period" shall mean the Closing Date, unless the Underwriter shall have notified the County in writing that the Underwriter retains an unsold balance of the Series 2024 Bonds for sale to the public, pursuant to (aa) below.

(iii) The Preliminary Official Statement as of its date, and the Official Statement and any amendments or supplements thereto, will at all times prior to and including the Closing Date and during the Disclosure Period be true, correct and complete in all material respects and will not contain any untrue statement of a material fact or omit to state any material fact necessary in order to make the statements made therein, in light of the circumstances in which they were made, not misleading (excluding information under the headings "DESCRIPTION OF THE SERIES 2024 BONDS - Book-Entry Only System" and "UNDERWRITING" and information relating to the Insurer and the Policy).

(iv) The County shall provide an electronic copy of the word-searchable and printable PDF format of the Official Statement that can be viewed on-line and can be downloaded and printed to the Underwriter no later than one (1) business day prior to the Closing Date to enable the Underwriter to comply with MSRB Rule G-32.

(x) The County represents, warrants and covenants that at the time of the mailing of the Preliminary Official Statement (except for permitted omissions) and at the time of the County's acceptance hereof, the Official Statement (but, in either case, not including information under the headings "DESCRIPTION OF THE SERIES 2024 BONDS - Book-Entry Only System" and "UNDERWRITING" and information relating to the Insurer and the Policy) did not contain any untrue statement of a material fact or omit to state a material fact necessary to make the statements therein, in the light of the circumstances under which they were made, not misleading.

(y) Prior to the execution of this Bond Purchase Agreement, the County represents, warrants and covenants that it has delivered to the Underwriter copies of the Preliminary Official Statement which the County deemed final for purposes of the Rule as of the date of the Preliminary Official Statement, except for the omission of no more than the following information: the offering price(s), interest rate(s), selling compensation, aggregate principal amount, principal amount per maturity, delivery dates, ratings, and other terms of the Series 2024 Bonds depending on such matters.

(z) If the Official Statement is supplemented or amended pursuant to Section 2 of this Bond Purchase Agreement, or otherwise by the County, at the time of each supplement or amendment to the Official Statement and (unless subsequently again supplemented or amended pursuant to Section 2 of this Bond Purchase Agreement) at all times during the Disclosure Period, the County represents, warrants and covenants that the Official Statement as so supplemented or amended will not contain any untrue statement of a material fact or omit to state a material fact necessary in order to make the statements contained therein, in the light of the circumstances under which they were made, not misleading (excluding information under the headings "DESCRIPTION OF THE SERIES 2024 BONDS - Book-Entry Only System," and "UNDERWRITING" and information relating to the Insurer and the Policy).

(aa) Unless otherwise notified in writing by the Underwriter on or prior to the Closing Date, the End of the Underwriting Period for the Series 2024 Bonds for all purposes of the Rule, Section 2 above and Section 5(v)(ii) above, is the Closing Date. In the event such notice is given in writing by the Underwriter, the Underwriter agrees to notify the County in writing following the occurrence of the End of the Underwriting Period for the Series 2024 Bonds, provided that such period shall not extend beyond thirty (30) days following the Closing Date.

(bb) The County has not been notified of any listing or proposed listing by the Internal Revenue Service to the effect that it is an issuer whose arbitrage certifications may not be relied upon.

(cc) The County has taken all necessary action in order for the County to pledge and utilize the Pledged Funds to the payment of the Series 2024 Bonds as provided in the Bond Resolution.

(dd) The County's agreement with CliftonLarsonAllen LLP, relating to preparation of the financial statements of the County for the Fiscal Year ended September 30, 2023, does not require the consent of CliftonLarsonAllen LLP prior to using such financial statements in the Official Statement.

(ee) Except as disclosed in the Preliminary Official Statement and Official Statement, the County represents, warrants and covenants that the County neither is nor has been in default any time after December 31, 1975, as to principal or interest with respect to any obligation issued or guaranteed by the County and no disclosure with respect thereto is required to be made in the Preliminary Official Statement and in the Official Statement pursuant to Section 517.051, Florida Statutes.

(ff) Except as otherwise disclosed in the Preliminary Official Statement or the Official Statement, the County has complied, in all material respects, with all of its previous continuing disclosure obligations under the Rule during the previous five (5) years.

6. **Conditions of Closing.** The Underwriter has entered into this Bond Purchase Agreement in reliance on the representations, warranties and covenants of the County. The obligations of the Underwriter shall be subject to the performance by the County of its obligations to be performed at or prior to Closing, to the accuracy of and compliance with the representations, warranties and covenants of the County as of the time of delivery of this Bond Purchase Agreement and as of Closing, and are also subject, in the reasonable discretion of the Underwriter, to the following further conditions:

(a) At Closing: (i) the Bond Resolution, the Escrow Deposit Agreement, the Interlocal Agreements and the Continuing Disclosure Certificate shall be in full force and effect and shall not have been repealed or amended in any material way since the date of this Bond Purchase Agreement unless agreed to by the Underwriter; (ii) this Bond Purchase Agreement shall not have been amended, modified or supplemented, except as may have been agreed to in writing by the Underwriter, and the County shall have executed each of them; (iii) the County shall have taken all action and performed all of its obligations as shall, in the opinion of Nabors, Giblin & Nickerson, P.A., Tampa, Florida ("Bond Counsel"), or Bryant Miller Olive P.A., Tampa, Florida ("Disclosure Counsel") or GrayRobinson, P.A., Tampa, Florida ("Counsel to the Underwriter"), be necessary in connection with the transaction contemplated by the Bond Resolution, the Series 2024 Bonds and this Bond Purchase Agreement; (iv) the Series 2024 Bonds shall have been duly authorized, executed and delivered; and (v) the Official Statement shall not have been amended, modified or supplemented, except as provided in Section 2 of this Bond Purchase Agreement.

(b) At or prior to the Closing Date, the Underwriter shall have received the following:

(i) The opinion of Richard Wm. Wesch, County Attorney, dated the Closing Date, substantially in the form attached hereto as Exhibit "A";

(ii) The final approving opinion of Bond Counsel, dated the Closing Date, in substantially the form attached to the Official Statement as Appendix F; provided that paragraph 3 thereof may be covered in a separate opinion of Bond Counsel;

(iii) The opinion of Disclosure Counsel, dated the Closing Date, to the effect that, with respect to the information in the Preliminary Official Statement and the Official Statement and based upon said firm's participation in the preparation and review of the Preliminary Official Statement and the Official Statement as Disclosure Counsel and on the basis of the information they gained in the course of performing the services referred to above and without having undertaken to determine independently the accuracy or completeness of the contents of the Preliminary Official Statement and the Official Statement, nothing has come to the attention of said firm that would cause it to believe that the Preliminary Official Statement, as of its date, and the Official Statement, as of its date, contains an untrue statement of a material fact or omits to state a material fact required to be stated therein or necessary to make the statements therein, in light of the circumstances

under which they were made, not misleading however, Disclosure Counsel does not assume responsibility for the accuracy, completeness, or fairness of the statements contained in the Preliminary Official Statement or the Official Statement (including any appendices, schedules, and exhibits thereto), which they expressly exclude from the scope of their opinion nor expresses any belief with respect to any demographic, financial, statistical and operating data, and forecasts, projections, numbers, estimates, assumptions, and expressions of opinion, and information concerning the report of CDM Smith contained in Appendix A attached thereto, [the Insurer and its Policy] and The Depository Trust Company and the book-entry system for the Series 2024 Bonds contained or incorporated by reference in the Preliminary Official Statement or the Official Statement (including any appendices, schedules, and exhibits thereto), which are expressly excluded from such opinion and that the Continuing Disclosure Certificate, together with the Official Statement and this Bond Purchase Agreement, satisfy the requirements of Section (b)(5)(1) contained in Rule 15c2-12 for an undertaking for the benefit of the owners of the Series 2024 Bonds to provide the information at the times and in the manner required by said Rule;

(iv) The opinion of Counsel to the Underwriter, dated the Closing Date, to the effect that (1) the Series 2024 Bonds are not subject to the registration requirements of the Securities Act of 1933, as amended, and the Bond Resolution is exempt from qualification under the Trust Indenture Act of 1939, as amended, (2) based upon their participation in the preparation of the Preliminary Official Statement and the Official Statement as Counsel for the Underwriter, and without having undertaken to determine independently the accuracy or completeness of the statements contained in the Preliminary Official Statement and the Official Statement, as of the Closing Date nothing has come to the attention of such counsel causing them to believe that the Preliminary Official Statement, as of its date, and the Official Statement (excluding therefrom the financial, statistical and operating data and forecasts, projections and assumptions included in the Preliminary Official Statement and the Official Statement, information relating to the report of CDM Smith contained in Appendix A attached thereto, [information relating to the Insurer and the Policy] and information relating to DTC and its book-entry only system of registration as to all of which no opinion need be expressed) as of its date contained any untrue statement of a material fact or omitted to state a material fact required to be stated therein or necessary to make the statements therein, in the light of the circumstances under which they were made, not misleading, and (3) based upon their review of the Continuing Disclosure Certificate as to the undertaking of the County with respect to continuing disclosure as required under Section (b)(5)(i) of the Rule, the requirements of the Rule have been satisfied; and

(v) The supplemental opinion of Bond Counsel, dated the Closing Date, substantially in the form attached as Exhibit "B" to this Bond Purchase Agreement;

(c) At Closing, the Underwriter shall receive a certificate, dated the Closing Date, signed by the Chairman of the Board, to the effect that (i) the representations and warranties of the County contained herein are true and correct in all material respects as of the Closing Date; (ii) except as otherwise described in the Official Statement, no litigation or proceeding against the County is pending in the Circuit Court of the 20th Judicial Circuit in and for Lee County, Florida,

or in the United States District Court for the Middle District of Florida or, to the County's knowledge, threatened in any court or administrative body nor is there a basis for litigation which would (a) contest the right of the Commissioners and Clerk of the County to hold and exercise their respective positions, (b) contest the due organization and valid existence of the County, (c) contest the validity, due authorization and execution of the Series 2024 Bonds or the County Documents, or the enforceability of the Bond Resolution or (d) attempt to limit, enjoin or otherwise restrict or prevent the County from functioning and collecting Gross Revenues, including payments on the Series 2024 Bonds pursuant to the Resolution, or the anticipated receipt of Pledged Funds or the refunding of the Refunded Bonds; (iii) the Bond Resolution has been duly adopted by the County, is in full force and effect and has not been modified, amended or repealed, (iv) to the best of our knowledge, no event affecting the County has occurred since the date of the Official Statement which has not been disclosed therein and which should be disclosed in the Official Statement for the purpose for which it is to be used or which it is necessary to disclose therein in order to make the statements and information therein, in light of the circumstances under which made, not misleading in any respect as of the Closing Date, and the information contained in the Official Statement (other than information relating to DTC and its book-entry system [and the Insurer and its Policy], and the information provided by the Underwriters under the heading "UNDERWRITING," as to which no representation is made) is correct in all material respects and, as of the date of the Official Statement did not, and as of the Closing Date does not, contain any untrue statement of a material fact or omit to state a material fact required to be stated therein or necessary to make the statements made therein, in the light of the circumstances under which they were made, not misleading.

(d) At Closing, the Underwriter shall receive a copy of the Bond Resolution certified by the Ex-Officio Clerk or Deputy Clerk of the Board as true and correct copies of the originals, as currently in full force and effect and as not having been otherwise amended since their enactment or adoption, as applicable, except as provided in this Bond Purchase Agreement;

(e) At Closing, the Underwriter shall receive two (2) manually signed copies of the Official Statement;

(f) A copy of the Blanket Issuer Letter of Representations with DTC;

(g) Evidence satisfactory to the Underwriter that the Series 2024 Bonds have (i) underlying ratings, at the time of Closing, of ["\_\_"] from S&P Global Ratings ("S&P") and ["\_\_"] from Moody's Investors Service, Inc. ("Moody's") [and (ii) an additional rating of "\_\_\_\_"] for the Series 2024 Bonds by S&P based on the Policy to be issued by the Insurer concurrently with the delivery of the Bonds];

(h) A certificate of an authorized representative of U.S. Bank Trust Company, National Association (the "Bank"), as Registrar and Paying Agent and Escrow Agent, dated the date of Closing, to the effect that (A) the Bank is a national association bank duly organized, validly existing and in good standing under the laws of the United States of America and is duly authorized to exercise trust powers in the State, (B) the Bank has all requisite authority, power, licenses, permits and franchises, and has full corporate power and legal authority to execute and perform its functions under the Bond Resolution, (C) the performance by the Bank of its functions under the Bond Resolution will not result in any violation of the Articles of Association or Bylaws

of the Bank, any court order to which the Bank is subject or any agreement, indenture or other obligation or instrument to which the Bank is a party or by which the Bank is bound, and no approval or other action by any governmental authority or agency having supervisory authority over the Bank is required to be obtained by the Bank in order to perform its functions under the Bond Resolution, (D) there is no action, suit, proceeding or investigation at law or in equity before any court, public board or body pending or, to such authorized representative's knowledge, threatened against or affecting the Bank wherein an unfavorable decision, ruling or finding on an issue raised by any party thereto is likely to materially and adversely affect the ability of the Bank to perform its obligations under the Bond Resolution, and (E) the Series 2024 Bonds have been authenticated in accordance with the terms of the Bond Resolution;

(i) An executed copy of the Continuing Disclosure Certificate of the County, substantially in the form provided therefor in Appendix E to the Official Statement;

(j) An executed copy of the Escrow Deposit Agreement;

(k) At Closing, the Underwriters shall receive the letter of CDM Smith (the "Traffic Engineer") addressed to the County and the Underwriter, dated the Closing Date, substantially to the effect that the information in the Preliminary Official Statement and the Official Statement attributable to the Traffic Engineer, including but not limited to the information in the sections therein entitled "TRANSPORTATION FACILITIES" and "APPENDIX A – Traffic Engineers' Annual Traffic and Revenue Report for Fiscal Year 2023 for the Lee County Toll Facilities" attached thereto does not contain, to their knowledge, any untrue statement of a material fact or omit or fail to state a material fact required to be stated therein or necessary to make the statements therein, in light of the circumstances under which they were made, not misleading;

(l) [A duly executed copy of the Policy, the opinion of the general counsel to the Insurer, a no default certificate of the Insurer, and a certificate of an officer of the Insurer dated the date of the Closing and addressed to the Underwriter, concerning the Insurer, the Policy and the information relating to the Insurer and the Policy contained in the Official Statement, in form and substance satisfactory to the Underwriter;]

(m) A Verification Report of GNP Services, CPA, PA, dba Dufresne CPA Services, PA verifying the accuracy of the arithmetical computations of the sufficiency of the cash balances held therein to pay the principal of and interest on the Refunded Bonds; and

(n) At Closing, the Underwriter shall receive such additional legal opinions, certificates (including such certificates as may be required by regulations of the Internal Revenue Service in order to establish the exclusion from gross income, for federal income tax purposes, of the interest on the Series 2024 Bonds, which certificates shall be satisfactory in form and substance to Bond Counsel) and other evidence as the Underwriter, Bond Counsel, or Counsel to the Underwriter may reasonably deem necessary, provided such additional legal opinions, certificates and other evidence are requested by the Underwriter at least one (1) business day before Closing.

The foregoing opinions, certificates and other evidence shall be in form and substance satisfactory to the Underwriter, including but not limited to, any certifications contained in any omnibus certificate delivered by the County in connection with the Closing.

If the County shall be unable to satisfy the conditions to the obligations of the Underwriter contained in this Bond Purchase Agreement, or if the obligations of the Underwriter shall be terminated for any reason permitted by this Bond Purchase Agreement, this Bond Purchase Agreement shall terminate and neither the Underwriter nor the County shall be under any further obligation or liability to the other under this Bond Purchase Agreement, except as provided in Section 8 and except that the Good Faith Wire shall be returned to the Underwriter by the County as provided in Section 3.

7. **Termination of Bond Purchase Agreement.** The Underwriter may terminate this Bond Purchase Agreement, in its absolute discretion, without liability, by written notification to the County, if at any time subsequent to the date of this Bond Purchase Agreement and prior to the Closing:

(a) The marketability of the Series 2024 Bonds, in the reasonable opinion of the Underwriter, has been materially adversely affected by an amendment to the Constitution of the United States of America or by any legislation (other than any actions taken by either House of Congress on or prior to the date of this Bond Purchase Agreement): (i) enacted or adopted by the United States of America; (ii) recommended to the Congress or otherwise endorsed for passage, by press release, other form of notice or otherwise, by the President of the United States of America, the Chairman or ranking minority member of the Committee on Finance of the United States Senate or the Committee on Ways and Means of the United States House of Representatives, the Treasury Department of the United States of America or the Internal Revenue Service; or (iii) favorably reported out of the appropriate Committee for passage to either House of the Congress by any full Committee of such House to which such legislation has been referred for consideration, or by any decision of any court of the United States of America or by any order, rule or regulation (final, temporary or proposed) on behalf of the Treasury Department of the United States of America, the Internal Revenue Service or any other authority or regulatory body of the United States of America, or by a release or announcement or communication issued or sent by the Treasury Department or the Internal Revenue Service of the United States of America, or any comparable legislative, judicial or administrative development affecting the federal tax status of the County, its property or income, obligations of the general character of the Series 2024 Bonds, or any tax exemption of the Series 2024 Bonds; or

(b) Any legislation, rule, or regulation shall be enacted or adopted by any department or agency in the State, or a decision by any court of competent jurisdiction within the State shall be rendered which, in the reasonable opinion of the Underwriter, materially affects the market for the Series 2024 Bonds or the sale, at the contemplated offering prices, by the Underwriter of the Series 2024 Bonds to be purchased by them; or

(c) Any amendment or supplement to the Official Statement is proposed by the County or deemed necessary by Bond Counsel or Disclosure Counsel which, in the reasonable opinion of the Underwriter, materially adversely affects the market price for the Series 2024 Bonds

or the sale, at the prices stated in this Bond Purchase Agreement, by the Underwriter of the Series 2024 Bonds; or

(d) Legislation shall be enacted or adopted, or any action shall be taken by, or on behalf of, the United States Securities and Exchange Commission (the "Commission") which, in the reasonable opinion of Counsel to the Underwriter, has the effect of requiring the contemplated distribution of the Series 2024 Bonds to be registered under the Securities Act of 1933, as amended, or the Bond Resolution to be qualified under the Trust Indenture Act of 1939, as amended, or any laws analogous thereto relating to governmental bodies, and compliance therewith cannot be accomplished prior to the Closing; or

(e) Legislation shall be enacted by, the House of Representatives or the Senate of the Congress of the United States of America, or a decision by a Court of the United States of America shall be rendered, or a stop order, ruling, release, regulation, official statement or no-action letter by or on behalf of the Commission or any other governmental agency having jurisdiction of the subject matter of the Series 2024 Bonds shall have been issued or made (which is beyond the control of the Underwriter or the County to prevent or avoid) to the effect that the issuance, offering or sale of the Series 2024 Bonds, including all the underlying obligations as contemplated by this Bond Purchase Agreement or by the Official Statement, or any document relating to the issuance, offering or sale of the Series 2024 Bonds is or would be in violation of any of the federal securities laws at Closing, including the Securities Act of 1933, as amended and then in effect, the Securities Exchange Act of 1934, as amended and then in effect, or the Trust Indenture Act of 1939, as amended and then in effect, or with the purpose or effect of otherwise prohibiting the offering and sale of obligations of the general character of the Series 2024 Bonds, as contemplated by this Bond Purchase Agreement; or

(f) There shall have occurred, after the signing of this Bond Purchase Agreement, either (i) a default with respect to any debt obligations of the County, or (ii) proceedings under the federal or State bankruptcy laws shall have been instituted by or against the County, in either case the effect of which, in the reasonable judgment of the Underwriter, is such as to materially and adversely affect (A) the market price or the sale at the offering prices as stated in this Bond Purchase Agreement, by the Underwriter of the Series 2024 Bonds, or (B) the ability of the Underwriter to enforce contracts for the sale of the Series 2024 Bonds; or

(g) A general banking moratorium shall have been declared by the United States of America, New York or State authorities, which in the reasonable opinion of the Underwriter, materially adversely affects the market price for the Series 2024 Bonds or the sale, at the contemplated offering prices, by the Underwriter of the Series 2024 Bonds; or

(h) Any national securities exchange, or any governmental authority, shall impose, as to the Series 2024 Bonds or any obligation of the general character of the Series 2024 Bonds, any material restrictions not now in force, or increase materially those now in force, with respect to the extension of credit by, or the charge to the net capital requirements of the Underwriter, or the establishment of material restrictions upon trading of securities, including limited or minimum prices, by any governmental authority or by any national securities exchange; or



(i) Legal action shall have been filed against the County from which an adverse ruling would materially adversely affect the transactions contemplated by this Bond Purchase Agreement or by the Official Statement or the validity of the Series 2024 Bonds, the Bond Resolution, or this Bond Purchase Agreement; provided, however, that as to any such litigation, the County may request and the Underwriter may accept an opinion by Bond Counsel, or of other counsel acceptable to the Underwriter, that in such counsel's opinion the issues raised by any such litigation or proceeding are without substance or that the contentions of any plaintiffs are without merit; or

(j) Trading in any securities of the County shall have been suspended on any national securities exchange; or any proceeding shall be pending or threatened by the Commission against the County; or a general suspension of trading on the New York Stock Exchange or the American Stock Exchange or other national securities exchange, the effect of which, in the opinion of the Underwriter, is to affect materially and adversely the market prices of the Series 2024 Bonds; or

(k) Any information shall have become known or an event shall have occurred which, in the Underwriter's reasonable opinion, makes untrue, incorrect or misleading in any material respect any statement or information contained in the Official Statement, as that information has been supplemented or amended, or causes the Official Statement, as so supplemented or amended, to contain an untrue, incorrect or misleading statement of a material fact or to omit to state a material fact required or necessary to be stated in the Official Statement in order to make the statements made in the Official Statement, in light of the circumstances under which they were made, not misleading and upon the receipt of notice of same by the County, (1) the County fails to promptly amend or supplement the Official Statement in a manner which is reasonably acceptable in form and content to the Underwriter, or (ii) the County agrees to the proposed amendment, and such disclosed information or event in the opinion of the Underwriter, materially adversely affects the market price for the Series 2024 Bonds or their sale, at the prices stated in this Bond Purchase Agreement; or

(l) There shall have occurred an outbreak or escalation of hostilities, declaration by the United States of a national emergency or war or other calamity or crisis, after execution of this Bond Purchase Agreement which, in the opinion of the Underwriter, would have a material adverse effect on the market price of the Series 2024 Bonds or their sale at the prices stated in this Bond Purchase Agreement; or

(m) There shall have occurred a reduction or withdrawal in the following assigned ratings to the Series 2024 Bonds: underlying ratings by S&P and Moody's of ["\_\_"] and ["\_\_"] [and by S&P of "[\_\_]" based on the Policy being delivered by the Insurer.]; or

(n) Trading in securities generally on the New York Stock Exchange shall have been suspended or limited or minimum prices shall have been established on such Exchange.

## 8. **Expenses.**

(a) The County agrees to pay all expenses incident to the performance of its obligations under this Bond Purchase Agreement, including, but not limited to: (i) the cost of the

preparation, printing or other reproduction (for distribution prior to, on, or after the date of acceptance of this Bond Purchase Agreement) of copies of the Preliminary Official Statement and Official Statement; (ii) charges made by rating agencies for the ratings of the Series 2024 Bonds; (iii) the fees and disbursements of Bond Counsel, Disclosure Counsel, the Financial Advisor, and of any other experts or consultants retained by the County; (iv) the cost of any consent letters, statements or certificates delivered by the County's accountants or consultants; (v) certain costs of issuance of the Series 2024 Bonds, (vi) out-of-pocket expenses of the County; and (vii) expenses incurred on behalf of the County employees which are incidental to implementing this Bond Purchase Agreement, including, but not limited to, meals, transportation, lodging and entertainment. If the Underwriter should incur any of the expenses described in clause (vii), on behalf of the County as part of the expense component of the Underwriter's discount, the County shall, as soon as practicable, reimburse the Underwriter in full.

(b) The Underwriter shall pay all expenses incident to the performance of its obligations under this Bond Purchase Agreement, including, but not limited to: (i) the cost of delivering the Series 2024 Bonds from New York, New York, to the purchasers; (ii) the fees and disbursements of Counsel to the Underwriter; and (iii) all other expenses incurred by them or any of them in connection with their offering and distribution of the Series 2024 Bonds, including the preparation, printing and separate distribution, if any, of any Blue Sky memoranda.

(c) Except as otherwise specifically set forth in this Bond Purchase Agreement, in the event either the County or the Underwriter shall have paid obligations of the other (including any employees of the County), as set forth in this Section, appropriate reimbursements and adjustments shall be made.

9. **Truth in Bonding Statement.** The County is proposing to issue the Series 2024 Bonds, the proceeds of which, together with certain other moneys of the County, will be used for the purpose of providing funds to: (a) refund the Refunded Bonds; and (b) pay the costs of issuance of the Series 2024 Bonds.

The debt or obligation created by the Series 2024 Bonds is expected to be repaid over a period of approximately [\_\_\_\_] years. At an all-in true interest cost of [\_\_\_\_]%, the total interest paid over the life of the Series 2024 Bonds will be \$[\_\_\_\_]. The source of repayment or security for this proposal to issue the Series 2024 Bonds is exclusively limited to the Pledged Funds consisting primarily of the Net Revenues As summarized in the Official Statement, payment of the principal of or redemption price, if applicable, and interest on the Series 2024 Bonds shall be payable solely from and secured by a prior lien upon and pledge of the Pledged Funds. Authorizing the Series 2024 Bonds will result in an average of \$[\_\_\_\_\_] annually of Net Revenues, not being available to finance the other services of the County for approximately [\_\_\_\_] years.

10. **Public Entity Crimes.** The Underwriter represent that each of them, including its employees, officers, directors, executives, partners, shareholders or agents who are active in the management of the entity, have not been charged with and convicted of a public entities crime pursuant to Section 287.133, Florida Statutes.

11. **Miscellaneous.**

(a) All notices, demands and formal actions shall be in writing and mailed, telegraphed, or delivered to:

The Underwriter:

BofA Securities, Inc.  
One Bryant Park, 12<sup>th</sup> Floor  
New York, New York 10036  
Attention: Amanda Schlang

The County:

Lee County  
2115 Second Street, 3<sup>rd</sup> Floor  
Fort Myers, Florida 33901  
Attention: Finance Director

(or such other addresses as may be designated in writing to the other parties).

(b) This Bond Purchase Agreement will inure to the benefit of and be binding upon the parties and their successors and assigns, and will not confer any rights upon any other person. The terms "successors" and "assigns" shall not include any purchaser of any of the Series 2024 Bonds from the Underwriter merely because of such purchase.

(c) The County acknowledges and agrees that (i) the Underwriter is not acting as municipal advisors within the meaning of Section 15B of the Securities Exchange Act, as amended, (ii) the primary role of the Underwriter is to purchase securities, for resale to investors, in an arm's length commercial transaction between the County and the Underwriter and the Underwriter has financial and other interests that differ from those of the County, (iii) in connection therewith and with the discussions, undertakings and procedures leading up to the consummation of such transaction, the Underwriter is and has been acting solely as principals and are not acting as the agents, municipal advisor or fiduciaries of the County, (iv) the Underwriter has not assumed an advisory or fiduciary responsibility in favor of the County with respect to the offering contemplated hereby or the discussions, undertakings and procedures leading thereto (irrespective of whether the Underwriter has provided other services or are currently providing other services to the County on other matters) and the Underwriter has no obligation to the County with respect to the offering contemplated hereby except the obligations expressly set forth in this Bond Purchase Agreement and (v) the County has consulted its own legal, financial and other advisors to the extent it has deemed appropriate.

(d) All the representations, warranties, covenants and agreements of the County in this Bond Purchase Agreement shall remain operative and in full force and effect as if made on the date of this Bond Purchase Agreement and the Closing Date, regardless of (i) any investigation made by or on behalf of any of the Underwriter, or (ii) delivery of and any payment for the Series 2024 Bonds.

(e) The agreements contained in Sections 3 and 8 shall survive any termination of this Bond Purchase Agreement.

(f) Section headings have been inserted in this Bond Purchase Agreement as a matter of convenience of reference only and it is agreed that such section headings are not a part of this Bond Purchase Agreement and will not be used in the interpretation of any provisions of this Bond Purchase Agreement.

(g) If any provision of this Bond Purchase Agreement shall be held or deemed to be, or shall in fact be, invalid, inoperative or unenforceable as applied in any particular case in any jurisdiction or jurisdictions, or in all jurisdictions because it conflicts with any provisions of any constitution, statute, or rule of public policy, or for any other reasons, such circumstances shall not have the effect of rendering the provision in question invalid, inoperative or unenforceable in any other case or circumstances, or of rendering any other provision or provisions of this Bond Purchase Agreement invalid, inoperative or unenforceable to any extent whatever.

(h) This Bond Purchase Agreement constitutes the entire agreement between the parties hereto with respect to the matters covered hereby, and supersedes all prior agreements and understandings between the parties, including all oral statements, prior writings and representations with respect thereto. The Bond Purchase Agreement shall only be amended, supplemented or modified in a writing signed by both of the parties hereto.

(i) This Bond Purchase Agreement may be executed in several counterparts, each of which shall be regarded as an original and all of which shall constitute one and the same document.

(j) This Bond Purchase Agreement shall be governed by the laws of the State of Florida.

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(k) This Bond Purchase Agreement shall become effective upon the execution by the appropriate County and Authority officials of the acceptance of this Bond Purchase Agreement by the County and Authority and shall be valid and enforceable at the time of such acceptance.

**BOFA SECURITIES, INC.**

By: \_\_\_\_\_  
Amanda Schlang, Director

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Signature page for Bond Purchase Agreement relating to  
Lee County, Florida Transportation Facilities Refunding Revenue Bonds, Series 2024

Accepted this \_\_\_\_ day of [\_\_\_\_\_] 2024.

**LEE COUNTY, FLORIDA**

By: \_\_\_\_\_  
Chairman, Board of County  
Commissioners

**SCHEDULE I**

**BOND TERMS**

Lee County, Florida Transportation Facilities Refunding Revenue Bonds, Series 2024

Dated: Date of Delivery –[\_\_\_\_\_], 2024

Aggregate Principal Amount: \$ \_\_\_\_\_

	<b><u>Year</u></b> <b><u>(October 1)</u></b>	<b><u>Principal</u></b> <b><u>Amount</u></b>	<b><u>Interest</u></b> <b><u>Rate</u></b>	<b><u>Yield</u></b>	<b><u>Price</u></b>
Serial Bonds					

**NET TO COUNTY AT CLOSING**

**Series 2024 Bonds**

Par Amount of Series 2024 Bonds  
Plus/Less: [Net] Original Issue  
Premium/Discount  
Plus Sinking Account Contribution  
Less: Underwriter's Discount  
Less: Good Faith Wire  
**Net to County**

**REDEMPTION**

**No Optional Redemption**

The Series 2024 Bonds will not be subject to redemption prior to maturity.



**SCHEDULE II**  
**DISCLOSURE LETTER**

[\_\_\_\_\_], 2024

Board of County Commissioners of  
Lee County, Florida  
2115 Second Street  
Fort Myers, Florida 33901

[\$\_\_\_\_\_]  
**Lee County, Florida**  
**Transportation Facilities Refunding Revenue Bonds, Series 2024**

Ladies and Gentlemen:

Pursuant to Section 218.85, Florida Statutes, and in reference to the issuance by Lee County, Florida (the "County") of the Transportation Facilities Refunding Revenue Bonds, Series 2024 (the "Series 2024 Bonds"), BofA Securities, Inc. (the "Underwriter") in connection with their offer to enter into this Bond Purchase Agreement (the "Bond Purchase Agreement") dated [\_\_\_\_\_], 2024, by and among the Underwriter and County, makes the following disclosures to the County.

The Underwriter is acting as investment bankers to the County for the public offering of the Series 2024 Bonds issued in the aggregate principal amount of \$[\_\_\_\_\_]. The Underwriter's discount to be paid to the Underwriter for the Series 2024 Bonds is \$[\_\_\_\_\_].

1. Expenses estimated to be incurred by the Underwriter in connection with the issuance of the Series 2024 Bonds:

	<b>\$/1,000</b>	<b>Amount</b>
i-Deal Bookrunning		
i-Deal Wire Charges		
i-Deal Order Monitor		
CUSIP Charge and Disclosure Fee		
DTC Service Fees		
MuniBond Roadshow		
Out of Pocket Expenses		
Underwriter's Counsel Fee		
<b>TOTAL</b>		

2. Names, addresses and estimated amounts of compensation of any person who is not regularly employed by, or not a partner or officer of an underwriter, bank, banker or financial consultant or advisor and who enters into an understanding with either the County or the Underwriter, directly, expressly or impliedly, to act solely as an intermediary between the County

and the Underwriter for the purpose of influencing any transaction in the purchase of the Series 2024 Bonds:

None

3. The amount of underwriting spread expected to be realized:

	<b>Dollar Amount</b>	<b>Per Bond/1000</b>
Average Takedown		
Management Fee		
Expenses		
<b>TOTAL</b>		

[REMAINDER OF PAGE INTENTIONALLY LEFT BLANK]

4. Any other fee, bonus and other compensation estimated to be paid by the Underwriter in connection with the Series 2024 Bonds to any person not regularly employed or retained by the Underwriter:

None

5. The name and address of the Underwriter connected with the Series 2024 Bonds:

BofA Securities, Inc.  
One Bryant Park, 12<sup>th</sup> Floor  
New York, New York 10036  
Attn: Amanda Schlang, Director

Very truly yours,

**BOFA SECURITIES, INC.**

By: \_\_\_\_\_  
Amanda Schlang, Director

**EXHIBIT A**

**FORM OF LEE COUNTY ATTORNEY OPINION**

[\_\_\_\_\_], 2024

Board of County Commissioners  
of Lee County, Florida  
Fort Myers, Florida

BofA Securities, Inc.,  
New York, New York

Ladies and Gentlemen:

This letter shall serve as the opinion of the County Attorney of Lee County, Florida (the "County") pursuant to the Bond Purchase Agreement, dated [\_\_\_\_\_], 2024 (the "Purchase Agreement"), between the County and BofA Securities, Inc. (the "Underwriter"). I have participated in various proceedings in connection with the sale and issuance by the County of its \$[\_\_\_\_\_] Transportation Facilities Refunding Revenue Bonds, Series 2024 (the "Series 2024 Bonds"). Capitalized terms not otherwise defined herein shall have the meanings ascribed thereto in the Purchase Agreement.

In my capacity as County Attorney in connection with the issuance of the Series 2024 Bonds, I have reviewed, among other things: (i) the Act; (ii) the Bond Resolution; (iii) Escrow Deposit Agreement; (iv) the Continuing Disclosure Certificate; (v) Purchase Agreement; (vi) the Interlocal Agreements; (vii) the Official Statement relating to the Series 2024 Bonds (the "Official Statement"); and (viii) such other documents, agreements, leases, certificates and affidavits relating to the issuance of the Series 2024 Bonds as we have deemed necessary to render the opinions expressed in this letter. The documents set forth in (ii)-(vi) above are referred to collectively in this letter as the "County Documents."

I am of the opinion that:

(1) The County is a political subdivision of the State of Florida duly organized and validly existing under the Constitution and laws of the State of Florida with full power and authority to consummate all transactions contemplated by the County Documents, the Bond Resolution and the Series 2024 Bonds and any and all other agreements relating thereto, to which the County is a party.

(2) The County has duly adopted the Bond Resolution, and the County Documents have been duly and validly authorized, executed and delivered by the County and each constitutes a legal, valid and binding obligation of the County enforceable in accordance with its respective terms, except as the enforcement thereof may be limited by bankruptcy, insolvency, moratorium or other laws affecting creditors' rights generally and by the availability of equitable remedies.

(3) To the best of my knowledge, all approvals, consents and orders or any filings with any governmental authority or agency which would constitute a condition precedent to the issuance of the Series 2024 Bonds or the execution and delivery of or the performance by the County of its obligations under the County Documents, the Bond Resolution and the Series 2024 Bonds have been obtained or made and any consents, approvals and orders so received or filings so made are in full force and effect; provided, however that no representation is made concerning compliance with the federal securities laws or the securities or Blue Sky laws of the various states.

(4) The adoption of the Bond Resolution, the performance by the County of its obligations under the Bond Resolution, and the authorization, execution, delivery and performance of the obligations of the County under the County Documents and the Series 2024 Bonds and any other agreement or instrument to which the County is a party, used or contemplated by the Bond Resolution, or any of the County Documents or by the Official Statement in connection with the issuance of the Series 2024 Bonds, and the compliance with the provisions of each such instrument do not, and will not, conflict with or violate the Act, or any existing federal or state law, administrative regulation, rule, decree or order, or to the best of my knowledge, constitute or result in a breach of or default under a material provision of any agreement or instrument to which the County or its properties, or any of the officers of the County, are subject or result in the creation or imposition of any prohibited lien, charge, or encumbrance of any nature whatsoever upon any of the terms of the Constitution of the State of Florida, any law or, to the best of our knowledge, any instrument or agreement.

(5) The County has duly authorized the distribution by the Underwriter of the Preliminary Official Statement and the execution, delivery and distribution of the Official Statement.

(6) Except as otherwise described in the Official Statement, no litigation or other proceedings are pending in the Circuit Court of the 20th Judicial Circuit in and for Lee County, Florida or in the United States District Court for the Middle District of Florida or, to the best of my knowledge, threatened in any court or other tribunal, state or federal (a) restraining or enjoining, or seeking to restrain or enjoin, the issuance sale, execution or delivery of any of the Series 2024 Bonds or the execution, delivery and performance of the County Documents or the refunding of the Refunded Bonds, (b) in any way questioning or affecting (i) the validity or enforceability of the Series 2024 Bonds, or (ii) any proceedings of the County taken with respect to the issuance or sale of the Series 2024 Bonds, or (iii) the adoption of the Bond Resolution, or (iv) the pledge of the Pledged Funds pursuant to the Bond Resolution for the purposes described in the Official Statement, or (v) the existence or powers of the County, or (vi) the title to office of the members of the Board; or (c) in any way questioning or affecting the authority for the issuance and sale of the Series 2024 Bonds, or of any provision, program or transactions made or authorized for their payment; or (d) questioning or affecting the power and authority of the County to issue the Series 2024 Bonds and collect Net Revenues (as defined in the Bond Resolution), refund the Refunded Bonds or undertake any other transactions contemplated by the Official Statement; or (e) which a final adverse decision is likely to have a material adverse effect upon the collection of the Net Revenues or the contemplated use of the proceeds of the Series 2024 Bonds.

(7) With respect to the information contained in the Preliminary Official Statement and the Official Statement, other than information regarding DTC and its book-entry system,

information regarding the Insurer and the Policy and the information provided by the Underwriter under the heading "UNDERWRITING," and financial, engineering and statistical data included therein as to all of which no opinion is expressed, based upon my review of the Preliminary Official Statement and the Official Statement as County Attorney and without having undertaken to determine independently the accuracy or completeness of the contents of the Preliminary Official Statement and the Official Statement, I have no reason to believe that the information contained in the Preliminary Official Statement, as of its date, and the Official Statement, as of its date and the date hereof, relating to legal matters contains any untrue statement of a material fact or omits to state a material fact required to be stated therein or necessary to make the statements made therein, in light of the circumstances under which they were made, not misleading.

Respectfully submitted,

County Attorney

## **EXHIBIT B**

### **FORM OF SUPPLEMENTAL OPINION OF BOND COUNSEL**

[\_\_\_\_\_], 2024

BofA Securities, Inc.,  
New York, New York

Ladies and Gentlemen:

We have served as Bond Counsel to Lee County, Florida (the "County") in connection with the issuance and sale by the County of its \$\_\_\_\_\_ Transportation Facilities Refunding Revenue Bonds, Series 2024 (the "Series 2024 Bonds") to BofA Securities, Inc. (the "Underwriter"), pursuant to the Bond Purchase Agreement dated [\_\_\_\_\_], 2024 (the "Purchase Agreement") and we have participated in various proceedings related thereto. Capitalized terms not otherwise defined herein shall have the meanings ascribed thereto in the Purchase Agreement.

We have examined, among other things, the Act, the Bond Resolution, the proceedings of the County with respect to the authorization and issuance of the Series 2024 Bonds, the Official Statement and the Purchase Agreement, and have made such other examination of applicable Florida and other laws as we have deemed necessary in giving this opinion.

As to questions of fact material to our opinion, we have relied upon representations of the County contained in the Bond Resolution and the Purchase Agreement, the certified proceedings and other certifications of public officials furnished to us, and certifications furnished to us by or on behalf of the County, without undertaking to verify the same by independent investigation.

Based on the foregoing, under existing law, we are of the opinion that:

1. The Series 2024 Bonds are not subject to the registration requirement of the Securities Act of 1933, as amended, and the Bond Resolution is exempt from qualification under the Trust Indenture Act of 1939, as amended.

2. The information contained in the Preliminary Official Statement, as of its date (other than omissions therefrom permitted by Rule 15c2-12 promulgated by the United States Securities and Exchange Commission), and the Official Statement, as of its date and as of the date hereof, under the captions "INTRODUCTION," "DESCRIPTION OF THE SERIES 2024 BONDS" (except for the information regarding The Depository Trust Company and information contained in the subheading "Book-Entry Only System" therein), "SECURITY FOR THE SERIES 2024 BONDS" and "SUMMARY OF CERTAIN AMENDMENTS TO THE MASTER RESOLUTION" (other than the financial, statistical and demographic information included therein, as to all of which no opinion is expressed) insofar as such statements purport to be summaries of certain provisions of the Series 2024 Bonds and the Bond Resolution, constitute a fair summary of the information purported to be summarized therein and information relating to

the Insurer and its Policy. The statements in the Preliminary Official Statement and the Official Statement on the cover relating to our opinion and under the caption "TAX MATTERS" are accurate statements or summaries of the matters therein set forth. It should be noted that such summaries do not purport to summarize all of the provisions of, and are qualified in their entirety by, the complete documents or provisions which are summarized.

3. Assuming the deposit and application of cash and escrow securities (the "Refunding Securities") in accordance with the terms of the Escrow Deposit Agreement, such deposit and application will cause the pledge of the Pledged Funds and all covenants, agreements and obligations of the County, to the extent set forth in the Bond Resolution, in favor of the holders of the Refunded Bonds (as such term is defined in the Escrow Deposit Agreement) to thereupon cease, terminate and become void and be discharged and satisfied.

In rendering the opinion set forth in paragraph 5. above, we are relying upon (a) the arithmetical accuracy of certain computations included in schedules provided by [\_\_\_\_\_] relating to the computations of the projected receipts of the principal and interest of the Refunding Securities and other amounts deposited in the escrow fund established in the Escrow Deposit Agreement to pay principal of and interest on the Refunded Bonds and (b) the verifications of arithmetical accuracy of such computations by GNP Services, CPA, PA, dba Dufresne CPA Services, PA.

We express no opinion as to the information contained in the Preliminary Official Statement and the Official Statement other than as provided in paragraph 4. above. The opinions expressed herein are predicated upon present law, facts and circumstances, and we assume no affirmative obligation or duty to update the opinions expressed herein if such laws, facts or circumstances change after the date hereof.

Of even date herewith, we have delivered our Bond Counsel Opinion with respect to the Series 2024 Bonds. This letter shall confirm that you may rely on such opinion as if it were addressed to you; provided, however, no attorney-client relationship has existed or exists between our firm and you in connection with the Series 2024 Bonds and by virtue of this opinion letter or our Bond Counsel Opinion.

We are furnishing this letter to you, as Underwriter of the Series 2024 Bonds, solely for your benefit. The letter is not to be used, circulated, quoted or otherwise referred to for any other purpose.

Respectfully submitted,



**EXHIBIT C**

**CERTIFICATE OF UNDERWRITER REGARDING ISSUE PRICE**

\$ \_\_\_\_\_  
**Transportation Facilities Refunding Revenue Bonds,  
Series 2024**

**Dated as of [ \_\_\_\_\_ ], 2024**

BofA Securities (the "Underwriter") as Underwriter for the bonds identified above (the "Issue"), issued by Lee County, Florida (the "Issuer"), based on its knowledge regarding the sale of the Issue, certifies as of this date as follows:

**(1) Issue Price.**

**[If the issue price is determined using only the general rule (actual sales of at least 10%) in Regulations § 1.148-1(f)(2)(i):**

(A) As of the date of this certificate, for each Maturity of the Issue, the first price at which at least 10% of such Maturity of the Issue was sold to the Public is the respective price listed in the final Official Statement, dated [ \_\_\_\_\_ ], for the Issue (the "Sale Price" as applicable to respective Maturities). The aggregate of the Sale Prices of each Maturity is \$[ \_\_\_\_\_ ] (the "Issue Price").]

**[If the issue price is determined using a combination of actual sales (Regulations § 1.148-1(f)(2)(i)) and hold-the-offering-price (Regulations § 1.148-1(f)(2)(ii)):**

(A) As of the date of this certificate, for each Maturity listed on Schedule A as the "General Rule Maturities," the first price at which at least 10% of such Maturity was sold to the Public is the respective price listed in Schedule A (the "Sale Price" as applicable to each Maturity of the General Rule Maturities).

(B) On or before the Sale Date, the Underwriter offered the Maturities listed on Schedule A as the "Hold-the-Offering-Price Maturities" to the Public for purchase at the respective initial offering prices listed in Schedule A (the "Initial Offering Prices" as applicable to each Maturity of the Hold-the-Offering-Price Maturities). A copy of the pricing wire or equivalent communication for the Issue is attached to this certificate as Schedule B.

(C) As set forth in the Bond Purchase Agreement, the Underwriter has agreed in writing that, (i) for each Maturity of the Hold-the-Offering-Price Maturities, it would neither offer nor sell any unsold portion of such Maturity to any person at a price that is higher than the Initial Offering Price for such Maturity during the Holding Period for such Maturity (the "hold-the-offering-price rule"), and (ii) any selling group agreement shall contain the agreement of each dealer who is a

member of the selling group, and any third-party distribution agreement shall contain the agreement of each broker-dealer who is a party to the third-party distribution agreement, to comply with the hold-the-offering-price rule. Pursuant to such agreement, no underwriter has offered or sold any unsold bonds of any Maturity of the Hold-the-Offering-Price Maturities at a price that is higher than the respective Initial Offering Price for that Maturity of the Issue during the Holding Period.

**[If the issue price is determined using only the hold-the-offering-price rule in Regulations § 1.148-1(f)(2)(ii):**

(A) [The Underwriter offered, on or before the Sale Date, each Maturity of the Issue to the Public for purchase at the respective initial offering prices listed in the final Official Statement, dated [\_\_\_\_], for the Issue (the "Initial Offering Prices"). A copy of the pricing wire or equivalent communication for the Issue is attached to this certificate as Schedule A. The aggregate of the Initial Offering Prices of each Maturity is \$[\_\_\_\_\_] (the "Issue Price").

(B) As set forth in the Bond Purchase Agreement, [the Underwriter has agreed in writing that, (i) for each Maturity of the Issue, it would neither offer nor sell any unsold portion of such Maturity to any person at a price that is higher than the Initial Offering Price for such Maturity during the Holding Period for such Maturity (the "hold-the-offering-price rule"), and (ii) any selling group agreement shall contain the agreement of each dealer who is a member of the selling group, and any third-party distribution agreement shall contain the agreement of each broker-dealer who is a party to the third-party distribution agreement, to comply with the hold-the-offering-price rule. Pursuant to such agreement, no Underwriter has offered or sold any unsold bonds of any Maturity of the Issue at a price that is higher than the respective Initial Offering Price for that Maturity of the Issue during the Holding Period.]

[(B),(E), or (C)] Definitions. **[NOTE:** If issue price is determined using only the general rule (actual sales of 10%), delete the definitions of "Holding Period" and "Sale Date."]

**["Holding Period"** means, for each Hold-the-Offering-Price Maturity of the Issue, the period starting on the Sale Date and ending on the earlier of (i) the close of the fifth business day after the Sale Date ([DATE]), or (ii) the date on which the Underwriter has sold at least 10% of such Maturity of the Issue to the Public at a price that is no higher than the Initial Offering Price for such Maturity.]

**"Maturity"** means bonds of the Issue with the same credit and payment terms. Bonds of the Issue with different maturity dates, or bonds of the Issue with the same maturity date but different stated interest rates, are treated as separate Maturities.

**"Public"** means any person (including an individual, trust, estate, partnership, association, company, or corporation) other than an Underwriter or a related party to an Underwriter. The term "related party" for purposes of this certificate generally means any two or more persons who have greater than 50 percent common ownership, directly or indirectly.

**["Sale Date"** means the first day on which there is a binding contract in writing for the sale of a Maturity of the Issue. The Sale Date of the Issue is [DATE].]

**"Underwriter"** means (i) any person that agrees pursuant to a written contract with the Issuer (or with the lead underwriter to form an underwriting syndicate) to participate in the initial sale of the Issue to the Public, and (ii) any person that agrees pursuant to a written contract directly or indirectly with a person described in clause (i) of this paragraph to participate in the initial sale of the Issue to the Public (including a member of a selling group or a party to a third-party distribution agreement participating in the initial sale of the Issue to the Public).

All capitalized terms not defined in this Certificate have the meaning set forth in the Issuer's Tax Compliance Certificate or in Attachment A to it.

The signer is an officer of the Underwriter and duly authorized to execute and deliver this Certificate. The representations set forth in this certificate are limited to factual matters only. Nothing in this certificate represents the Underwriter's interpretation of any laws, including specifically Sections 103 and 148 of the Internal Revenue Code of 1986, as amended (the "Code"), and the Treasury Regulations thereunder. The undersigned understands that the foregoing information will be relied upon by the Issuer with respect to certain of the representations set forth in the Tax Compliance Certificate and with respect to compliance with the federal income tax rules affecting the Issue, and by Nabors, Giblin & Nickerson, P.A. (Bond Counsel), in connection with rendering their opinions that the interest on the Issue is excluded from gross income for federal income tax purposes, the preparation of the Internal Revenue Service Form 8038, and other federal income tax advice that they may give to the Issuer from time to time relating to the Issue. Notwithstanding the foregoing, we remind you that we are not accountants or actuaries, nor are we engaged in the practice of law. The representations set forth herein are not necessarily based on personal knowledge and, in certain cases, the undersigned is relying on representations made by the Issuer and Bond Counsel.

Dated: [\_\_\_\_\_], 2024

**BOFA SECURITIES, INC.,**

By: \_\_\_\_\_  
Amanda Schlang, Director

**SCHEDULE A  
SALE PRICES OF THE GENERAL RULE MATURITIES AND  
INITIAL OFFERING PRICES OF THE HOLD-THE-OFFERING-PRICE MATURITIES**

**GENERAL RULE MATURITIES**

	<u>Year (October 1)</u>	<u>Principal Amount</u>	<u>Interest Rate</u>	<u>Yield</u>	<u>Price</u>
Serial Bonds					

**HOLD-THE OFFERING PRICE MATURITIES**

	<u>Year (October 1)</u>	<u>Principal Amount</u>	<u>Interest Rate</u>	<u>Yield</u>	<u>Price</u>
Serial Bonds					

**SCHEDULE B**  
**PRICING WIRE OR EQUIVALENT COMMUNICATION**  
*(Attached)*

**EXHIBIT B**

**FORM OF PRELIMINARY OFFICIAL STATEMENT**

**NEW ISSUE - FULL BOOK-ENTRY**

See "RATINGS" herein

*In the opinion of Nabors, Giblin & Nickerson, P.A., Tampa, Florida ("Bond Counsel"), under existing statutes, regulations, rulings and court decisions and subject to the conditions described herein under "TAX MATTERS," interest on the Series 2024 Bonds is (a) excludable from gross income of the owners thereof for federal income tax purposes except as otherwise described herein under the caption "TAX MATTERS," and (b) not an item of tax preference for purposes of the federal alternative minimum tax; provided, however, with respect to certain corporations, interest on the Series 2024 Bonds is taken into account in determining the annual adjusted financial statement income for the purpose of computing the alternative minimum tax imposed on such corporations. Such interest, however, may be subject to other federal income tax consequences referred to herein under "TAX MATTERS." See "TAX MATTERS" herein for a general discussion of Bond Counsel's opinion and other tax considerations.*

LEE COUNTY  
SOUTHWEST  
FLORIDA

\$ \_\_\_\_\_\*  
LEE COUNTY, FLORIDA  
Transportation Facilities Refunding Revenue Bonds,  
Series 2024

DAC Bond

Dated: Date of Delivery

Due: October 1, as shown on inside front cover

The Lee County, Florida Transportation Facilities Refunding Revenue Bonds, Series 2024 (the "Series 2024 Bonds") are being issued by Lee County, Florida (the "County") as fully registered bonds and, when issued, will be registered in the name of Cede & Co., as nominee of The Depository Trust Company, New York, New York ("DTC"), which will act as securities depository for the Series 2024 Bonds. The Series 2024 Bonds will be available to purchasers in denominations of \$5,000 or any integral multiple thereof under the book-entry system maintained by DTC. Purchasers will not receive physical delivery of the Series 2024 Bonds. Interest on the Series 2024 Bonds is payable semiannually on each April 1 and October 1, until maturity or redemption, commencing April 1, 2025. The principal of and interest on the Series 2024 Bonds will be paid by U.S. Bank National Association, as paying agent (the "Paying Agent"). So long as DTC or its nominee, Cede & Co., is the registered owner, such payments will be made directly to Cede & Co. Disbursement of such payments to the Direct Participants (as defined herein) is the responsibility of DTC, and disbursement of such payments to Beneficial Owners (as defined herein) is the responsibility of the Direct Participants and the Indirect Participants (as defined herein), as more fully described herein. So long as Cede & Co. is the registered owner of the Series 2024 Bonds, references herein to the registered owners shall mean Cede & Co. and shall not mean the Beneficial Owners of the Series 2024 Bonds. See "DESCRIPTION OF THE SERIES 2024 BONDS - Book-Entry Only System" herein for further information.

This cover page contains certain information for quick reference only. It is not a summary of the bond issue. Investors must read the entire Official Statement to obtain information essential to the making of an informed investment decision.

The Series 2024 Bonds may be subject to redemption prior to maturity. See "DESCRIPTION OF THE SERIES 2024 BONDS – Redemption Provision" herein for further information.

Proceeds received from the sale of the Series 2024 Bonds, together with other legally available funds, will be used to (i) currently refund all or a portion of the County's Outstanding Transportation Facilities Refunding Revenue Bonds, Series 2014 maturing on or after October 1, 2025 (the "Refunded Bonds"), and (ii) pay the costs of issuance of the Series 2024 Bonds.

The Series 2024 Bonds are being issued pursuant to Resolution No. 86-4-12 adopted by the Board of County Commissioners of the County (the "Board") on April 16, 1986, as amended, and as further amended and restated in its entirety by the Amended and Restated Transportation Facilities Revenue Bond Resolution No. 2024-\_\_-\_\_ adopted by the Board on September 3, 2024, as supplemented and amended from time to time (the "Master Resolution"), and particularly as supplemented by Resolution No. 2024-\_\_-\_\_ adopted by the Board on September 3, 2024 (the "2024 Resolution", together with the Master Resolution, the "Resolution"). The Series 2024 Bonds and interest thereon will be payable solely from and secured by a lien upon and a pledge of (i) the Net Revenues to be derived from the Transportation Facilities (as such terms are defined herein) of the County, and (ii) until applied in accordance with the provisions of the Resolution, all moneys, including investments thereof, in certain of the funds, accounts and subaccounts established by the Resolution (collectively, the "Pledged Funds"), all as more particularly described herein and in the Resolution on a parity with any Additional Bonds hereafter issued under the Resolution. See "SECURITY FOR THE BONDS" herein and APPENDIX D-1 and APPENDIX D-2 attached hereto. The Series 2024 Bonds will be additionally secured by debt service reserve fund surety policies on deposit in the Reserve Subaccount.

**The County has adopted certain amendments to the Resolution (the "Amendments"). At the time of issuance of the Series 2024 Bonds, the initial Holders of such Series 2024 Bonds, through their purchase of the Series 2024 Bonds, shall be deemed to have consented to the Amendments. Such Amendments will be effective upon the issuance of the Series 2024 Bonds and receipt of written consent by Assured Guaranty Inc. and shall be binding on all future Series 2024 Bondholders. See "SUMMARY OF CERTAIN AMENDMENTS TO THE RESOLUTION" and "SECURITY FOR THE BONDS" herein, and "APPENDIX D-1 Copy of the Resolution" and "APPENDIX D-2 Amendments to the Resolution" attached hereto for a complete description of such Amendments.**

THE SERIES 2024 BONDS SHALL NOT BE OR CONSTITUTE GENERAL OBLIGATIONS OR INDEBTEDNESS OF THE COUNTY AS "BONDS" WITHIN THE MEANING OF ANY CONSTITUTIONAL OR STATUTORY PROVISION, BUT SHALL BE SPECIAL OBLIGATIONS OF THE COUNTY, PAYABLE SOLELY FROM AND SECURED BY A LIEN UPON AND PLEDGE OF THE PLEDGED FUNDS, IN THE MANNER AND TO THE EXTENT PROVIDED IN THE RESOLUTION. NO HOLDER OF ANY SERIES 2024 BOND, OR ANY CREDIT BANK OR INSURER SHALL EVER HAVE THE RIGHT TO COMPEL THE EXERCISE OF ANY AD VALOREM TAXING POWER TO PAY SUCH SERIES 2024 BOND OR BE ENTITLED TO PAYMENT OF SUCH SERIES 2024 BOND OR ON ACCOUNT OF SUCH SERIES 2024 BOND FROM ANY MONEYS OF THE COUNTY EXCEPT FROM THE PLEDGED FUNDS IN THE MANNER AND TO THE EXTENT PROVIDED IN THE RESOLUTION. THE SERIES 2024 BONDS AND THE OBLIGATIONS EVIDENCED THEREBY SHALL NOT CONSTITUTE A LIEN UPON THE TRANSPORTATION FACILITIES OR ANY OTHER PROPERTY OF THE COUNTY, BUT SHALL CONSTITUTE A LIEN ONLY ON, AND SHALL BE PAYABLE SOLELY FROM, THE PLEDGED FUNDS.

*The Series 2024 Bonds are offered when, as and if issued by the County, subject to the approving legal opinion of Nabors, Giblin & Nickerson, P.A., Tampa, Florida, Bond Counsel. Certain legal matters are subject to the approval of Richard Wm. Wesch, Esq., County Attorney. Certain legal matters are subject to the approval of Bryant*



*Miller Olive P.A., Tampa, Florida, as Disclosure Counsel. Certain legal matters will be passed upon for the Underwriter by its counsel, GrayRobinson, P.A., Tampa, Florida. Dunlap & Associates, Inc., Orlando, Florida, is acting as Financial Advisor to the County. It is expected that the Series 2024 Bonds in definitive form will be available for delivery through the facilities of DTC on or about \_\_\_\_\_, 2024.*

**BofA Securities**

Dated: \_\_\_\_\_, 2024

\_\_\_\_\_  
\*Preliminary, subject to change.

MATURITIES, PRINCIPAL AMOUNTS, INTEREST RATES, PRICES, YIELDS  
AND INITIAL CUSIP NUMBERS

\$\_\_\_\_\_\*

LEE COUNTY, FLORIDA  
Transportation Facilities Refunding Revenue Bonds,  
Series 2024

\$\_\_\_\_\_ \* Serial Series 2024 Bonds

<u>Maturity</u> <u>(October 1)*</u>	<u>Principal</u> <u>Amount*</u>	<u>Interest</u> <u>Rate</u>	<u>Price</u>	<u>Yield</u>	<u>Initial</u> <u>CUSIP No.**</u>
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\* Preliminary, subject to change.

\*\* The County is not responsible for the use of CUSIP Numbers, nor is a representation made as to their correctness. The CUSIP Numbers are only included solely for the convenience of the readers of the Official Statement and may be changed after the issuance of the Series 2024 Bonds.

RED HERRING LANGUAGE:

This Preliminary Official Statement and the information contained herein are subject to completion or amendment. Under no circumstances shall this Preliminary Official Statement constitute an offer to sell or a solicitation of an offer to buy, nor shall there be any sale of the Series 2024 Bonds in any jurisdiction in which such offer, solicitation or sale would be unlawful prior to registration, qualification or exemption under the securities laws of such jurisdiction. The County has deemed this Preliminary Official Statement "final," except for certain permitted omissions, within the contemplation of Rule 15c2-12 promulgated by the Securities and Exchange Commission.

**LEE COUNTY, FLORIDA**

Lee County Courthouse  
2115 Second Street  
Fort Myers, Florida 33901

**Board of County Commissioners**

Mike Greenwell, Chairman  
Kevin Ruane, Vice Chairman  
Brian Hamman  
Cecil Pendergrass  
Ray Sandelli

**Clerk of Circuit Court & Comptroller and  
Ex-Officio Clerk of the Board of County Commissioners**

Kevin C. Karnes

**County Manager**

Dave Harner

**County Attorney**

Richard Wm. Wesch, Esq.

**Traffic Engineers**

CDM Smith

**Bond Counsel**

Nabors, Giblin & Nickerson, P.A.  
Tampa, Florida

**Disclosure Counsel**

Bryant Miller Olive P.A.  
Tampa, Florida

**Financial Advisor**

Dunlap & Associates, Inc.  
Orlando, Florida

No dealer, broker, salesman or any other person has been authorized by Lee County, Florida (the "County") to give any information or to make any representations in connection with the Series 2024 Bonds other than as contained in this Official Statement, and, if given or made, such information or representations must not be relied upon as having been authorized by the County. This Official Statement does not constitute an offer to sell or the solicitation of an offer to buy, nor shall there be any sale of the Series 2024 Bonds by any person in any jurisdiction in which it is unlawful for such person to make such offer, solicitation or sale. The information set forth herein has been obtained from the County, The Depository Trust Company, the Underwriter and other sources which are believed to be reliable.

The information set forth herein has been obtained from the County, The Depository Trust Company ("DTC"), and other sources that are believed to be reliable but is not guaranteed as to accuracy or completeness by, and is not to be construed as a representation by, the Underwriter. The Underwriter listed on the cover page hereof has reviewed the information in this Official Statement in accordance with and as part of its responsibilities to investors under the federal securities laws as applied to the facts and circumstances of this transaction, but the Underwriter does not guarantee the accuracy or completeness of such information. The information and expressions of opinion stated herein are subject to change, and neither the delivery of this Official Statement nor any sale made hereunder shall create, under any circumstances, any implication that there has been no change in the matters described herein since the date hereof.

All summaries herein of documents and agreements are qualified in their entirety by reference to such documents and agreements, and all summaries herein of the Series 2024 Bonds are qualified in their entirety by reference to the form thereof included in the aforesaid documents and agreements.

Any statements in this Official Statement involving estimates, assumptions and matters of opinion, whether or not so expressly stated, are intended as such and not as representations of fact, and the County expressly makes no representation that such estimates, assumptions and opinions will be realized or fulfilled. Any information, estimates, assumptions and matters of opinion contained in this Official Statement are subject to change without notice, and neither the delivery of this Official Statement, nor any sale made hereunder, shall under any circumstances create any implication that there has been no change in the affairs of the County since the date hereof.

**THE SERIES 2024 BONDS HAVE NOT BEEN REGISTERED WITH THE SECURITIES AND EXCHANGE COMMISSION UNDER THE SECURITIES ACT OF 1933, AS AMENDED, NOR HAS THE RESOLUTION BEEN QUALIFIED UNDER THE TRUST INDENTURE ACT OF 1939, AS AMENDED, IN RELIANCE UPON EXEMPTIONS CONTAINED IN SUCH ACTS. THE REGISTRATION OR QUALIFICATION OF THE SERIES 2024 BONDS IN ACCORDANCE WITH APPLICABLE PROVISIONS OF THE SECURITIES LAWS OF THE STATES, IF ANY, IN WHICH THE SERIES 2024 BONDS HAVE BEEN REGISTERED OR QUALIFIED AND THE EXEMPTION FROM REGISTRATION OR QUALIFICATION IN CERTAIN OTHER STATES CANNOT BE REGARDED AS A RECOMMENDATION THEREOF. NEITHER THESE STATES NOR ANY OF THEIR AGENCIES HAVE PASSED UPON THE MERITS OF THE SERIES 2024 BONDS OR THE ACCURACY OR COMPLETENESS OF THIS OFFICIAL STATEMENT. ANY REPRESENTATION TO THE CONTRARY MAY BE A CRIMINAL OFFENSE.**

THIS OFFICIAL STATEMENT CONTAINS STATEMENTS WHICH, TO THE EXTENT THEY ARE NOT RECITATIONS OF HISTORICAL FACT, CONSTITUTE "FORWARD-LOOKING STATEMENTS." IN THIS RESPECT, THE WORDS "ESTIMATE," "PROJECT," "ANTICIPATE," "EXPECT,"

"INTENT," "BELIEVE" AND SIMILAR EXPRESSIONS ARE INTENDED TO IDENTIFY FORWARD-LOOKING STATEMENTS. A NUMBER OF FACTORS AFFECTING THE COUNTY'S BUSINESS AND FINANCIAL RESULTS COULD CAUSE ACTUAL RESULTS TO DIFFER MATERIALLY FROM THOSE STATED IN THE FORWARD-LOOKING STATEMENTS.

THIS OFFICIAL STATEMENT DOES NOT CONSTITUTE A CONTRACT BETWEEN THE COUNTY OR THE UNDERWRITER AND ANY ONE OR MORE OF THE OWNERS OF THE SERIES 2024 BONDS. This Official Statement is being provided to prospective purchasers either in bound printed form ("Original Bound Format") or in electronic format on the following websites: [WWW.MUNIOS.COM](http://WWW.MUNIOS.COM) or [WWW.EMMA.MSRB.ORG](http://WWW.EMMA.MSRB.ORG). This official statement should be relied upon only if it is in its original bound format or as printed in its entirety directly from such websites.

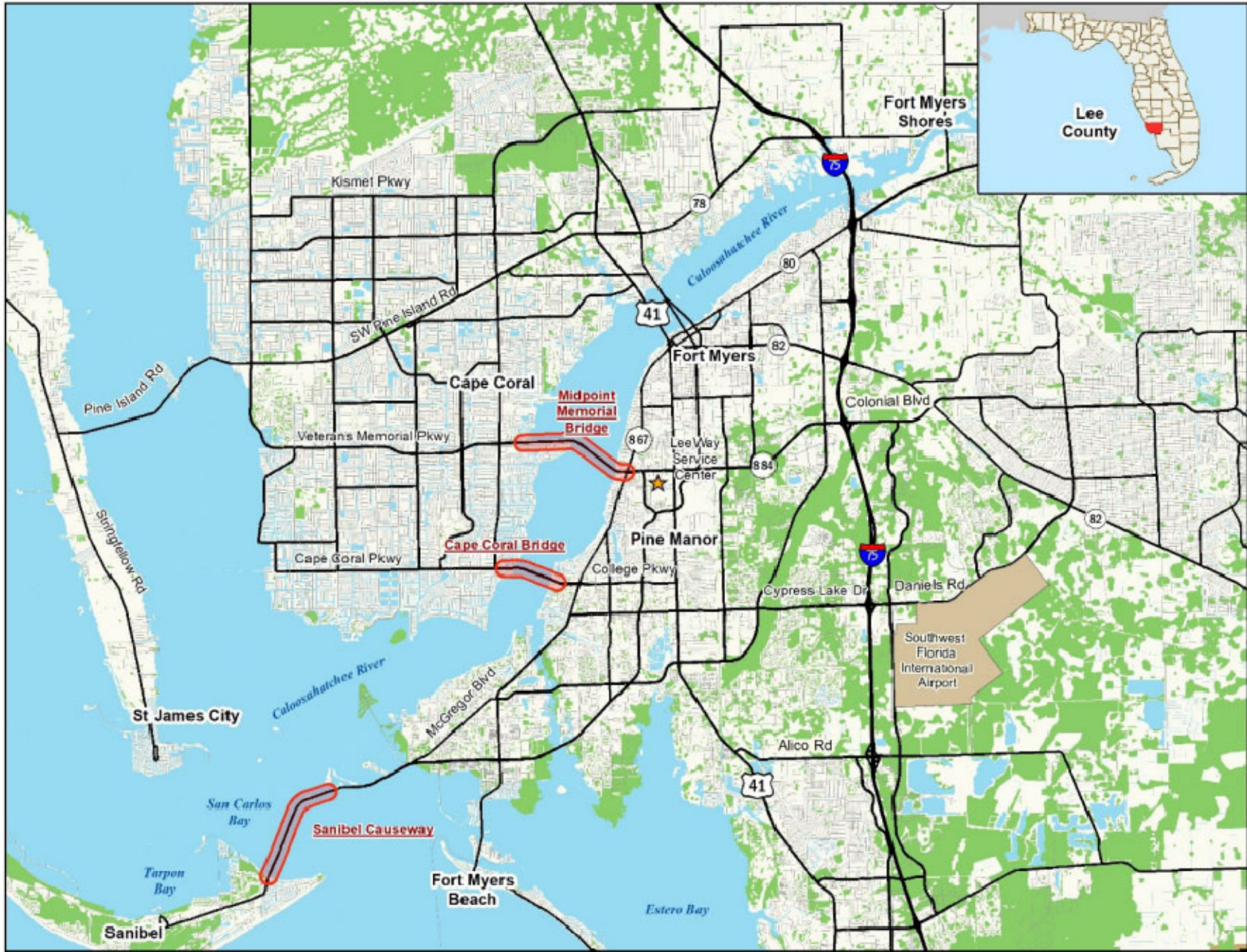
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APPENDIX A	Traffic Engineers' Annual Traffic and Revenue Report for Fiscal Year 2023 for the Lee County Toll Facilities
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APPENDIX C	Economic and Demographic Information Relating to Lee County
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OFFICIAL STATEMENT

Relating to  
\$ \_\_\_\_\_\*  
Lee County, Florida  
Transportation Facilities Refunding Revenue Bonds,  
Series 2024

INTRODUCTION

The purpose of this Official Statement, including the cover page, inside cover page and Appendices hereto, is to set forth information relating to Lee County, Florida (the "County"), its Sanibel Causeway completed in 1963 (the "Sanibel Causeway"), its Cape Coral Bridge completed in 1964 and parallel span completed in 1989 (the "Cape Coral Bridge"), its Midpoint Memorial Bridge completed in 1997 (the "Midpoint Memorial Bridge"), and its \$ \_\_\_\_\_\* Transportation Facilities Refunding Revenue Bonds, Series 2024 (the "Series 2024 Bonds"). The Series 2024 Bonds will be issued pursuant to Resolution No. 86-4-12 adopted by the Board of County Commissioners of the County (the "Board") on April 16, 1986, as amended, and as further amended and restated in its entirety by Resolution No. 2024-\_\_-\_\_ adopted by the Board on September 3, 2024, as supplemented and amended from time to time (the "Master Resolution"), and particularly as supplemented by Resolution No. 2024-\_\_-\_\_ adopted by the Board on September 3, 2024 (the "2024 Resolution", together with the Master Resolution, the "Resolution"). All terms used herein in capitalized form and not otherwise defined herein shall have the meanings ascribed thereto in the Resolution.

For a complete description of the terms and conditions of the Series 2024 Bonds, reference is made to the Resolution attached as APPENDIX D-1. All terms defined in the Resolution shall have the same meanings in this Official Statement unless indicated to the contrary or the context expressly requires otherwise. All information included herein has been provided by the County, except where attributed to other sources. The description of the Series 2024 Bonds and the documents authorizing and securing the same and the information from the summaries of all reports, statutes, documents and other instruments referred to herein do not purport to be comprehensive or definitive and are qualified in their entirety by reference to each such report, statute, document or instrument. All references to such documents are qualified in their entirety by reference to the definitive forms thereof. Definitive copies of all reports and documents not reproduced in this Official Statement and further information with regard to the County may be obtained from the Clerk at P.O. Box 398, 2115 Second Street, Fort Myers, Florida 33902, telephone (239) 533-2100.

**The County has adopted certain amendments to the Resolution (the "Amendments"). At the time of issuance of the Series 2024 Bonds, the initial Holders of such Series 2024 Bonds, through their purchase of the Series 2024 Bonds, shall be deemed to have consented to the Amendments. Such Amendments will be effective upon the issuance of the Series 2024 Bonds and receipt of written consent by Assured Guaranty Inc. and shall be binding on all future Series 2024 Bondholders. See "SUMMARY OF CERTAIN AMENDMENTS TO THE RESOLUTION" and "SECURITY FOR THE BONDS" herein, and "APPENDIX D-1 Copy of the Resolution" and "APPENDIX D-2 Amendments to the Resolution" attached hereto for a complete description of such Amendments.**

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\*Preliminary, subject to change.

The Series 2024 Bonds are being issued pursuant to the Constitution and laws of the State of Florida, including Chapter 125, Florida Statutes, County Home Rule Ordinance No. 86-11, enacted on April 16, 1986, and other applicable provisions of law (collectively, the "Act") and the Resolution. The descriptions herein of the Series 2024 Bonds, the documents authorizing the Series 2024 Bonds and the information from various reports and statements contained herein are not comprehensive or definitive. All references herein to such documents, reports and statements are qualified by their entire, actual content.

The Series 2024 Bonds are secured equally and ratably by a pledge of and lien upon the Pledged Funds (hereinafter defined), on a parity with any Additional Bonds issued under the Resolution in the future. The Series 2024 Bonds and any Additional Bonds are collectively referred to herein as the "Bonds."

The Sanibel Causeway, the Cape Coral Bridge and the Midpoint Memorial Bridge are collectively referred to herein as the "Transportation Facilities" within the meaning of the Resolution. The "Transportation Facilities" under the Resolution also include other bridges, causeways, expressways or roadways that are designated as "Transportation Facilities" by Supplemental Resolution, financed in whole or in part by Bonds issued pursuant to the Act and the Resolution and that have a fee or toll associated with the use thereof. Under the Resolution, the County has created, for accounting purposes, a single enterprise fund, the "Transportation Facilities Enterprise Fund," and various accounts therein, to which the Gross Revenues of all Transportation Facilities are to be credited, and the Operating Expenses thereof and the debt service thereon are to be charged. Reference is made to the map appearing on page (iv) of this Official Statement for the relative locations of the Sanibel Causeway crossing San Carlos Bay and the Cape Coral Bridge and the Midpoint Memorial Bridge crossing the Caloosahatchee River, as well as toll-free bridges crossing the Caloosahatchee River.

For a complete description of the terms and conditions of the Series 2024 Bonds, reference is made to the Resolution a copy of which is attached hereto as APPENDIX D-1. All terms defined in the Resolution shall have the same meanings in this Official Statement unless indicated to the contrary or the context expressly requires otherwise. All information included herein has been provided by the County, except where attributed to other sources. The description of the Series 2024 Bonds and the documents authorizing and securing the same and the information from the summaries of all reports, statutes, documents and other instruments referred to herein do not purport to be comprehensive or definitive and are qualified in their entirety by reference to each such report, statute, document or instrument. All references to such documents are qualified in their entirety by reference to the definitive forms thereof. Definitive copies of all reports and documents not reproduced in this Official Statement and further information with regard to the County may be obtained from the Clerk at P.O. Box 398, 2115 Second Street, Fort Myers, Florida 33902, telephone (239) 533-2100.

References to website addresses presented herein are for informational purposes only and may be in the form of a hyperlink solely for the reader's convenience. Unless specified otherwise, such websites and the information or links contained therein are not incorporated into, and are not part of, this Official Statement.

## **LEE COUNTY GOVERNMENT**

The County is a political subdivision of the State of Florida governed by the State Constitution and general laws of the State of Florida. It was founded in 1887 and became a Charter County upon the

enactment of its County Charter approved by the voters on November 5, 1996 and effective as of January 1, 1997.

The five-member Board is the legislative and governing body of the County. Each County Commissioner is elected at large for a four-year term of office, and each Commissioner represents and resides in one of the five Commission Districts. The Board elects a Chairman who serves as its presiding officer.

The Clerk of the Circuit Court is ex officio Clerk of the Board and auditor, recorder and custodian of all County funds. The Clerk administers the County's fiscal activities on behalf of the Board.

The Clerk of the Circuit Court, the Property Appraiser, the Sheriff, the Supervisor of Elections and the Tax Collector are separate, elected constitutional offices in the State of Florida. The budgets of the Property Appraiser and the Tax Collector are submitted directly to the State of Florida Department of Revenue for approval. The Clerk of the Circuit Court (to the extent of his function as ex-officio Clerk to the Board and with respect to certain other fees, as Clerk to the Circuit and County Courts), Sheriff, and Supervisor of Elections prepare budgets for their general funds which are submitted to and approved by the Board.

The County Manager, the chief executive officer of the County, is appointed by and serves under contract to the Board. This official is directly responsible to the Board for administration and operation of each of the operating departments of the County — County Administration, Human Services, Visitor & Convention Bureau, Community Development, Economic Development, and within the Public Works Area of County Administration are Transportation and Construction & Design. Within the Public Works area are also the divisions of Natural Resources, Solid Waste and Utilities.

In addition, there are eight separate divisions under the County Manager — Purchasing, Public Resources, Human Relations, Information Technology, Public Safety, Library, Public Recreation Services and Transit. The County Manager is also responsible to the Board for the execution of all Board policies, for the preparation of the County budget, and for control of expenditures throughout the budget year.

The County participates in the Florida Retirement System ("FRS"), a cost sharing, multiple-employer, public employee retirement system, which covers substantially all of the full-time and part-time employees. The County maintains two single-employer, defined benefit other postemployment benefit plans ("OPEB"), the Group Health Program for Lee County, and the Lee County Sheriff Health Care Plan. See "APPENDIX C - Economic and Demographic Information Relating to Lee County, Florida" attached hereto under the heading "FLORIDA RETIREMENT SYSTEM AND OTHER POSTEMPLOYMENT BENEFIT PLANS" for a description of the FRS and OPEB plans and the liabilities of the County associated with such plans.

For further information regarding the County, see "APPENDIX C - Economic and Demographic Information Relating to Lee County, Florida" attached hereto.

### **PURPOSE OF THE SERIES 2024 BONDS**

Proceeds received from the sale of the Series 2024 Bonds, together with other legally available funds, will be used to (i) currently refund all or a portion of the County's Outstanding Transportation Facilities Refunding Revenue Bonds, Series 2014 maturing on or after October 1, 2025 (the "Refunded Bonds"), and (ii) pay the costs of issuance of the Series 2024 Bonds.

## PLAN OF REFUNDING

The callable Refunded Bonds will be called for early redemption on or about \_\_\_\_\_, \_\_\_\_\_ at a redemption price equal to the principal amount thereof, plus accrued interest to the redemption date, and without premium.

Upon delivery of the Series 2024 Bonds, the County will enter into an escrow deposit agreement (the "Escrow Deposit Agreement") with U.S. Bank National Association (in such capacity, the "Escrow Holder") pertaining to the Refunded Bonds. The Escrow Deposit Agreement creates an Escrow Account (the "Escrow Account") to be held by the Escrow Holder for the benefit of the Refunded Bonds which will be funded with a portion of the proceeds of the Series 2024 Bonds and certain other legally available moneys of the County. The Escrow Account will be held in trust by the Escrow Holder and the money and investments therein will be irrevocably pledged to the payment of the principal of and interest on the Refunded Bonds. Certain moneys in the Escrow Account will be invested in Refunding Securities provided the County receives a verification report that such investments shall mature at such times and in such amounts as shall be sufficient, together with any interest earnings and initial cash deposit, if any, to pay the principal of and interest on the Refunded Bonds as the same mature or are redeemed in accordance with the terms of the Escrow Deposit Agreement. Upon delivery of the Series 2024 Bonds, GNP Services, CPA, PA, dba Dufresne CPA Services, PA (the "Verification Agent"), will verify the accuracy of the arithmetical computations of the sufficiency of the Refunding Securities and cash held therein to pay the principal of and interest on the Refunded Bonds. See "VERIFICATION OF ARITHMETICAL COMPUTATIONS" herein.

In reliance upon the above-referenced schedules and verification, at the time of delivery of the Series 2024 Bonds, Bond Counsel shall deliver an opinion to the County to the effect that the pledge of the Pledged Funds and all covenants, agreements and obligations of the County, to the extent set forth in the Resolution, in favor of the holders of the Refunded Bonds shall thereupon cease, terminate and become void and be discharged and satisfied.

The moneys and securities held under the Escrow Deposit Agreement will be used only to pay the Refunded Bonds and will not be available for payment of debt service on the Series 2024 Bonds.

## DESCRIPTION OF THE SERIES 2024 BONDS

### General

The Series 2024 Bonds will be dated as of the date of delivery, bear interest at the rates per annum set forth on the inside cover page of this Official Statement, payable semiannually on April 1 and October 1 in each year commencing April 1, 2025 (each an "Interest Date"), and mature, subject to prior redemption, on October 1 in the years and principal amounts set forth on the inside cover page of this Official Statement.

As further described below, the Series 2024 Bonds will initially be registered in the name of Cede & Co., as nominee of The Depository Trust Company ("DTC"). For so long as DTC or its nominee, Cede & Co., shall be the registered owner of the Series 2024 Bonds, all references in the Official Statement to "Registered Owner," "Bondholder" or "Owner of the Series 2024 Bonds" shall mean Cede & Co. and shall not mean the Beneficial Owner (hereinafter defined) of the Series 2024 Bonds. The principal of and interest on the Series 2024 Bonds will be payable to the Beneficial Owners in the manner described under



the heading "Book-Entry Only System" herein. If DTC or its nominee, Cede & Co., shall no longer be the registered owner of the Series 2024 Bonds, such principal shall be payable when due upon presentation and surrender of the Series 2024 Bonds at the designated corporate trust office of the Paying Agent, and interest will be payable by check or draft mailed by the Paying Agent on each Interest Date to the Registered Owners of the Series 2024 Bonds registered as such as of the close of business on the date which shall be the fifteenth day (whether or not a business day ) of the calendar month next preceding the Interest Date or, at the request of the Owner of not less than \$1,000,000 aggregate principal amount of the Series 2024 Bonds, by bank wire transfer to the account of such registered Owner.

Interest on the Series 2024 Bonds will be computed on the basis of a 360-day year of twelve 30-day months.

U.S. Bank National Association shall serve as initial Paying Agent and Registrar (the "Paying Agent" and the "Registrar") for the Series 2024 Bonds.

## **Redemption Provisions**

### *Optional Redemption*

The Series 2024 Bonds maturing on or prior to October 1, \_\_\_\_ are not subject to optional redemption prior to their respective maturities. The Series 2024 Bonds maturing on or after October 1, 20\_\_ may be redeemed prior to its maturity, at the option of the County, upon at least thirty (30) days' notice, either in whole or in part, from any monies that may be available for such purpose, on any date on or after October 1, 20\_\_, at a Redemption Price equal to 100% of the principal amount of the Series 2024 Bonds to be redeemed, plus accrued interest to the redemption date, without premium.

### *Selection of the Series 2024 Bonds to be Redeemed*

The Series 2024 Bonds shall be redeemed only in the principal amount of \$5,000 each and integral multiples thereof. The County, or its agent, shall, at least forty-five (45) days prior to the redemption date (unless a shorter time period shall be satisfactory to the Registrar), notify the Registrar of such redemption date and of the principal amount of Series 2024 Bonds to be redeemed, and if less than all of the Outstanding Series 2024 Bonds are to be redeemed, the particular maturities or portions thereof to be redeemed. For purposes of any redemption of less than all of the Outstanding Series 2024 Bonds of a single maturity, the particular Series 2024 Bonds or portions of Series 2024 Bonds to be redeemed shall be selected not more than forty-five (45) days prior to the redemption date by the Registrar from the Outstanding Series 2024 Bonds of the maturity or maturities designated by the County by such method as the Registrar shall deem fair and appropriate and which may provide for the selection for redemption of Series 2024 Bonds or portions of Series 2024 Bonds in principal amounts of \$5,000 and integral multiples thereof.

### *Notice of Redemption*

Notice of redemption, which shall specify the Series 2024 Bond or Series 2024 Bonds (or portions thereof) to be redeemed and the date and place for redemption, shall be given by the Registrar on behalf of the County, and (A) shall be filed with the Paying Agent of the Series 2024 Bonds, and (B) shall be mailed first class, postage prepaid, at least thirty (30) days prior to the redemption date to all Holders of Series 2024 Bonds to be redeemed at their addresses as they appear on the registration books kept by the

Registrar. Failure to mail notice to the Holders of the Series 2024 Bonds to be redeemed, or any defect therein, shall not affect the validity of the proceedings of redemption of such Series 2024 Bonds as to which no such failure or defect has occurred. Such notice shall also be mailed to the Insurer or Credit Bank, if any, of such redeemed Series 2024 Bonds. Failure of any Holder to receive any notice mailed as provided in the Resolution shall not affect the proceedings for redemption of such Holder's Series 2024 Bonds.

Each notice of redemption shall state: (1) the CUSIP numbers and any other distinguishing number or letter of all Series 2024 Bonds being redeemed; (2) the original issue date of such Series 2024 Bonds; (3) the maturity date and rate of interest borne by each Series 2024 Bond being redeemed; (4) the redemption date; (5) the Redemption Price; (6) the date on which such notice is mailed; (7) if less than all Outstanding Series 2024 Bonds are to be redeemed, the certificate number (and, in the case of a partial redemption of any Series 2024 Bond, the principal amount) of each Series 2024 Bond to be redeemed; (8) that on such redemption date there shall become due and payable upon each Series 2024 Bond to be redeemed the Redemption Price thereof, or the Redemption Price of the specified portions of the principal thereof in the case of Series 2024 Bonds to be redeemed in part only, together with interest accrued thereon to the redemption date, and that from and after such date interest thereon shall cease to accrue and be payable; (9) that the Series 2024 Bonds to be redeemed, whether as a whole or in part, are to be surrendered for payment of the Redemption Price at the principal office of the Registrar at an address specified; (10) the name and telephone number of a person designated by the Registrar to be responsible for such redemption; (11) unless sufficient funds have been set aside by the County for such purpose prior to the mailing of the notice of redemption, that such redemption is conditioned upon the deposit of sufficient funds for such purpose on or prior to the date set for redemption; and (12) any other conditions that must be satisfied prior to such redemption.

In addition to the mailing of the notice described above, each notice of redemption and payment of the Redemption Price shall be sent to such other Person, if any, as shall be required by applicable law or regulation; provided, however, the failure to provide such further notice of redemption or to comply with the terms of this paragraph shall not in any manner defeat the effectiveness of a call for redemption if notice thereof is given as prescribed above.

The County may provide that a redemption may be contingent upon the occurrence of certain condition(s) and that if such condition(s) do not occur the notice of redemption will be rescinded, and the Series 2024 Bonds called for redemption shall remain Outstanding, provided notice of rescission shall be mailed in the manner described above to all affected Series 2024 Bondholders as soon as practicable.

#### Redemption of Portions of Series 2024 Bonds

Any Series 2024 Bond which is to be redeemed only in part shall be surrendered at any place of payment specified in the notice of redemption (with due endorsement by, or written instrument of transfer in form satisfactory to the Registrar duly executed by, the Holder thereof or his attorney duly authorized in writing) and the County shall execute and the Registrar shall authenticate and deliver to the Holder of such Series 2024 Bond, without service charge, a new Series 2024 Bond, of any authorized denomination, as requested by such Holder in an aggregate principal amount equal to and in exchange for the unredeemed portion of the principal of the Series 2024 Bonds so surrendered.



### DTC Procedures

Investors should note that while DTC is the registered owner of the Series 2024 Bonds, partial prepayments of the Series 2024 Bonds will be determined in accordance with DTC's procedures. The County intends that prepayment allocations made by DTC, the Direct Participants or such other intermediaries that may exist between the County and the Beneficial Owners of the Series 2024 Bonds be made in accordance with the method of selection of Series 2024 Bonds for a partial prepayment described above. However, the selection of the Series 2024 Bonds for prepayment in DTC's book-entry only system is subject to DTC's practices and procedures as in effect at the time of any such partial prepayment. The County can provide no assurance that DTC or the Direct Participants or any other intermediaries will allocate prepayments among Beneficial Owners in accordance with the method of selection of Series 2024 Bonds for a partial prepayment described above.

### **Book-Entry Only System**

THE FOLLOWING INFORMATION CONCERNING DTC AND DTC'S BOOK-ENTRY ONLY SYSTEM HAS BEEN OBTAINED FROM SOURCES THAT THE COUNTY BELIEVES TO BE RELIABLE. THE COUNTY TAKES NO RESPONSIBILITY FOR THE ACCURACY THEREOF.

SO LONG AS CEDE & CO. IS THE REGISTERED OWNER OF THE SERIES 2024 BONDS, AS NOMINEE OF DTC, CERTAIN REFERENCES IN THIS OFFICIAL STATEMENT TO THE SERIES 2024 BONDHOLDERS OR REGISTERED OWNERS OF THE SERIES 2024 BONDS SHALL MEAN CEDE & CO. AND WILL NOT MEAN THE BENEFICIAL OWNERS OF THE SERIES 2024 BONDS. THE DESCRIPTION WHICH FOLLOWS OF THE PROCEDURES AND RECORD KEEPING WITH RESPECT TO BENEFICIAL OWNERSHIP INTERESTS IN THE SERIES 2024 BONDS, PAYMENT OF INTEREST AND PRINCIPAL ON THE SERIES 2024 BONDS TO DIRECT PARTICIPANTS (AS HEREINAFTER DEFINED) OR BENEFICIAL OWNERS OF THE SERIES 2024 BONDS, CONFIRMATION AND TRANSFER OF BENEFICIAL OWNERSHIP INTERESTS IN THE SERIES 2024 BONDS, AND OTHER RELATED TRANSACTIONS

BY AND BETWEEN DTC, THE DIRECT PARTICIPANTS AND BENEFICIAL OWNERS OF THE SERIES 2024 BONDS IS BASED SOLELY ON INFORMATION FURNISHED BY DTC. ACCORDINGLY, NEITHER MAKES NOR CAN MAKE ANY REPRESENTATIONS CONCERNING THESE MATTERS.

DTC will act as securities depository for the Series 2024 Bonds. The Series 2024 Bonds will be issued as fully registered securities registered in the name of Cede & Co. (DTC's partnership nominee) or such other name as may be requested by an authorized representative of DTC. One fully registered bond certificate will be issued for each maturity of the Series 2024 Bonds as set forth in the inside cover of this Official Statement, in the aggregate principal amount thereof, and will be deposited with DTC.

DTC, the world's largest securities depository, is a limited-purpose trust company organized under the New York Banking Law, a "banking organization" within the meaning of the New York Banking Law, a member of the Federal Reserve System, a "clearing corporation" within the meaning of the New York Uniform Commercial Code, and a "clearing agency" registered pursuant to the provisions of Section 17A of the Securities Exchange Act of 1934. DTC holds and provides asset servicing for over 3.5 million issues of U.S. and non-U.S. equity issues, corporate and municipal debt issues, and money market instruments from over 100 countries that DTC's participants ("Direct Participants") deposit with DTC. DTC also facilitates the post-trade settlement among Direct Participants of sales and other

securities transactions in deposited securities, through electronic computerized book-entry transfers and pledges between Direct Participants' accounts. This eliminates the need for physical movement of securities certificates. Direct Participants include both U.S. and non-U.S. securities brokers and dealers, banks, trust companies, clearing corporations, and certain other organizations. DTC is a wholly owned subsidiary of The Depository Trust & Clearing Corporation ("DTCC"). DTCC is the holding company for DTC, National Securities Clearing Corporation and Fixed Income Clearing Corporation, all of which are registered clearing agencies. DTCC is owned by the users of its regulated subsidiaries. Access to the DTC system is also available to others such as both U.S. and non-U.S. securities brokers and dealers, banks, trust companies, and clearing corporations that clear through or maintain a custodial relationship with a Direct Participant, either directly or indirectly ("Indirect Participants"). The Direct Participants and the Indirect Participants are collectively referred to herein as the "DTC Participants." DTC has an S&P Global Ratings ("S&P") rating of AA+. The DTC Rules applicable to its DTC Participants are on file with the Securities and Exchange Commission (the "SEC"). More information about DTC can be found at [www.dtcc.com](http://www.dtcc.com).

Purchases of Series 2024 Bonds under the DTC system must be made by or through Direct Participants, which will receive a credit for the Series 2024 Bonds on DTC's records. The ownership interest of each actual purchaser of each Series 2024 Bond ("Beneficial Owner") is in turn to be recorded on the Direct and Indirect Participants' records. Beneficial Owners will not receive written confirmation from DTC of their purchase. Beneficial Owners are, however, expected to receive written confirmations providing details of the transaction, as well as periodic statements of their holdings, from the Direct or Indirect Participant through which the Beneficial Owner entered into the transaction. Transfers of ownership interests in the Series 2024 Bonds are to be accomplished by entries made on the books of Direct and Indirect Participants acting on behalf of Beneficial Owners. Beneficial Owners will not receive certificates representing their ownership interests in the Series 2024 Bonds, except in the event that use of the book-entry system for the Series 2024 Bonds is discontinued.

To facilitate subsequent transfers, all Series 2024 Bonds deposited by Direct Participants with DTC are registered in the name of DTC's partnership nominee, Cede & Co., or such other name as may be requested by an authorized representative of DTC. The deposit of the Series 2024 Bonds with DTC and their registration in the name of Cede & Co. or such other DTC nominee do not affect any change in beneficial ownership. DTC has no knowledge of the actual Beneficial Owners of the Series 2024 Bonds; DTC's records reflect only the identity of the Direct Participants to whose accounts such Series 2024 Bonds are credited, which may or may not be the Beneficial Owners. The Direct and Indirect Participants will remain responsible for keeping account of their holdings on behalf of their customers.

Conveyance of notices and other communications by DTC to Direct Participants, by Direct Participants to Indirect Participants, and by Direct Participants and Indirect Participants to Beneficial Owners will be governed by arrangements among them, subject to any statutory or regulatory requirements as may be in effect from time to time. Beneficial Owners of Series 2024 Bonds may wish to take certain steps to augment the transmission to them of notices of significant events with respect to the Series 2024 Bonds, such as redemptions, tenders, defaults, and proposed amendments to the security documents. For example, Beneficial Owners of Series 2024 Bonds may wish to ascertain that the nominee holding the Series 2024 Bonds for their benefit has agreed to obtain and transmit notices to Beneficial Owners. In the alternative, Beneficial Owners may wish to provide their names and addresses to the Registrar and request that copies of notices be provided directly to them.

Redemption notices shall be sent to DTC. If less than all of the Series 2024 Bonds within a maturity are being redeemed, DTC's practice is to determine by lot the amount of the interest of each Direct Participant in such maturity to be redeemed.

Neither DTC nor Cede & Co. (nor any other DTC nominee) will consent or vote with respect to the Series 2024 Bonds unless authorized by a Direct Participant in accordance with DTC's MMI Procedures. Under its usual procedures, DTC mails an Omnibus Proxy to the County as soon as possible after the record date. The Omnibus Proxy assigns Cede & Co.'s consenting or voting rights to those Direct Participants to whose accounts the Series 2024 Bonds are credited on the record date (identified in a listing attached to the Omnibus Proxy).

Redemption proceeds and distributions on the Series 2024 Bonds will be made to Cede & Co., or such other nominee as may be requested by an authorized representative of DTC. DTC's practice is to credit Direct Participants' accounts upon DTC's receipt of funds and corresponding detail information from the County or the Paying Agent, on the payment date in accordance with their respective holdings shown on DTC's records. Payments by DTC Participants to Beneficial Owners will be governed by standing instructions and customary practices, as is the case with securities held for the accounts of customers in bearer form or registered in "street name," and will be the responsibility of such DTC Participant and not of DTC, the Paying Agent, or the County, subject to any statutory or regulatory requirements as may be in effect from time to time. Payment of redemption proceeds and distributions to Cede & Co. (or such other nominee as may be requested by an authorized representative of DTC) is the responsibility of the County and/or the Paying Agent, disbursement of such payments to Direct Participants will be the responsibility of DTC, and disbursement of such payments to the Beneficial Owners will be the responsibility of Direct and Indirect Participants.

DTC may discontinue providing its services as depository with respect to the Series 2024 Bonds at any time by giving reasonable notice to the County or the Paying Agent. Under such circumstances, in the event that a successor depository is not obtained, the Series 2024 Bond certificates are required to be printed and delivered.

The County may decide to discontinue use of the system of book-entry-only transfers through DTC (or a successor securities depository). In that event, bond certificates will be printed and delivered to DTC.

#### **Bonds Mutilated, Destroyed, Stolen or Lost**

In case if any of the Series 2024 Bonds become mutilated, or be destroyed, stolen or lost, the County may, in its discretion, issue and deliver, and the Registrar shall authenticate, a new Series 2024 Bond of like tenor as the Series 2024 Bonds so mutilated, destroyed, stolen or lost, in exchange and substitution for such mutilated Series 2024 Bond upon surrender and cancellation of such mutilated Series 2024 Bonds or in lieu of and substitution for the Series 2024 Bonds destroyed, stolen or lost, and upon the Holder furnishing the County and the Registrar proof of his ownership thereof and satisfactory indemnity and complying with such other reasonable regulations and conditions as the County or the Registrar may prescribe and paying such expenses as the County and the Registrar may incur. All Series 2024 Bonds so surrendered shall be cancelled by the Registrar. If any of the Series 2024 Bonds shall have matured or be about to mature, instead of issuing a substitute Series 2024 Bond, the County may pay the same or cause the Series 2024 Bond to be paid, upon being indemnified as aforesaid, and if such Series 2024 Bonds be lost, stolen or destroyed, without surrender thereof.

Any such duplicate Series 2024 Bonds issued pursuant to the Resolution shall constitute original, additional contractual obligations on the part of the County whether or not the lost, stolen or destroyed Series 2024 Bonds be at any time found by anyone, and such duplicate Bond shall be entitled to equal and proportionate benefits and rights as to lien on the Pledged Funds to the same extent as all other Series 2024 Bonds issued.

### **Interchangeability, Negotiability and Transfer**

The Series 2024 Bonds, upon surrender thereof at the office of the Registrar with a written instrument of transfer satisfactory to the Registrar, duly executed by the Holder thereof or his attorney duly authorized in writing, may, at the option of the Holder thereof, be exchanged for an equal aggregate principal amount of registered Series 2024 Bonds of the same maturity of any other authorized denominations.

The Series 2024 Bonds issued under the Resolution 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 the Resolution and in the Series 2024 Bonds. So long as any of the Series 2024 Bonds shall remain Outstanding, the County shall maintain and keep, at the office of the Registrar, books for the registration of transfer of the Series 2024 Bonds. The transfer of any Series 2024 Bond shall be registered only upon the books of the County, at the office of the Registrar, under such reasonable regulations as the County may prescribe, by the Holder thereof in person or by his attorney duly authorized in writing upon surrender thereof together with a written instrument of transfer satisfactory to the Registrar duly executed and guaranteed by the Holder or his duly authorized attorney. Upon the registration of transfer of any such Series 2024 Bond, the County shall issue, and cause to be authenticated, in the name of the transferee a new Series 2024 Bond or Series 2024 Bonds of the same aggregate principal amount and maturity as the surrendered Series 2024 Bond. The County, the Registrar and any Paying Agent or fiduciary of the County may deem and treat the Person in whose name any Outstanding Series 2024 Bond shall be registered upon the books of the County as the absolute owner of such Series 2024 Bond, whether such Series 2024 Bond shall be overdue or not, for the purpose of receiving payment of, or on account of, the principal or Redemption Price, if applicable, and interest on such Series 2024 Bond and for all other purposes, and all such payments so made to any such Holder or upon his order shall be valid and effectual to satisfy and discharge the liability upon such Series 2024 Bond to the extent of the sum or sums so paid and neither the County nor the Registrar nor any Paying Agent or other fiduciary of the County shall be affected by any notice to the contrary.

The Registrar shall, in any case where it is not also the Paying Agent, forthwith (A) following the fifteenth day prior to an Interest Date for such Series; (B) following the fifteenth day next preceding the date of mailing of notice of redemption of any Series 2024 Bonds; and (C) at any other time as reasonably requested by the Paying Agent, certify and furnish to such Paying Agent the names, addresses and holdings of Series 2024 Bondholders and any other relevant information reflected in the registration books. Any Paying Agent of any fully registered Series 2024 Bond shall affect payment of interest on such Series 2024 Bonds by mailing a check to the Holder.

In all cases in which Series 2024 Bonds shall be exchanged or the transfer of Series 2024 Bonds shall be registered, the County shall execute and deliver Series 2024 Bonds and the Registrar shall authenticate such Series 2024 Bonds in accordance with the provisions of the Resolution. Execution of Series 2024 Bonds by the Chairman and Clerk for purposes of exchanging, replacing or registering the

transfer of Series 2024 Bonds may occur at the time of the original delivery of such Series 2024 Bonds are a part. All Series 2024 Bonds surrendered in any such exchanges or registrations of transfer shall be held by the Registrar in safekeeping until directed by the County to be cancelled by the Registrar. For every such exchange or registration of transfer, the County or the Registrar may make a charge sufficient to reimburse it for any tax, fee, expense or other governmental charge required to be paid with respect to such exchange or registration of transfer. The County and the Registrar shall not be obligated to make any such exchange or registration of transfer of Series 2024 Bonds of any Series during the fifteen (15) days next preceding an Interest Date on the Series 2024 Bonds, or, in the case of any proposed redemption of Series 2024 Bonds, then during the fifteen (15) days next preceding the date of the first mailing of notice of such redemption and continuing until such redemption date.

The County may elect to issue any Series 2024 Bonds as uncertificated registered public obligations (not represented by instruments), commonly known as book-entry obligations, provided it shall establish a system of registration therefor by Supplemental Resolution.

## **SECURITY FOR THE BONDS**

### **Special Obligations**

The payment of the principal of, Redemption Price, if applicable, and interest on the Bonds is secured by an irrevocable lien upon and pledge of the Pledged Funds under the Resolution. "Pledged Funds" include (a) the Net Revenues to be derived from the Transportation Facilities in the County, and (b) until applied in accordance with the provisions of the Resolution, all moneys, including investments thereof, in the Revenue Account (subject to the County's obligation to make deposits into the Operation and Maintenance Account), the Sinking Account (including all subaccounts therein), the Renewal and Replacement Account and the Surplus Account. A Series of Bonds may be secured independently of any other Series of Bonds by the establishment of a separate subaccount in the Reserve Subaccount for such Series of Bonds or by not being secured in any manner by the Reserve Subaccount as provided in the Resolution.

The Series 2024 Bonds are secured by the Reserve Subaccount.

"Net Revenues" shall mean Gross Revenues less Operating Expenses.

"Gross Revenues" shall mean all income and moneys received by the County from the rates, fees, tolls and other charges to be made and collected by the County from the operation and ownership of the Transportation Facilities, or otherwise received by the County or accruing to the County in the ownership and operation of the Transportation Facilities, calculated in accordance with generally accepted accounting principles employed in the operation of facilities similar to the Transportation Facilities, including, without limiting the generality of the foregoing, all Investment Earnings. "Gross Revenues" shall not include (A) Government Grants, (B) operating subsidies received by the County on account of the Transportation Facilities; (C) Federal Subsidy Payments and (D) any gain resulting from the valuation of investment securities, Hedge Agreements at market value and any other gain that does not result in receipt of cash.

"Operating Expenses" shall mean the County's reasonable and necessary expenses for current operation, maintenance and repair with respect to the Transportation Facilities and shall include, without limiting the generality of the foregoing, administration expenses, insurance and surety bond premiums,

legal and engineering expenses, ordinary and current rentals of equipment or other property, refunds of moneys lawfully due to others, payments to pension, retirement, health and hospitalization funds, and any other expenses required to be paid for or with respect to proper operation, maintenance or repair of the Transportation Facilities, all to the extent properly attributable to the Transportation Facilities in accordance with generally accepted accounting principles employed in the operation of facilities similar to the Transportation Facilities, and disbursements for the expenses, liabilities and compensation of any Paying Agent, Registrar, Credit Bank or depository under the Resolution. "Operating Expenses" do not include (1) any extraordinary or non-recurring expenses, expenses paid from moneys in the Renewal and Replacement Fund, or any costs or expenses in respect of original construction or improvement, renewal or repair other than expenditures necessary to prevent an interruption or continuance of an interruption of Gross Revenues or minor capital expenditures necessary for the proper and economical operation or maintenance of the Transportation Facilities, (2) operation and maintenance expenses of Transportation Facilities which the County or other public entity has agreed to pay from sources other than Gross Revenues, and (3) any provision for interest, depreciation, amortization or similar charges, or any debt issuance costs paid from proceeds of such debt, or any payments in lieu of taxes or franchise fees made to the County's general fund, or any accruals required to be recognized with respect to pension, retirement, health and hospitalization funds that do not require or result in the expenditure of cash, or any loss resulting from the valuation of investment securities, Hedge Agreements at market value and any other loss that does not require or result in the expenditure of cash.

The Bonds shall not be or constitute general obligations or indebtedness of the County as "bonds" within the meaning of any constitutional or statutory provision, but shall be special obligations of the County, payable solely from and secured by a lien upon and pledge of the Pledged Funds, in the manner and to the extent provided in the Resolution. No Holder of any Bond, or any Credit Bank or Insurer shall ever have the right to compel the exercise of any ad valorem taxing power to pay such Bond or be entitled to payment of such Bond or on account of such Bond from any moneys of the County except from the Pledged Funds in the manner and to the extent provided in the Resolution. The Bonds and the obligations evidenced thereby shall not constitute a lien upon the Transportation Facilities or any other property of the County, but shall constitute a lien only on, and shall be payable from, the Pledged Funds.

The Pledged Funds shall immediately be subject to the lien of such pledge without any physical delivery thereof or further act, and the lien of such pledge shall be valid and binding as against all parties having claims of any kind in tort, contract or otherwise against the County.

### **Funds and Accounts**

The County covenants and agrees in the Resolution to establish with one or more banks, trust companies or such other entities which are eligible under the laws of the State of Florida to be depositories for county funds, an enterprise fund to be known as the "Lee County, Florida Transportation Facilities Enterprise Fund," which shall consist of the following accounts and subaccounts:

- (a) The "Lee County, Florida Transportation Facilities Revenue Account" (the "Revenue Account").
- (b) The "Lee County, Florida Transportation Facilities Operation and Maintenance Account" (the "Operation and Maintenance Account").

- (c) The "Lee County, Florida Transportation Facilities Sinking Account" (the "Sinking Account"), which contains four separate subaccounts: the Interest Subaccount, the Principal Subaccount, the Term Bonds Redemption Subaccount and the Reserve Subaccount.
- (d) The "Lee County, Florida Transportation Facilities Renewal and Replacement Account" (the "Renewal and Replacement Account").
- (e) The "Lee County, Florida Transportation Facilities Subordinated Indebtedness Account" (the "Subordinated Indebtedness Account").
- (f) The " Lee County, Florida Lee County, Florida Transportation Facilities Surplus Account" (the "Surplus Account").
- (g) The "Lee County, Florida Transportation Facilities Rebate Account" (the "Rebate Account").

Moneys in the aforementioned accounts and subaccounts (other than moneys on deposit in the Subordinated Indebtedness Account and the Rebate Account), until applied in accordance with the provisions of the Resolution, shall be subject to a lien and charge in favor of the Holders of the Bonds and for the further security of such Holders.

#### **Flow of Funds**

Revenue Account. The County shall deposit into the Revenue Account promptly, as received, all Gross Revenues as well as any other moneys (other than Gross Revenues) contributed by the County or any other entity for the payment of Operating Expenses of the Transportation Facilities or debt service on the Bonds, which shall be disbursed in accordance with the provisions of the Resolution. All moneys on deposit in the Revenue Account shall be disposed of by the County on or before the twenty-fifth (25th) day of each month, commencing in the month immediately following the delivery of any of the Bonds to the purchasers thereof, or such later date as hereinafter provided, in the following manner and in the following order of priority:

Operation and Maintenance Account. The County shall deposit or credit to the Operation and Maintenance Account such sums as are necessary to pay Operating Expenses for the next succeeding month as provided in the Annual Budget; provided the County may transfer moneys from the Revenue Account to the Operation and Maintenance Account at any time to pay Operating Expenses to the extent there is a deficiency in the Operation and Maintenance Account for such purpose. Amounts in the Operation and Maintenance Account shall be paid out from time to time by the County for Operating Expenses; including any expenses relating to the purchase or redemption of Term Bonds as provided in the Resolution.

Interest Subaccount. The County shall next deposit or credit to the Interest Subaccount the sum which, together with the balance in said Subaccount, shall equal the interest on all Outstanding Bonds (except as to Capital Appreciation Bonds) accrued and unpaid and to accrue to the end of the then current calendar month. All Hedge Receipts and Federal Subsidy Payments shall be deposited directly to the Interest Account upon receipt. With respect to Bonds which have corresponding to a Hedge Payments, interest on such Bonds during the term of the Qualified Hedge Agreement shall be deemed to include the corresponding Hedge Payments. Moneys in the Interest Account shall also be applied by the

County (a) for deposit with the Paying Agents to pay the interest on the Bonds on or prior to the date the same shall become due and (b) for Hedge Payments. Any Federal Subsidy Payments deposited to the Interest Account shall be deemed to have been applied to the payment of interest on the Federal Subsidy Bonds to which such payments relate. Moneys in the Interest Subaccount shall be applied by the County for deposit with the Paying Agents for the payment of the interest on the Bonds on or prior to the date the same shall become due. The County shall adjust the amount of the deposit to the Interest Subaccount on the month immediately preceding any Interest Date so as to provide sufficient moneys in the Interest Subaccount to pay the interest on the Bonds becoming due on such Interest Date. No further deposit need be made to the Interest Subaccount when the moneys therein are equal to the interest coming due on the Outstanding Bonds on the next succeeding Interest Date. With respect to debt service on any Bonds which are subject to the Qualified Hedge Agreement, any Hedge Payments due to the Counterparty to such Qualified Hedge Agreement relating to such Bonds shall be paid to such Counterparty on a parity basis with the aforesaid required payments into the Sinking Account. Except as otherwise provided by Supplemental Resolution authorizing the issuance of Variable Rate Bonds, in computing the interest on such Variable Rate Bonds which shall accrue during a calendar month, the interest rate on such Variable Rate Bonds shall be assumed to be (A) if such Variable Rate Bonds have been Outstanding for at least 24 months prior to the commencement of such calendar month, the highest average interest rate borne by such Variable Rate Bonds for any 30-day period, and (B) if such Variable Rate Bonds have not been Outstanding for at least 24 months prior to the date of calculation, the Bond Buyer Revenue Bond Index most recently published prior to the commencement of such calendar month.

Principal Subaccount. Commencing no later than the month which is one year prior to the first principal payment date or such lesser or greater period as determined by Supplemental Resolution, the County shall deposit or credit to the Principal Subaccount the sum which, together with the balance in said Subaccount, shall equal the principal amounts on all Outstanding Serial Bonds due and unpaid and that portion of the principal next due which would have accrued on said Serial Bonds during the then current calendar month if such principal amounts were deemed to accrue monthly (assuming that a year consists of twelve (12) equivalent calendar months of thirty (30) days each) in equal amounts from the next preceding principal payment due date, or, if there is no such preceding principal payment due date, from a date one year preceding the due date of such principal amount or such lesser or greater period as determined by Supplemental Resolution. Moneys in the Principal Subaccount shall be applied by the County for deposit with the Paying Agents for the payment of the principal of the Bonds on or prior to the date the same shall mature. Serial Capital Appreciation Bonds shall be payable from the Principal Subaccount in the Fiscal Years in which such Bonds mature and monthly payments into the Principal Subaccount on account of such Bonds shall commence in the month which is one year prior to the date on which such Bonds mature. The County shall adjust the amount of the deposit to the Principal Subaccount on the month immediately preceding any principal payment date so as to provide sufficient moneys in the Principal Subaccount to pay the principal on the Serial Bonds becoming due on such principal payment date. No further deposit need be made to the Principal Subaccount when the moneys therein are equal to the principal coming due on the Outstanding Bonds on the next succeeding principal payment date.

Term Bonds Redemption Subaccount. Commencing in the month which is one year prior to any Sinking Account Installment due date or such lesser or greater period as determined by Supplemental Resolution, there shall be deposited to the Term Bonds Redemption Subaccount the sum which, together with the balance in such Subaccount, shall equal the Sinking Account Installments on all Term Bonds Outstanding due and unpaid and that portion of the Sinking Account Installments of all Term Bonds Outstanding next due which would have accrued on such Term Bonds during the then current calendar



month if such Sinking Account Installments were deemed to accrue monthly (assuming that a year consists of twelve (12) equivalent calendar months having thirty (30) days each) in equal amounts from the next preceding Sinking Account Installment due date, or, if there is no such preceding Sinking Account Installment due date, from a date one year preceding the due date of such Sinking Account Installment or such lesser or greater period as determined by Supplemental Resolution. Moneys in the Term Bonds Redemption Subaccount shall be applied by the County for deposit with the Paying Agents to pay the amount required to purchase or redeem the Sinking Account Installments on or prior to the date the same shall be purchased or redeemed. Term Capital Appreciation Bonds shall be payable from the Term Bonds Redemption Account in the years in which such Bonds mature and monthly payments into the Term Bonds Redemption Account on account of such Bonds shall commence in the twelfth month immediately preceding the due date of the related Sinking Account Installments. The County shall adjust the amount of the deposit to the Term Bonds Redemption Subaccount on the month immediately preceding any Sinking Account Installment date so as to provide sufficient moneys in the Term Bonds Redemption Subaccount to pay the Sinking Account Installments becoming due on such date. No further deposit need be made to the Term Bonds Redemption Subaccount when the moneys therein are equal to Sinking Account Installment coming due on the Outstanding Bonds on the next succeeding Sinking Account Installment date. Payments to the Term Bonds Redemption Subaccount shall be on parity with payments to the Principal Subaccount.

Amounts accumulated in the Term Bonds Redemption Subaccount with respect to any Sinking Account Installment (together with amounts accumulated in the Interest Subaccount with respect to interest, if any, on the Term Bonds for which such Sinking Account Installment was established) may be applied by the County, on or prior to the sixtieth (60th) day preceding the due date of such Sinking Account Installment, (a) to the purchase of Term Bonds of the Series and maturity for which such Sinking Account Installment was established, or (b) to the redemption at the applicable Redemption Prices of such Term Bonds, if then redeemable by their terms. Amounts in the Term Bonds Redemption Account which are used to redeem Term Bonds shall be credited against the next succeeding Sinking Account Installment which shall become due on such Term Bonds. The applicable Redemption Price (or principal amount of maturing Term Bonds or Term Bonds to be purchased) of any Term Bonds so purchased or redeemed shall be deemed to constitute part of the Term Bonds Redemption Subaccount until such Sinking Account Installment date, for the purposes of calculating the amount to be transferred from such Subaccount. As soon as practicable after the 60th day preceding the due date of any such Sinking Account Installment, the County shall proceed to call for redemption on such due date, by causing notice to be given as provided in the Resolution, Term Bonds of the Series and maturity for which such Sinking Account Installment was established (except in the case of Term Bonds maturing on a Sinking Account Installment date) in such amount as shall be necessary to complete the retirement of the unsatisfied balance of such Sinking Account Installment. The County shall pay out of the Term Bonds Redemption Subaccount and the Interest Subaccount to the appropriate Paying Agents, on or before the day preceding such redemption date (or maturity date), the amount required for the redemption (or for the payment of such Term Bonds then maturing), and such amount shall be applied by such Paying Agents to such redemption (or payment). All expenses in connection with the purchase or redemption of Term Bonds shall be paid by the County from the Operation and Maintenance Account.

Reserve Subaccount. There shall be deposited to the Reserve Subaccount a sum sufficient to maintain therein an amount equal to the Reserve Subaccount Requirement. All deficiencies in the Reserve Subaccount must be made up no later than 12 months from the date such deficiency first occurred, whether such shortfall was caused by an increase in the applicable Reserve Subaccount Requirement, a decrease in the aggregate market value of the investments therein of more than 5% or withdrawal

(whether from cash or a Reserve Subaccount Insurance Policy). On or prior to each principal and interest payment date for the Bonds (in no event earlier than the twenty-fifth (25th) day of the month next preceding such payment date), moneys in the Reserve Subaccount shall be applied by the County to the payment into the Interest Subaccount, the Principal Subaccount and the Term Bonds Redemption Subaccount, when the moneys therein shall be insufficient to pay the principal of and interest on the Bonds coming due, but only to the extent the moneys transferred from the Surplus Account for such purposes pursuant to the Resolution shall be inadequate to fully provide for such insufficiency. Whenever there shall be surplus moneys in the Reserve Subaccount by reason of a decrease in the Reserve Subaccount Requirement, such surplus moneys shall be deposited by the County into the Revenue Account and applied as directed by Bond Counsel. The County shall promptly inform each Insurer and Credit Bank of any draw upon the Reserve Subaccount for purposes of paying the principal of or Redemption Price, if applicable, and interest on the Bonds.

Upon the issuance of any Series of Bonds under the terms, limitations and conditions as in the Resolution provided, the County shall fund the Reserve Subaccount an amount at least equal to the applicable Reserve Subaccount Requirement to the extent such Series of Bonds are to be secured by the Reserve Subaccount or any subaccount therein; provided, however, nothing therein shall be construed to require the County to fund the Reserve Subaccount or any subaccount for any Series of Bonds. Upon the adoption of the Supplemental Resolution authorizing the issuance of a Series of Bonds, the County shall determine whether such Series of Bonds shall be secured by the Reserve Subaccount or any subaccount therein and, if the County determines that the Series of Bonds will be secured by a separate subaccount therein, the County shall also establish the Reserve Subaccount Requirement applicable thereto. Such required amount, if any, shall be paid in full or in part from the proceeds of such Series of Bonds or may be accumulated in equal monthly payments to the Reserve Subaccount or subaccount therein over a period of months from the date of issuance of such Series of Bonds, which funding shall not exceed 36 months.

Notwithstanding the foregoing provisions, in lieu of or in substitution of any required deposits into the Reserve Subaccount, or any subaccount therein, the County may cause to be deposited into the Reserve Subaccount or subaccount a Reserve Subaccount Insurance Policy and/or Reserve Subaccount Letter of Credit for the benefit of the Bondholders in an amount equal to the difference between the Reserve Subaccount Requirement applicable thereto and the sums then on deposit in the Reserve Subaccount or subaccount, if any. The County may also substitute a Reserve Subaccount Insurance Policy and/or Reserve Subaccount Letter of Credit for cash on deposit in the Reserve Subaccount or a subaccount therein upon compliance with the terms of Section 4.05(B)(5) of the Resolution. Such Reserve Subaccount Insurance Policy and/or Reserve Subaccount Letter of Credit shall be payable to the Paying Agent (upon the giving of notice as required thereunder) on any Interest Date, principal payment date or redemption date on which a deficiency exists which cannot be cured by moneys in any other fund or account or subaccount held pursuant to the Resolution and available for such purpose. Upon the initial deposit of any such Reserve Subaccount Insurance Policy and/or Reserve Subaccount Letter of Credit, the provider thereof shall be either (a) an insurer whose municipal bond insurance policies insuring the payment, when due, of the principal of and interest on municipal bond issues results in such issues being rated in one of the three highest rating categories by at least one of the three Rating Agencies (without regard to gradations, such as "plus" or "minus" or "1," "2" or "3"), or (b) a commercial bank, insurance company or other financial institution which has been assigned a rating in one of the two highest rating categories by at least one of the three Rating Agencies (without regard to gradations, such as "plus" or "minus" or "1," "2" or "3"). Any Reserve Subaccount Insurance Policy and/or Reserve Subaccount Letter of

Credit shall equally secure all Bonds secured by the Reserve Subaccount or subaccount into which such Policy or Letter of Credit is deposited.

Each Reserve Subaccount Insurance Policy and Reserve Subaccount Letter of Credit shall provide for a revolving feature under which the amount available thereunder will be reinstated to the extent of any reimbursement of draws or claims paid. If the revolving feature is suspended or terminated for any reason, the right of the provider of the Reserve Subaccount Insurance Policy or Reserve Subaccount Letter of Credit to reimbursement will be subordinated to cash replenishment of the Reserve Subaccount or subaccount to an amount equal to the difference between the full original amount available under the Reserve Subaccount Insurance Policy or Reserve Subaccount Letter of Credit and the amount then available for further draws or claims. Where applicable, the amount available for draws or claims under a Reserve Subaccount Insurance Policy or Reserve Subaccount Letter of Credit may be reduced by the amount of cash or investments deposited in the Reserve Subaccount or subaccount pursuant to the provisions of the Resolution.

If the revolving reinstatement feature described in the preceding paragraph is suspended or terminated or if the Reserve Subaccount Insurance Policy or Reserve Subaccount Letter of Credit is no longer valid and enforceable, the County shall either (i) deposit into the Reserve Subaccount or subaccount an amount sufficient to cause the cash or investments on deposit in the Reserve Subaccount or applicable subaccount to equal the Reserve Subaccount Requirement on all Outstanding Bonds then secured by such Reserve Subaccount or subaccount, such amount to be paid over the ensuing five years in equal installments deposited at least semi-annually or (ii) replace such instrument with a Reserve Subaccount Insurance Policy or a Reserve Subaccount Letter of Credit meeting the requirements described in the Resolution within six months of such occurrence.

If three days prior to an Interest Date or principal payment date, or such other period of time as shall be required by the terms of the Reserve Subaccount Insurance Policy or Reserve Subaccount Letter of Credit, the County shall determine that a deficiency exists in the amount of moneys available to pay in accordance with the terms thereof interest and/or principal due on the Bonds on such date, the County shall immediately notify (a) the issuer of the applicable Reserve Subaccount Insurance Policy and/or the issuer of the Reserve Subaccount Letter of Credit and submit a demand for payment pursuant to the provisions of such Reserve Subaccount Insurance Policy and/or the Reserve Subaccount Letter of Credit, (b) the Paying Agent, and (c) the Insurer or Credit Bank, if any, of the amount of such deficiency and the date on which such payment is due.

The County may evidence its obligation to reimburse the issuer of any Reserve Subaccount Letter of Credit or Reserve Subaccount Insurance Policy by executing and delivering to such issuer a promissory note or other evidence therefor; provided, however, any such note or evidence (a) shall not be a general obligation of the County the payment of which is secured by the full faith and credit or taxing power of the County, and (b) shall be payable solely from the Pledged Funds in the manner provided therein. The obligation to reimburse the provider of a Reserve Subaccount Insurance Policy or Reserve Subaccount Letter of Credit for any Policy Costs shall be subordinate to the payment of debt service on the Bonds.

The Reserve Subaccount Requirement with respect to the Series 2024 Bonds is equal to, as of any date of calculation, an amount equal to the lesser of (1) the Maximum Annual Debt Service for all Outstanding Bonds secured by the Reserve Subaccount or subaccount established therein, as the case may be, (2) 125% of the average Annual Debt Service for all Outstanding Bonds secured by the Reserve Subaccount or subaccount established therein, as the case may be, (3) the maximum amount of Bond

proceeds which may be deposited to the Reserve Subaccount without subjecting the same to yield restriction under the Code, or causing interest on any of the Bonds secured thereby (other than Taxable Bonds) to be included in gross income for purposes of federal income taxation or otherwise violating applicable provisions of the Code (\$\_\_\_\_\_ (which is less than the face amount of the Assured Reserve Subaccount Surety Bond and the National Reserve Subaccount Surety).

Whenever the amount of cash in the Reserve Subaccount, together with the other amounts in the Sinking Account, are sufficient to fully pay all Outstanding Bonds in accordance with their terms (including principal or applicable Redemption Price and interest thereon), the funds on deposit in the Reserve Subaccount may be transferred to the other Subaccounts of the Sinking Account for the payment of the Bonds.

The County may also establish a separate subaccount in the Reserve Subaccount for any Series of Bonds and such subaccount shall be pledged to the payment of such Series of Bonds apart from the pledge provided in the Resolution. To the extent a Series of Bonds is secured separately by a subaccount of the Reserve Subaccount, the Holders of such Bonds shall not be secured by any other moneys in the Reserve Subaccount. Moneys in a separate subaccount of the Reserve Subaccount shall be maintained at the Reserve Subaccount Requirement applicable to such Series of Bonds secured by the subaccount; provided the Supplemental Resolution authorizing such Series of Bonds may establish the Reserve Subaccount Requirement relating to such separate subaccount of the Reserve Subaccount at such level as the County deems appropriate. In the event the County by Supplemental Resolution establishes the Reserve Subaccount Requirement for a particular Series of Bonds to be zero (\$0.00) or it shall determine that such Series are not to be secured in any manner by the Reserve Subaccount or a subaccount, then it shall not be required to establish a separate subaccount; provided, however, such Series of Bonds shall have no lien on or pledge of any moneys on deposit in the Reserve Subaccount. Moneys used to replenish the Reserve Subaccount shall be deposited in the separate subaccounts in the Reserve Subaccount and in the Reserve Subaccount on a pro-rata basis.

In the event the County shall maintain a Reserve Subaccount Insurance Policy or Reserve Subaccount Letter of Credit and moneys in the Reserve Subaccount or any subaccount, the moneys shall be used prior to making any disbursements under such Reserve Subaccount Insurance Policy or Reserve Subaccount Letter of Credit. If and to the extent that more than one Reserve Account Insurance Policy is deposited in the Reserve Subaccount, drawings thereunder and repayments of Policy Costs associated therewith shall be made on a pro rata basis, calculated by reference to the maximum amounts available thereunder.

All Policy Costs due and owing under any Reserve Subaccount Insurance Policy must be paid in full prior to the optional redemption of any Bonds, the distribution of any moneys to the County or the termination of the Resolution.

Renewal and Replacement Account. There shall be deposited to the Renewal and Replacement Account such sums as shall be sufficient to pay one-twelfth (1/12th) of an amount equal to the greater of (a) \$500,000, or (b) such Renewal and Replacement Account Requirement the Consulting Engineers shall certify to the County is necessary for the purposes of the Renewal and Replacement Account, and (ii) in the event that the Consulting Engineers shall certify that the Renewal and Replacement Account Requirement is excessive for the purposes of the Renewal and Replacement Account such excess amount as may be on deposit therein may be transferred by the County from the Renewal and Replacement Account for deposit into the Revenue Account. The moneys in the Renewal and Replacement Account

shall be applied by the County for the purpose of paying the cost of (i) major improvements or additions to the Transportation Facilities, (ii) unusual or extraordinary maintenance or repairs, maintenance or repairs not recurring annually, and renewals and replacements, including major items of equipment, and (iii) repairs or replacements resulting from an emergency caused by some extraordinary occurrence when the moneys in the Operation and Maintenance Account and insurance proceeds, if any, available therefor are insufficient to meet such emergency. On or prior to each principal and Interest Date for the Bonds (in no event earlier than the twenty-fifth (25th) day of the month next preceding such payment date), moneys in the Renewal and Replacement Account shall be applied for the payment into the Interest Subaccount, the Principal Subaccount and the Term Bonds Redemption Subaccount when the moneys therein are insufficient to pay the principal of and interest on the Bonds coming due, but only to the extent moneys transferred from the Surplus Account and the Reserve Subaccount or any subaccount therein for such purpose pursuant to the Resolution shall be inadequate to fully provide for such insufficiency.

The "Renewal and Replacement Account Requirement" is defined in the Resolution to mean the greater of (1) \$500,000, or (2) such amount as may be certified to the County by the Consulting Engineers as an amount appropriate for the purposes of the Resolution.

In Fiscal Year 2023, expenditures totaling \$119,699 were made from the Renewal and Replacement Account and a total deposit of \$720,904 was made to maintain the Renewal and Replacement Account Requirement.

Subordinated Indebtedness Account. Gross Revenues shall next be deposited by the County into the Subordinated Indebtedness Account in such amounts as shall be required by the proceedings authorizing such Subordinated Indebtedness. Moneys held for the credit of the Subordinated Indebtedness Account shall be applied to the retirement of Subordinated Indebtedness issued under the provisions of the Resolution in accordance with its terms. Moneys held for the credit of the Subordinated Indebtedness Account may be pledged to the payment of the principal of and the interest on any Subordinated Indebtedness issued by the County.

Sinking Account. There shall be deposited to the Interest Subaccount, the Principal Subaccount and the Term Bonds Redemption Subaccount sufficient moneys such that the amounts on deposit therein shall equal, respectively, the interest, principal and Sinking Account Installment next coming due on the Bonds outstanding; provided, however, no deposit need be made to the Principal Subaccount or Term Bonds Redemption Subaccount until a date one year preceding the due date of such principal amount or Sinking Account Installment.

Surplus Account. The balance of any Gross Revenues remaining in said Revenue Account shall be deposited in the Surplus Account and applied to the payment, on or prior to each principal payment date and Interest Date for the Bonds (in no event earlier than the twenty-fifth (25th) day of the month next preceding such payment date), into the Interest Subaccount, the Principal Subaccount and the Term Bonds Redemption Subaccount when the moneys therein shall be insufficient to pay the principal of and interest on the Bonds coming due. Moneys in the Surplus Account may also be used by the County at any time to make payment of amounts required by the terms of any interlocal agreement the County may enter into in regard to a Transportation Facility. Moneys in the Surplus Account may be applied for any lawful transportation-related purpose of the County, including, but not limited to, purchase or redemption of Bonds, payment of Subordinated Indebtedness, and payment of improvements, renewals and replacements to the Transportation Facilities.

## Reserve Subaccount

General. There is on deposit in the Reserve Subaccount a debt service reserve fund surety bond issued by CDC IXIS Financial Guaranty North America, Inc. ("CIFG") in 2005, the face amount of which is \$4,868,500 (the "Assured Reserve Subaccount Surety Bond"). Effective July 30, 2012, the Assured Reserve Subaccount Surety Bond was transferred to and assumed by Assured Guaranty Corp. ("AGC") as its direct obligation and CIFG was released from all of its obligations under such reserve policy. AGC was since renamed Assured Guaranty Inc. ("AG"). Effective August 1, 2024, Assured Guaranty Municipal Corp. ("AGM") merged into AG and AG is the surviving company. AG now has all of the original rights and obligations of CIFG under the Assured Reserve Subaccount Surety Bond and related ancillary agreements. The Assured Reserve Subaccount Surety Bond will terminate on October 1, 2035, which is the final maturity date of the Series 2024 Bonds. On or prior to each principal and Interest Date for the Bonds (in no event earlier than the twenty-fifth (25th) day of the month next preceding such payment date), moneys or proceeds of the Reserve Account Insurance Policies on deposit in the Reserve Subaccount shall be applied by the County to the payment into the Interest Subaccount, the Principal Subaccount and the Term Bonds Redemption Subaccount, when the moneys therein shall be insufficient to pay the principal of and interest on the Bonds coming due, but only to the extent the moneys transferred from the Surplus Account for such purposes pursuant to the Resolution shall be inadequate to fully provide for such insufficiency. Whenever there shall be surplus moneys in the Reserve Subaccount by reason of a decrease in the Reserve Subaccount Requirement, such surplus moneys shall be deposited by the County into the Revenue Account.

There is also currently, on deposit in the Reserve Subaccount, a debt service reserve fund surety bond issued by MBIA Insurance Corporation ("MBIA"), in 1995, the face amount of which is \$13,496,750 (the "National Reserve Subaccount Surety Bond"). Pursuant to an Amended and Restated Quota Share Reinsurance Agreement dated March 11, 2009 (the "Reinsurance Agreement") between MBIA and National Public Finance Guarantee Corporation (formerly known as MBIA Insurance Corp. of Illinois) ("National"), the National Reserve Subaccount Surety Bond was reinsured by National effective January 1, 2009. The Reinsurance Agreement may be cancelled by agreement of MBIA and National upon satisfying the requirements set forth in the Reinsurance Agreement, including, obtaining prior approval of the insurance department of each of their respective domiciliary states provided, however, that the Reinsurance Agreement may not be cancelled unless, after giving effect to such termination (including any simultaneous transaction by MBIA), the ratings of the underlying Bonds will not be downgraded or withdrawn. Upon such termination the rights of the Bondholders to receive payment from National will cease immediately and automatically, without any further action on the part of MBIA and National. Neither National nor MBIA is required to notify the holders of the Bonds upon the termination of the Reinsurance Agreement. Further, upon satisfaction of certain requirements set forth in the Reinsurance Agreement, the Reinsurance Agreement may be amended and/ or the rights and obligations of MBIA and National may be assigned and transferred upon agreement of MBIA and National. The National Reserve Subaccount Surety Bond will terminate on the earlier of October 1, 2027, or retirement of all Outstanding Bonds.

Ratings of AG and National. AG's financial strength is rated "AA" (stable outlook) by S&P Global Ratings, a business unit of Standard & Poor's Financial Services LLC ("S&P"), "AA+" (stable outlook) by Kroll Bond Rating Agency, Inc. ("KBRA") and "A1" (stable outlook) by Moody's Investors Service, Inc. ("Moody's"). National's financial strength is rated "Baa2" (negative outlook) by Moody's. Each rating of should be evaluated independently. An explanation of the significance of the above ratings may be obtained from the applicable rating agency. The above ratings are not recommendations to buy, sell or

hold any security, and such ratings are subject to revision or withdrawal at any time by the rating agencies, including withdrawal initiated at the request of AG or National in either's sole discretion. In addition, the rating agencies may at any time change AG's or National's long-term rating outlooks or place such ratings on a watch list for possible downgrade in the near term. Any downward revision or withdrawal of any of the above ratings, the assignment of a negative outlook to such ratings or the placement of such ratings on a negative watch list may have an adverse effect on the market price of any security guaranteed by AG or National.

Reserve Subaccount Requirement for the Series 2024 Bonds. Upon the issuance of the Series 2024 Bonds, the aggregate amounts available under the Assured Reserve Subaccount Surety Bond and National Reserve Subaccount Surety Bond will equal or exceed the Reserve Subaccount Requirement with respect to the Series 2024 Bonds. See "—Flow of Funds—Reserve Subaccount" above for the definition of Reserve Subaccount Requirement.

### **Investments**

Under the Resolution, moneys in the Construction Fund, the Revenue Account, the Operation and Maintenance Account, the Principal Subaccount, the Interest Subaccount, the Term Bonds Redemption Subaccount, the Renewal and Replacement Account, the Subordinated Indebtedness Account and the Surplus Account shall be invested and reinvested by the County in Authorized Investments, maturing not later than the dates on which such moneys will be needed for the purposes of such fund or account. Moneys in the Reserve Subaccount shall be invested in Authorized Investments maturing not later than ten (10) years from the date of investment.

Any and all income received from the investment of moneys in the Interest Subaccount, the Principal Subaccount, the Term Bonds Redemption Subaccount, the Renewal and Replacement Account (only to the extent such income and the other amounts in such Account exceed the Renewal and Replacement Account Requirement) and the Reserve Subaccount (only to the extent such income and the other amounts in such Subaccount exceed the Reserve Subaccount Requirement) shall be transferred to the Revenue Account; provided, however, that during any period for which interest has been capitalized from Bond proceeds, all income received from the investment of moneys in the Reserve Subaccount (only to the extent such income and other amounts in such Subaccount exceed the Reserve Subaccount Requirement) shall be transferred to the Construction Fund. Surplus moneys in the Renewal and Replacement Account and the Reserve Subaccount shall be transferred to the Revenue Account regardless of whether such moneys become surplus as a result of a change in valuation of investments in such Account or Subaccount, a change in the moneys required to be on deposit therein, or otherwise. Any and all income received from the investment of moneys in the Revenue Account, the Operation and Maintenance Account, the Reserve Subaccount (to the extent such income and the other amounts in such Subaccount do not exceed the Reserve Subaccount Requirement), the Renewal and Replacement Account (to the extent such income and the other amounts in such Account do not exceed the Renewal and Replacement Account Requirement), the Subordinated Indebtedness Account, the Surplus Account and in each separate account of the Construction Fund shall be retained in such respective Account or Subaccount.

Nothing in the Resolution shall prevent any Authorized Investments acquired as investments of or security for funds held under the Resolution, except the collateral for such Authorized Investments, which must be delivered if it is not in book-entry form, from being issued or held in book-entry form on the books of the issuer of such Authorized Investments.

## **Rate Covenant**

The County has covenanted in the Resolution, subject to applicable State and federal laws and regulations, to fix, establish, maintain and collect such fees, rates, tolls, charges and other income for the use and services of its Transportation Facilities, and revise the same from time to time, whenever necessary, as will always provide in each Fiscal Year, Net Revenues which shall be adequate at all times to pay in each Fiscal Year (1) at least one hundred twenty percent (120%) of the Annual Debt Service on all Outstanding Bonds becoming due in such Fiscal Year, and (2) at least one hundred percent (100%) of all amounts required by the Resolution to be deposited in the Reserve Subaccount, including all Policy Costs then due and owing, and the Renewal and Replacement Account during such Fiscal Year.

In computing the Annual Debt Service on Variable Rate Bonds for purposes of the Rate Covenant, such Variable Rate Bonds shall be deemed to bear interest at the greater of (1) the rate of interest on such Variable Rate Bonds on the date of their issuance plus one-half of the difference between such rate and the Maximum Interest Rate, or (2) the rate of interest on such Variable Rate Bonds on the date of calculation. The County has no Variable Rate Bonds outstanding as of the date of this Official Statement.

If, in any Fiscal Year, the County fails to comply with the Rate Covenant, it is required to cause the Traffic Engineers to review the rates, fees, tolls, charges, income, Gross Revenues, Operating Expenses and methods of operation of the Transportation Facilities and to make written recommendations as to the methods by which the County may promptly seek to comply with such Rate Covenant. The County is required to implement such recommendations to the extent required so as to cause the County thereafter to comply with the Rate Covenant prior to the end of the next ensuing Fiscal Year. So long as the County implements such recommendations in a timely manner so that the County shall be in compliance with the Resolution as of the end of the immediately succeeding Fiscal Year, the County's failure to comply with the Rate Covenant shall not be considered an Event of Default under the Resolution.

The rate covenant shall be operative for the entire Fiscal Year in which the effective date of the Master Resolution occurs.

## **Additional Bonds**

No Additional Bonds, payable on a parity with the Bonds then Outstanding pursuant to the Resolution, shall be issued except upon the conditions and in the manner provided in the Resolution. The County may issue one or more Series of Additional Bonds for any one or more of the following purposes: (A) financing or refinancing the Cost of a Project, or the completion thereof, or (B) refunding any or all Outstanding Bonds or of any Subordinated Indebtedness of the County or any other indebtedness of the County that it may lawfully refund with proceeds of the Bonds.

No such Additional Bonds shall be issued unless the following conditions are complied with:

(1) Except in the case of Additional Bonds issued for the purpose of refunding Outstanding Bonds, the County shall certify that it is current in all deposits into the various accounts and subaccounts established by the Resolution and all payments theretofore required to have been deposited or made by it under the provisions of the Resolution have been made and that it is in compliance with the covenants and agreements of the Resolution.



(2) (a) An Authorized Issuer Officer shall certify on behalf of the Issuer to the effect that (1) the Net Revenues for an 12 consecutive months selected by the Issuer of the 24 months immediately preceding the issuance of said Additional Bonds (the "Test Period), were equal to (A) at least 120% of the Maximum Annual Debt Service on the Outstanding Bonds and the Additional Bonds to be issued; and (B) at least 100% of any amounts required by the terms of the Resolution to be deposited in the Renewal and Replacement Account during such Test Period, and (C) at least 100% of any amounts required by the terms of the Resolution to be deposited to the Reserve Subaccount or with any issuer of a Reserve Subaccount Insurance Policy or Reserve Subaccount Letter of Credit during such Test Period; or

(b) The Consulting Engineers shall make a statement or report relating to (a) the estimated cost of the Project (or portion thereof), including contingencies therefor, (b) the estimated date such Project shall be placed in service, (c) the estimated Net Revenues to be received by the County in each Fiscal Year thereafter to and including the fifth complete Fiscal Year following the date of delivery and authentication of said Additional Bonds, taking into account any revisions assumed necessary during such period of the rates, fees, tolls, charges and other income for the use and services of the Transportation Facilities, and (d) the estimated amounts required by the Resolution to be deposited during each Fiscal Year of the aforementioned Fiscal Years into the Reserve Subaccount and Renewal and Replacement Account.

(3) The Consulting Engineers shall certify that, based on the information provided in paragraph (2)(b) above, the Net Revenues, for the Test Period and for each Fiscal Year to and including the fifth complete Fiscal Year following the date of delivery and authentication of said Additional Bonds, shall not be less than the sum required to satisfy the requirements of Section 5.05 of the Resolution in each such Fiscal Year.

For the purpose of determining the Maximum Annual Debt Service under paragraph (2) described above, the interest rate on additional parity Variable Rate Bonds then proposed to be issued shall be assumed to be a fixed rate equal to (1) if interest on such Bonds is excludable from gross income under the applicable provisions of the Code, the 25 Revenue Bond Index published in The Bond Buyer immediately preceding the sale of such Bonds to the initial purchasers thereof (or comparable Index if no longer published), plus 50 basis points, or (2) if such Bonds are Taxable Bonds, the interest rate or rates one week prior to the sale of such Bonds on direct U.S. Treasury obligations with comparable maturities, plus 50 basis points.

For the purpose of determining the Maximum Annual Debt Service under paragraph (2) above, the interest rate on Outstanding Variable Rate Bonds shall be assumed to be a fixed rate equal to the highest of (1) the actual rate on the date one week prior to the sale of the Additional Bonds, (2) if such Bonds have been Outstanding for at least 12 months, the average rate over the 12 months immediately preceding the date one week prior to the sale of the Additional Bonds, and (3) (i) if interest on such Variable Rate Bonds is excludable from gross income under the applicable provisions of the Code, the interest rate for 25 Revenue Bond Index most recently published by The Bond Buyer preceding the sale of the Additional Bonds, plus 50 basis points, or (ii) if the Variable Rate Bonds are Taxable Bonds, the interest rate one week prior to the sale of the Additional Bonds on direct U.S. Treasury obligations with comparable maturities.

If any of the Outstanding Bonds or Additional Bonds to be issued constitute Balloon Bonds secured or guaranteed by a Credit Facility and the County has entered into an agreement with a Credit

Bank pursuant to which the County has agreed to reimburse such Credit Bank for amounts drawn against the Credit Facility over a period of not less than five (5) years, then for purposes of determining the Annual Debt Service or Maximum Annual Debt Service under paragraph (2) above, it shall be assumed that the entire available amount of the Credit Facility is drawn and the County's annual reimbursement requirement shall be included in the calculation of Maximum Annual Debt Service for such Balloon Bonds (and the principal and interest requirements for such Balloon Bonds shall be ignored to eliminate any duplication of such requirements). If there is no Credit Facility and agreement for reimbursement over a period of not less than five (5) years as described in this paragraph, the actual amount of principal and interest applicable to such Balloon Bonds shall be included in the calculation of Maximum Annual Debt Service.

The Annual Debt Service shall be adjusted to include a deduction for any Federal Subsidy Payments that were scheduled to be received during the twelve (12) consecutive months but were not received by the County, provided the County receives such Payments prior to delivery of the Additional Bonds.

Additional Bonds shall be deemed to have been issued pursuant to the Resolution the same as the Outstanding Bonds, and all of the other covenants and other provisions of the Resolution (except as to details of such Additional Bonds inconsistent therewith) shall be for the equal benefit, protection and security of the Holders of all Bonds issued pursuant to the Resolution. Except as provided in the Resolution, all Bonds, regardless of the time or times of their issuance, shall rank equally with respect to their lien on the Pledged Funds and their sources and security for payment therefrom without preference of any Bonds over any other.

In the event any Additional Bonds are issued for the purpose of refunding any Bonds then Outstanding, the conditions of paragraphs (1) and (2) described above shall not apply, provided that the issuance of such Additional Bonds shall not result in an increase of Annual Debt Service on the Outstanding Bonds becoming due in the current Fiscal Year and all subsequent Fiscal Years. The conditions of paragraphs (2) and (3) described above shall apply to Additional Bonds issued to refund Subordinated Indebtedness and to Additional Bonds issued for refunding purposes which cannot meet the conditions in this paragraph.

The Additional Bonds test shall be operative for all Additional Bonds issued on or subsequent to the effective date of the Master Resolution.

### **Subordinated Indebtedness**

The County will not issue any other obligations, except under the conditions and in the manner provided in the Resolution, secured by or payable from the Pledged Funds or the Gross Revenues or any component thereof or voluntarily create or cause to be created any debt, lien, pledge, assignment, encumbrance or other charge having priority to or being on a parity with the lien thereon in favor of the Bonds and the interest thereon. The County may at any time or from time to time issue evidences of indebtedness payable in whole or in part out of Pledged Funds and which may be secured by a lien on and pledge of Pledged Funds; provided, however, that such lien and pledge shall be, and shall be expressed to be, subordinated in all respects to the pledge of the Pledged Funds created by the Resolution and provided further that the issuance of such Subordinated Indebtedness shall be subject to any provisions contained in financing documents securing outstanding Subordinated Indebtedness to the extent such provisions impact on the ability of the County to issue Subordinated Indebtedness. The

County shall have the right to covenant with the holders from time to time of any Subordinated Indebtedness to add to the conditions, limitations and restrictions under which any Additional Bonds may be issued under the provisions in the Resolution. The County agrees to pay promptly any Subordinated Indebtedness as the same shall become due.

#### **Accession of Subordinated Indebtedness to Parity Status with Bonds**

The County may provide for the accession of Subordinated Indebtedness to the status of Additional Bonds, if (A) the County shall meet all the requirements imposed upon the issuance of Additional Bonds by paragraphs (1) through (3) described above under the caption "Additional Bonds" above, assuming, for purposes of said requirements, that such Subordinated Indebtedness shall be Additional Bonds, (B) the facilities financed by such Subordinated Indebtedness shall be a bridge, causeway or expressway which meets the requirements provided in the definition of Transportation Facilities in the Resolution, and (C) if such Subordinated Indebtedness will be secured in any manner by the Reserve Account or a subaccount therein, the Reserve Subaccount, upon such accession, shall contain an amount equal to the Reserve Subaccount Requirement in accordance with the Resolution. If the aforementioned conditions are satisfied, the Subordinated Indebtedness shall be deemed to have been issued pursuant to the Resolution the same as the Outstanding Bonds, and such Subordinated Indebtedness shall be considered Bonds for all purposes provided in the Resolution.

#### **Inspection of Transportation Facilities**

The County covenants that it will cause either the Florida Department of Transportation ("FDOT") or the Consulting Engineers to make an inspection of the Transportation Facilities at least once every three Fiscal Years, to submit to the County a report or reports setting forth their findings whether the Transportation Facilities have been maintained in good repair, working order and condition. In the event FDOT submits the above-described report, the County shall have the Consulting Engineers review such report.

#### **Uniformity of Tolls**

The County covenanted in the Resolution that, no later than the commencement of operation of each Transportation Facility, the County shall establish and place into effect reasonable tolls, fees and charges in regard to the use of such Transportation Facility. The County further covenanted in the Resolution that tolls for traffic using the Transportation Facilities will be classified in a reasonable way to cover all traffic, so that the tolls may be uniform in application to all traffic falling within any reasonable class regardless of the status or character of any Person participating in the traffic, and that no reduced rate of toll will be allowed within any such class except that, subject to the provisions in the Resolution, provision may be made for the use of commutation or other tickets or privileges based upon frequency or volume. Except as otherwise required by applicable law, the County further covenanted in the Resolution that no free vehicular passage will be permitted on the Transportation Facilities except public and private school buses that are being used for the purpose of regular school transportation, vehicles owned by the State of Florida, the County, or any municipality within the County that are being used for public purposes, ambulances that are being used for patient transport, vehicles owned and operated by agents and independent contractors of the County that are being used in connection with the maintenance or operation of the Transportation Facilities, vehicles driven by members of the clergy, other vehicles exempted from the payment of tolls by laws of the State of Florida, and except on such portions of any approaches of the Transportation Facilities as may be determined by the County.

### **Separate Accounts**

The moneys required to be accounted for in each of the foregoing funds, accounts and subaccounts established in the Resolution may be deposited in a single, non-exclusive bank account, and funds allocated to the various funds, accounts and subaccounts established in the Resolution may be invested in a common investment pool, provided that adequate accounting records are maintained to reflect and control the restricted allocation of the moneys on deposit therein and such investments for the various purposes of such funds and accounts as provided in the Resolution.

The designation and establishment of the various funds, accounts and subaccounts in and by the Resolution shall not be construed to require the establishment of any completely independent, self-balancing funds as such term is commonly defined and used in governmental accounting, but rather is intended solely to constitute an earmarking of certain revenues, expense and deposits for certain purposes and to establish certain priorities for application of such revenues, expense and deposits as provided in the Resolution.

### **Books and Records**

The County shall keep books, records and accounts of the revenues and operations of the Transportation Facilities, which shall be kept separate and apart from all other books, records and accounts of the County.

### **Annual Audit**

The County shall, immediately after the close of each Fiscal Year, cause the books, records and accounts relating to the Transportation Facilities to be properly audited by the Accountant, and shall require the Accountant to complete its report of such Annual Audit in accordance with applicable law. Each Annual Audit shall be in conformity with generally accepted accounting principles consistently as applied to governmental entities such as the County. A copy of each Annual Audit shall regularly be furnished to any Credit Bank or each Insurer of Outstanding Bonds and to any Holder of a Bond who shall have furnished his address to the Clerk and requested in writing that the same be furnished to him.

### **Covenant Against Sale or Encumbrance; Exceptions**

The County covenants that, except as in the Resolution otherwise permitted, it will not sell or otherwise dispose of or encumber any Transportation Facilities or any part thereof.

The foregoing provision notwithstanding, the County shall have and reserves in the Resolution the right to sell, lease or otherwise dispose of any of the property comprising a part of a Transportation Facility in the following manner, if any one of the following conditions exist: (A) such property is not necessary for the operation of such Transportation Facility, (B) such property is not useful in the operation of such Transportation Facility, or (C) in the case of a lease of such property, will not adversely affect the security for the Bondholders.

Prior to any such sale, lease or other disposition of said property: (1) if the amount to be received therefor is not in excess of five percent (5%) of the capital assets of the Transportation Facilities, less accumulated depreciation, as reported in the County's most recent Annual Comprehensive Financial Report ("ACFR"), (a) an Authorized Issuer Officer shall make a finding in writing determining that one or more of the conditions for sale, lease or disposition of property provided for in Section 5.07 of the

Resolution have been met, and (b) if any of the property to be sold, leased or otherwise disposed of was financed in whole or in part with proceeds of Bonds (other than Taxable Bonds) that remain Outstanding then the County shall obtain an opinion of Bond Counsel to the effect that such sale, lease or other disposition will not adversely affect the federal tax exempt status of interest on such Bonds or shall not otherwise affect the status of any such Bonds issued as Federal Subsidy Bonds or the County's receipt of Federal Subsidy Payments with respect to said Outstanding Federal Subsidy Bonds; or (2) if the amount to be received from such sale, lease or other disposition of said property shall be in excess of five percent (5%) of the capital assets of the Transportation Facilities, less accumulated depreciation, as reported in the County's most recent ACFR, (a) an Authorized Issuer Officer and the Traffic Engineers shall each first make a finding in writing determining that one or more of the conditions for sale, lease or other disposition of property provided for in Section 5.07 of the Resolution have been met, (b) the Board shall, by resolution, duly adopt, approve and concur in the findings of the Authorized Issuer Officer and the Traffic Engineers, and (c) the County shall obtain an opinion of Bond Counsel to the effect that such sale, lease or other disposition is not in violation of the Act and will not adversely affect the federal tax exempt status of interest on the Bonds (other than Taxable Bonds) or shall not otherwise affect the status of any Outstanding Bonds issued as Federal Subsidy Bonds or the County's receipt of Federal Subsidy Payments with respect to any Outstanding Federal Subsidy Bonds.

Except as otherwise required under applicable provisions of the Code, the proceeds from any such sale or other disposition shall be deposited, first, into the Renewal and Replacement Account to the extent necessary to make the amount therein equal to the Renewal and Replacement Account Requirement, and, second, to the Surplus Account. The proceeds from any such lease shall constitute Gross Revenues and shall be deposited in the Revenue Account.

The County may make contracts or grant licenses for the operation of, or grant easements or other rights (including air rights) with respect to, any part of a Transportation Facility if such contract, license, easement or right does not, in the opinion of the Consulting Engineers, as evidenced by a certificate to that effect filed with the County, impede or restrict the operation by the County of such Transportation Facility. Any payments to the County under or in connection with any such contract, license, easement or right in respect of, or any part thereof, shall constitute Gross Revenues and shall be deposited in the Revenue Account.

The transfer of the Transportation Facilities as a whole from the control of the County to some other board or authority which may hereafter be created for such purpose and which constitutes a governmental entity, interest on obligations issued by which are excluded from gross income for purposes of federal income taxation (other than obligations similar to Taxable Bonds or Federal Subsidy Bonds), shall not be deemed prohibited in the Resolution and such successor board or authority shall fall within the definition of "Issuer" in the Resolution.

### **Insurance**

The County will carry or cause to be carried such insurance as the Consulting Engineers certify to be customary and reasonable for entities such as the County which own and operate facilities similar to the Transportation Facilities. The County shall provide insurance, to the extent available at commercially reasonable rates, against loss caused by damage to or destruction of all or any part of any of the Transportation Facilities; use and occupancy insurance covering loss of Gross Revenues; comprehensive public liability insurance for bodily injury and property damage and such other insurance as the County

may determine. All such insurance policies shall be carried in a responsible insurance company or companies authorized and qualified to assume the risks thereof.

The County shall, immediately upon receipt, deposit the proceeds from use and occupancy insurance to the credit of the Revenue Account. The proceeds from property loss insurance shall be applied as follows: (A) if such proceeds, together with other available funds of the County, are sufficient to repair or replace the damaged Transportation Facilities, such proceeds and other available funds shall be deposited to the credit of the Renewal and Replacement Account and applied to such repair or replacement; (B) if such proceeds, together with other available funds of the County, are not sufficient to repair or replace the damaged Transportation Facilities, such proceeds shall be (1) applied to the redemption of the Bonds or (2) deposited in irrevocable trust for the payment of the Bonds in the manner set forth in Section 9.01 of the Resolution, provided the County has received an opinion of Bond Counsel to the effect that such deposit shall not adversely affect the exclusion, if any, from gross income of interest on the Bonds for purpose of federal income taxation.

The County may establish certain levels of insurance for which the County may self-insure. Such levels of insurance shall be in amounts as recommended in writing by an insurance consultant who is of favorable reputation and experience and is qualified to survey risks and to recommend insurance coverage for public entities engaged in operating facilities similar to the Transportation Facilities.

#### SUMMARY OF CERTAIN AMENDMENTS TO THE RESOLUTION

On September 5, 2024, the Board approved the Amended and Restated Transportation Facilities Bond Resolution No. 24-\_\_\_-\_\_\_ approving certain amendments (the "Amendments"), which resolution is blacklined to show changes against the Resolution No. 86-4-12 and a copy of which is attached as "APPENDIX D-2 - Amendments to the Resolution." The Amendments include, among other things, substantive changes to certain definitions, the additional bonds test, the flow of funds, the Reserve Subaccount provisions, along with numerous other changes to improve the County's flexibility and clarify the County's rights and obligations in a manner consistent with many modern master resolutions. By purchasing the Series 2024 Bonds, the holders thereof shall be deemed to have consented to the Amendments to the Resolution as further described herein. The proposed Amended and Restated Transportation Facilities Bond Resolution is attached hereto as APPENDIX D-1.

**The most significant Amendments are described briefly below alphabetically by subject area, but the following does not describe each and every Amendment and is subject in all respects to the actual text of the amendments shown by the blacklined changes contained in "APPENDIX D-2 - Amendments to the Resolution" attached hereto.** Section references are to the specific section of the Resolution attached hereto as APPENDIX D-1 where the particular Amendment may be found and all defined terms in the summary below shall have the definitions provided in the Resolution.

Additional Bonds - Section 6.02

- The current requirements to issue Bonds for Additional Projects will be streamlined and simplified.
- The revised additional bonds test will eliminate the need to satisfy both a historic and a prospective coverage test and, instead, will allow the County to satisfy either a historical coverage test (as certified by an Authorized Issuer Officer) or a prospective coverage test (as certified

by an Consulting Engineer) for the next five Fiscal Years.

- Under the new historical test, the requirement will be that Net Revenues are equal to at least (i) 120% of the Maximum Annual Debt Service on the Outstanding Bonds and the Additional Bonds then proposed to be issued, (ii) 100% of annual amounts to be deposited to the Renewal and Replacement Account during the Test Period and (iii) 100% of any amounts to be deposited to the Reserve Account or with any issuer of a Reserve Account Insurance Policy or Reserve Account Letter of Credit during such Test Period.
- Under the new prospective test, the requirement will be that Net Revenues are at least sufficient to satisfy the rate covenant requirements for each Fiscal Year to and including the fifth complete Fiscal Year following the delivery of such Additional Bonds (see Section 5.05 in the Resolution attached hereto as APPENDIX D-1).
- Additionally, the revised prospective additional bonds test allows the Consulting Engineer, to make certain adjustments to Net Revenues for assumed increases in rates, fees, charges, tolls or other income for the use and services of the Transportation Facilities in certain situations.
- The revised additional bonds test (i) changes the methods of calculating interest for Variable Rate Bonds and (ii) provides an offset to Annual Debt Service for Federal Subsidy Payments.

Annual Debt Service - Section 1.01

- The definition of "Annual Debt Service" will be revised to add rules for purposes of determining the amount of the Annual Debt Service in any Fiscal Year in connection with (i) the treatment of interest on Qualified Hedge Agreements, (ii) deductions for amounts on deposit in the Reserve Subaccount (or any subaccount thereof), (iii) Federal Subsidy Payments and (iv) treatment of Ballon Bonds.

Authorized Investments - Section 1.01

- The definition of "Authorized Investments" will be revised to permit any investments that may be made by the County under applicable law and which are permitted under the County's investment policy.

Construction Fund - Section 4.03

- The process for disbursements from the Construction Fund and completion of the Project will be simplified and

streamlined.

Control of Remedies by Insurer -  
Section 7.07

- Revises existing provision to clarify that an Insurer that is not in payment default under its Bond Insurance Policy shall have the right to direct and control enforcements of rights and remedies and exercising voting rights.

Funds and Accounts - Section 4.05

- Provides for treatment of Hedge Receipts, Hedge Payments and Federal Subsidy Payments in the Interest Subaccount.
- Provides for the creation of a separate subaccount in the Reserve Subaccount for any Series of Bonds with its own Reserve Subaccount Requirement, which may be zero (\$0.00), which Series of Bonds shall only be secured by such subaccount and not by any other moneys in the Reserve Subaccount and requirements for Reserve Subaccount Insurance Policies or Reserve Subaccount Letters of Credit.
- Revises the deposit requirements to the Renewal and Replacement Fund based on the revised definition of Renewal and Replacement Fund Requirement (see "Renewal and Replacement Fund Requirement" below)

Gross Revenues - Section 1.01

- The definition of "Gross Revenues" will be revised to exclude (i) Federal Subsidy Payments and (ii) any gain resulting from valuation of investment securities, Hedge Agreements at market value and any other gain that does not result in the receipt of cash.

Operating Expenses - Section 1.01

- The definition of "Operating Expenses" will be revised to exclude (i) extraordinary or non-recurring expenses, and expenses paid from moneys in the Renewal and Replacement Fund and (ii) any debt issuance costs paid from proceeds of such debt, any payments in lieu of taxes or franchise fees made to the County's general fund, any accruals required to be recognized with respect to pension, retirement, health and hospitalization funds that do not require or result in the expenditure of cash, and any loss resulting from valuation of investment securities, Hedge Agreements at market value and any other loss that does not result in the expenditure of cash.

Funds and Accounts - Section 5.02

- Provides for the creation of a separate subaccount in the Reserve Subaccount for any Series of Bonds with its own Reserve Subaccount Requirement, which may be zero (\$0.00), which Series of Bonds shall only be secured by



such subaccount and not by any other moneys in the Reserve Subaccount.

Sale or Encumbrance of  
Transportation Facilities - Section 5.10

- Revises the requirements in order to sell, lease or other dispose of the Transportation Facilities or any portion thereof.

Notice of Redemption - Section 3.03

- Section 3.03 will be revised to (i) allow for a conditional notice of redemption and (ii) clarify that a published notice of redemption in a newspaper is no longer required.

Renewal and Replacement Fund  
Requirement - Section 1.01

- The definition of "Renewal and Replacement Fund Requirement" will be revised to eliminate the reference to 5% of the prior Fiscal Year Gross Revenues. The new definition establishes the Renewal and Replacement Fund Requirement at the greater of (i) \$500,000 or (ii) such amount as may be certified to the County by the Consulting Engineers as an appropriate amount in accordance with Section 4.05(B)(6) of the Resolution.

Reserve Subaccount Requirement -  
Section 1.01

- The definition of "Reserve Subaccount Requirement" will be revised to allow the Reserve Subaccount Requirement to be calculated as the lesser of (i) the Maximum Annual Debt Service, (ii) 125% of the average Annual Debt Service or (iii) the maximum amount permitted by the Code.
- The revised definition also (i) accounts for the creation of a separate subaccount in the Reserve Subaccount for any Series of Bonds with its own Reserve Subaccount Requirement, which may be zero (\$0.00), which Series of Bonds shall only be secured by such subaccount and not by any other moneys in the Reserve Subaccount and (ii) revises the method for calculating interest on Variable Rate Bonds.

Supplemental Resolutions and  
Amendments - Article VIII

- The process by which the Resolution may be amended with and without the consent of holders of the Bonds will be streamlined and simplified.

Valuation of Investments - Section  
4.08

- Revises the provisions for determining valuation of investments in the various funds and accounts from a market value basis to a cost basis, other than the Reserve Subaccount (or any subaccounts therein) which will be valued at market value.

The County currently anticipates that the effective date of the Amendments will occur simultaneously with the issuance of the Series 2024 Bonds.

The statements contained in this Official Statement that purport to summarize provisions of the Resolution contain summaries of the Resolution as of the date of issuance of the Series 2024 Bonds, which take into account the implementation of such Amendments.

**PROSPECTIVE PURCHASERS OF THE SERIES 2024 BONDS SHOULD REVIEW ALL OF THE AMENDMENTS IN "APPENDIX D-2 –AMENDMENTS TO THE RESOLUTION " ATTACHED HERETO FOR THE COMPLETE TEXT THEREOF.**

The Underwriter is not providing consent to or approval of the herein described amendments and the County will not deem such amendments to have been consented to or approved by the Underwriter as a result of the Underwriter's purchase of the Series 2024 Bonds in their capacity as underwriter as defined in Section 2(a)(11) of the Securities Act of 1933, as amended.

### **SUMMARY OF INTERLOCAL AGREEMENTS**

#### **Interlocal Agreement with the City of Sanibel**

The County has entered into an Amended and Restated Interlocal Agreement with the City of Sanibel, Florida (the "Sanibel Interlocal Agreement") dated June 11, 2002, amending and restating the Interlocal Agreement between the County and the City of Sanibel, Florida dated November 10, 1987. A copy of the Sanibel Interlocal Agreement is included as an exhibit to APPENDIX A to the Traffic Engineers' Annual Traffic and Revenue Report for Fiscal Year 2023 for the Lee County Toll Facilities set forth in APPENDIX A attached hereto. The Sanibel Interlocal Agreement will remain in effect as long as any Bonds remain outstanding under the Resolution. Pursuant to the Sanibel Interlocal Agreement, on April 30 and October 30 of each Fiscal Year, the County is required to remit to the City of Sanibel 21% of the Sanibel Net Revenues (as hereinafter described) derived from operation of the Sanibel Causeway during the semiannual period ending thirty days prior to each such payment date. "Sanibel Net Revenues" are gross toll revenues of the Sanibel Causeway less (i) operating expenses of the Sanibel Causeway, (ii) the debt service requirement of Bonds issued for purposes relating to the Sanibel Causeway, and (iii) the renewal and replacement costs of the Sanibel Causeway, all as further described in the Sanibel Interlocal Agreement.

The payment due on April 30 of each year will be adjusted, if necessary and if adequate funds are available and on deposit in the Surplus Account, such that the total payment to the City of Sanibel in each Fiscal Year is not less than \$200,000. The payments by the County to the City of Sanibel required by the Sanibel Interlocal Agreement can be made only from the Surplus Account established pursuant to the Resolution and such payments are junior and subordinate to all other payments required by the Resolution. Pursuant to the Sanibel Interlocal Agreement, the County has agreed to impose on the Transportation Facilities, other than the Sanibel Causeway, tolls that produce Gross Revenues at least sufficient, in aggregate, to pay (i) the debt service for the Transportation Facilities less the debt service for the Sanibel Causeway, (ii) the Operating Expenses of the Transportation Facilities other than the Sanibel Causeway, and (iii) the Renewal and Replacement Account Requirements of the Transportation Facilities other than the Sanibel Causeway. Subject to the terms of the Resolution, the County has agreed to impose tolls on the Sanibel Causeway in a reasonable manner and in a reasonable way to cover all traffic so that such tolls are uniform in application to all traffic falling within any reasonable classes.

The County has also agreed to maintain and repair the Sanibel Causeway, and to proceed in good faith to permit, design and construct certain improvements to the Sanibel Causeway, as further described in the Sanibel Interlocal Agreement. The City of Sanibel has agreed not to object to or interfere with the County's pursuit of such permits.

In January 2004, a lawsuit was filed by the City of Sanibel against the County based primarily on the County's plan to replace Span A (as defined herein) of the Sanibel Causeway with a fixed-span bridge rather than a draw span similar to the original Span A. This case was dismissed on March 1, 2005, at which time a settlement agreement was reached between the County and the City of Sanibel. As part of the settlement agreement, until certain conditions were satisfied, the County was required to remit to the City of Sanibel 21% of the net surplus revenues generated from the operation of the Sanibel Causeway which amount was to be applied to reduce the cost of the commuter discount program fees and tolls. In Fiscal Year 2023, the County fulfilled all of conditions under the settlement agreement.

### **Interlocal Agreement with the City of Cape Coral**

The County has entered into a Second Amendment to the Lee County/City of Cape Coral East-West Corridor Interlocal Agreement with the City of Cape Coral, Florida, dated November 26, 2002, amending an Interlocal Agreement between the parties dated March 22, 1995, as further amended (collectively, the "Cape Coral Interlocal Agreement"). A copy of the Cape Coral Interlocal Agreement is included as an appendix to the "Traffic Engineers' Annual Traffic and Revenue Report for Fiscal Year 2023 for the Lee County Toll Facilities" set forth in APPENDIX A hereto. Pursuant to the Cape Coral Interlocal Agreement, on each April 1 following the first September 30 subsequent to completion of the Midpoint Memorial Bridge (April 1, 1999), the County is required to remit to the City of Cape Coral 40% of the Net Surplus Toll Revenues (as hereinafter described) derived from the operation of the Cape Coral and Midpoint Memorial Bridge (collectively, the "Cape Coral and Midpoint Memorial Bridges") during the preceding fiscal year prior to each payment date. Such percentage may be reviewed and renegotiated in good faith every five years. However, both the County and the City of Cape Coral have since agreed that these payments be made into a mutually acceptable transportation project fund. As such, no direct transfer of funds between the County and the City of Cape Coral occurs. Rather, excess revenues are deposited into one of two capital improvement funds. In Fiscal Year 2023, \$17.4 million of the excess revenues on the Cape Coral and Midpoint Memorial Bridges was applied to the capital improvement funds. The remaining excess revenues, approximately \$200,000, were carried forward to cover anticipated operations costs in Fiscal Year 2024. The most recent amendment to the Cape Coral Interlocal Agreement on September 1, 2020, includes several capital improvements that will directly affect traffic on the Midpoint Memorial Bridge which are described in "TRANSPORTATION FACILITIES—Future Projects" herein

"Net Surplus Toll Revenues" are gross toll revenues of the Cape Coral and Midpoint Memorial Bridges less (i) operating expenses of the Cape Coral and Midpoint Memorial Bridges, (ii) the Bridges Debt Service Requirement (as defined in the Cape Coral Interlocal Agreement which is included as an appendix to the "Traffic Engineers' Annual Traffic and Revenue Report for Fiscal Year 2023 for the Lee County Toll Facilities" included in APPENDIX A attached hereto), (iii) the renewal and replacement costs of the Cape Coral and Midpoint Memorial Bridges pursuant to the Resolution, (iv) any payment made by the County to the City of Cape Coral to reimburse the City of Cape Coral for debt service payments on certain costs advanced by the City, (v) debt service payments made by the County with respect to the County's Capital and Transportation Facilities Refunding Revenue Bonds, Series 1993A (which are no longer outstanding), (vi) any debt service payments made by the County with respect to obligations it

issues to pay for costs of the 1995 Project (defined herein) other than the Bonds and any obligation of the County secured by a pledge of the County's share of the local option gas tax levied by the County pursuant to Section 336.025(1), Florida Statutes, as described in a separate interlocal agreement between the County and the City of Cape Coral dated June 27, 1994, (vii) any repayment of the Toll Facilities Revolving Trust Fund loan by the State of Florida for Veteran's Memorial Parkway between Santa Barbara and Surfside Boulevard, (viii) any repayments to the commercial paper debt incurred for the construction of Veteran's Memorial Parkway between Santa Barbara Boulevard and Miracle Parkway, (ix) any project costs, including land acquisition, professional fees, permits and construction of Veteran's Memorial Parkway between Santa Barbara Boulevard and Surfside, (x) construction costs, including any monies advanced by the County for construction of "Veteran's Memorial Parkway Extension," from Surfside Boulevard to approximately 800 feet north of Pine Island Road, including the intersection of Veteran's and Pine Island Road and project costs relating to Burnt Store Road from SR 78 (Pine Island Road) north to the County line, (xi) State of Florida Infrastructure bank loans, or any other enhancement projects as mutually agreed to by both government entities, (xii) any other debt service payments on the outstanding bonds, if necessary, (xiii) the Cape Coral Toll Plaza Rehabilitation, and (xiv) technology relating to electronic toll collection for Cape Coral and Midpoint Toll Facilities.

### **ESTIMATED SOURCES AND USES OF FUNDS**

Upon the issuance and delivery of the Series 2024 Bonds, the proceeds of the sale of the Series 2024 Bonds, together with other legally available funds, are expected to be deposited as follows:

Sources of Funds:

Principal Amount of Series 2024 Bonds  
 [Plus/Less] Net Original Issue [Premium/Discount]  
 Sinking Account Contribution<sup>(1)</sup>  
 Total Sources:

Uses of Funds:

Deposit to Escrow Account  
 Costs of Issuance<sup>(2)</sup>  
 Total Uses:

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<sup>(1)</sup> Represents funds on deposit in the Sinking Account allocable to the Refunded Bonds.  
<sup>(2)</sup> Includes Underwriter's discount, printing costs, counsel fees, financial advisory fees, administrative costs and expenses and other costs of issuance.

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## DEBT SERVICE REQUIREMENTS

The following table sets forth the debt service requirements due on the Series 2024 Bonds for each of the following years ending on October 1.

Bond Year Ending <u>October 1</u>	<u>Principal</u>	<u>Interest</u>	Annual Debt <u>Service</u>
2025			
2026			
2027			
2028			
2029			
2030			
2031			
2032			
2033			
2034			
2035			
TOTAL			

## TRANSPORTATION FACILITIES

### General

The Transportation Facilities currently consist of the three tolled bridges which are described in more detail below: the Sanibel Causeway, the Cape Coral Bridge and the Midpoint Memorial Bridge. For locations of the Transportation Facilities see the map appearing on page (iv) of this Official Statement. The first two facilities, the Sanibel Causeway and the Cape Coral Bridge, opened to traffic in 1963 and 1964, respectively. The third facility, the Midpoint Memorial Bridge, opened to traffic in 1997 in response to growing demand for travel across the Caloosahatchee River. Systemwide, 97% of all transactions were made by 2-axle passenger vehicles, with little variation between each of the bridges. The Midpoint Memorial and Cape Coral Bridges primarily serve commuter traffic. However, traffic on the County's toll bridges, particularly the Sanibel Causeway, is heavily influenced by regional tourism as well as the employment generated by tourism and hospitality industries. Florida law provides the County with broad toll setting authority. No legislation or consent or approval by any entity other than the Board is required to increase tolls.

### Management

The management of the Transportation Facilities is administered by the Lee County Department of Transportation (the "Department") subject to the authority of the Board. The daily operation and administration of the Department is the responsibility of the County Manager, and his subordinate, Director of Transportation. In Fiscal Year 2023, there were approximately 343 full-time employees assigned to the Department.

Director - Transportation. *Robert Price, P.E.* is the Director of the Department and has served in this capacity since April 2024. He has a Civil Engineering Degree from Auburn University. Also, he has

worked at the County for 15 years including Department Deputy Director, County Traffic Engineer, and Senior Engineer. Prior to working at the County, he worked as consultant managing traffic related development improvements. He has 24 years of experience in Transportation Engineering and is the immediate past president of the Intelligent Transportation Society of Florida.

Deputy Director, Transportation. *Jillian Scholler, P.E.* is the Deputy Director of the Department and has served in this capacity since April 2024. She has a Civil Engineering Degree from Florida Atlantic University and has been a traffic engineer for 14 years. In December of 2021, she came to the County to serve as the County's Traffic Engineer. Prior to the County, she worked as a consultant managing various transportation projects including working at FDOT in the Regional Transportation Management Center in District Four including the I-595 Reversible Lanes project.

Operations Manager (Fiscal). *Eileen Webster* is the Operations Manager for the Department and has served in this capacity since 2005. She has a Master's Degree in Organizational Management from New England College and a Bachelor's Degree in Business Administration, also from New England College. As Operations Manager, she is responsible for preparing and monitoring the Department's \$37 million operating budget and for the staff that handles daily toll audit and reconciliation functions. Prior to coming to the County, she managed the financial activities for the Collier County Metropolitan Planning Organization.

Operations Manager, Toll Facilities. *Susan Drotleff* is the Toll Facilities Operations Manager for the Department and has served in this capacity since June 2011. She has a Bachelor's Degree in Accounting from Florida Gulf Coast University and is a member of TEAMFL (Transportation & Expressway Authority. Membership of Florida). She is responsible for the operations of the toll facilities and the LeeWay Service Center for the Transportation Facilities. She provides oversight for 58 employees, the collection of approximately \$50 million in toll revenue, and monitoring approximately a \$13 million of the operational budget. She began her employment with the Department in Toll Facilities in 1989 as a toll collector. She worked her way up through the Tolls organization with her previous position as the LeeWay Service Center Manager.

Operations Manager, Maintenance. *Doug Busbee* is the Manager for the Department's Operations Division and has worked for the County for more the 26 years. In 1998, he started with the County to manage the County's bridges inspection, repairs and rehab. Currently, in his role as Operations Manager, he is responsible for more than 165 employees, monitoring \$32 million of the operations budget, the maintenance of the roadway, landscape, canals and bridges in the County. In addition, he responsible for the Department's inspection right-of-way team and manages over \$17 million in resurfacing per year.

### **Electronic Toll Collection**

All Transportation Facilities include an electronic toll collection system ("ETC"), branded locally as LeeWay. ETC operates electronically with a device known as a transponder. The transponder is mounted on the inside of the vehicle. As the vehicle passes through the toll plaza an overhead antenna reads the transponder through radio frequency and automatically debits the prepaid account of the vehicle owner. ETC's are able to handle larger volumes of traffic without the need for costly physical expansions of toll plazas or the cost of additional personnel. The systemwide ETC participation is 64.0% of all transactions in Fiscal Year 2023.

The Rental Car program is for rental car customers. The program uses license plate information to identify rental vehicles and collect tolls electronically through agreements with private rental car companies. This allows rental car customers the same convenience as LeeWay customers to be able to use a toll facility.

In May 2021, the County began accepting E-ZPass customers with the ability to use LeeWay via video tolling. In March 2022, the County began accepting E-ZPass transponders in Lee County toll lanes.

Additionally, the County participates in transponder interoperability with other Florida toll agencies throughout the State. Toll interoperability allows the County to accept transponders from other agencies and for LeeWay transponders to be accepted by other agencies. In Florida, LeeWay transponders have interoperability with the Florida Turnpike Enterprises SunPass program, the Central Florida Expressway Authority's E-Pass system. In other states, LeeWay transponders have interoperability with the North Carolina Turnpike Authority and its Quick Pass program, and the Georgia State Road & Tollway Authority ("SRTA") Peach Pass transponders. In February 2023, the County's interoperability was further extended to include K-Tag, Toll Tag and Pike Pass transponders from Kansas Turnpike Authority, North Texas Turnpike and Oklahoma Turnpike toll agencies from the Central Hub. LeeWay transponders working in Central hub toll lanes and the addition of Harris County Toll Road Authority's EZ Tag being accepted in the County lanes is expected by the end of 2024.

### **All Electronic Toll Collection (AET)**

In March 2020, the County removed the toll collection staff from the toll booths and implemented all electronic toll collection in response to the COVID-19 pandemic. In May 2020, LeeWay began a promotion to offer free sticker transponders to customers opening a LeeWay account or adding a vehicle to an existing account. Those without a transponder are directed to proceed through any open toll lane and are processed as a Pay-By-Plate transaction. An image of their license plate is taken, and the customer is mailed an invoice for the amount due. Payment is expected within 28 days of the invoice date. Payment can be made online, over the phone or at the LeeWay Service Center. No administrative fees were assessed to these former cash customers through September 2021. In June 2021, the County announced the permanent suspension of cash toll collection effective October 1, 2021, and continuation of AET on all the County bridges. The County also implemented a \$3.00 administrative fee per Pay-By-Plate transaction and permanently removed the motorcycle discount.

### **Sanibel Causeway**

The Sanibel Causeway, a three-mile series of two-lane bridges and islands connects Sanibel Island with the mainland at Punta Rassa. The Sanibel Causeway consists of three separate spans - span A is a 3,003 foot long bascule bridge connected to a spoil island ("Span A"); span B is a 1,872 foot long fixed-span bridge connected to another spoil island ("Span B"); and span C is a 3,867 foot long fixed-span bridge connected to Sanibel Island ("Span C"). Span A is the tallest and northernmost structure of the Sanibel Causeway, with a high span to accommodate boat traffic on the Intracoastal Waterway.

With respect to traffic composition by vehicle class, 93.7% of total transactions on the Sanibel Causeway in Fiscal Year 2023 were made by passenger cars and motorcycles.

The following table shows annual toll-paying traffic and toll revenues on the Sanibel Causeway in the following fiscal years ended September 30.

## SANIBEL CAUSEWAY TRAFFIC, REVENUE AND EXPENSES

Year	TOLL PAYING TRAFFIC			Percentage Change	Gross Revenues (000's omitted)	Operating Expenses <sup>(2)</sup> (000's omitted)	Net Revenues (000's omitted)
	Passenger Cars	Other Traffic <sup>(1)</sup>	Total				
2014	3,090,340	75,346	3,165,686	--	\$14,104	\$2,597	\$11,507
2015 <sup>(3)</sup>	3,207,115	75,674	3,282,789	3.70%	14,715	2,251	12,464
2016 <sup>(3)</sup>	3,256,170	80,885	3,337,055	1.65	15,040	2,250	12,790
2017 <sup>(3)(4)</sup>	3,197,201	80,084	3,277,285	(1.79)	15,040	2,315	12,725
2018 <sup>(3)(4)</sup>	3,181,372	82,851	3,264,223	(0.40)	14,527	1,927	12,600
2019 <sup>(3)</sup>	3,210,873	81,899	3,292,772	0.87	14,925	2,021	12,904
2020 <sup>(3)(5)</sup>	2,919,222	94,247	3,013,469	(8.48)	12,710	2,024	10,686
2021 <sup>(3)(5)</sup>	3,338,579	97,639	3,436,218	14.03	14,482	2,727	11,755
2022 <sup>(3)(6)(7)</sup>	3,422,275	82,879	3,505,154	2.01	14,845	1,951	12,894
2023 <sup>(3)(8)</sup>	1,962,699	132,421	2,095,120	(40.23)	8,396	2,243	6,153

(1) Includes 3+ axle vehicles.

(2) Does not include depreciation.

(3) Operating and Maintenance Expenses do not include unfunded OPEB and Pension expenses.

(4) Effects from Hurricane Irma September 2017, red tide and blue green algae blooms.

(5) Effects from COVID-19 pandemic beginning March 2020-February 2021. See "RISK FACTORS – Coronavirus (COVID-19)" herein for more information.

(6) Conversion to all electronic tolling. Implementation of \$3.00 administrative fee per Pay-By-Plate transactions.

(7) Effects from Hurricane Ian in September 2022. See "RISK FACTORS—Risk Factors" herein for more information.

(8) Declines a result of the continued effects from Hurricane Ian in September 2022. See "RISK FACTORS—Risk Factors " herein for more information.

Source: Lee County Department of Transportation.

The last two decades included multiple toll rate adjustments, several significant hurricane disruptions, the Great Recession, and the COVID-19 pandemic that have negatively impacted transactions and revenues. In Fiscal Year 2018, toll transactions declined 0.4% and toll revenues declined 1.7% compared to Fiscal Year 2017. This decline can partially be attributed to the longer-term economic impacts after Hurricane Irma in September 2017. The Sanibel Causeway was also negatively impacted by poor water quality due to red tide and blue green algae blooms during the summer months in 2017 which negatively affected the local tourism, hotel, and fishing guide industries. The 3.3 million toll transactions recorded in Fiscal Year 2018 were 5.6% below the peak of 3.5 million transactions recorded in Fiscal Year 2001. In Fiscal Year 2019, toll transactions increased by 0.9% from Fiscal Year 2018 while toll revenues increased by 3.1% from Fiscal Year 2018. In Fiscal Year 2020, toll transactions decreased by 9.0%, due to the negative impacts of the COVID-19 pandemic. Toll revenues also dropped significantly in Fiscal Year 2020 by 15.6%. The greater impact on revenue is due to the cash toll collection suspension beginning in March 2020. Former cash customer transactions are now being processed as Pay-By-Plate customers, who are identified by license plate reviews and sent a bill for their toll payments. In Fiscal Year 2021, transactions increased by 14.1% and revenues increased by 6.2% compared to Fiscal Year 2020, representing the initial recovery from COVID-19 conditions. October 2020 through February 2021 transactions and revenues continued to be negatively impacted by the COVID-19 pandemic, with partial recovery starting in March 2021.



In Fiscal Year 2022, the significant increase in revenues can be attributed to the conversion to AET, which began on October 1, 2021. Customers without a prepaid transponder are charged a \$3.00 administrative fee in addition to the toll for using the Pay-By-Plate system. In both Fiscal Year 2022 and Fiscal Year 2023, transactions and revenues were negatively impacted by toll suspensions as a result of Hurricane Ian from September 26, 2022 through December 31, 2022. In Fiscal Year 2023, transactions decreased by 45.1% and revenues decreased by 42.4% compared to Fiscal Year 2022. This decrease reflects the continuation of toll suspension on the facility for the entire months of October 2022 through December 2022. From October 2022 through August 2023, the Sanibel Causeway experienced decreases in monthly and weekday transactions, versus the prior fiscal year. The average number of weekday transactions on Sanibel Causeway ranged from a low of zero in October, November, and December 2022 to a high of 8,600 in March 2023. The decline in transactions throughout the Fiscal Year reflect the suspension of tolls and recovery efforts on Sanibel Causeway due to Hurricane Ian. The recovery of toll revenue is dependent on Sanibel Island's continued economic recovery due to Hurricane Ian. Sanibel Island's residential, business and tourism are gradually recovering which should positively impact traffic and toll revenues in Fiscal Year 2024 and Fiscal Year 2025. It is currently estimated that approximately 35% of the pre-Ian accommodations properties are open in the City of Sanibel and Captiva area. Approximately 76% of non-accommodations businesses have reopened in the City of Sanibel and Captiva area. Currently construction is underway for a Sanibel resort property which is the first coastal hotel project to start post-Hurricane Ian.

### **Cape Coral Bridge**

The original Cape Coral Bridge currently carries two west bound lanes of traffic and is approximately 3,417 feet long and the eastbound span has two lanes and is approximately 3,412 feet long. The Cape Coral Bridge is part of an approximate 4-mile east-west corridor extending from Del Prado Boulevard on the west in Cape Coral to McGregor Boulevard on the east in unincorporated Lee County. It is approximately three miles south-southwest of the Midpoint Memorial Bridge and approximately 6.5 miles south of the Caloosahatchee Bridges (defined herein) (which are not part of the Transportation Facilities). (See "- Competing Facilities" below.) This corridor serves as a major arterial travel route that plays an integral role in the systemwide traffic circulation in the County.

The Cape Coral bridge also has an additional new two-lane span parallel the south of the original Cape Coral Bridge with a ten-lane toll facility. The limits of the original Cape Coral Bridge cover a distance of approximately 1.74 miles. The parallel span is approximately 3,400 feet (0.64 miles), while the approach roadways are approximately 5,800 feet (1.10 miles). The new span and approaches connect with the four-lane roadways to the east and to the west. The existing vertical clearance of 55 feet above the Caloosahatchee Channel and the width of 95 feet for the center channel have been maintained with the newer structure.

In an effort to further enhance operational efficiencies, the County adopted a one-way toll collection policy on the Cape Coral Bridge and open-road tolling lanes. Open-road tolling lanes allow ETC customers to pass through the toll plaza without slowing down to drive through a traditional toll booth.

With respect to traffic composition by vehicle class, 98.0% of total transactions on the Cape Coral Bridge in Fiscal Year 2023 were made by passenger cars and motorcycles.

The following table shows annual toll-paying traffic and toll revenues on the Cape Coral Bridge in the years ended September 30.

**CAPE CORAL BRIDGE TRAFFIC, REVENUE AND EXPENSES**

Year	TOLL PAYING TRAFFIC			Percentage Change	Gross Revenues	Operating Expenses <sup>(2)</sup>	Net Revenues
	Passenger Cars	Other Traffic <sup>(1)</sup>	Total		(000's omitted)	(000's omitted)	(000's omitted)
2014	7,521,133	147,931	7,669,064	--	\$13,685	\$3,737	\$9,948
2015 <sup>(3)</sup>	7,872,440	150,196	8,022,636	4.61	14,327	3,397	10,930
2016 <sup>(3)</sup>	8,114,891	152,000	8,266,891	3.04	15,014	3,392	11,622
2017 <sup>(3)(4)</sup>	7,925,272	146,445	8,071,717	(2.36)	14,819	3,565	11,254
2018 <sup>(3)</sup>	8,210,849	153,337	8,364,186	3.62	14,890	2,544	12,346
2019 <sup>(3)</sup>	8,304,447	148,890	8,453,337	1.07	15,458	3,115	12,343
2020 <sup>(3)(5)</sup>	7,569,881	131,564	7,701,445	(8.89)	12,798	2,886	9,912
2021 <sup>(3)</sup>	8,238,646	125,856	8,364,502	8.61	13,781	3,657	10,124
2022 <sup>(3)(6)(7)</sup>	8,394,790	105,975	8,500,765	1.63	13,943	2,567	11,376
2023 <sup>(3)</sup>	7,728,916	159,725	7,888,641	(7.20)	12,802	3,269	9,533

(1) Includes 3+ axle vehicles.

(2) Does not include depreciation.

(3) Operating and Maintenance Expenses do not include unfunded OPEB and Pension expenses.

(4) Effects from Hurricane Irma September 2017, red tide and blue green algae blooms.

(5) Effects from COVID-19 pandemic beginning March 2020-February 2021. See "RISK FACTORS – Coronavirus (COVID-19)" herein for more information.

(6) Conversion to all electronic tolling. Implementation of \$3.00 administrative fee per Pay-By-Plate transactions.

(7) Effects from Hurricane Ian in September 2022. See "RISK FACTORS—Risk Factors " herein for more information.

(8) Declines a result of the continued effects from Hurricane Ian in September 2022. See "RISK FACTORS—Risk Factors " herein for more information.

Source: Lee County Department of Transportation.

For more information, see "APPENDIX A – Traffic Engineers' Annual Traffic and Revenue Report for Fiscal Year 2023 for the Lee County Toll Facilities" attached hereto.

**Midpoint Memorial Bridge**

The Midpoint Memorial Bridge is located approximately three miles north of the Cape Coral Bridge and approximately three miles south of the Caloosahatchee Bridges (which are not part of the Transportation Facilities). The bridge carries two lanes of traffic in each direction and is approximately 7,172 feet long. (See "Competing Facilities" below.)

The Midpoint Memorial Bridge is a major east to west artery for the County by connecting the Midpoint Memorial Bridge with U.S. 41 and Interstate 75, the two critical north-south roadways in the southwest Florida region. In addition, major improvements have been made to the intersection on SR 884 (Colonial Boulevard/Veterans Parkway) at SR 867 (McGregor Boulevard), US 41, and Del Prado Boulevard. These improvements provided an additional river crossing and greater mobility between the

Cape Coral and Fort Myers communities. The bridge portion of the corridor is approximately 7,200 feet long and is a single structure approximately 81 feet wide carrying two lanes of traffic in each direction. The Midpoint Memorial Bridge is primarily a low-level structure except where it crosses the ship channel at which point it rises to allow for 55 feet of vertical clearance. The main span over the ship channel provides 120 feet of horizontal clearance. A twelve-lane toll plaza and administration building is in place about 0.5 miles east of Del Prado Boulevard.

The Midpoint Memorial Bridge has a one-way toll collection policy on the, which eliminated tolls in the eastbound direction and doubling of rates in the westbound direction, causing no change in the net cost of a round trip. In addition to one-way tolling, the Midpoint Memorial Bridge has open-road tolling lanes. Open-road tolling lanes allow ETC customers to pass through the toll plaza without slowing down to drive through a traditional toll booth.

With respect to traffic composition by vehicle class, 97.1% of total transactions on the Midpoint Memorial Bridge in Fiscal Year 2023 were made by passenger cars and motorcycles.

The following table shows annual toll-paying traffic and toll revenues on the Midpoint Memorial Bridge in the years ended September 30.

#### MIDPOINT MEMORIAL BRIDGE TRAFFIC, REVENUE AND EXPENSES

Year	TOLL PAYING TRAFFIC				Percentage Change	Gross	Operating	Net
	Passenger Cars	Other Traffic <sup>(1)</sup>	Total			Revenues (000's omitted)	Expenses <sup>(2)</sup> (000's omitted)	Revenues (000's omitted)
2014	7,432,895	165,659	7,598,554	--	\$14,164	\$3,888	\$10,276	
2015 <sup>(3)</sup>	7,800,958	174,168	7,975,126	4.96%	14,988	3,412	11,576	
2016 <sup>(3)</sup>	8,088,851	180,033	8,268,884	3.68	15,831	3,355	12,476	
2017 <sup>(3)(4)</sup>	7,910,053	179,967	8,090,020	(2.16)	15,754	3,396	12,358	
2018 <sup>(3)</sup>	8,511,750	195,596	8,707,346	7.63	16,339	2,797	13,542	
2019 <sup>(3)</sup>	8,532,718	189,348	8,722,066	0.17	16,734	2,822	13,912	
2020 <sup>(3)(5)</sup>	7,883,657	187,370	8,071,027	(7.46)	13,925	2,948	10,977	
2021 <sup>(3)(5)</sup>	8,640,591	208,537	8,849,128	9.64	15,039	3,786	11,253	
2022 <sup>(3)(6)(7)</sup>	8,650,061	215,739	8,865,800	0.19	15,031	2,455	12,576	
2023 <sup>(3)(8)</sup>	8,440,286	251,812	8,692,098	(1.96)	14,369	2,868	11,501	

(1) Includes 3+ axle vehicles.

(2) Does not include depreciation.

(3) Operating and Maintenance Expenses do not include unfunded OPEB and Pension expenses.

(4) Effects from Hurricane Irma September 2017, red tide and blue green algae blooms.

(5) Effects from COVID-19 pandemic beginning March 2020-February 2021. See "RISK FACTORS – Coronavirus (COVID-19)" herein for more information.

(6) Conversion to all electronic tolling. Implementation of \$3.00 administrative fee per Pay-By-Plate transactions.

(7) Effects from Hurricane Ian in September 2022. See "RISK FACTORS—Risk Factors " herein for more information.

(8) Declines a result of the continued effects from Hurricane Ian in September 2022. See "RISK FACTORS—Risk Factors " herein for more information.

Source: Lee County Department of Transportation.

For more information see "APPENDIX A - Traffic Engineers' Annual Traffic and Revenue Report for Fiscal Year 2023 for the Lee County Toll Facilities" attached hereto.

### **Hurricane Ian Impacts**

On September 28, 2022, Hurricane Ian, a category four hurricane, made landfall on Fort Myers Beach. All three of the Transportation Facilities had some impact from Hurricane Ian. The primary impact was to the Sanibel Causeway. Storm surge and waves breached the Sanibel Causeway leaving it impassable, as well as three of the approach ramps to the Sanibel Causeway were heavily damaged. Through a partnership with FDOT and with funding from the State of Florida and Federal Highway Administration, the necessary repairs were made without the use of toll funds to restore the Sanibel Causeway. The Cape Coral and Midpoint Memorial Bridges each had damage to its bridge fender system. The cost of repairing such damage was not financially material. The repairs needed at Midpoint Memorial Bridge were completed by the County's bridge maintenance team and the Cape Coral Bridge repairs will be contracted out once an Army Corp permit is obtained. All three facilities also had damages to bridge lighting that has been replaced by the County's in-house electrical team. The costs of repairing all such damages were not financially material. None of the damage to the Cape Coral and Midpoint Memorial Bridges materially disrupted traffic or toll collections. The Sanibel Causeway's toll revenues are also dependent on Sanibel Island's continued economic recovery due to Hurricane Ian. Sanibel Island's residential, business and tourism are gradually recovering which should positively impact traffic and toll revenues in Fiscal Year 2024 and Fiscal Year 2025. See "-- Sanibel Causeway above for more information.

### **Competing Facilities**

The County has covenanted that it will not enter into any contract or contracts, nor take any action, the results of which shall impair the security granted hereunder to the Holders of the Bonds. The County will not permit the operation of any facilities and services competing with the Transportation Facilities within its jurisdiction; provided, however, the County reserves the right to construct, acquire, own and operate Transportation Facilities, in addition to the Sanibel Causeway, the Cape Coral Bridge and the Midpoint Memorial Bridge. The County may also construct, acquire, own and operate facilities which are financed by means other than by the issuance of bonds that compete with the Transportation Facilities, provided the County has received a report of the Traffic Engineers stating that, based upon its knowledge and analysis of the financial performance and operations of the Transportation Facilities, after giving effect to the competing facilities, there would be sufficient Gross Revenues to enable the County to meet its obligations under the rate covenant in the Resolution for each of the five Fiscal Years following the completion of such competing facilities. Notwithstanding the foregoing, the County has covenanted and agreed neither to construct nor, to the full extent permitted by law, permit the construction of any bridge or tunnel spanning the Caloosahatchee River south of the U.S. Highway 41 Bridge which is not a Transportation Facility. Approximately, three miles north from the Midpoint Memorial Bridge is the four-lane Caloosahatchee (U.S. 41) Bridge and just above that is the six-lane/twin three-lane Edison (Business U.S. 41) Bridge (collectively, the "Caloosahatchee Bridges.") Both bridges are operated by FDOT and without any tolls. The bridges traverse the Caloosahatchee River connecting downtown Fort Myers (on the southern shore) with North Fort Myers. Another five miles North of the Edison (Business U.S. 41) Bridge is the I-75 crossing of the Caloosahatchee River, with interchanges linking Florida's east and west coast cities to the County. There are no bridges that compete with the Sanibel Causeway.

## Pay-by-Plate Transactions

There is a violation enforcement system ("VES") in place at the toll plazas for each of the Sanibel Causeway, Cape Coral Bridge and Midpoint Memorial Bridge. When a patron passes through a toll plaza without paying or without a valid compatible transponder, the VES system employs a system of cameras and sensors to photograph the license plate of the Pay-by-Plate vehicle. Some images are considered unreadable due to factors such as sunlight or objects obscuring a clear view. If a license plate cannot be conclusively identified, the transaction is "coded off" and the customer is not pursued. Transactions for which an image is available are forwarded for additional processing. If the license plate corresponds to a compatible transponder, or rental car toll collection service provider account on record, the appropriate toll amount is deducted from the account. This is referred to as Video Tolling, or a "V Toll (LeeWay accounts) or "I Toll" (non-LeeWay accounts)." If no ETC account information is available for the plate, the license plate information is provided to the Highway Safety Motor Vehicles Department ("HSMV") so they may locate the registered owner of the vehicle. For out of state license plate, a third party look up service is used. The registered owner's information is used to open a VES account and an invoice for the toll amount due is generated and mailed to the owner. The vehicle owner is given approximately 28 days to pay or contest any transaction(s) on the invoice. If no payment of contact is received, a second invoice will be mailed. The customer is again given approximately 28 days to pay or contest transactions. If no payment is received, a third invoice will be generated and mailed. A motor vehicle registration stop will be placed on Florida license plate associated with the unpaid toll transactions. This process is completed through HSMV and prevents a customer from renewing his/her Florida license plate until payment is made.

In Fiscal Year 2023, 35.5% of total transactions were Pay-by-Plate transactions. Of these, approximately 6.0% were coded off because photos of license plates were not readable, or due to cross lane duplicates and other duplicate transactions. In total, in Fiscal Year 2023, 97.6% of all transactions were either paid at the toll plaza or processed for payment through the VES.

In Fiscal Year 2023, \$16,819,196 Pay-by-Plate revenue was registered by the County, a decrease from \$2,985,817 in Fiscal Year 2022 which was a decrease of 15%. Of that total, or 26.1% or \$4,383,664 was collected by video tolling to existing ETC accounts or to rental car companies through the Rental Car program. Another \$5,755,544, or 34.2%, was collected through Pay-By-Plate collection or through video billing with the issuance of invoices for the amount of the toll. A total of \$6,679,988 in originally registered Pay-by-Plate revenue was never collected, representing an increase of 30.2%. However, an additional \$5,845,449 in revenue was collected in fines, fees, and other miscellaneous revenues related to the Pay-by-Plate toll collection. In total, after accounting for uncollectible revenues and additional fees and fines that were collected, \$834,538 in revenue was lost through Pay-by-Plate, over and above the amounts originally owed. This represents a revenue leakage rate of 4.2%. The County is combating the increase in revenue leakage, through a \$3.00 per transaction fee which is added to invoices for Pay-By-Plate toll collection.

For further information concerning revenues collected from the Violation Enforcement System, see "APPENDIX A – Traffic Engineers' Annual Traffic and Revenue Report for Fiscal Year 2023 for the Lee County Toll Facilities" attached hereto.

## Toll Rates on Sanibel Causeway

Sole vehicular access to Sanibel Island is gained via the Sanibel Causeway with one-way tolls collected from westbound motorists at a toll plaza located on the mainland. Unlike the two other bridges that form a part of the Transportation Facilities, there is no time-of-day pricing on the Sanibel Causeway.

In June 2007, the Board passed a toll resolution establishing the following toll rates for one-way passage on the Sanibel Causeway which were implemented on November 1, 2007, and are currently in effect:

<u>Vehicle Class</u>	<u>Toll</u>
2 axles	\$6.00
3 axles	9.00
4 axles	12.00
5 axles	15.00
6 or more axles, per axle	3.00

Commuters can choose between annual or semiannual ETC discount programs that, depending on the cost of the program, require no additional toll ("Unlimited ETC") or a \$2.00 toll for each westbound crossing. The annual unlimited fare program allows for an unlimited number of trips at a flat annual or semiannual rate. The semiannual plan runs from either November through April or May through October. Purchasers of Unlimited discount programs at least one month after the beginning of the validity period (May 1 or November 1) are entitled to a prorated discount on the purchase price. In addition, further discounts on the cost of the ETC are offered for non-commercial vehicles registered or leased to the same natural person (the "Second Vehicle") who has purchased a discount program for a first vehicle (the "Initial Vehicle").

### SANIBEL CAUSEWAY ETC TOLL DISCOUNT PROGRAMS

<u>Type of Discount Program</u>	<u>Vehicle</u>	<u>Cost of Discount Program</u>	<u>Additional Toll</u>
Annual <sup>(1)</sup> : Reduced Fare	Initial Vehicle	\$67.00	\$2.00
	Second Vehicle	33.50	2.00
Annual: Unlimited	Initial Vehicle	400.00	-
	Second Vehicle	200.00	-
Semiannual <sup>(2)</sup> : Reduced Fare	Initial Vehicle	50.00	2.00
	Second Vehicle	25.00	2.00
Semiannual: Unlimited	Initial Vehicle	300.00	-
	Second Vehicle	150.00	-

(1) Valid for 12 months commencing November 1 of each year.

(2) Valid for 6 months commencing on November 1 or May 1 of each year.

Source: June 2007 Toll Resolution.

The Cape Coral Bridge and Midpoint Memorial Bridge toll structures also offer commuter toll discounts similar to those offered on the Sanibel Causeway. The annual or semiannual ETC, depending on its cost, requires either (i) no additional toll or (ii) a one-dollar (\$1.00) toll for each westbound crossing.

Second Vehicle discounts are available which are valid on both the Sanibel Causeway and the Cape Coral Bridge are also available Commuters can also choose to purchase unlimited discount programs that are valid on all three facilities. The annual unlimited fare program allows for an unlimited number of trips at a flat rate. The semiannual plan runs from either November through April or May through October. The costs of combination unlimited discount programs are also subject to proration as described above in the case of discount programs for the Sanibel Causeway. The costs are as follows:

**CAPE CORAL AND MIDPOINT ETC TOLL DISCOUNT PROGRAMS**

<u>Type of Discount Program</u>	<u>Vehicle</u>	<u>Cost of Discount Program</u>	<u>Additional Toll</u>
Annual <sup>(1)</sup> : Reduced Fare	Initial Vehicle	\$40.00	\$1.00
	Second Vehicle	20.00	1.00
Annual: Unlimited	Initial Vehicle	330.00	-
	Second Vehicle	165.00	-
Semiannual <sup>(2)</sup> : Reduced Fare	Initial Vehicle	24.00	1.00
	Second Vehicle	12.00	1.00
Semiannual: Unlimited	Initial Vehicle	200.00	-
	Second Vehicle	100.00	-

**COMBINATION ETC TOLLS DISCOUNT PROGRAMS  
(Sanibel Causeway, Cape Coral Bridge and Midpoint Memorial Bridge)**

<u>Type of Discount Program</u>	<u>Vehicle</u>	<u>Cost of Discount Program</u>	<u>Additional Toll</u>
Annual <sup>(1)</sup> : Reduced Fare	Initial Vehicle	\$107.00	\$1.00 for Cape Coral or Midpoint; \$2.00 for Sanibel
	Second Vehicle	53.50	\$1.00 for Cape Coral or Midpoint; \$2.00 for Sanibel
Annual: Unlimited	Initial Vehicle	730.00	-0-
	Second Vehicle	365.00	-0-
Semiannual <sup>(2)</sup> : Reduced Fare	Initial Vehicle	74.00	\$1.00 for Cape Coral or Midpoint; \$2.00 for Sanibel
	Second Vehicle	37.00	\$1.00 for Cape Coral or Midpoint; \$2.00 for Sanibel
Semiannual: Unlimited	Initial Vehicle	500.00	-0-
	Second Vehicle	250.00	-0-

(1) Valid for 12 months commencing November 1 of each year.

(2) Valid for 6 months commencing November 1 or May 1 of each year.

Source: June 2007 Toll Resolution

## Toll Rates on the Cape Coral Bridge and Midpoint Memorial Bridge

In June 2007, the Board passed a toll resolution establishing the following toll rates for one-way passage on the Cape Coral Bridge and Midpoint Memorial Bridge which were implemented on November 1, 2007, and are currently in effect:

<u>Vehicle Class</u>	<u>Toll</u>
2 axles	\$2.00
3 axles	4.00
4 axles	6.00
5 axles	8.00
6 or more axles, per axle	2.00

During the term of the variable pricing program, a toll for each westbound trip on the Cape Coral and Midpoint Memorial Bridges during off-peak hours when using a transponder system shall be paid in accordance with the schedule set forth below.

These rates for off-peak discounted toll travel shall only be available to toll facility travelers who have established a prepaid account with a positive balance and obtained a compatible transponder.

<u>Vehicle Class</u>	Normal Toll Payment With <u>Transponder</u>	Off-Peak Hour Toll Payment With <u>Transponder</u>
2 axles	\$2.00	\$1.50/\$0.75*
3 axles	\$4.00	\$3.00
4 axles	\$6.00	\$4.50
5 axles	\$8.00	\$6.00
6 or more axles	\$2.00 per axle	\$1.50 per axle

\* The \$0.75 discounted rate will be available only to the commuter discount programs as defined with a valid reduced fare discount program. The \$1.50 discounted rate will be available to all other toll facility travelers who have established a prepaid account with a positive balance and obtained a compatible transponder.

## Fiscal Year 2023 Systemwide Toll Transactions and Revenues

In Fiscal Year 2023, total systemwide toll transactions and revenues decreased compared to Fiscal Year 2022. All three facilities experienced decreases in both categories. Of the three toll facilities, the Sanibel Causeway reported the largest decrease in toll transactions at 45.1%. By comparison, toll transactions on the Cape Coral Bridge and Midpoint Memorial Bridge decreased by 7.3% and 2.0% compared to Fiscal Year 2022, respectively. Toll Revenues decreased 18.8% compared to Fiscal Year 2022. In Fiscal Year 2023, both transactions and revenues were negatively impacted by toll suspensions during Hurricane Ian. Tolls were suspended on all three facilities starting on September 26, 2022. Tolls were reinstated on the Midpoint Memorial and Cape Coral Bridges on November 1, 2022, and on the Sanibel Causeway on January 1, 2023. The Sanibel Causeway experienced significant wash out and damage to the bridge approaches. Through a partnership with the FDOT and with funding from the State of Florida and Federal Highway Administration, the necessary repairs were made without the use of toll funds.



The relative proportions of systemwide toll transactions and revenues generated by each of the three County toll bridges remained comparatively similar between Fiscal Year 2022 and Fiscal Year 2023. The Cape Coral and Midpoint Memorial Bridges accounted for the highest shares of systemwide toll transactions in Fiscal Year 2023, collectively representing 89.6% of total toll transactions. The remaining 10.4% of systemwide toll transactions were on the Sanibel Causeway. Total Systemwide toll revenue was more evenly split between the three facilities, with Midpoint Memorial Bridge accounting for 41.3% of toll revenues, Cape Coral Bridge 36.1%, and Sanibel Causeway accounting for 22.6% of toll revenues.

### **Historical Toll Transactions and Revenues**

The historical trend analysis considers extenuating factors which may have affected transaction and revenue performance, such as toll rate increases, highway construction, major weather events, and the COVID-19 pandemic. The County has not increased toll rates since 2007. From Fiscal Year 2014 through Fiscal Year 2016, transactions and revenues showed increasing annual growth. In Fiscal Year 2017, both toll transactions and revenues declined for the first time since Fiscal Year 2010 and the conversion to one-way tolling. This decline can be attributed to the negative impacts of toll suspensions on Transportation Facilities during Hurricane Irma.

In Fiscal Year 2018, both toll transactions and revenues increased. As previously mentioned, the increase in Fiscal Year 2018 can partially be attributed to the negative impacts of Hurricane Irma on Fiscal Year 2017 toll transactions and revenues and natural growth on the bridges. Fiscal Year 2019 showed an increase in both toll transactions and revenues. One potential issue that likely impacted the growth of toll transactions were the SunPass interoperability issues in the early part of Fiscal Year 2019. Florida's Turnpike SunPass had back-office processing issues in 2019, and in-lane toll equipment failures. The back-office processing issues involve transactions which were previously recorded as SunPass ETC transactions being incorrectly read, resulting in erroneous recording as violations. Those issues have since been resolved.

The most significant event in Fiscal Year 2020 was the imposition of state and local stay-at-home orders, public space closures (including schools), social distancing orders and other restrictions beginning in March 2020 in response to the COVID-19 pandemic. The County was not as hard hit as other regions of Florida. However, the State and local restrictions and the general concern regarding the spread of the virus still produced major impacts to regional traffic patterns. A comparison of the relative share of toll transactions and revenue for the three toll facilities between Fiscal Year 2019 and Fiscal Year 2020 suggests that the impacts of COVID-19 affected the three bridges similarly. While the Sanibel Causeway had the greatest early negative impact, the Sanibel Causeway rebounded the fastest with positive growth in August and September 2020.

In response to the COVID-19 pandemic, the County suspended cash payments on the three toll bridges beginning on March 18, 2020. Those without a transponder were directed to proceed through any open lane and were processed as Pay-By-Plate transactions. An image of their license plate was taken, and the customer was mailed an invoice for payment within 21 days of the transaction date. Payments could then be made online, over the phone or at the LeeWay Service Center. Administrative fees were also suspended during this time. See the tables above for each bridge see the impact on traffic, revenues and expenses.

In Fiscal Year 2022, systemwide transactions increased by 1.1% and revenues increased by 21.9% compared to Fiscal Year 2021. See the tables above for each bridge to see the revenue date for Fiscal Year

2021. The significant increase in revenues can be attributed to the official conversion to AET, which began on October 1, 2021. Customers without a prepaid transponder are charged a \$3.00 administrative fee in addition to the toll for using the Pay-By-Plate system. As previously mentioned, both transactions and revenues in Fiscal Year 2022 were negatively impacted by toll suspensions during Hurricane Ian. In October 2022, was the most significant impacts to toll transaction due to toll suspensions during Hurricane Ian. Similarly, the Sanibel Causeway toll transactions were suspended for the entire months of November and December 2022. For further information to the changes in toll transactions see "APPENDIX A - Traffic Engineers' Annual Traffic and Revenue Report for Fiscal Year 2023 for the Lee County Toll Facilities" attached hereto for more information.

In Fiscal Year 2023, systemwide transactions decreased by 11.4% and revenues decreased by 18.8% compared to Fiscal Year 2022. The significant decrease in both transactions and revenues in Fiscal Year 2023 can be attributed to the negative impacts of continued toll suspensions during Hurricane Ian. The following additional events, incidents, and construction activities were identified as potentially impacting transactions and revenue during Fiscal Year 2023:

- From 6:00 p.m. until 8:00 p.m. on November 11, 2022, the Midpoint Memorial Bridge was closed for the annual Veterans Day race.
- From 4:00 a.m. on July 4, 2023, until 2:00 a.m. on July 5, 2023, the Cape Coral Bridge was closed for a Fourth of July celebration.
- On July 9, 2023, all lanes were closed on the Sanibel Causeway starting at 9:20 p.m. and reopened on July 10, 2023, at 5:45 a.m. due to a possible power surge.
- On August 5, 2023, all lanes were closed on the Midpoint Memorial Bridge between 6:45 p.m. and 9:15 p.m. due to an accident. All three facilities experienced similar patterns of change throughout Fiscal Year 2023. The largest decrease in toll transactions on all three facilities during the entire month of October 2022 is due to the significant impacts of toll suspensions during Hurricane Ian. Additionally, the Sanibel Causeway toll transactions were suspended for the entire months of November and December 2022.

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## Actual Operating Results

The following table describes the Gross Revenues, Operating Expenses and Debt Service Coverage (as such terms are defined in the Resolution):

**REVENUES, OPERATING EXPENSES AND DEBT SERVICE COVERAGE**  
**LEE COUNTY TRANSPORTATION FACILITIES**  
 Last Ten Fiscal Years  
 (dollars in thousands)

Fiscal <u>Year</u>	Gross <u>Revenues</u>	Operating <u>Expenses</u> <sup>(1)(2)</sup>	Net Available for <u>Debt Service</u>	Debt <u>Service</u>	<u>Coverage</u>
2014	\$41,966	\$10,158	\$31,808	\$15,756	2.02
2015	44,113	8,906	35,207	15,352	2.29
2016	46,008	8,910	37,098	14,230	2.61
2017	45,742	9,376	36,366	14,349	2.53
2018	47,492	9,872	37,620	14,303	2.63
2019	49,952	12,344	37,608	9,811	3.83
2020	44,608	12,391	32,217	9,805	3.29
2021	43,708	12,137	31,571	9,795	3.22
2022	53,957	18,153	35,804	9,781	3.66
2023	42,849	15,405	27,444	9,782	2.81 <sup>(3)</sup>

- <sup>(1)</sup> Amount shown does not include depreciation or amortization expenses which are not considered an Operating Expense pursuant to the Resolution.
- <sup>(2)</sup> Beginning in Fiscal Year 2015, Operating Expenses do not include under-funded OPEB pension expenses, pursuant to the County's Resolution. Fiscal Year 2014 includes the annual OPEB cost in the Operating Expenses and is not adjusted for funding.
- <sup>(3)</sup> Declines a result of the continued effects from Hurricane Ian in September 2022. See "RISK FACTORS—Risk Factors " herein for more information.

Source: Lee County Clerk of Courts Finance Department

## Midyear Traffic Transactions and Revenue for Fiscal Year 2024

The following table contains the total transactions and toll revenues for each of the bridges for the first six months of Fiscal Year 2024 (October 1 through March 31), compared against total transactions and toll revenues from the same time period in Fiscal Year 2022. Because Fiscal Year 2023 was so affected by Hurricane Ian impacts, it is not used as a baseline for comparison purposes. The revenues included in the following table for Fiscal Year 2024 are unaudited and are subject to change upon the completion of the Fiscal Year 2024 audit.

**BRIDGE TRAFFIC, REVENUE AND PERCENT CHANGE**  
**First Half of Fiscal Year 2022 vs. Fiscal Year 2024**

<b>Transportation Facility</b>	<b>Transactions FY 2022</b>	<b>Transactions FY 2024</b>	<b>Percent Change</b>	<b>Revenue FY 2022</b>	<b>Revenue FY 2024*</b>	<b>Percent Change</b>
Midpoint Memorial Bridge	4,569,451	4,702,455	2.9%	\$9,068,705	\$9,744,751	7.5%
Cape Coral Bridge	4,432,729	4,496,225	1.4	8,853,817	9,597,744	8.4
Sanibel Causeway	1,843,344	1,438,883	(21.9) <sup>(1)</sup>	9,296,009	8,405,669	(9.6) <sup>(1)</sup>
<b>Total</b>	<b>10,845,524</b>	<b>10,637,563</b>	<b>(1.9%)</b>	<b>\$27,218,530</b>	<b>\$27,748,164</b>	<b>1.9%</b>

\* Unaudited

(1) Declines a result of the continued effects from Hurricane Ian in September 2022. See "RISK FACTORS—Risk Factors " herein for more information.

Source: Lee County Department of Transportation

**Physical Condition of Transportation Facilities**

The Transportation Facilities were inspected by CDM Smith and included in its inspection report for Fiscal Year 2023 (the "2023 Facilities Report"), which included a review of the FDOT biennial bridge reports that were available at the time of such report.

The term "structurally deficient" is defined by FDOT to mean that the Department believes a bridge should undergo a series of repairs or replacement within the next six years. The Department's policy is to repair or replace all the structurally deficient county owned bridges during that time. FDOT follows the Federal Highway Administration's ("FHWA") definition to identify structurally deficient bridges. The FHWA defines a structurally deficient bridge to have a poor (numerical rating of 4), or worse, condition rating for the deck, superstructure, or substructure component, or culvert. Additionally, if the bridge is considered intolerable with regards to its ability to carry legal loads or its serviceability during floods, it is also considered to be structurally deficient. The FDOT recommends to local governments that they repair or replace all the structurally deficient state-owned bridges during that time.

FDOT has stated that the term "functionally obsolete" means that a bridge does not meet current road design standards. For example, some bridges are "functionally obsolete" because they were built at a time when lane widths were narrower than the current standard.

The "sufficiency rating" is an FHWA defined index that provides a 0 to 100 "grade" for the overall bridge structure. The rating is used to help determine whether a bridge that is structurally deficient or functionally obsolete should be repaired or just replaced. The sufficiency rating considers a number of factors, only about half of which relate to the condition of the bridge itself. The sufficiency ratings for bridges are part of a formula used by the Federal Highway Administration when it allocates federal funds to the states for bridge replacement. Bridges with sufficiency ratings above 80 are not eligible for use of federal bridge construction funds. Bridges with sufficiency ratings less than 50 generally qualify for replacement using federal bridge construction funds. Bridges with sufficiency ratings between 50 and 80 can typically use federal bridge construction funds for rehabilitation work.

The "health index" is a tool that measures the overall condition of a bridge. The health index typically includes about 10 to 12 different elements that are evaluated by FDOT. Bridge Health Index is

the ratio of the current condition of each element to perfect condition expressed as a score from 0 to 100, with a value of zero indicating all of particular bridge's elements to be in the worst condition. A health index below 85 generally indicates that some repairs are needed, although it doesn't mean the bridge is unsafe. A low health index may also indicate that it would be more economical to replace the bridge than to repair it. Lee County and FDOT provide bridge inspections every year on alternating years on all bridges in the County. The County will commission a separate inspection of the Sanibel Bridge once all repairs are completed and FDOT has issued final completion of the project.

Based on the findings from the 2023 Facilities Report, the westbound span of the Cape Coral Bridge exhibited a sufficiency rating of 71.1 and a health index rating of 94.27, both falling within a scale of 0-100. Further analysis revealed a federal condition rating of 7 (good) for the deck and superstructure, while the substructure received a rating of 6 (satisfactory), and the channel was rated 6 (minor damage). Notably, the westbound span was flagged as functionally obsolete, indicating the need for potential upgrades or improvements. Conversely, the eastbound span of the Cape Coral Bridge showcased significantly higher ratings, with a sufficiency rating of 97.71 and a health index rating of 99.28. These ratings, also falling within the 0-100 scale, demonstrate the superior structural integrity and performance of the eastbound span. Moreover, the federal condition rating for the eastbound span was uniformly high, with a rating of 7 (good) across the deck, superstructure, and substructure, along with a channel rating of 6 (minor damage). Overall, the 2023 Facilities Plan highlights the varying conditions of the bridge spans, emphasizing the need for targeted maintenance and potential upgrades to ensure continued safety and functionality, particularly for the westbound span flagged as functionally obsolete.

In 2023, the FDOT conducted inspections on the Midpoint Memorial Bridge. The results revealed a sufficiency rating of 85.0 and a health index rating of 99.56, measured on a scale from 0 to 100. Additionally, the federal condition rating for the deck, superstructure, and substructure was 7, indicating "good" condition, while the rating for the channel was 7.

The latest FDOT inspections of the Sanibel Causeway were conducted on November 28, 2023, for Span A. The findings revealed a sufficiency rating of 77 and a health index rating of 94.67, both measured on a scale of 0 to 100. The federal condition rating for the deck on Span A was 8, indicating a 'very good' condition. The rating for the superstructure and substructure was 7, indicating a 'good' condition; for the channel, the resulting rating was 7. Similarly, the inspections for Span B were carried out on November 28, 2023. The results showed a sufficiency rating of 79.0 and a health index rating 96.94. The federal condition rating for Span B was 7 for the deck and superstructure, indicating "good" condition, and 7 for the substructure, indicating "very good" condition. The channel received a rating of 7, indicating "minor damage." Lastly, inspections were conducted on November 28, 2023, for Span C. The assessments revealed a sufficiency rating of 79.0 and a health index rating 96.75. The federal condition rating for Span C was 7 for the deck, superstructure, and substructure, indicating "good" condition, while the channel received a rating of 7, indicating "minor damage." Through normal inspection, the County has also identified minor but perceptible beam cracking on all three spans of the Sanibel Causeway. The County has engaged an inspection team to monitor the cracks and offer recommendations regarding necessary follow-up actions. The cracks have been categorized into three types: very minor random, very minor horizontal of the beam web near mid depth and minor diagonal that begin at the span and end at the bearing. The County determined that the cracking may be related to the design of the bridge, but that the safety of the structure is not at risk. The County continues to review the cracking in accordance with its monitoring program for any increases or growth in crack sizes. The County also intends to take remedial action to control the cracking. The cost of remediating the end beam cracking has been estimated by the

County at \$121,000 (which began in August 2014) and such steps will need to be repeated every seven to ten years over the life of the Sanibel Causeway, at such additional costs per remediation.

## **Insurance**

The County has covenanted in the Resolution that it will carry or cause to be carried such insurance as the Consulting Engineers certify to be customary and reasonable for entities such as the County which own and operate facilities similar to the Transportation Facilities. The County must provide insurance, to the extent available at commercially reasonable rates, against loss caused by damage to or destruction of all or any part of the Transportation Facilities, use and occupancy insurance covering loss of Gross Revenues, comprehensive public liability insurance for bodily injury and property damage and such other insurance as the County may determine. All such insurance policies must be carried in a responsible insurance company or companies and qualified to assume the risks thereof.

The County currently maintains an all-risk policy for direct physical loss or damage, subject to listed exclusions and limitations, no coinsurance, blanket replacement cost property insurance in connection with the Transportation Facilities. The policy's limitation of liability is \$20,000,000 with a \$250,000 per occurrence deductible, with the exception for a \$1,000,000 or 5% deductible for named windstorms (with a \$1,000,000 minimum deductible). The Department has valued the Cape Coral Bridge and the Midpoint Memorial Bridge for insurance purposes at \$364,570,784 through September 30, 2024. The costs of insurance for the bridges are paid by the County from the Operation and Maintenance Account. The County does not, and is unable to procure, adequate insurance coverage to replace the Transportation Facilities in the event of a catastrophic loss or damage to the facilities exceeding the policy limits described above. Losses resulting from acts of terrorism have been excluded from the coverage of the County's property and excess liability policies. To the extent a loss or damage exceeds the policy limits described above or federal disaster assistance available, the County's ability to repay the Series 2024 Bonds could be adversely affected.

Business interruption insurance is maintained at a level equal to the prior year's toll revenue adjusted for anticipated changes in traffic. Business income is subject to a 14 day per occurrence waiting period for the loss of use and occupancy. The current level of aggregate business interruption insurance is included in the \$3520,000,000 limitation of liability discussed above.

With regard to bodily injury, personal injury and personal property claims brought in the Florida courts, the County is protected by sovereign immunity insofar as tort actions up to a maximum liability of \$200,000 per person and \$300,000 per occurrence for such losses. The County maintains \$2,000,000 coverage with respect to bodily injury, personal injury and personal property claims per each occurrence; \$4,000,000 general aggregate. The County self-insures the first \$500,000 of this coverage and the remaining is covered by excess insurance.

While the County currently maintains the insurance required by the Resolution, there can be no assurance that it will be able to obtain such insurance protection in the future. At times in recent years operators of bridge facilities, including the County, have been unable to obtain adequate insurance protection for such facilities at acceptable premium levels. See "RISK FACTORS - Operating Risks; Natural and Catastrophic Events that could Damage the Transportation Facilities" herein. The County has requested insurance premium bids for the Sanibel Causeway. Potential insurers are requiring an independent engineer report for assurance that the repairs have been completed to the Sanibel Causeway due to Hurricane Ian. A report cannot be finalized until the final repairs are completed by the State of

Florida in connection to the Sanibel Causeway. The County will be requesting from the State of Florida any reports that may be beneficial to assist potential bidders in the process of underwriting insurance for the Sanibel Causeway prior to the engineer report. It is anticipated that the report will be completed during fiscal year 2025 and will be provided to bidders if insurance has not been obtained prior to report.

The current level of aggregate business interruption insurance is included in the \$20,000,000 limitation of liability discussed above.

With regard to bodily injury, personal injury and personal property claims brought in the Florida courts, the County is protected by sovereign immunity insofar as tort actions up to a maximum liability of \$200,000 per person and \$300,000 per occurrence for such losses. The County maintains \$2,000,000 coverage with respect to bodily injury, personal injury and personal property claims per each occurrence; \$4,000,000 general aggregate. The County self-insures the first \$500,000 of this coverage and the remaining is covered by excess insurance.

While the County currently maintains the insurance required by the Resolution, there can be no assurance that it will be able to obtain such insurance protection in the future. At times in recent years operators of bridge facilities, including the County, have been unable to obtain adequate insurance protection for such facilities at acceptable premium levels. See "RISK FACTORS - Operating Risks; Natural and Catastrophic Events that could Damage the Transportation Facilities" herein.

### **Future Projects**

A review of the Capital Improvement Program ("CIP") for future years identified a few projects that could impact traffic on the County toll facilities. The first is the Cape Coral Bridge westbound span replacement, which began design in Fiscal Years 2021 and 2022, and has been recommended for a complete bridge replacement. Additionally, the Midpoint Bridge widening was listed in the CIP with planning phases identified in the second five years of the plan.

A review of the Fiscal Years 2023 and 2024 through Fiscal Years 2027 and 2028 Lee County Metropolitan Planning Organization ("MPO") Transportation Improvement Program ("TIP") revealed one significant short- term planned improvement that would directly affect traffic on the Midpoint Memorial Bridge – SR 739 (Metro Parkway) from south of Daniels Parkway to north of Colonial Boulevard widening project is funded through the right-of-way phase.

Long-term, the Lee County MPO 2045 Long-Range Transportation Plan ("LRTP") includes the Midpoint Memorial Bridge widening project in the 2045 Needs Plan, ranked 27th, but the project is not in the Cost Feasible Plan. The third amendment to the Lee County/City of Cape Coral East- West Corridor Interlocal Agreement, adopted on September 1, 2020, includes several capital improvements that will directly affect traffic on the Midpoint Memorial Bridge, including:

- Burnt Store Road widening from Van Buren Parkway to the Charlotte County Line;
- Congestion improvements at Veterans Parkway and Santa Barbara Boulevard;
- Congestion improvements at Colonial Boulevard and Summerlin Road;
- Veterans Parkway widening from Chiquita Boulevard to Skyline Boulevard; and,
- Planning study for an additional crossing of the Caloosahatchee River.

The Burnt Store Road improvement is funded for preliminary engineering in Fiscal Years 2023 and 2024 of the TIP. Two other improvements, the Veterans Parkway Widening and Colonial

Boulevard/Summerlin Road, are in the CIP but beyond the first five years. The congestion improvement at Veterans Parkway and Santa Barbara Boulevard is listed in the Lee County MPO LRTP Cost Feasible Plan (2031-2035 timeframe).

A five-year CIP is summarized in the table below. The County anticipates paying such project costs from toll revenues, grants, if any, and the proceeds of Additional Bonds to be issued in accordance with the requirements of the Resolution.

**Transportation Facilities Projects  
Fiscal Years 2024-2028**

<u>Projects</u>	<u>Fiscal Year</u>					<u>Total</u>
	<u>2024</u>	<u>2025</u>	<u>2026</u>	<u>2027</u>	<u>2028</u>	
Toll System Replacement	\$120,000	\$120,000	\$120,000	\$120,000	\$120,000	\$600,000
Cape Coral Bridge WB Span	15,102,096				224,480,000	239,582,096
Replacement Midpoint Bridge	15,473,314					15,473,314
Big Carlos Pass Bridge Replacement*	23,244,107					23,244,107
<b>Total</b>	<b>\$53,939,517</b>	<b>\$120,000</b>	<b>\$120,000</b>	<b>\$120,000</b>	<b>\$224,600,000</b>	<b>\$278,899,517</b>

\* Project will utilize budgeted surplus toll revenues; however, it is not part of the Transportation Facilities.

Source: Lee County Department of Transportation

Beginning in approximately Fiscal Year 2027, the County expects to replace the westbound span of the Cape Coral Bridge, at a currently estimated cost of \$245 million. The County also has plans to replace the Big Carlos Pass Bridge, an existing two-lane fixed span bridge connecting Estero Island and Fort Myers Beach using surplus toll revenues from the Transportation Facilities. The Big Carlos Pass Bridge does not charge any tolls and is not part of the Transportation Facilities, provided, however, this bridge does not compete with any of the other Transportation Facilities

**RISK FACTORS**

**General**

The County's ability to derive Net Revenues from the use and operation of the Transportation Facilities in amounts sufficient to pay debt service on the Series 2024 Bonds depends upon a number of factors, many of which are not subject to the control of the County. This section is not meant to be a comprehensive or definitive discussion of the risks associated with an investment in the Series 2024 Bonds, and the order in which this information is presented does not necessarily reflect the relative importance of the investment considerations. Potential investors in the Series 2024 Bonds are advised to consider the following factors, changes in demographics, down-turns in the State and local economies, an increase in the price of gasoline, damage and destruction caused by weather conditions or other acts of God, or collisions involving maritime vessels or declines in tourism as a result of economic or environmental issues all could have an adverse effect level of traffic on the Transportation Facilities and the collection of Net Revenues. Described below are certain of these and other factors that could affect use and operation of the Transportation Facilities. Any one or more of the investment considerations discussed below, among others, could lead to a decrease in the market value and/or the marketability of



the Series 2024 Bonds. There can be no assurance that other investment considerations not discussed herein will not become material in the future.

See "APPENDIX A - Traffic Engineers' Annual Traffic and Revenue Report for Fiscal Year 2023 for the Lee County Toll Facilities" attached hereto for information on operating characteristics and traffic profiles of the Transportation Facilities and regional economic growth trends of the County. For further information regarding the County, see "APPENDIX C - Economic and Demographic Information Relating to Lee County, Florida."

### **Operating Risks; Natural and Catastrophic Events that could Damage the Transportation Facilities**

The ability to achieve Net Revenues is primarily dependent on the level of traffic that utilizes the Transportation Facilities. The Transportation Facilities are susceptible to severe weather conditions, including hurricanes, tornados, floods, extreme wind and storms. The County is located in Southwestern Florida, an area subject to tropical storms and hurricanes. A severe hurricane or other extreme weather striking in the vicinity of the County may cause severe damage to or destruction of portions of the Transportation Facilities. Additionally, any other catastrophic event that damages the Transportation Facilities, such as maritime accidents with vessels striking the bridges, or explosions or acts of terrorism, could reduce toll revenues and increase the expense of maintaining or restoring such Transportation Facilities. In such event, the Transportation Facilities may be closed for periods of time for reconstruction and repairs. The ability of the County to collect rates, fees, tolls and other charges would be adversely affected during the period of reconstruction. The County maintains property and business interruption insurance or self-insurance on the Transportation Facilities in accordance with the Resolution, but there can be no assurance that such insurance will continue to be available at acceptable premium levels. Losses resulting from acts of terrorism have been excluded from the coverage of the County's property and excess liability policies. If any of the foregoing events occur, to the extent not fully covered by insurance or federal disaster assistance, the County's ability to repay the Series 2024 Bonds could be adversely affected. The County does not carry, and is unable to procure, adequate insurance coverage to replace the Transportation Facilities in the event of a catastrophic terrorist attack. See "TRANSPORTATION FACILITIES - Insurance" herein.

The County is dependent on technology to conduct general business operations, including toll collection and customer account services, which are dependent on the ability to process, record and monitor electronic transactions, including those generated through its electronic toll collection system. See "THE TRANSPORTATION FACILITIES - Electronic Toll Collection" herein. Although the County devotes significant resources to maintain and regularly upgrade its computer systems and processes that are designed to protect the security of its computer systems and networks and confidentiality of information, there is no assurance that all of these security measures will provide absolute security. A disruption of the County's computer systems from events that are wholly or partially beyond the County's control, which may include weather condition, failures of computer servers, sabotage or security breaches, could result in material service disruptions and/ or give rise to losses or liability that may require the County to expend significant resources to correct the failure or disruption or result in litigation or losses not covered by insurance.

Although the County believes that its disaster recovery plans are both sufficient and adequate there can be no assurance that such plans will fully mitigate or mitigate at all, potential business continuity risks.

## **Fuel Availability and Pricing; Economic Downturn**

The amount of traffic on the Transportation Facilities cannot be predicted with certainty and may underperform County expectations due to, including to but not limited to, general economic conditions, tourism in the County and the State of Florida, diversion of traffic to alternative non-toll routes to avoid tolls, toll rate increases, increased fuel costs and other factors. Socioeconomic trends are a significant driver of overall travel demand in the region. This is especially important given the most recent economic recession and the disproportionate impacts on Southwest Florida, including the County. Another factor which may affect the traffic on the Transportation Facilities is the cost of energy and its availability. Any serious supply disruption or any price increase, as a result of an energy tax, increases in the price or demand of petroleum, or otherwise, may adversely affect the toll revenues of the Transportation Facilities, in particular to the extent that such revenues are attributable to tourists, who may be able to modify their automotive travel plans while visiting the County. Additionally, spills of hazardous substances and other environmental factors, terrorist attacks, and other potential significant conflicts or global events, could negatively impact tourism and consequently adversely affect the toll revenues of the Transportation Facilities.

While economic development typically proceeds at a measured pace, some changes in the landscape are concentrated and significant enough that they may potentially affect travel patterns. Historically, many of the regional retail destinations have been located in Fort Myers. In order to access basic goods and services, many Cape Coral residents had to cross the river via one of the four local river crossings. However, in recent years the City of Cape Coral increasingly provides more of these services "on island." This could represent a substantial shift in the local economic landscape and may reduce the demand for cross-river trips. This, in turn, could gradually reduce demand on the Cape Coral and Midpoint Memorial Bridge, or at least dampen the rate of growth with respect to the overall socioeconomic picture of the region. Conversely, however, several new developments of a regional nature may lead to offsetting new demand for trips to Cape Coral from surrounding communities.

## **Cyber-Security**

Computer networks and systems used for data transmission and collection are vital to the efficient operations of the County. County systems provide support to departmental operations and constituent services by collecting and storing sensitive data, including intellectual property, security information, proprietary business process information, information applying to suppliers and business partners, and personally identifiable information of customers, constituents and employees. The secure processing, maintenance and transmission of this information is critical to County operations and the provision of citizen services. Increasingly, entities in every sector are being targeted by cyberattacks seeking to obtain confidential data or disrupt critical services. A rapidly changing cyber risk landscape may introduce new vulnerabilities that attackers/hackers can exploit in attempts to effect breaches or service disruptions. Employee error and/or malfeasance may also contribute to data loss or other system disruptions. Any such breach could compromise networks and the confidentiality, integrity and availability of systems and the information stored there. The County maintains a cybersecurity insurance policy as well as has a cybersecurity service agreement with its information technology provider. Employees are trained on measures to identify potential cybersecurity threats in procurement and payments processes.

Additionally, during the 2022 Florida Legislative session, CS/HB 7055 was passed which requires State agencies and local governments, such as the County, to report all ransomware incidents and high

severity level cybersecurity incidents to the Cybersecurity Operations Center ("CSOC") and the Cybercrime Office within the Florida Department of Law Enforcement as soon as possible but no later than 48 hours after discovery of the cybersecurity incident and no later than 12 hours after discovery of a ransomware incident. Local governments must also report such incidents to their respective sheriff's office. CS/HB 7055 requires state agencies to report low level cybersecurity incidents and provides that local governments may report such incidents. It also requires state agencies and local governments to submit after-action reports to FLDS following a cybersecurity or ransomware incident. CS/HB 7055 requires the CSOC to notify the Legislature of high severity level cybersecurity incidents. State agency and local government employees are required to undergo certain cybersecurity training within 30 days of employment and annually thereafter. Further, local governments are required to adopt cybersecurity standards that safeguard the local government's data, information technology ("IT"), and IT resources and it will be illegal for any local government in the State to pay ransoms when attacked. The effective date of CS/HB 7055 is July 1, 2022.

### **Climate Change**

The State is naturally susceptible to the effects of extreme weather events and natural disasters including floods, droughts, and hurricanes, which could result in negative economic impacts on coastal communities such as the County. Such effects can be exacerbated by rising sea levels. The occurrence of such extreme weather events could damage the local infrastructure that provides essential services to the County. The economic impacts resulting from such extreme weather events could include a loss of property values, a decline in revenue base, reduction in motor fuel purchases, escalated recovery costs and a decline in tourism. No assurance can be given as to whether future extreme weather events will occur that could materially impair the financial condition of the County or the collection of Gross Revenues. However, to mitigate against such impacts, the County, following Hurricane Irma, responded with a three-phased effort to address flooding impacts. Phase 1 focused on the immediate removal of known obstructions in waterways that had been identified in the initial post storm reconnaissance. Phase 2 included a more in-depth field assessment to identify impediments to flow that could be removed in the near-term or short-term in advance of the upcoming rainy season. The County entered into an agreement with four local consultant engineering firms to canvas five heavily impacted watersheds and establish an inventory of remedial measures. Through the County's online flood questionnaire and direct public contacts, community input was substantial and provided valuable information. Phase 3, now underway, involves the creation of a comprehensive flood mitigation plan which includes detailed hydrologic modeling and engineering analysis to assess current flood levels of service and to identify long term remedial projects to enhance flood protection for County residents. The County has taken steps to mitigate the impact of storms which include implementation of a hurricane preparedness plan and securing insurance coverage where available.

Hurricane Ian made landfall in the County on September 28, 2022, as a Category 4 storm with a wind speed of 155 mph and gusts at 161 mph. It was the largest hurricane to make landfall in the County and is ranked as the third costliest tropical system to make landfall in the United States behind Hurricane Katrina in 2005 and Hurricane Harvey in 2017. Impacted areas of the County experienced over 10 feet of storm surge, including its barrier islands, Fort Myers Beach, and coastal areas along the Caloosahatchee River. Initial damage assessments were greater than \$112 billion to residential and commercial structures. It impacted every county beach, all county parks, every traffic signal and generated an estimated 12 million cubic yards of debris, with 6 million of that collected roadside in unincorporated areas. Immediately following the storm, more than 130,000 residents were in need of housing assistance.

All three of the Transportation Facilities had some impact from Hurricane Ian. The primary impact was at the Sanibel Causeway. Storm surge and waves breached the Sanibel Causeway islands leaving them impassable as well as three of the approach ramps to such islands were heavily damaged. Through a partnership with FDOT and with funding from the State of Florida and Federal Highway Administration, the necessary repairs were made without the use of toll funds to restore the Sanibel Causeway. The Cape Coral and Midpoint Memorial Bridges had damages to the bridge fender system. The cost of repairing such damage was not financially material. The repairs needed at Midpoint Memorial Bridge were completed by the County's bridge maintenance team and the Cape Coral Bridge repairs will be contracted out once an Army Corp permit is obtained. All three facilities also had damages to the bridge lighting that has been replaced by the County's in-house electrical team. Again, the cost of repairing such damage was not financially material. None of the damage to the Cape Coral and Midpoint Memorial Bridges materially disrupted traffic or toll collections.

The County is working to recover the vast majority of storm-related losses through State and Federal disaster recovery grants and other public assistance programs. The County incurred approximately \$297.3 million in hurricane related expenditures to County government properties, facilities, and assets, along with the approximate costs to repair them. The County utilized reserves to cover the County's cashflow needs for the initial needs. In addition, the County was awarded (i) a 0% loan in the amount of \$25 million from the State of Florida to be used for government operations and (ii) was awarded \$100 million from the State of Florida, a 0% loan as an advancement of reimbursement of project costs expected from the Federal Emergency Management Agency (FEMA). Any funds received from FEMA will be used to reimburse the State to reduce the balance of the loan. Through a partnership with the FDOT and with funding from the State of Florida and Federal Highway Administration, the necessary repairs were made without the use of toll funds. See "TRANSPORTATION FACILITIES" herein and "APPENDIX A – Traffic Engineers' Annual Traffic and Revenue Report for Fiscal Year 2023 for the Lee County Toll Facilities" for more information on the economic impact of Hurricane Ian.

### **Cost and Schedule of Capital Improvements Program**

The estimated costs and schedule of the CIP depend on various sources of funding, including Additional Bonds, and are subject to a number of uncertainties. Ability to complete the CIP may be adversely affected by various factors including: (i) estimating variations, (ii) design and engineering variations, (iii) changes to the scope of the projects, (iv) delays in contract awards, (v) material and/or labor shortages, (vi) unforeseen site conditions, (vii) casualty events or adverse weather and environmental conditions, (viii) contractor defaults, (ix) labor disputes, (x) unanticipated levels of inflation and (xi) additional security improvements and associated costs mandated by the federal government. A delay in the completion of certain projects under the CIP could delay the collection of Revenues in respect to such projects, increase costs for such projects, and cause the rescheduling of other projects. There can be no assurance that the cost of construction of the CIP projects will not exceed the currently budgeted dollar amount or that the completion of the projects will not be delayed beyond the currently projected completion dates. Any schedule delays or costs increases could result in the need to issue Additional Bonds beyond those currently projected as a funding source for the CIP projects.

### **Coronavirus (COVID-19)**

The outbreak of the highly contagious COVID-19 pandemic in the United States in March 2020 had a negative financial impact on local, state and national economies around the country, including significantly increased unemployment in certain sectors including especially travel, hospitality and

restaurants. The imposition of state and local stay-at-home orders, public space closures (including schools), social distancing orders and other restrictions beginning in March 2020 in response to the COVID-19 pandemic had a significant impact on toll transaction and revenues. In response to COVID-19, these actions were taken to reduce the spread of the disease based on guidelines from the CDC and the Federal and State Government. Lee County was not as hard hit as other regions of Florida. However, the state and local restrictions and the general concern regarding the spread of the virus still produced major impacts to regional traffic patterns. The similarity in the relative share of toll transactions and revenue for the three toll facilities between Fiscal Year 2019 and Fiscal Year 2020 suggests that the impacts of COVID-19 affected the three bridges similarly.

In Fiscal Year 2020, toll transactions and revenues decreased by 7.5% and 17.6% percent, respectively, due to the negative impacts of the COVID-19 pandemic. The greater impact on revenue is due to the cash toll collection suspension beginning in March 2020. Former cash customer transactions are now being processed as Pay-By-Plate customers, who are identified by license plate reviews and sent a bill for their toll payments. In Fiscal Year 2021, transactions increased by 9.7 percent and revenues decreased by 0.8 percent compared to Fiscal Year 2020, representing the start of the recovery over COVID-19 conditions. October 2020 through February 2021 transactions and revenues continued to be negatively impacted by the COVID-19 pandemic, with partial recovery starting in March 2021. While the Sanibel Causeway had the greatest early negative impact, the Sanibel Causeway rebounded the fastest with positive growth in August and September 2020. In response to the COVID-19 pandemic, the County suspended cash payments on the three toll bridges beginning on March 18, 2020.

Although toll collections from March 2020 were down by 15.5% when compared to March 2019, toll collections from March 2020 compared to March 2024 tolls have increased by 31.7%. There can be no guarantee that COVID-19 or another outbreak of a highly contagious disease will not have negative impacts on the County or the collection of tolls in the future. See "APPENDIX A – Traffic Engineers' Annual Traffic and Revenue Report for Fiscal Year 2023 for the Lee County Toll Facilities" attached hereto for more information on the economic impact of COVID-19.

## LITIGATION

There is no litigation of any nature now pending or, to the knowledge of the County, threatened, against the County which in any way questions or affects the validity of the Series 2024 Bonds, or any proceedings or transactions on the part of the County relating to their issuance, sale or delivery. Although the County experiences claims, litigation and various legal proceedings from time to time, there are no judicial, administrative or regulatory proceedings pending or, to the knowledge of the County, threatened, against the County which may significantly affect the County's ability to perform its obligations to the holders of the Series 2024 Bonds or which would have a material adverse effect upon the Pledged Funds or the financial condition or operations of the Transportation Facilities or, except as described below, financial condition or operations of the County.

Certain Underwriters at Lloyd's of London, et DI. v. Lee County Port Authority, et al., Case No. 22-CA- 2114. This litigation stems from a fire at the Lee County International Airport in April of 2020 which damaged several thousand rental vehicles. Plaintiffs allege that Lee County Port Authority's negligence contributed to the damage to the insured vehicles. Although the County denies any liability, pursuant to Florida Statutes, Section 768.28(a), the County Port Authority has sovereign immunity limits of \$300,000.00 per occurrence, inclusive of attorney fees and costs, which means liability of limited absent a claims bill of the Florida Legislature. The County is vigorously defending this lawsuit. The

County would vigorously oppose such a claims bill. In any event, the County does not expect this matter to materially impact its ability to pay debt service on the Series 2024 Bonds.

The County is party to various other legal proceedings which individually are not expected to have a material adverse effect on the operations or financial condition of the County, but may, in the aggregate, have a material impact thereon.

### **CERTAIN LEGAL MATTERS**

Certain legal matters incident to the authorization, issuance and sale by the County of the Series 2024 Bonds and with regard to the exclusion from gross income of the interest thereon under existing laws are subject to the approving opinion of Nabors, Giblin & Nickerson, P.A., Bond Counsel. Copies of such opinion will be available at the time of the delivery of the Series 2024 Bonds and the proposed form of such opinion is set forth in APPENDIX F hereto and reference is made thereto for the terms thereof.

Bond Counsel has not been engaged or undertaken to review (i) the accuracy, completeness or sufficiency of this Official Statement or any other offering material related to the Series 2024 Bonds except as may be provided in the supplemental opinion of Bond Counsel to the Underwriter, upon which only it may rely, or (ii) the compliance with any federal or state law with regard to the sale or distribution of the Series 2024 Bonds.

Certain legal matters incident to the issuance of the Series 2024 Bonds will be passed upon for the County by Richard Wm. Wesch, Esq., County Attorney, and by Bryant Miller Olive P.A., Disclosure Counsel. Certain legal matters will be passed upon for the Underwriter by their counsel, GrayRobinson, P.A. GrayRobinson, P.A. also represents the County in unrelated matters.

The opinions delivered by counsel are based on existing law in effect as of the date of original delivery of the Series 2024 Bonds, which is subject to change. Such opinions are further based on factual representations made to such counsel as of the date thereof. Counsel assumes no duty to update or supplement its opinions to reflect any facts or circumstances, including changes in law, that may hereafter occur or become effective.

The legal opinions to be delivered concurrently with the delivery of the Series 2024 Bonds express the professional judgment of the attorneys rendering the opinions regarding the legal issues expressly addressed therein. By rendering a legal opinion, the opinion giver does not become an insurer or guarantor of the result indicated by that expression of professional judgment, of the transaction on which the opinion is rendered, or of the future performance of parties to the transaction. Nor does the rendering of an opinion guarantee the outcome of any legal dispute that may arise out of the transaction.

### **TAX MATTERS**

#### **Opinion of Bond Counsel**

In the opinion of Bond Counsel, the form of which is included as APPENDIX F attached hereto, the interest on the Series 2024 Bonds is excludable from gross income of the owners thereof for federal income tax purposes and is not a specific item of tax preference for federal income tax purposes under existing statutes, regulations, rulings and court decisions; provided, however, with respect to certain corporations, interest on the Series 2024 Bonds is taken into account in determining the annual adjusted financial statement income for the purpose of computing the alternative minimum tax imposed on such

corporations. Failure by the County to comply subsequently to the issuance of the Series 2024 Bonds with certain requirements of the Internal Revenue Code of 1986, as amended (the "Code"), including but not limited to requirements regarding the use, expenditure and investment of Series 2024 Bond proceeds and the timely payment of certain investment earnings to the Treasury of the United States, may cause interest on the Series 2024 Bonds to become includable in gross income for federal income tax purposes retroactive to their date of issuance. The County has covenanted in the Resolution to comply with all provisions of the Code necessary to, among other things, maintain the exclusion from gross income of interest on the Series 2024 Bonds for purposes of federal income taxation. In rendering its opinion, Bond Counsel has assumed continuing compliance with such covenants.

### **Internal Revenue Code of 1986**

The Code contains a number of provisions that apply to the Series 2024 Bonds, including, among other things, restrictions relating to the use or investment of the proceeds of the Series 2024 Bonds and the payment of certain arbitrage earnings in excess of the "yield" on the Series 2024 Bonds to the Treasury of the United States. Noncompliance with such provisions may result in interest on the Series 2024 Bonds being included in gross income for federal income tax purposes retroactive to their date of issuance.

### **Collateral Tax Consequences**

Except as described above, Bond Counsel will express no opinion regarding the federal income tax consequences resulting from the ownership of, receipt or accrual of interest on, or disposition of, the Series 2024 Bonds. Prospective purchasers of the Series 2024 Bonds should be aware that the ownership of the Series 2024 Bonds may result in other collateral federal tax consequences. For example, ownership of the Series 2024 Bonds may result in collateral tax consequences to various types of corporations relating to (1) denial of interest deduction to purchase or carry such Series 2024 Bonds, (2) the branch profits tax, and (3) the inclusion of interest on the Series 2024 Bonds in passive income for certain Subchapter S corporations. In addition, the interest on the Series 2024 Bonds may be included in gross income by recipients of certain Social Security and Railroad Retirement benefits.

PURCHASE, OWNERSHIP, SALE OR DISPOSITION OF THE SERIES 2024 BONDS AND THE RECEIPT OR ACCRUAL OF THE INTEREST THEREON MAY HAVE ADVERSE FEDERAL TAX CONSEQUENCES FOR CERTAIN INDIVIDUAL AND CORPORATE BONDHOLDERS, INCLUDING, BUT NOT LIMITED TO, THE CONSEQUENCES DESCRIBED ABOVE. PROSPECTIVE SERIES 2024 BONDHOLDERS SHOULD CONSULT WITH THEIR TAX SPECIALISTS FOR INFORMATION IN THAT REGARD.

### **Other Tax Matters**

Interest on the Series 2024 Bonds may be subject to state or local income taxation under applicable state or local laws in other jurisdictions. Purchasers of the Series 2024 Bonds should consult their own tax advisors as to the income tax status of interest on the Series 2024 Bonds in their particular state or local jurisdictions.

The Inflation Reduction Act, H.R. 5376 (the IRA), was passed by both houses of the U.S. Congress and was signed by the President on August 16, 2022. As enacted, the IRA includes a 15 percent alternative minimum tax to be imposed on the "adjusted financial statement income," as defined in the IRA, of certain corporations for tax years beginning after December 31, 2022. Interest on the Series 2024

Bonds will be included in the "adjusted financial statement income" of such corporations for purposes of computing the corporate alternative minimum tax. Prospective purchasers that could be subject to this minimum tax should consult with their own tax advisors regarding the potential tax consequences of owning the Series 2024 Bonds.

During prior years, legislative proposals have been introduced in Congress, and in some cases enacted, that altered certain federal tax consequences resulting from the ownership of obligations that are similar to the Series 2024 Bonds. In some cases, these proposals have contained provisions that altered these consequences on a retroactive basis. Such alteration of federal tax consequences may have affected the market value of obligations similar to the Series 2024 Bonds. From time to time, legislative proposals are pending which could have an effect on both the federal tax consequences resulting from ownership of the Series 2024 Bonds and their market value. No assurance can be given that additional legislative proposals will not be introduced or enacted that would or might apply to, or have an adverse effect upon, the Series 2024 Bonds.

### **Tax Treatment of Original Issue Discount**

Certain of the Series 2024 Bonds (the "Discount Bonds") may be offered and sold to the public at an original issue discount, which is the excess of the principal amount of the Discount Bonds over the initial offering price to the public, excluding bond houses, brokers or similar persons or organizations acting in the capacity of underwriters or wholesalers, at which initial offering price a substantial amount of the Discount Bonds of the same maturity was sold. Original issue discount represents interest which is excluded from gross income for federal income tax purposes to the same extent as interest on the Discount Bonds. Original issue discount will accrue over the term of a Discount Bond at a constant interest rate compounded semi-annually. An initial purchaser who acquires a Discount Bond at the initial offering price thereof to the public will be treated as receiving an amount of interest excludable from gross income for federal income tax purposes equal to the original issue discount accruing during the period such purchaser holds such Discount Bonds and will increase the adjusted basis in such Discount Bonds by the amount of such accruing discount for purposes of determining taxable gain or loss on the sale or other disposition of such Discount Bonds. The federal income tax consequences of the purchase, ownership and prepayment, sale or other disposition of Discount Bonds which are not purchased in the initial offering at the initial offering price may be determined according to rules which differ from those above. Owners of Discount Bonds should consult their own tax advisors with respect to the precise determination for federal income tax purposes of interest accrued upon sale, prepayment or other disposition of such Discount Bonds and with respect to the state and local tax consequences of owning and disposing of such Discount Bonds.

### **Tax Treatment of Bond Premium**

Certain of the Series 2024 Bonds (the "Premium Bonds") may be offered and sold to the public at an initial offering price in excess of the principal amount of such Premium Bond, which excess constitutes to an initial purchaser amortizable bond premium which is not deductible from gross income for Federal income tax purposes. The amount of amortizable bond premium for a taxable year is determined actuarially on a constant interest rate basis over the term of the Premium Bonds which term ends on the earlier of the maturity or call date for each Premium Bond which minimizes the yield on said Premium Bonds to the purchaser. For purposes of determining gain or loss on the sale or other disposition of a Premium Bond, an initial purchaser who acquires such obligation in the initial offering to the public at the initial offering price is required to decrease such purchaser's adjusted basis in such Premium Bond



annually by the amount of amortizable bond premium for the taxable year. The amortization of bond premium may be taken into account as a reduction in the amount of tax-exempt income for purposes of determining various other tax consequences of owning such Premium Bonds. The federal income tax consequences of the purchase, ownership and sale or other disposition of Premium Bonds which are not purchased in the initial offering at the initial offering price may be determined according to rules which differ from those described above. Owners of the Premium Bonds are advised that they should consult with their own tax advisors with respect to the state and local tax consequences of owning such Premium Bonds.

## **INVESTMENT POLICY**

The Investment Policy of the County (the "Investment Policy") applies to all monetary assets of the government of the Board in excess of those required to meet current expenses. In accordance with the County's Ordinance No. 01-08, the administration of all investment of surplus funds of the Board is delegated to the Clerk of the Circuit Court and Ex-Officio Clerk to the Board. All investment transactions using funds managed by the Clerk of the Circuit Court and Ex-Officio Clerk to the Board shall be decided upon by at least three (3) members of the Investment Committee, designated by the Clerk of the Circuit Court and Ex-Officio Clerk to the Board.

Deferred compensation, bond proceeds, debt service funds, and funds held by other agencies (Tax Collector, State of Florida) during collections periods may be further limited or expanded by their respective resolutions, covenants, contracts, or policies and shall not be considered to be conflict with the Investment Policy.

The following investment objectives shall be applied in the management of the Board's monetary assets as set forth in the Investment Policy as follows:

- A. Safety of principal is the foremost objective of the Board. Each investment transaction shall seek to first ensure that capital losses are avoided, whether from security defaults or erosion of market value. Purchases and sales shall be made for investment purposes and not speculation.
- B. The investment portfolio will remain sufficiently liquid to enable the Board to meet operating requirements, which may be reasonably anticipated.
- C. When investing public funds, the Clerk of the Circuit Court and Ex-Officio Clerk to the Board will strive to maximize the return on the portfolio and to preserve the purchasing power, but will avoid assuming unreasonable investment risk.

The authorized investments as provided by Chapter 218.415, Florida Statute, Local Ordinance 01-08 and 93-08 are listed below.

- A. Negotiable direct obligations of, or obligations the principal and interest of which are unconditionally guaranteed by, the United States Government at the then prevailing market price for such securities (Treasury bills, notes and/or bonds and State and Local Governments Series (SLGS)).
- B. Obligations of Federal Farm Credit Banks (FFCB); the Federal Home Loan Mortgage Corporation (FHLMC), including Federal Home Loan Mortgage Corporation

participation certificates; or the Federal Home Loan Bank (FHLB) or its district banks or obligations guaranteed by the Government National Mortgage Association (GNMA).

- C. Obligations of the Federal National Mortgage Association (FNMA), including Federal National Mortgage Association participation certificates and mortgage pass-through certificates guaranteed by the Federal National Mortgage Association; Small Business Administration; Federal Housing Administration (FHA); Farmers Home Administration (FMHA); and General Services Administration (GSA).
- D. Local Government Surplus Funds Trust Fund (State of Florida, State Board of Administration (SBA)).
- E. Interest-bearing time deposits or savings accounts in banks organized under the laws of this state, in national banks organized under the laws of the United States and doing business and situated in this state, in savings and loan associations which are under state supervision, or in federal savings and loan associations located in this state and organized under federal law and federal supervision, provided that any such deposits are secured by collateral as may be prescribed by law. (Certificates of Deposit (CD's) are under the same guidelines. The institutions must be fully insured by the Federal Deposit Insurance Corporation (FDIC) or the Federal Savings and Loan Insurance Corporation (FSLIC) and approved by the State Treasurer as a public depository).
- F. Securities of, or other interests in, any open-end or closed-end, management type investment company or investment trust registered under the Investment Company Act of 1940, 15 U.S.C. ss 80a-1, et seq., as amended from time to time, provided the portfolio of such investment company or investment trust is limited to United States Government obligations and to repurchase agreements fully collateralized by such United States Government obligations and provided such investment company or investment trust takes delivery of such collateral either directly or through an authorized custodian. The average maturity of bond mutual funds shall not exceed four (4) years.
- G. Any repurchase agreement with any primary brokers/dealers who report daily to the New York Federal Reserve Bank provided such agreements are: (1) in writing; and (2) fully secured by securities as noted in Section V (A, B, C) of this policy, and provided further that: (a) such collateral is held by the County or any agent acting solely for the County during the full term of such agreements; (b) such collateral is not subject to liens or claims of third parties; (c) the County has a perfected first security interest in such collateral; and (d) such agreement shall provide that the failure to maintain such collateral at the level required by the Clerk will require the County or its agents to request additional collateral or liquidate when such request is not met.
- H. Overnight repurchase agreements with collateral held by the trust department of the bank(s) or custodian bank(s).
- I. Bonds, notes, or obligations of any state of the United States, any municipality, political subdivision, agency, or authority of this state, which are exempt from the federal income taxation (if such obligations are insured and rated by at least one (1) of the nationally

recognized rating agencies for municipal bonds in any one of the two (2) highest classifications).

- J. Domestic Bankers' acceptance, which are inventory-based and eligible to qualify for use as collateral at the Federal Reserve Bank.
- K. S.E.C.-registered, money-market mutual funds with portfolio maturities under 120 days, whose investment objectives include seeking to maintain a stable price of \$1.00 per share. The portfolios of such mutual funds shall consist of United States Government securities and repurchase agreements secured by such securities.
- L. S.E.C.-registered, no-load money market mutual funds whose portfolios consist of tax-exempt securities and repurchase agreements. The maturities or optional redemption dates of securities in the fund's portfolio may not exceed one (1) year, and shares of the mutual fund must the highest credit quality rating from a nationally recognized rating agency. Portfolio securities may not be invested in bonds subject to the federal alternative minimum tax, and 98 percent of the fund's securities' dividends must be tax-exempt.
- M. Florida Local Government Investment Trust (FLGIT), authorized in Resolution Number 93-2-31 and through Ordinance Number 93-08.

Authorized investments shall include investments that may be made by the County under applicable law and which are allowed under the County's investment policy. "Authorized Investments" may be supplemented and amended by Supplemental Resolution.

The Investment Policy may be modified from time to time by the Board. A copy of the Investment Policy may be obtained from the Clerk of the Circuit Court and Ex-Officio Clerk to the Board.

## RATINGS

Moody's and S&P have assigned ratings of "\_\_\_" (\_\_\_\_\_ outlook) and "\_\_\_" (\_\_\_\_\_ outlook), respectively, to the Series 2024 Bonds. Such rating agencies may have obtained and considered information and material which have not been included has not been included in this Official Statement. The ratings reflect only the respective views of Moody's and S&P, and the County makes no representation as to the appropriateness of the ratings. Generally, rating agencies base their ratings on the information and materials furnished to them and on investigations, studies and assumptions by the rating agencies. An explanation concerning the significance of the ratings given may be obtained from the respective rating agency.

There is no assurance that a particular rating will be maintained for any given period of time or that it will not be lowered or withdrawn entirely if, in the judgment of the agency originally establishing the rating, circumstances so warrant. The Underwriter has undertaken no responsibility either to bring to the attention of the owners of the Series 2024 Bonds any proposed revision or withdrawal of a rating on the Series 2024 Bonds and or to oppose any such proposed revision or withdrawal. The Underwriter and the County have undertaken no responsibility after issuance of the Series 2024 Bonds to assure the maintenance of a rating or to oppose any such revision or withdrawal. Any such change in or withdrawal of a rating could have an adverse effect on the market price of the Series 2024 Bonds. An explanation of the significance of the ratings can be received from the rating agencies at the following addresses:

Moody's Investors Service, Inc., 7 World Trade Center, 250 Greenwich Street, 23rd Floor, New York, New York 10007, and S&P Global Ratings, 55 Water Street, New York, New York 10041.

## **UNDERWRITING**

The Series 2024 Bonds are being purchased by BofA Securities, Inc. (the "Underwriter") at an aggregate purchase price of \$\_\_\_\_\_ (equal to the par amount of the Series 2024 Bonds of \$\_\_\_\_\_ [plus/less] an original issue [premium/discount] of \$\_\_\_\_\_ and less an Underwriter's discount of \$\_\_\_\_\_). The Underwriter's obligations are subject to certain conditions precedent, and, it will be obligated to purchase all of the Series 2024 Bonds if any Series 2024 Bonds are purchased. The Series 2024 Bonds may be offered and sold to certain dealers (including dealers depositing such Series 2024 Bonds into investment trusts) at prices lower than such public offering prices, and such public offering prices may be changed, from time to time, by the Underwriter.

BofA Securities, Inc., the Underwriter of the Series 2024 Bonds, has entered into a distribution agreement with its affiliate Merrill Lynch, Pierce, Fenner & Smith Incorporated ("MLPF&S"). As part of this arrangement, BofA Securities, Inc. may distribute securities to MLPF&S, which may in turn distribute such securities to investors through the financial advisor network of MLPF&S. As part of this arrangement, BofA Securities, Inc. may compensate MLPF&S as a dealer for their selling efforts with respect to the 2024 Bonds.

A familial relationship exists between a professional of BofA Securities, Inc. and a professional of Bryant Miller Olive P.A. and both firms are participants in this transaction. Such Bryant Miller Olive P.A. professional did not directly or indirectly participate in the underwriting selection process conducted by the County.

## **DISCLOSURE REQUIRED BY FLORIDA BLUE SKY REGULATIONS**

Pursuant to Section 517.051, Florida Statutes, as amended, no person may directly or indirectly offer or sell securities of the County except by an offering circular containing full and fair disclosure of all defaults as to principal or interest on its obligations since December 31, 1975, as provided by rule of the Office of Financial Regulation within the Florida Financial Services Commission (the "FFSC"). Pursuant to administrative rulemaking, the FFSC has required the disclosure of the amounts and types of defaults, any legal proceedings resulting from such defaults, whether a trustee or receiver has been appointed over the assets of the County, and certain additional financial information, unless the County believes in good faith that such information would not be considered material by a reasonable investor. The County is not and has not been in default on any bond issued since December 31, 1975 that would be considered material by a reasonable investor.

The County has not undertaken an independent review or investigation of securities for which it has served as conduit issuer. The County does not believe that any information about any default on such securities is appropriate and would be considered material by a reasonable investor in the Series 2024 Bonds because the County would not have been obligated to pay the debt service on any such securities except from payments made to it by the private companies on whose behalf such securities were issued and no funds of the County would have been pledged or used to pay such securities or the interest thereon.

## **CONTINGENT FEES**

The County has retained Bond Counsel, Disclosure Counsel and the Financial Advisor with respect to the authorization, sale, execution and delivery of the Series 2024 Bonds. Payment of the fees of such professionals and an underwriting discount to the Underwriter (including the fee of its counsel) are contingent upon the issuance of the Series 2024 Bonds.

## **CONTINUING DISCLOSURE**

The County has covenanted for the benefit of the Series 2024 Bondholders to provide certain financial information and operating data relating to the County and the Series 2024 Bonds in each year, and to provide notices of the occurrence of certain enumerated material events. The County has agreed to file annual financial information and operating data and its audited financial statements with each entity authorized and approved by the SEC to act as a repository (each a "Repository") for purposes of complying with Rule 15c2-12 adopted by the SEC (the "Rule"). Effective July 1, 2009, the sole Repository is the Municipal Securities Rulemaking Board. The County has agreed to file notices of certain enumerated events, when and if they occur, with the Repository.

The specific nature of the financial information, operating data, and of the type of events which trigger a disclosure obligation, and other details of the undertaking are described in "APPENDIX E - Form of Continuing Disclosure Certificate" attached hereto. The Continuing Disclosure Certificate shall be executed by the County upon the issuance of the Series 2024 Bonds. These covenants have been made in order to assist the Underwriter in complying with the continuing disclosure requirements of the Rule.

With respect to the Series 2024 Bonds, no party other than the County is obligated to provide, nor is expected to provide, any continuing disclosure information with respect to the aforementioned Rule. The County has entered into a contract with Digital Assurance Certification, LLC to provide continuing disclosure dissemination agent services for all of its outstanding bond issues. Further, in order to demonstrate its continued commitment to continuing disclosure best practices, the County has included disclosure regarding the following instance of late filing in this Official Statement in the interest of being transparent. The County inadvertently failed to file a notice of material event with the Repository relating to the adoption of Resolution No. 20-06-30 adopted by the Board on June 25, 2020 and the additional pledge of passenger facility charges to the County's airport bonds. The County cured such filing on June 3, 2021. In 2024, the County received \$100,000,000 advance funding from the Florida Division of Emergency Management for Hurricane Ian and Nicole Repair and Recovery pursuant to an agreement which was characterized as a 0% loan. The County inadvertently failed to timely file as a material financial obligation. The County cured such filing on March 28, 2024.

## **TRAFFIC ENGINEERS**

The Traffic Engineers' Annual Traffic and Revenue Report for Fiscal Year 2023 for the Lee County Toll Facilities (the "Engineer's Traffic and Revenue Report") was prepared by CDM Smith, Maitland, Florida ("CDM Smith") and has been attached as APPENDIX A to this Official Statement with the consent of such firm. The report contains a detailed discussion of the procedures, techniques, factors, analyses, methods, and assumptions made and considered, including qualifications and limitations undertaken by the CDM Smith. Investors should read the Engineer's Traffic and Revenue Report in its entirety. CDM Smith has not prepared any traffic and revenue projections.

## **FINANCIAL STATEMENTS**

The Basic Audited Financial Statements of the County for the Fiscal Year Ended September 30, 2023 and report thereon of a firm of independent certified public accountants engaged by the County is attached hereto as "APPENDIX B –Annual Comprehensive Financial Report of Lee County, Florida for Fiscal Year Ended September 30, 2023." The consent of the County's auditor to include in this Official Statement the aforementioned report was not requested, and the audited financial statements are included as a public record and are presented for general information purposes only. The auditor was not requested nor did they perform any procedures with respect to the preparation of this Official Statement or the information presented herein.

The Series 2024 Bonds are payable solely from the Pledged Funds to the extent and in the manner set forth in the Resolution and the Series 2024 Bonds are not otherwise secured by, or payable from, the general revenues of the County. The Report included in "APPENDIX B –Annual Comprehensive Financial Report of Lee County, Florida for Fiscal Year Ended September 30, 2023" hereto is presented for general information purposes only.

## **VERIFICATION OF ARITHMETICAL COMPUTATIONS**

The accuracy of the arithmetical computations of the adequacy of the maturing principal and interest earned on the investments in the Escrow Account, together with initial cash balances, to pay when due or upon earlier redemption, the principal of, redemption premium, if any, and interest on the Refunded Bonds have been verified by the Verification Agent.

## **FORWARD-LOOKING STATEMENTS**

This Official Statement contains certain "forward-looking statements" concerning the County's operations, performance and financial condition, including its future economic performance, plans and objectives and the likelihood of success in developing and expanding. These statements are based upon a number of assumptions and estimates which are subject to significant uncertainties, many of which are beyond the control of the County. The words "may," "would," "could," "will," "expect," "anticipate," "believe," "intend," "plan," "estimate" and similar expressions are meant to identify these forward-looking statements. Actual results may differ materially from those expressed or implied by these forward-looking statements.

## **FINANCIAL ADVISOR**

Dunlap & Associates, Inc. is serving as Financial Advisor to the County with respect to the issuance and sale of the Series 2024 Bonds. The Financial Advisor assisted in the preparation of the Official Statement and in other matters relating to the planning, structuring and issuance of the Series 2024 Bonds and provided other advice. The Financial Advisor will not engage in any underwriting activities with regard to the issuance and sale of the Series 2024 Bonds. The Financial Advisor is not obligated to undertake and has not undertaken to make an independent verification or to assume responsibility for the accuracy, completeness or fairness of the information contained in this Official Statement and are not obligated to review or ensure compliance with continuing disclosure undertakings.

## ACCURACY AND COMPLETENESS OF OFFICIAL STATEMENT

The references, excerpts, and summaries of all documents, statutes, and information concerning the County and certain reports and statistical data referred to herein do not purport to be complete, comprehensive and definitive and each such summary and reference is qualified in its entirety by reference to each such document for full and complete statements of all matters of fact relating to the Series 2024 Bonds, the security for the payment of the Series 2024 Bonds and the rights and obligations of the owners thereof and to each such statute, report or instrument. Definitive copies of all documents described in this Official Statement will be available from Kevin C. Karnes, Clerk of Circuit Court & Comptroller of Lee County, 1700 Monroe Street, Fort Myers, Florida 33902, telephone number (239) 533-2522.

The information contained in this Official Statement has been compiled from official and other sources deemed to be reliable, and is believed to be correct as of the date of the Official Statement, but is not guaranteed as to accuracy or completeness by, and is not to be construed as a representation by, the Underwriter.

Any statements made in this Official Statement involving matters of opinion or of estimates, whether or not so expressly stated are set forth as such and not as representations of fact, and no representation is made that any of the estimates will be realized. Neither this Official Statement nor any statement that may have been made verbally or in writing is to be construed as a contract with the owners of the Series 2024 Bonds.

The appendices attached hereto are integral parts of this Official Statement and must be read in their entirety together with all foregoing statements.

## AUTHORIZATION OF OFFICIAL STATEMENT

The execution and delivery of this Official Statement has been duly authorized by the Board. At the time of delivery of the Series 2024 Bonds, the Chair of the Board will furnish a certificate to the effect that he has no knowledge or reason to believe that this Official Statement (other than information herein related to related to DTC, the book-entry only system of registration and the information contained under the caption "TAX MATTERS," as to which no opinion shall be expressed), as of its date and as of the date of delivery of the Series 2024 Bonds, contains any untrue statement of a material fact or omits to state a material fact necessary in order to make the statements made herein, in light of the circumstances under which they are made, not misleading.

LEE COUNTY, FLORIDA

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

Name: Mike Greenwell

Title: Chairman of the Board of County  
Commissioners, Lee County, Florida

**APPENDIX A**

**Annual Traffic and Revenue Report for Fiscal Year 2023  
for the Lee County Toll Facilities**



**APPENDIX B**

**Annual Comprehensive Financial Report of  
Lee County, Florida for Fiscal Year Ended September 30, 2023**

**APPENDIX C**

**Economic and Demographic Information Relating to  
Lee County, Florida**

**APPENDIX D-1**

**Copy of the Resolution**

**APPENDIX D-2**

**Amendments to the Resolution**

**APPENDIX E**

**Form of Continuing Disclosure Certificate**

**APPENDIX F**

**Form of Opinion of Bond Counsel**

**EXHIBIT C**

**FORM OF ESCROW DEPOSIT AGREEMENT**

## **ESCROW DEPOSIT AGREEMENT**

**ESCROW DEPOSIT AGREEMENT**, dated as of \_\_\_\_\_, 2024, by and between the **LEE COUNTY, FLORIDA**, a political subdivision of the State of Florida (the "County"), and **U.S. BANK TRUST COMPANY, NATIONAL ASSOCIATION** (the "Escrow Agent"), a state banking corporation organized and existing under the laws of the State of Alabama, having a corporate trust office in [Jacksonville], Florida, as escrow agent hereunder.

**WHEREAS**, the County has heretofore issued its Lee County, Florida Transportation Facilities Refunding Revenue Bonds, Series 2014 (the "Series 2014 Bonds") pursuant to Resolution No. 86-4-12, adopted on April 16, 1986, as restated, amended and supplemented (collectively, the "Resolution"); and

**WHEREAS**, the County has determined to exercise its option under the Resolution to refund the outstanding Series 2014 Bonds maturing on or after October 1, 2025 (the "Refunded Bonds"); and

**WHEREAS**, the County has determined to issue its \$\_\_\_\_\_ principal amount of Lee County, Florida Transportation Facilities Refunding Revenue Bonds, Series 2024 (the "Series 2024 Bonds") pursuant to the Resolution, a portion of the proceeds of which Series 2024 Bonds will be used, together with other legally available moneys of the County, to provide payment for the Refunded Bonds and discharge and satisfy the pledge of the Pledged Funds (as defined in the Resolution) and all covenants, agreements and other obligations of the County under the Resolution in regard to such Refunded Bonds;

**WHEREAS**, the issuance of the Series 2024 Bonds, the deposit of cash into an escrow deposit trust fund to be held by the Escrow Agent, the investment of such cash in securities described herein, the discharge and satisfaction of the pledge of the Pledged Funds and all covenants, agreements and other obligations of the County under the Resolution in regard to the Refunded Bonds shall occur as a simultaneous transaction; and

**WHEREAS**, this Agreement is intended to effectuate such simultaneous transaction;

**NOW, THEREFORE**, in consideration of the foregoing and of the mutual covenants hereinafter set forth, the parties hereto agree as follows:

**SECTION 1. PREAMBLES.** The County represents that the recitals stated above are true and correct, and the same are incorporated herein.

**SECTION 2. RECEIPT OF RESOLUTION AND VERIFICATION REPORT.** Receipt of a true and correct copy of the above-mentioned Resolution and this Agreement is hereby acknowledged by the Escrow Agent. The applicable and necessary



provisions of the Resolution, including, without limitation, Section 9.01 thereof, are incorporated herein by reference. The Escrow Agent also acknowledges receipt of the verification report of GNP Services, CPA, PA, a firm of independent certified public accountants, dated \_\_\_\_\_, 2024 (the "Verification Report"). Reference herein to or citation herein of any provisions of the Resolution or the Verification Report shall be deemed to incorporate the same as a part hereof in the same manner and with the same effect as if the same were fully set forth herein.

**SECTION 3. DISCHARGE OF PLEDGE OF HOLDERS OF REFUNDED BONDS.** In accordance with Section 8.01 of the Resolution, the County by this writing exercises its option to have the pledge of the Pledged Funds and all covenants, agreements and other obligations of the County under the Resolution to the holders of the Refunded Bonds to cease, terminate and become void and be discharged and satisfied.

**SECTION 4. ESTABLISHMENT OF ESCROW FUND.** There is hereby created and established with the Escrow Agent a special, segregated and irrevocable escrow deposit trust fund designated the "Lee County, Florida Transportation Facilities Refunding Revenue Bonds, Series 2014 Escrow Deposit Trust Fund" (the "Escrow Fund"). The Escrow Fund shall be held in the custody of the Escrow Agent as a trust fund for the benefit of the holders of the Refunded Bonds, separate and apart from other funds of the County and the Escrow Agent. The Escrow Agent hereby accepts the Escrow Fund and acknowledges the receipt of and deposit to the credit of the Escrow Fund the sum of (A) \$\_\_\_\_\_ received from the County from proceeds of the Series 2024 Bonds (the "Bond Proceeds") and [(B) the sum of \$\_\_\_\_\_ from moneys on deposit in certain funds and accounts established by the Resolution (the "County Moneys")].

**SECTION 5. DEPOSIT OF MONEYS AND SECURITIES IN ESCROW FUND.** The Escrow Agent represents and acknowledges that, concurrently with the deposit of the Bond Proceeds [and County Moneys] under Section 4 above, it has used all the Bond Proceeds [and \$\_\_\_\_\_ of County Moneys] to purchase on behalf of and for the account of the County certain [United States Treasury obligations] (collectively, together with any other securities which may be on deposit, from time to time, in the Escrow Fund, the "Escrow Securities"), which are described in Schedule A hereto. The Escrow Agent shall apply such Bond Proceeds [and County Moneys] on a pro rata basis to the purchase of each of the Escrow Securities. The Escrow Agent will deposit such Escrow Securities [and \$\_\_\_\_\_ of the County Moneys] (the "Cash Deposit") in the Escrow Fund. All Escrow Securities shall be noncallable Refunding Securities (as defined in the Resolution).

In the event any of the Escrow Securities described in Schedule A hereto are not available for delivery on \_\_\_\_\_, 2024, the Escrow Agent may, upon the written direction of Bond Counsel, upon which the Escrow Agent shall conclusively rely, substitute other Refunding Securities and shall credit such other obligations to the Escrow Fund and hold such obligations until the aforementioned Escrow Securities have been

delivered. Any substitution of such obligations shall require a revised Verification Report in regard to the adequacy of the Escrow Securities and the Cash Deposit, taking into account the substituted obligations to pay the Refunded Bonds in accordance with the terms hereof. The Escrow Agent shall in no manner be responsible or liable for failure or delay of Bond Counsel or the County to promptly approve the substitutions of other Escrow Securities for the Escrow Fund.

**SECTION 6. SUFFICIENCY OF ESCROW SECURITIES AND CASH DEPOSIT.** In reliance upon the Verification Report, the County represents that the interest on and the principal amounts successively maturing on the Escrow Securities in accordance with their terms (without consideration of any reinvestment of such maturing principal and interest), together with the Cash Deposit, are sufficient such that moneys will be available to the Escrow Agent in amounts sufficient and at the times required to pay the amounts of principal of, redemption premium, if any, and interest due and to become due on the Refunded Bonds as described in Schedule B attached hereto. If the Escrow Securities and Cash Deposit shall be insufficient to make such payments, the County shall timely deposit to the Escrow Fund, solely from legally available funds of the County, such additional amounts as may be required to pay the Refunded Bonds as described in Schedule B hereto. Notice of any insufficiency shall be given by the Escrow Agent to the County as promptly as possible, but the Escrow Agent shall in no manner be responsible for the County's failure to make such deposits.

**SECTION 7. ESCROW SECURITIES AND CASH DEPOSIT IN TRUST FOR HOLDERS OF REFUNDED BONDS.** The deposit of the Escrow Securities and Cash Deposit in the Escrow Fund shall constitute an irrevocable deposit of Refunding Securities (as defined in the Resolution) and cash in trust solely for the payment of the principal, redemption premium, if any, and interest on the Refunded Bonds at such times and in such amounts as set forth in Schedule B hereto, and the principal of and interest earnings on the Escrow Securities and the Cash Deposit shall be used solely for such purpose.

**SECTION 8. ESCROW AGENT TO PAY REFUNDED BONDS FROM ESCROW FUND.** The County hereby directs, and the Escrow Agent hereby agrees, that it will take all actions required to be taken by it under the provisions of the Resolution, including the timely transfer of money to the Paying Agent for the Refunded Bonds as provided in the Resolution, in order to effectuate this Agreement and to pay the Refunded Bonds in the amounts and at the times provided in Schedule B hereto. The Escrow Securities and Cash Deposit shall be used to pay the principal of, redemption premium, if any, and interest on the Refunded Bonds as the same may mature or be redeemed. If any payment date shall be a day on which either the holders of the Refunded Bonds or the Escrow Agent is not open for the acceptance or delivery of funds, then the Escrow Agent may make payment on the next business day. The liability of the Escrow Agent for the payment of the principal of, redemption premium, if any, and interest on the Refunded

Bonds pursuant to this Agreement shall be limited to the application of the Escrow Securities and the interest earnings thereon, together with the Cash Deposit, available for such purposes in the Escrow Fund.

**SECTION 9. REINVESTMENT OF MONEYS AND SECURITIES IN ESCROW FUND.** Moneys deposited in the Escrow Fund shall be invested only in the Escrow Securities listed in Schedule A hereto and, except as provided in Sections 5 hereof and this Section 9, neither the County nor the Escrow Agent shall otherwise invest or reinvest any moneys in the Escrow Fund.

Except as provided in Section 5 hereof and in this Section 9, the Escrow Agent may not sell or otherwise dispose of any or all of the Escrow Securities in the Escrow Fund and reinvest the proceeds thereof in other securities nor may it substitute securities for any of the Escrow Securities, except upon written direction of the County and where, prior to any such reinvestment or substitution, the Escrow Agent has received from the County the following:

(a) a written Verification Report by a firm of independent certified public accountants to the effect that after such reinvestment or substitution the principal amount of the Escrow Securities, together with the interest thereon and the Cash Deposit, will be sufficient to pay the Refunded Bonds as described in Schedule B hereto (such verification shall not be necessary in the event the County shall determine to reinvest cash in Escrow Securities which mature on or before the next principal and/or interest payment date for the Refunded Bonds); and

(b) a written opinion of nationally recognized Bond Counsel (as defined in the Resolution) to the effect that (i) such investment will not cause the Series 2024 Bonds to be "arbitrage bonds" within the meaning of Section 148 of the Internal Revenue Code of 1986, as amended, and the regulations promulgated thereunder or otherwise cause the interest on such Series 2024 Bonds or Refunded Bonds to be included as gross income for purposes of federal income taxation, and (ii) such investment does not violate any provision of Florida law or of the Resolution.

The above-described verification need not be provided in the event the County purchases Escrow Securities with the proceeds of maturing Escrow Securities, and such purchased Escrow Securities mature on or before the next interest payment date for the applicable Refunded Bonds. All Escrow Securities into which moneys are reinvested pursuant to the terms of this Section 9 shall be Refunding Securities.

In the event the above-referenced verification concludes that there are surplus moneys in the Escrow Fund, such surplus moneys shall be released to the County upon the written direction of the Chairman or such other County official authorized by resolution to provide such direction. The Escrow Fund shall continue in effect until the date upon which

the Escrow Agent makes the final payment to the Paying Agent for the holders of the Refunded Bonds in an amount sufficient to pay the Refunded Bonds, as described in Schedule B hereto, whereupon the Escrow Agent shall sell or redeem any Escrow Securities remaining in the Escrow Fund and shall remit to the County the proceeds thereof, together with all other money, if any, then remaining in the Escrow Fund.

**SECTION 10. REDEMPTION OF REFUNDED BONDS.** The County hereby irrevocably instructs the Escrow Agent to cause the Registrar for the Refunded Bonds to give, on behalf of the Issuer, at the appropriate times the notice or notices, if any, required by the Resolution in connection with the redemption of the Refunded Bonds. The Refunded Bonds shall be redeemed on \_\_\_\_\_ at a redemption price equal to 100% of the principal amount thereof, plus accrued interest.

**[SECTION 11. DEFEASANCE NOTICE TO HOLDERS OF REFUNDED BONDS.** Concurrently with the deposit of the Escrow Securities and Cash Deposit set forth in Section 5 hereof, the Refunded Bonds shall be deemed to have been paid within the meaning and with the effect expressed in Section 9.01 of the Resolution. Within five business days of the deposit of the Escrow Securities and Cash Deposit into the Escrow Fund, the Escrow Agent, on behalf of the County, shall cause the Registrar for the Refunded Bonds to mail to the holders of the Refunded Bonds the notice substantially in the form provide in Schedule C attached hereto.]

**SECTION 12. ESCROW FUND IRREVOCABLE.** The Escrow Fund hereby created shall be irrevocable and the holders of the Refunded Bonds shall have an express lien on the Cash Deposit and all Escrow Securities deposited in the Escrow Fund pursuant to the terms hereof and the interest earnings thereon until paid out, used and applied in accordance with this Agreement and the Resolution. Neither the County nor the Escrow Agent shall cause nor permit any other lien or interest whatsoever to be imposed upon the Escrow Fund.

**SECTION 13. AMENDMENTS TO AGREEMENT.** This Agreement is made for the benefit of the County and the holders from time to time of the Refunded Bonds and it shall not be repealed, revoked, altered or amended without the written consent of all such holders and the written consent of the Escrow Agent; provided, however, that the County and the Escrow Agent may, without the consent of, or notice to, such holders, enter into such agreements supplemental to this Agreement as shall not adversely affect the rights of such holders and as shall not be inconsistent with the terms and provisions of this Agreement, for any one or more of the following purposes:

- (a) to cure any ambiguity or formal defect or omission in this Agreement;
- (b) to grant, or confer upon, the Escrow Agent for the benefit of the holders of the Refunded Bonds, any additional rights, remedies, powers or authority that may lawfully be granted to, or conferred upon, such holders or the Escrow Agent; and

(c) to subject to this Agreement additional funds, securities or properties.

The Escrow Agent shall be entitled to rely exclusively upon an unqualified opinion of nationally recognized Bond Counsel with respect to compliance with this Section 13, including the extent, if any, to which any change, modification or addition affects the rights of the holders or insurer of the Refunded Bonds, or that any instrument executed hereunder complies with the conditions and provisions of this Section 13.

**SECTION 14. FEES AND EXPENSES OF ESCROW AGENT; INDEMNIFICATION; LIABILITY.** In consideration of the services rendered by the Escrow Agent under this Agreement, the County agrees to and shall pay to the Escrow Agent the fees and expenses as shall be agreed to in writing by the parties hereto. The Escrow Agent shall have no lien or right of set-off whatsoever upon any of the Escrow Securities or Cash Deposit in said Escrow Fund for the payment of such proper fees and expenses. The County further agrees to indemnify and save the Escrow Agent harmless, to the extent allowed by law, against any liabilities which it may incur in the exercise and performance of its powers and duties hereunder, and which are not due to the Escrow Agent's negligence or misconduct. Indemnification provided under this Section 14 shall survive the termination of this Agreement.

Whenever the Escrow Agent shall deem it necessary or desirable that a matter be proved or established prior to taking, suffering or omitting any action under this Agreement, such matter may be deemed to be conclusively established by a certificate signed by an authorized officer of the County. The Escrow Agent may conclusively rely, as to the correctness of statements, conclusions and opinions therein, upon any certificate, report, opinion or other document furnished to the Escrow Agent pursuant to any provision of this Agreement; the Escrow Agent shall be protected and shall not be liable for acting or proceeding, in good faith, upon such reliance; and the Escrow Agent shall be under no duty to make any investigation or inquiry as to any statements contained or matters referred to in any such instrument. The Escrow Agent may consult with counsel, who may be counsel to the County or independent counsel, with regard to legal questions, and the opinion of such counsel shall be full and complete authorization and protection in respect of any action taken or suffered by it hereunder in good faith in accordance herewith. Prior to retaining such independent counsel, the Escrow Agent shall notify the County of its intention to retain counsel.

The Escrow Agent shall not be liable in connection with the performance of its duties hereunder except for its own gross negligence or misconduct. The Escrow Agent shall not be liable for any loss or any resulting taxability of interest on the Series 2024 Bonds resulting from any investment made pursuant to the terms and provisions of this Agreement.

The Escrow Agent shall not be liable for the accuracy of the calculations as to the sufficiency of moneys and of the principal amount of the Cash Deposit, Escrow Securities and the earnings thereon, to pay the Refunded Bonds.

**SECTION 15. REPORTING REQUIREMENTS OF ESCROW AGENT.**

As soon as practicable after \_\_\_\_\_, the Escrow Agent shall forward in writing to the County a statement in detail of the activity of the Escrow Fund since the last reporting date.

**SECTION 16. RESIGNATION OR REMOVAL OF ESCROW AGENT.**

The Escrow Agent, at the time acting hereunder, may at any time resign and be discharged from the duties and obligations hereby created by giving not less than 60 days written notice to the County and mailing notice thereof, specifying the date when such resignation will take effect to the holders or insurer of the Refunded Bonds, but no such resignation shall take effect unless a successor Escrow Agent shall have been appointed by the holders or insurer of the Refunded Bonds or by the County as hereinafter provided and such successor Escrow Agent shall have accepted such appointment, in which event such resignation shall take effect immediately upon the appointment and acceptance of a successor Escrow Agent.

The Escrow Agent may be replaced at any time by an instrument or concurrent instruments in writing, delivered to the Escrow Agent at least 60 days prior to the scheduled replacement date, and signed by either the County, the holders or the insurer of the Refunded Bonds. Such instrument shall provide for the appointment of a successor Escrow Agent, which appointment shall occur simultaneously with the removal of the Escrow Agent.

In the event the Escrow Agent hereunder shall resign or be removed, or be dissolved, or shall be in the course of dissolution or liquidation, or otherwise become incapable of acting hereunder, or in case the Escrow Agent shall be taken under the control of any public officer or officers, or of a receiver appointed by a court, a successor may be appointed by the holders or insurer of the Refunded Bonds by an instrument or concurrent instruments in writing, signed by such holders or insurer, or by their attorneys in fact, duly authorized in writing; provided, nevertheless, that in any such event, the County shall appoint a temporary Escrow Agent to fill such vacancy until a successor Escrow Agent shall be appointed by the holders or insurer of the Refunded Bonds in the manner above provided, and any such temporary Escrow Agent so appointed by the County shall immediately and without further act be superseded by the Escrow Agent so appointed by such holders or insurer. The County shall mail notice of any such appointment made by it at the times and in the manner described in the first paragraph of this Section 16.

In the event that no appointment of a successor Escrow Agent or a temporary successor Escrow Agent shall have been made by such holders, insurer or the County pursuant to the foregoing provisions of this Section 16 within 60 days after written notice

of resignation of the Escrow Agent has been given to the County, the holders of the Refunded Bonds or any retiring Escrow Agent may apply to any court of competent jurisdiction for the appointment of a successor Escrow Agent, and such court may thereupon, after such notice, if any, as it shall deem proper, appoint a successor Escrow Agent.

In the event of replacement or resignation of the Escrow Agent, the Escrow Agent shall remit to the County the prorated portion of prepaid fees not yet incurred or payable, less any termination fees and expenses at the time of discharge, the County shall pay all accrued and unpaid fees and expenses of the Escrow Agent and the Escrow Agent shall have no further liability hereunder and the County shall indemnify and hold harmless Escrow Agent, to the extent allowed by law, from any such liability, including costs or expenses incurred by the Escrow Agent or its counsel.

No successor Escrow Agent shall be appointed unless such successor Escrow Agent shall be a corporation with trust powers organized under the banking laws of the United States or any State, and shall have at the time of appointment capital and surplus of not less than \$50,000,000.

Every successor Escrow Agent appointed hereunder shall execute, acknowledge and deliver to its predecessor and to the County an instrument in writing accepting such appointment hereunder and thereupon such successor Escrow Agent, without any further act, deed or conveyance, shall become fully vested with all the rights, immunities, powers, trusts, duties and obligations of its predecessor; but such predecessor shall nevertheless, on the written request of such successor Escrow Agent or the County execute and deliver an instrument transferring to such successor Escrow Agent all the estates, properties, rights, powers and trust of such predecessor hereunder; and every predecessor Escrow Agent shall deliver all securities and moneys held by it to its successor; provided, however, that before any such delivery is required to be made, all fees, advances and expenses of the retiring or removed Escrow Agent shall be paid in full. Should any transfer, assignment or instrument in writing from the County be required by any successor Escrow Agent for more fully and certainly vesting in such successor Escrow Agent the estates, rights, powers and duties hereby vested or intended to be vested in the predecessor Escrow Agent, any such transfer, assignment and instruments in writing shall, on request, be executed, acknowledged and delivered by the County.

Any corporation into which all or substantially all of the corporate trust business of the Escrow Agent, or any successor to it in the trusts created by this Agreement, may be merged or converted or with which it or any successor to it may be consolidated, or any corporation resulting from any merger, conversion, consolidation or tax-free reorganization to which all or substantially all of the corporate trust business of the Escrow Agent or any successor to it shall be a party shall be the successor Escrow Agent under this Agreement without the execution or filing of any paper or any other act on the part of any of the parties hereto, anything herein to the contrary notwithstanding.

**SECTION 17. PAYING AGENT AND REGISTRAR.** The Paying Agent and Registrar for the Refunded Bonds is U.S. Bank Trust Company, National Association, Jacksonville, Florida.

**SECTION 18. TERMINATION OF AGREEMENT.** Except for provisions hereof which are stated to survive the termination hereof, this Agreement shall terminate when all transfers and payments required to be made by the Escrow Agent under the provisions hereof shall have been made. Upon such termination, all moneys remaining in the Escrow Fund shall be released to the County.

**SECTION 19. GOVERNING LAW.** This Agreement shall be governed by the applicable laws of the State of Florida.

**SECTION 20. SEVERABILITY.** If any one or more of the covenants or agreements provided in this Agreement on the part of the County or the Escrow Agent to be performed should be determined by a court of competent jurisdiction to be contrary to law, such covenant or agreement shall be deemed and construed to be severable from the remaining covenants and agreements herein contained and shall in no way affect the validity of the remaining provisions of this Agreement.

**SECTION 21. COUNTERPARTS.** This Agreement may be executed in several counterparts, all or any of which shall be regarded for all purposes as one original and shall constitute and be but one and the same instrument.

**SECTION 22. NOTICES.** Any notice, authorization, request or demand required or permitted to be given in accordance with the terms of this Agreement shall be in writing and sent by registered or certified mail addressed to:

Lee County, Florida  
2115 Second Street  
Fort Myers, Florida 33901  
Attn: Fiscal Resources Manager

U.S. Bank Trust Company, National Association  
6410 Southpoint Parkway, Suite 200  
Jacksonville, Florida 32216  
Attn: Corporate Trust Services



**IN WITNESS WHEREOF**, the parties hereto have each caused this Escrow Deposit Agreement to be executed by their duly authorized officers and appointed officials and their seals to be hereunder affixed and attested as of the date first written herein.

**LEE COUNTY, FLORIDA**

(SEAL)

\_\_\_\_\_  
Chairman

ATTEST:

\_\_\_\_\_  
Kevin C. Karnes, Clerk

**U.S. BANK TRUST COMPANY,  
NATIONAL ASSOCIATION, Escrow Agent**

By: \_\_\_\_\_  
Vice President

**SCHEDULE A**

**ESCROW SECURITIES**

**SCHEDULE B**

**DEBT SERVICE REQUIREMENTS FOR REFUNDED BONDS**

**SCHEDULE C**

**FORM OF NOTICE OF DEFEASANCE  
AS TO THE LEE COUNTY, FLORIDA TRANSPORTATION FACILITIES  
REFUNDING REVENUE BONDS, SERIES 2014**

Notice is hereby given pursuant to Section 9.01 of Resolution No. 86-4-12 of the Board of County Commissioners of Lee County, Florida (the "County"), adopted on April 16, 1986, as restated, amended and supplemented (the "Resolution"), that the outstanding Lee County, Florida Transportation Facilities Refunding Revenue Bonds, Series 2014 described below (the "Refunded Bonds") are deemed to be paid within the meaning of the Resolution and shall no longer be secured from the revenues and other moneys and funds and accounts provided in the Resolution and shall be secured solely from the irrevocable deposit of cash and U.S. Treasury obligations made by the County with U.S. Bank Trust Company, National Association, Jacksonville, Florida, as Escrow Agent, in accordance with Section 9.01 of the Resolution. The Refunded Bonds shall be redeemed on \_\_\_\_\_ at a price equal to 100% of the principal amount thereof, plus accrued interest to the redemption date.

<u>Maturity Date</u> <u>(October 1)</u>	<u>Principal</u> <u>Amount</u> \$	<u>Interest</u> <u>Rate</u> %	<u>CUSIP</u>
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**EXHIBIT D**

**INSURANCE PROVISIONS FOR ASSURED GUARANTY INC.**

## RESOLUTION REQUIREMENTS

The Resolution shall incorporate the following requirements either in one section or article entitled “Provisions Relating to Bond Insurance” (or the like), **the provisions of which section or article shall be stated in the Resolution to govern, notwithstanding anything to the contrary set forth in the Resolution**, or individually in the appropriate sections (Bond Counsel to make conforming changes to “Series 2024 Bonds” and “Insured Series 2024 Bonds” to reflect any series designation, as appropriate, and any other definitional conforming changes, as necessary):

(a) The Resolution shall include the following defined terms:

“Insured Series 2024 Bonds” means the Series 2024 Bonds maturing on \_\_\_\_\_ in the years \_\_\_\_ through \_\_\_\_\_.

“Insurer” means Assured Guaranty Inc., a Maryland corporation, or any successor thereto or assignee thereof. The Insurer shall be deemed to be a Credit Facility Issuer for purposes of the Resolution. The Insurer shall be deemed to be a Credit Facility Issuer for purposes of the Resolution.

“Series 2024 Bond Insurance Policy” means the insurance policy issued by the Insurer guaranteeing the scheduled payment of principal of and interest on the Insured Series 2024 Bonds when due. The Series 2024 Bond Insurance Policy shall be deemed to be a Credit Facility for purposes of the Resolution.

“Series 2024 Reserve Policy” means the debt service reserve insurance policy issued by the Insurer and deposited in the Reserve Account.

(b) The prior written consent of the Insurer shall be a condition precedent to the deposit of any credit instrument provided in lieu of a cash deposit into the Reserve Account. Notwithstanding anything to the contrary set forth in the Resolution, amounts on deposit in the Reserve Account shall be applied solely to the payment of debt service due on the Series 2024 Bonds and any Additional Bonds secured by the Reserve Account.

(c) The Insurer shall be deemed to be the sole Owner of the Insured Series 2024 Bonds for the purpose of exercising any voting right or privilege or giving any consent or direction or taking any other action that the Owners of the Insured Series 2024 Bonds are entitled to take pursuant to the Resolution pertaining to (i) defaults and remedies and (ii) the duties and obligations of the Paying Agent. In furtherance thereof and as a term of the Resolution and each Insured Series 2024 Bond, each Owner of the Insured Series 2024 Bonds appoints the Insurer as its agent and attorney-in-fact with respect to the Insured Series 2024 Bonds and agrees that the Insurer may at any time during the continuation of any proceeding by or against the County under the United States Bankruptcy Code or any other applicable bankruptcy, insolvency, receivership, rehabilitation or similar law (an “Insolvency Proceeding”) direct all matters relating to such Insolvency Proceeding, including without limitation, (A) all matters relating to any claim or enforcement proceeding in connection with an Insolvency Proceeding (a “Claim”), (B) the direction of any appeal of any order relating to any Claim, (C) the posting of any surety, supersedeas or performance bond pending any such appeal, and (D) the right to vote to accept or reject any plan of adjustment. In addition, each Owner of the Insured Series 2024 Bonds delegates and assigns to the Insurer, to the fullest extent permitted by law, the rights of each Owner of the Insured Series 2024 Bonds in the

conduct of any Insolvency Proceeding, including, without limitation, all rights of any party to an adversary proceeding or action with respect to any court order issued in connection with any such Insolvency Proceeding. The Paying Agent acknowledges such appointment, delegation and assignment by each Owner of the Insured Series 2024 Bonds for the Insurer's benefit, and agrees to cooperate with the Insurer in taking any action reasonably necessary or appropriate in connection with such appointment, delegation and assignment. Remedies granted to the Owners shall expressly include mandamus.

- (d) The maturity of Insured Series 2024 Bonds shall not be accelerated without the consent of the Insurer and in the event the maturity of the Insured Series 2024 Bonds is accelerated, the Insurer may elect, in its sole discretion, to pay accelerated principal, and interest accrued on such principal, to the date of acceleration (to the extent unpaid by the County) and the Paying Agent shall be required to accept such amounts. Upon payment of such accelerated principal and interest accrued to the acceleration date as provided above, the Insurer's obligations under the Series 2024 Bond Insurance Policy with respect to such Insured Series 2024 Bonds shall be fully discharged.
- (e) No grace period for a covenant default shall exceed thirty (30) days or be extended for more than sixty (60) days, without the prior written consent of the Insurer. No grace period shall be permitted for payment defaults.
- (f) The Insurer is a third-party beneficiary of the Resolution.
- (g) Upon the occurrence of an extraordinary optional, special or extraordinary mandatory redemption in part, the selection of Insured Series 2024 Bonds to be redeemed shall be subject to the approval of the Insurer. The exercise of any provision of the Resolution which permits the purchase of Insured Series 2024 Bonds in lieu of redemption shall require the prior written approval of the Insurer if any Insured Series 2024 Bond so purchased is not cancelled upon purchase.
- (h) Any amendment, supplement, modification to, or waiver of, the Resolution or any other transaction document, including any underlying security agreement (each a "Related Document"), that requires the consent of Owners or adversely affects the rights and interests of the Insurer shall be subject to the prior written consent of the Insurer.
- (i) Unless the Insurer otherwise directs, upon the occurrence and continuance of an Event of Default or an event which with notice or lapse of time would constitute an Event of Default, amounts on deposit in the Project Fund shall not be disbursed, but shall instead be applied to the payment of debt service or redemption price of the Series 2024 Bonds.
- (j) The rights granted to the Insurer under the Resolution or any other Related Document to request, consent to or direct any action are rights granted to the Insurer in consideration of its issuance of the Series 2024 Bond Insurance Policy. Any exercise by the Insurer of such rights is merely an exercise of the Insurer's contractual rights and shall not be construed or deemed to be taken for the benefit, or on behalf, of the Owners and such action does not evidence any position of the Insurer, affirmative or negative, as to whether the consent of the Owners or any other person is required in addition to the consent of the Insurer.

- (k) Only (1) cash, (2) non-callable direct obligations of the United States of America (“Treasuries”), (3) evidences of ownership of proportionate interests in future interest and principal payments on Treasuries held by a bank or trust company as custodian, under which the owner of the investment is the real party in interest and has the right to proceed directly and individually against the obligor and the underlying Treasuries are not available to any person claiming through the custodian or to whom the custodian may be obligated, (4) subject to the prior written consent of the Insurer, pre-refunded municipal obligations rated in the then highest rating category by S&P and Moody’s for such obligations, or (5) subject to the prior written consent of the Insurer, any other type of security or obligation which S&P and Moody’s have determined to be permitted defeasance securities, shall be used to effect defeasance of the Insured Series 2024 Bonds unless the Insurer otherwise approves.

To accomplish defeasance of the Insured Series 2024 Bonds, the County shall cause to be delivered to the Insurer (i) other than with respect to a current refunding that is gross funded, a report of either a nationally-recognized verification agent or a firm of independent, nationally-recognized certified public accountants as shall be acceptable to the Insurer verifying the sufficiency of the escrow established to pay the Insured Series 2024 Bonds in full on the maturity or redemption date (“Verification”), (ii) an escrow deposit agreement or other irrevocable written instructions (which shall be acceptable in form and substance to the Insurer), (iii) an opinion of nationally-recognized bond counsel to the effect that the Insured Series 2024 Bonds are no longer “Outstanding” under the Resolution and (iv) a certificate of discharge of the Paying Agent with respect to the Insured Series 2024 Bonds; each Verification and defeasance opinion shall be acceptable in form and substance, and addressed, to the County, the Paying Agent and the Insurer. The Insurer shall be provided with final drafts of the above-referenced documentation not less than five (5) Business Days prior to the funding of the escrow.

Insured Series 2024 Bonds shall be deemed “Outstanding” under the Resolution unless and until they are in fact paid and retired or the above criteria are met.

- (l) Amounts paid by the Insurer under the Series 2024 Bond Insurance Policy shall not be deemed paid for purposes of the Resolution and the Insured Series 2024 Bonds relating to such payments shall remain Outstanding and continue to be due and owing until paid by the County in accordance with the Resolution. The Resolution shall not be discharged unless all amounts due or to become due to the Insurer have been paid in full or duly provided for.
- (m) The County covenants and agrees to take such action (including, as applicable, filing of UCC financing statements and continuations thereof) as is necessary from time to time to preserve the priority of the pledge of the Pledged Funds under applicable law.
- (n) Claims Upon the Series 2024 Bond Insurance Policy and Payments by and to the Insurer.

If, on the third Business Day prior to the related scheduled interest payment date or principal payment date (“Payment Date”) there is not on deposit with the Paying Agent, after making all transfers and deposits required under the Resolution, moneys sufficient to pay the principal of and interest on the Insured Series 2024 Bonds due on such Payment Date, the Paying Agent shall give notice to the Insurer and to its designated agent (if any) (the “Insurer’s Fiscal Agent”) by telephone of the amount of such deficiency by 12:00 noon, New York City



time, on such Business Day. If, on the second Business Day prior to the related Payment Date, there continues to be a deficiency in the amount available to pay the principal of and interest on the Insured Series 2024 Bonds due on such Payment Date, the Paying Agent shall make a claim under the Series 2024 Bond Insurance Policy and give notice to the Insurer and the Insurer's Fiscal Agent (if any) by telephone of the amount of such deficiency, and the allocation of such deficiency between the amount required to pay interest on the Insured Series 2024 Bonds and the amount required to pay principal of the Insured Series 2024 Bonds, confirmed in writing to the Insurer and the Insurer's Fiscal Agent by 12:00 noon, New York City time, on such second Business Day by filling in the form of Notice of Claim and Certificate delivered with the Series 2024 Bond Insurance Policy.

The Paying Agent shall designate any portion of payment of principal on Insured Series 2024 Bonds paid by the Insurer, whether by virtue of mandatory sinking fund redemption, maturity or other advancement of maturity, on its books as a reduction in the principal amount of Insured Series 2024 Bonds registered to the then current Owner of the Insured Series 2024 Bonds, whether DTC or its nominee or otherwise, and shall issue a replacement Insured Series 2024 Bond to the Insurer, registered in the name of Assured Guaranty Inc., in a principal amount equal to the amount of principal so paid (without regard to authorized denominations); provided that the Paying Agent's failure to so designate any payment or issue any replacement Insured Series 2024 Bond shall have no effect on the amount of principal or interest payable by the County on any Insured Series 2024 Bond or the subrogation rights of the Insurer.

The Paying Agent shall keep a complete and accurate record of all funds deposited by the Insurer into the Policy Payments Account (defined below) and the allocation of such funds to payment of interest on and principal of any Insured Series 2024 Bond. The Insurer shall have the right to inspect such records at reasonable times upon reasonable notice to the Paying Agent.

Upon payment of a claim under the Series 2024 Bond Insurance Policy, the Paying Agent shall establish a separate special purpose trust account for the benefit of Owners of the Insured Series 2024 Bonds referred to herein as the "Policy Payments Account" and over which the Paying Agent shall have exclusive control and sole right of withdrawal. The Paying Agent shall receive any amount paid under the Series 2024 Bond Insurance Policy in trust on behalf of Owners of the Insured Series 2024 Bonds and shall deposit any such amount in the Policy Payments Account and distribute such amount only for purposes of making the payments for which a claim was made. Such amounts shall be disbursed by the Paying Agent to Owners of the Insured Series 2024 Bonds in the same manner as principal and interest payments are to be made with respect to the Insured Series 2024 Bonds under the sections of the Resolution regarding payment of Insured Series 2024 Bonds. It shall not be necessary for such payments to be made by checks or wire transfers separate from the check or wire transfer used to pay debt service with other funds available to make such payments. Notwithstanding anything in the Resolution to the contrary, the County agrees to pay, to the Insurer, solely from the Pledged Funds (i) a sum equal to the total of all amounts paid by the Insurer under the Series 2024 Bond Insurance Policy (the "Insurer Advances"); and (ii) interest on such Insurer Advances from the date paid by the Insurer until payment thereof in full, payable to the Insurer at the Late Payment Rate per annum (collectively, the "Insurer Reimbursement Amounts"). "Late Payment Rate" means the lesser of (a) the greater of (i) the

per annum rate of interest, publicly announced from time to time by JPMorgan Chase Bank at its principal office in The City of New York, as its prime or base lending rate (any change in such rate of interest to be effective on the date such change is announced by JPMorgan Chase Bank) plus 3%, and (ii) the then-applicable highest rate of interest on the Insured Series 2024 Bonds and (b) the maximum rate permissible under applicable usury or similar laws limiting interest rates. The Late Payment Rate shall be computed on the basis of the actual number of days elapsed over a year of 360 days. The County hereby covenants and agrees that the Insurer Reimbursement Amounts are secured by a lien on and pledge of the Pledged Funds and payable from such Pledged Funds on a parity with debt service due on the Insured Series 2024 Bonds.

Funds held in the Policy Payments Account shall not be invested by the Paying Agent and may not be applied to satisfy any costs, expenses or liabilities of the Paying Agent. The Paying Agent shall notify the Insurer of any funds remaining in the Policy Payments Account after the Paying Agent has made the payments for which a claim was made to the Owners of the Insured Series 2024 Bonds and shall, at the written direction of the Insurer, promptly remit such funds remaining to the Insurer.

- (o) The Insurer shall, to the extent it makes any payment of principal of or interest on the Insured Series 2024 Bonds, become subrogated to the rights of the recipients of such payments in accordance with the terms of the Series 2024 Bond Insurance Policy (which subrogation rights shall also include the rights of any such recipients in connection with any Insolvency Proceeding). Each obligation of the County to the Insurer under the Related Documents shall survive discharge or termination of such Related Documents.
- (p) The County shall pay or reimburse, the Insurer, solely from the Pledged Funds, any and all charges, fees, costs and expenses that the Insurer may reasonably pay or incur in connection with (i) the administration, enforcement, defense or preservation of any rights or security in any Related Document; (ii) the pursuit of any remedies under the Resolution or any other Related Document or otherwise afforded by law or equity, (iii) any amendment, waiver or other action with respect to, or related to, the Resolution or any other Related Document whether or not executed or completed, or (iv) any litigation, proceeding (including any Insolvency Proceeding) or other dispute in connection with the Resolution or any other Related Document or the transactions contemplated thereby, other than costs resulting from the failure of the Insurer to honor its obligations under the Series 2024 Bond Insurance Policy. The Insurer reserves the right to charge a reasonable fee as a condition to executing any amendment, waiver or consent proposed in respect of the Resolution or any other Related Document. Amounts payable by the County hereunder shall bear interest at the Late Payment Rate from the date such amount is paid or incurred by the Insurer until the date the Insurer is paid in full. The obligation to reimburse the Insurer shall survive discharge or termination of the Related Documents.
- (q) After payment of reasonable expenses of the Paying Agent, the application of funds realized upon default shall be applied to the payment of expenses of the County or rebate only after the payment of past due and current debt service on the Series 2024 Bonds and amounts required to restore the Reserve Account to the Reserve Requirement.

- (r) The Insurer shall be entitled to pay principal or interest on the Insured Series 2024 Bonds that shall become Due for Payment but shall be unpaid by reason of Nonpayment by the Issuer (as such terms are defined in the Series 2024 Bond Insurance Policy) and any amounts due on the Insured Series 2024 Bonds as a result of acceleration of the maturity thereof, whether or not the Insurer has received a Notice of Nonpayment (as such terms are defined in the Series 2024 Bond Insurance Policy) or a claim upon the Series 2024 Bond Insurance Policy.
- (s) Notices to the Insurer shall be sent to the following address (or such other address as the Insurer may designate in writing):

Assured Guaranty Inc.  
1633 Broadway  
New York, NY 10019  
Attention: Managing Director – Municipal Surveillance  
Re: Policy No. \_\_\_\_\_-N and Policy No. \_\_\_\_\_-R  
Telephone: (212) 974-0100  
Email: [munidisclosure@agltd.com](mailto:munidisclosure@agltd.com)

In each case in which the notice or other communication refers to a claim on the Series 2024 Bond Insurance Policy or an Event of Default, such notice or other communication shall be marked "URGENT MATERIAL ENCLOSED" and a copy shall also be sent to the attention of the General Counsel at the above address and at [generalcounsel@agltd.com](mailto:generalcounsel@agltd.com).

- (t) The Insurer shall be provided with the following information by the County or the Paying Agent, as the case may be:
1. To the extent not otherwise filed with the Municipal Securities Rulemaking Board's EMMA system, annual audited financial statements within the filing deadline specified in the County's Continuing Disclosure Certificate with respect to the Series 2024 Bonds (together with a certification of the County that it is not aware of any default or Event of Default under the Resolution), and, upon request, the County's annual budget within thirty (30) days after the approval thereof together with such other information, data or reports as the Insurer shall reasonably request from time to time;
  2. Notice of any draw upon the Reserve Account within two (2) Business Days after knowledge thereof other than (i) withdrawals of amounts in excess of the Reserve Requirement and (ii) withdrawals in connection with a refunding of Series 2024 Bonds and any Additional Bonds secured by the Reserve Account;
  3. Notice of any default or Event of Default under the Resolution known to the Paying Agent or the County within five (5) Business Days after knowledge thereof;
  4. Prior notice of the advance refunding or redemption of any of the Insured Series 2024 Bonds, including the principal amount, maturities and CUSIP numbers thereof;

5. Notice of the resignation or removal of the Paying Agent and Bond Registrar and the appointment of, and acceptance of duties by, any successor thereto;
  6. Notice of the commencement of any Insolvency Proceeding (as defined in subsection (c) above);
  7. Notice of the making of any claim in connection with any Insolvency Proceeding seeking the avoidance as a preferential transfer of any payment of principal of, or interest on, the Insured Series 2024 Bonds;
  8. A full original transcript of all proceedings relating to the execution of any amendment, supplement, or waiver to the Related Documents;
  9. All reports, notices and correspondence to be delivered to Owners under the terms of the Related Documents; and
  10. To the extent not otherwise filed with the Municipal Securities Rulemaking Board's EMMA system, all information required to be furnished pursuant to a continuing disclosure agreement, covenant or undertaking with respect to the Series 2024 Bonds.
- (u) The Insurer shall have the right to receive such additional information as it may reasonably request.
- (v) The County will permit the Insurer to discuss the affairs, finances and accounts of the County or any information the Insurer may reasonably request regarding the security for the Series 2024 Bonds with appropriate officers of the County and will use commercially reasonable efforts to enable the Insurer to have access to the facilities, books and records of the County on any Business Day upon reasonable prior notice.
- (w) The County shall notify the Insurer of any known failure of the County to provide notices, certificates and other information under the Related Documents that are required to be delivered to the Owners of the Series 2024 Bonds.
- (x) Notwithstanding satisfaction of the other conditions to the issuance of Additional Bonds set forth in the Resolution, no such issuance may occur (1) if an Event of Default (or any event which, once all notice or grace periods have passed, would constitute an Event of Default) exists unless such default shall be cured upon such issuance and (2) unless the Reserve Account is fully-funded at the Reserve Requirement (including the proposed issue) upon the issuance of such Additional Bonds, in either case unless otherwise permitted by the Insurer.
- (y) In determining whether any amendment, consent, waiver or other action to be taken, or any failure to take action, under the Resolution would adversely affect the security for the Series 2024 Bonds or the rights of the Owners, the effect of any such amendment, consent, waiver, action or inaction shall be considered as if there were no Series 2024 Bond Insurance Policy.
- (z) No contract shall be entered into or any action taken by which the rights of the Insurer or security for or sources of payment of the Insured Series 2024 Bonds may be impaired or

prejudiced in any material respect except upon obtaining the prior written consent of the Insurer.

**EXHIBIT E**

**INSURANCE PROVISIONS FOR BUILD AMERICA  
MUTUAL ASSURANCE COMPANY**



**GENERAL REVENUE BOND TRANSACTION DOCUMENT  
PROVISIONS**

**The following terms and provisions (the “Insurer Provisions”) shall be incorporated into the Security Documents. If the Insurer Provisions are attached to any of the Security Document as an exhibit, such Security Document shall include a provision that incorporates by reference the Insurer Provisions directly into the Security Documents. The Insurer Provisions shall control and supersede any conflicting or inconsistent provisions in the Security Documents.**

- 1) Notice and Other Information to be given to BAM. The [Issuer] [Obligor] will provide BAM with all notices and other information it is obligated to provide (i) under its Continuing Disclosure Agreement and (ii) to the holders of Insured Obligations or the Trustee under the Security Documents.

The notice address of BAM is: Build America Mutual Assurance Company, 200 Liberty Street, 27<sup>th</sup> Floor, New York, NY 10281, Attention: Surveillance, Re: Policy No. \_\_\_\_\_, Telephone: (212) 235-2500, Telecopier: (212) 235-1542, Email: [notices@buildamerica.com](mailto:notices@buildamerica.com). In each case in which notice or other communication refers to an event of default or a claim on the Policy, then a copy of such notice or other communication shall also be sent to the attention of the General Counsel at the same address and at [claims@buildamerica.com](mailto:claims@buildamerica.com) or at Telecopier: (212) 235-5214 and shall be marked to indicate “URGENT MATERIAL ENCLOSED.”

- 2) Defeasance. The investments in the defeasance escrow relating to Insured Obligation shall be limited to non-callable, direct obligations of the United States of America and securities fully and unconditionally guaranteed as to the timely payment of principal and interest by the United States of America, or as otherwise maybe authorized under State law and approved by BAM.

At least (three) 3 Business Days prior to any defeasance with respect to the Insured Obligations, the Issuer, unless waived by BAM, shall deliver to BAM draft copies of an escrow agreement, an opinion of bond counsel regarding the validity and enforceability of the escrow agreement and the defeasance of the Insured Obligations, a verification report (a “Verification Report”) prepared by a nationally recognized independent financial analyst or firm of certified public accountants regarding the sufficiency of the escrow fund. Such opinion shall be addressed to BAM and shall be in form and substance satisfactory to BAM. Such Verification Report shall be in the form and substance satisfactory to BAM and, unless waived by BAM, shall either be addressed to BAM or shall include a statement to the effect that such Verification Report may be relied upon by BAM. In addition, the escrow agreement shall provide

that:

- a) Any substitution of securities following the execution and delivery of the escrow agreement shall require the delivery of a Verification Report, an opinion of bond counsel that such substitution will not adversely affect the exclusion (if interest on the Insured Obligations is excludable) from gross income of the holders of the Insured Obligations of the interest on the Insured Obligations for federal income tax purposes and the prior written consent of BAM, which consent will not be unreasonably withheld.
  - b) The [Issuer] [Obligor] will not exercise any prior optional redemption of Insured Obligations secured by the escrow agreement or any other redemption other than mandatory sinking fund redemptions unless (i) the right to make any such redemption has been expressly reserved in the escrow agreement and such reservation has been disclosed in detail in the official statement for the refunding bonds, and (ii) as a condition to any such redemption there shall be provided to BAM a Verification Report as to the sufficiency of escrow receipts without reinvestment to meet the escrow requirements remaining following any such redemption.
  - c) The [Issuer] [Obligor] shall not amend the escrow agreement or enter into a forward purchase agreement or other agreement with respect to rights in the escrow without the prior written consent of BAM.
- 3) Trustee and Paying Agent.
- a) BAM shall receive prior written notice of any name change of the trustee (the “Trustee”) or, if applicable, the paying agent (the “Paying Agent”) for the Insured Obligations or the resignation or removal of the Trustee or, if applicable, the Paying Agent. Any Trustee must be (A) a national banking association that is supervised by the Office of the Comptroller of the Currency and has at least \$250 million of assets, (B) a state-chartered commercial bank that is a member of the Federal Reserve System and has at least \$1 billion of assets, or (C) otherwise approved by BAM in writing.
  - b) No removal, resignation or termination of the Trustee or, if applicable, the Paying Agent shall take effect until a successor, acceptable to BAM, shall be qualified and appointed.
- 4) [Amendments, Supplements and Consents. BAM’s prior written consent is required for all amendments and supplements to the Security Documents, with the exceptions noted below. The [Issuer] [Obligor] shall send copies of any such amendments or supplements to BAM and the rating agencies which have assigned a rating to the Insured Obligations.
- a) *Consent of BAM.* Any amendments or supplements to the Security Documents shall require the prior written consent of BAM with the exception of amendments or



supplements:

- i. To cure any ambiguity or formal defect or omissions or to correct any inconsistent provisions in the transaction documents or in any supplement thereto, or
  - ii. To grant or confer upon the holders of the Insured Obligations any additional rights, remedies, powers, authority or security that may lawfully be granted to or conferred upon the holders of the Insured Obligations, or
  - iii. To add to the conditions, limitations and restrictions on the issuance of bonds or other obligations under the provisions of the Security Documents other conditions, limitations and restrictions thereafter to be observed, or
  - iv. To add to the covenants and agreements of the [Issuer/Obligor] in the Security Documents other covenants and agreements thereafter to be observed by the [Issuer/Obligor] or to surrender any right or power therein reserved to or conferred upon the [Issuer/Obligor].
  - v. To issue additional parity debt in accordance with the requirements set forth in the Security Documents.]
- b) *Consent of BAM in Addition to Bondholder Consent.* Any amendment, supplement, modification to, or waiver of, any of the Security Documents that requires the consent of holders of the Insured Obligations or adversely affects the rights or interests of BAM shall be subject to the prior written consent of BAM.
- c) *Insolvency.* Any reorganization or liquidation plan with respect to the Issuer [or Obligor] must be acceptable to BAM. The Trustee and each owner of the Insured Obligations hereby appoint BAM as their agent and attorney-in-fact with respect to the Insured Obligations and agree that BAM may at any time during the continuation of any proceeding by or against the Issuer or Obligor under the United States Bankruptcy Code or any other applicable bankruptcy, insolvency, receivership, rehabilitation or similar law (an “Insolvency Proceeding”) direct all matters relating to such Insolvency Proceeding, including without limitation, (A) all matters relating to any claim or enforcement proceeding in connection with an Insolvency Proceeding (a “Claim”), (B) the direction of any appeal of any order relating to any Claim, (C) the posting of any surety, supersedeas or performance bond pending any such appeal, and (D) the right to vote to accept or reject any plan of adjustment. In addition, the Trustee and each owner of the Insured Obligations delegate and assign to BAM, to the fullest extent permitted by law, the rights of the Trustee and each owner of the Insured Obligations with respect to the Insured Obligations in the conduct of any Insolvency Proceeding, including, without limitation, all rights of any party to an adversary proceeding or action with respect to any court order issued in connection with any such Insolvency Proceeding.

- d) *Control by BAM Upon Default.* Anything in the Security Documents to the contrary notwithstanding, upon the occurrence and continuance of a default or an event of default, BAM shall be entitled to control and direct the enforcement of all rights and remedies granted to the holders of the Insured Obligations or the Trustee or Paying Agent for the benefit of the holders of the Insured Obligations under any Security Document. No default or event of default may be waived without BAM's written consent.
  - e) *BAM as Owner.* Upon the occurrence and continuance of a default or an event of default, BAM shall be deemed to be the sole owner of the Insured Obligations for all purposes under the Security Documents, including, without limitations, for purposes of exercising remedies and approving amendments.
  - f) *Grace Period for Payment Defaults.* No grace period shall be permitted for payment defaults on the Insured Obligations. No grace period for a covenant default shall exceed 30 days without the prior written consent of BAM.
  - g) *Special Provisions for Insurer Default.* If an Insurer Default shall occur and be continuing, then, notwithstanding anything in paragraphs 4(a)-(e) above to the contrary, (1) if at any time prior to or following an Insurer Default, BAM has made payment under the Policy, to the extent of such payment BAM shall be treated like any other holder of the Insured Obligations for all purposes, including giving of consents, and (2) if BAM has not made any payment under the Policy, BAM shall have no further consent rights until the particular Insurer Default is no longer continuing or BAM makes a payment under the Policy, in which event, the foregoing clause (1) shall control. For purposes of this paragraph, "Insurer Default" means: (A) BAM has failed to make any payment under the Policy when due and owing in accordance with its terms; or (B) BAM shall (i) voluntarily commence any proceeding or file any petition seeking relief under the United States Bankruptcy Code or any other Federal, state or foreign bankruptcy, insolvency or similar law, (ii) consent to the institution of or fail to controvert in a timely and appropriate manner, any such proceeding or the filing of any such petition, (iii) apply for or consent to the appointment of a receiver, trustee, custodian, sequestrator or similar official for such party or for a substantial part of its property, (iv) file an answer admitting the material allegations of a petition filed against it in any such proceeding, (v) make a general assignment for the benefit of creditors, or (vi) take action for the purpose of effecting any of the foregoing; or (C) any state or federal agency or instrumentality shall order the suspension of payments on the Policy or shall obtain an order or grant approval for the rehabilitation, liquidation, conservation or dissolution of BAM (including without limitation under the New York Insurance Law).
- 5) BAM As Third Party Beneficiary. BAM is recognized as and shall be deemed to be a third party beneficiary of the Security Documents and may enforce the provisions of the Security Documents as if it were a party thereto.

6) Payment Procedure Under the Policy.

In the event that principal and/or interest due on the Insured Obligations shall be paid by BAM pursuant to the Policy, the Insured Obligations shall remain outstanding for all purposes, not be defeased or otherwise satisfied and not be considered paid by the Issuer, the assignment and pledge of the trust estate and all covenants, agreements and other obligations of the Issuer to the registered owners shall continue to exist and shall run to the benefit of BAM, and BAM shall be subrogated to the rights of such registered owners.

In the event that on the second (2<sup>nd</sup>) business day prior to any payment date on the Insured Obligations, the Paying Agent or Trustee has not received sufficient moneys to pay all principal of and interest on the Insured Obligations due on such payment date, the Paying Agent or Trustee shall immediately notify BAM or its designee on the same business day by telephone or electronic mail, of the amount of the deficiency. If any deficiency is made up in whole or in part prior to or on the payment date, the Paying Agent or Trustee shall so notify BAM or its designee.

In addition, if the Paying Agent or Trustee has notice that any holder of the Insured Obligations has been required to disgorge payments of principal of or interest on the Insured Obligations pursuant to a final, non-appealable order by a court of competent jurisdiction that such payment constitutes an avoidable preference to such holder within the meaning of any applicable bankruptcy law, then the Paying Agent or Trustee shall notify BAM or its designee of such fact by telephone or electronic mail, or by overnight or other delivery service as to which a delivery receipt is signed by a person authorized to accept delivery on behalf of BAM.

The Paying Agent or Trustee shall irrevocably be designated, appointed, directed and authorized to act as attorney-in-fact for holders of the Insured Obligations as follows:

- a) If there is a deficiency in amounts required to pay interest and/or principal on the Insured Obligations, the Paying Agent or Trustee shall (i) execute and deliver to BAM, in form satisfactory to BAM, an instrument appointing BAM as agent and attorney-in-fact for such holders of the Insured Obligations in any legal proceeding related to the payment and assignment to BAM of the claims for interest on the Insured Obligations, (ii) receive as designee of the respective holders (and not as Paying Agent) in accordance with the tenor of the Policy payment from BAM with respect to the claims for interest so assigned, (iii) segregate all such payments in a separate account (the "BAM Policy Payment Account") to only be used to make scheduled payments of principal of and interest on the Insured Obligation, and (iv) disburse the same to such respective holders; and
- b) If there is a deficiency in amounts required to pay principal of the Insured Obligations, the Paying Agent or Trustee shall (i) execute and deliver to BAM, in

form satisfactory to BAM, an instrument appointing BAM as agent and attorney-in-fact for such holder of the Insured Obligations in any legal proceeding related to the payment of such principal and an assignment to BAM of the Insured Obligations surrendered to BAM, (ii) receive as designee of the respective holders (and not as Paying Agent) in accordance with the tenor of the Policy payment therefore from BAM, (iii) segregate all such payments in the BAM Policy Payment Account to only be used to make scheduled payments of principal of and interest on the Insured Obligation, and (iv) disburse the same to such holders.

The Trustee shall designate any portion of payment of principal on Insured Obligations paid by BAM, whether by virtue of mandatory sinking fund redemption, maturity or other advancement of maturity, on its books as a reduction in the principal amount of Insured Obligations registered to the then current holder, whether DTC or its nominee or otherwise, and shall issue a replacement Insured Obligation to BAM, registered in the name directed by BAM, in a principal amount equal to the amount of principal so paid (without regard to authorized denominations); provided that the Trustee's failure to so designate any payment or issue any replacement Insured Obligation shall have no effect on the amount of principal or interest payable by the Issuer on any Insured Obligation or the subrogation or assignment rights of BAM.

Payments with respect to claims for interest on and principal of Insured Obligations disbursed by the Paying Agent or Trustee from proceeds of the Policy shall not be considered to discharge the obligation of the Issuer with respect to such Insured Obligations, and BAM shall become the owner of such unpaid Insured Obligations and claims for the interest in accordance with the tenor of the assignment made to it under the provisions of the preceding paragraphs or otherwise. The Security Documents shall not be discharged or terminated unless all amounts due or to become due to BAM have been paid in full or duly provided for.

Irrespective of whether any such assignment is executed and delivered, the Issuer, [Obligor] and the Paying Agent and Trustee agree for the benefit of BAM that:

- a) They recognize that to the extent BAM makes payments directly or indirectly (*e.g.*, by paying through the Paying Agent or Trustee), on account of principal of or interest on the Insured Obligations, BAM will be subrogated to the rights of such holders to receive the amount of such principal and interest from the Issuer/Obligor, with interest on bond principal (but not bond interest), as provided and solely from the sources stated in the Security Documents and the Insured Obligations; and
- b) They will accordingly pay to BAM the amount of such principal and interest, with interest on bond principal (but not bond interest) as provided in the transaction documents and the Insured Obligations, but only from the sources and in the manner provided therein for the payment of principal of and interest on the Insured Obligations to holders, and will otherwise treat BAM as the owner of such rights to the amount of such principal and interest.

- 7) Additional Payments. The [Issuer] [Obligor] agrees unconditionally that it will pay or reimburse BAM on demand any and all reasonable charges, fees, costs, losses, liabilities and expenses that BAM may pay or incur, including, but not limited to, fees and expenses of BAM's agents, attorneys, accountants, consultants, appraisers and auditors and reasonable costs of investigations, in connection with the administration (including waivers and consents, if any), enforcement, defense, exercise or preservation of any rights and remedies in respect of the Security Documents ("Administrative Costs"). For purposes of the foregoing, costs and expenses shall include a reasonable allocation of compensation and overhead attributable to the time of employees of BAM spent in connection with the actions described in the preceding sentence.

Notwithstanding anything herein to the contrary, the Issuer agrees to pay to BAM (i) a sum equal to the total of all amounts paid by BAM under the Policy ("BAM Policy Payment"); and (ii) interest on the Bond principal paid under the Policy from the date paid by BAM until payment thereof in full by the Issuer, payable to BAM at the stated interest rate for each such Bond (collectively, "BAM Reimbursement Amounts") compounded semi-annually. The Issuer hereby covenants and agrees that the BAM Reimbursement Amounts are payable from and secured by a lien on and pledge of the same revenues and other collateral pledged to the Insured Obligations on a parity with debt service due on the Insured Obligations.

- 8) Debt Service Reserve Fund. The prior written consent of BAM shall be a condition precedent to the deposit of any credit instrument provided in lieu of a cash deposit into the Debt Service Reserve Fund, if any (other than a municipal bond debt service reserve insurance policy issued by BAM). Amounts on deposit in the Debt Service Reserve Fund shall be applied solely to the payment of debt service due on the Insured Obligations.]
- 9) Exercise of Rights by BAM. The rights granted to BAM under the Security Documents to request, consent to or direct any action are rights granted to BAM in consideration of its issuance of the Policy. Any exercise by BAM of such rights is merely an exercise of the BAM's contractual rights and shall not be construed or deemed to be taken for the benefit, or on behalf, of the holders of the Insured Obligations and such action does not evidence any position of BAM, affirmative or negative, as to whether the consent of the holders of the Insured Obligations or any other person is required in addition to the consent of BAM.
- 10) BAM shall be entitled to pay principal or interest on the Insured Obligations that shall become Due for Payment but shall be unpaid by reason of Nonpayment by the Issuer (as such terms are defined in the Policy) in accordance with the Security Documents, whether or not BAM has received a claim upon the Policy.
- 11) [So long as the Insured Obligations are outstanding or any amounts are due and payable to BAM, the [Issuer/Obligor] shall not sell, lease, transfer, or otherwise dispose of the [System] or any material portion thereof, except as provided by the Security

Documents.]

12) Definitions.

“BAM” shall mean Build America Mutual Assurance Company, or any successor thereto.

“Insured Obligations” shall mean the [bonds].

“Issuer” shall mean the [Authority].

“Late Payment Rate” means the lesser of (a) the greater of (i) the per annum rate of interest, publicly announced from time to time by JPMorgan Chase Bank, N.A., at its principal office in The City of New York, New York, as its prime or base lending rate (“Prime Rate”) (any change in such Prime Rate to be effective on the date such change is announced by JPMorgan Chase Bank, N.A.) plus 5%, and (ii) the then applicable highest rate of interest on the Insured Obligations and (b) the maximum rate permissible under applicable usury or similar laws limiting interest rates. In the event JPMorgan Chase Bank, N.A., ceases to announce its Prime Rate, the Prime Rate shall be the prime or base lending rate of such other bank, banking association or trust company as BAM, in its sole and absolute discretion, shall designate. Interest at the Late Payment Rate on any amount owing to BAM shall be computed on the basis of the actual number of days elapsed in a year of 360 days.

“Obligor” shall mean the [\_\_\_\_\_].

“Policy” shall mean the Municipal Bond Insurance Policy issued by BAM that guarantees the scheduled payment of principal of and interest on the Insured Obligations when due.

“Security Documents” shall mean the resolution, trust agreement, indenture, ordinance, loan agreement, lease agreement, bond, note, certificate and/or any additional or supplemental document executed in connection with the Insured Obligations.

**EXHIBIT F**

**ASSURED GUARANTY INSURANCE AGREEMENT**

## INSURANCE AGREEMENT

This INSURANCE AGREEMENT dated \_\_\_\_\_, 2024 (the “Agreement”), by and between Board of County Commissioners of Lee County, Florida (the “Issuer”) and Assured Guaranty Inc, a Maryland corporation (“AG”).

WITNESSETH:

WHEREAS, the Issuer has determined to issue its Airport Revenue Bonds, Series 2024 (the “2024 Bonds”); and

WHEREAS, the 2024 Bonds are being issued pursuant to a resolution of the Issuer adopted by the Board of Directors of Issuer (the “Board”) on \_\_\_\_\_, as amended and supplemented, particularly as supplemented by Resolution 2024-\_\_ (the “Series Resolution”), adopted by the Board on \_\_\_\_\_, 2024 (collectively, the “Bond Resolution”); and

WHEREAS, pursuant to the Bond Resolution, the Issuer established the Reserve Account in the Sinking Fund, which is required to be funded in an amount equal to the Reserve Fund Requirement for all Outstanding Bonds, except to the extent a Series of Bonds is secured by a subaccount in the Reserve Fund that is pledged solely to such Series of Bonds; and

WHEREAS, as permitted by the Bond Resolution, the Issuer has determined to satisfy the incremental increase in the Reserve Account Requirement attributable to the 2024 Bonds through the deposit of a Reserve Account Insurance Policy to be issued by AG; and

WHEREAS, the Issuer and AG have executed a commitment dated \_\_\_\_\_, 2024 (the “Commitment”) pursuant to which AG has agreed to issue its Municipal Bond Debt Service Reserve Insurance Policy (the “Reserve Policy”) to be deposited in the Reserve Account in satisfaction of the incremental increase in the Reserve Account Requirement attributable to the 2024 Bonds, subject to the terms and conditions of the Commitment; and

WHEREAS, the parties to this Agreement now desire to set forth certain requirements of the Commitment and other requirements of AG that are not otherwise contained in the Bond Resolution consistent with the authority provided by Section \_\_\_ of the Series Resolution.

NOW THEREFORE, in consideration of the mutual covenants contained in this Agreement and for other good and valuable consideration, including, without limitation, the Issuer’s payment to AG of the insurance premium for the Reserve Policy, the receipt and sufficiency of which are acknowledged, the parties mutually agree as follows:

1. Defined Terms. All capitalized terms used herein and not otherwise defined in this Agreement (including the Recitals hereto) shall have the meanings ascribed to them in the Bond Resolution. The following terms shall have the meanings specified below:



A. “AG” means Assured Guaranty Inc., or any successor thereto or assignee thereof, as issuer of the Reserve Policy.

B. “Bonds” means, for purposes of this Agreement, the 2024 Bonds secured by the Reserve Account.

C. “Reserve Policy” means Municipal Bond Debt Service Reserve Insurance Policy No. \_\_\_\_\_-R issued by AG and deposited in the Reserve Account in satisfaction of the Reserve Account Requirement for the Bonds as of the date of its issuance. The Reserve Policy shall constitute a Credit Instrument for all purposes of the Bond Resolution.

2. Provisions Applicable to the Reserve Account and the Reserve Policy. Unless otherwise provided in the Reserve Policy, the following provisions shall govern claims made upon and payments made under the Reserve Policy, notwithstanding anything to the contrary in the Bond Resolution:

A. The Issuer shall ascertain the necessity for a claim upon the Reserve Policy in accordance with the provisions of Section 2.D hereof and shall provide notice to AG in accordance with the terms of the Reserve Policy at least [five] Business Days prior to each date upon which interest or principal is due on the Bonds. Where deposits are required to be made by the Issuer to the Interest Account, the Principal Account and the Term Bonds Redemption Account more often than semi-annually, the Issuer shall give notice to AG of any failure of the Issuer to make timely payment in full of such deposits within two Business Days of the date due. Amounts drawn under the Reserve Policy shall be used solely to pay scheduled payments of principal and interest on the Bonds when due.

B. Upon any payment by AG under the Reserve Policy, AG shall furnish to the Issuer written instructions as to the manner in which payment of amounts owed to AG as a result of such payment under the Reserve Policy shall be made.

C. The Issuer shall pay AG, solely from the Pledged Funds, the principal amount of any draws under the Reserve Policy and pay all related reasonable expenses incurred by AG and shall pay interest thereon from the date of payment by AG at the Late Payment Rate (collectively, “Policy Costs”). “Late Payment Rate” means the lesser of (x) the greater of (i) the per annum rate of interest, publicly announced from time to time by JPMorgan Chase Bank at its principal office in the City of New York, as its prime or base lending rate (“Prime Rate”) (any change in such Prime Rate to be effective on the date such change is announced by JPMorgan Chase Bank) plus 5%, and (y) the maximum rate permissible under applicable usury or similar laws limiting interest rates. The Late Payment Rate shall be computed on the basis of the actual number of days elapsed over a year of 360 days. In the event JPMorgan Chase Bank ceases to announce its Prime Rate, the Prime Rate shall be the prime or base lending rate of such national bank as AG shall designate. If the interest provisions of this Section 2.C shall result in an effective rate of interest which, for any period, exceeds the limit of the usury or any other laws applicable to the indebtedness created herein, then all sums in excess of those lawfully collectible as interest for the period in question shall, without further agreement or notice between or by any

party hereto, be applied as additional interest for any later periods of time when amounts are outstanding hereunder to the extent that interest otherwise due hereunder for such periods plus such additional interest would not exceed the limit of the usury or such other laws, and any excess shall be applied upon principal immediately upon receipt of such moneys by AG, with the same force and effect as if the Issuer had specifically designated such extra sums to be so applied and AG had agreed to accept such extra payment(s) as additional interest for such later periods. In no event shall any agreed-to or actual exaction as consideration for the indebtedness created herein exceed the limits imposed or provided by the law applicable to this transaction for the use or detention of money or for forbearance in seeking its collection.

D. All cash and investments in the Reserve Account, if any, shall be transferred to the Interest Account, the Principal Account and the Redemption Account, as applicable, for payment of debt service on the Bonds before any drawing may be made on the Reserve Policy or on any alternative credit instrument on deposit in the Reserve Account. Payment of any Policy Costs shall be made prior to replenishment of any such cash amounts. Draws on all alternative credit instruments (including the Reserve Policy) on which there is available coverage shall be made on a pro-rata basis (calculated by reference to available coverage under each such alternative credit instrument) after applying all available cash and investments in the Reserve Account. Payment of Policy Costs and reimbursement of amounts with respect to alternative credit instruments shall be made on a pro-rata basis prior to replenishment of any cash drawn from the Reserve Account. Repayment of all Policy Costs and the replenishment of the Reserve Account shall be made on a *pari passu* basis with payments and replenishments required to be made under the Bond Resolution with respect to any subaccounts established in the Reserve Account separately securing any Series of Bonds. For the avoidance of doubt, “available coverage” means the coverage then available for disbursement pursuant to the terms of the applicable alternative credit instrument without regard to the legal or financial ability or willingness of the provider of such instrument to honor a claim or draw thereon or the failure of such provider to honor any such claim or draw.

E. Repayment of Policy Costs shall commence in the first month following each draw, and each such monthly payment shall be in an amount at least equal to 1/12th of the aggregate of Policy Costs related to such draw. Amounts in respect of Policy Costs paid to AG shall be credited first to interest due, then to the expenses due and then to principal due.

F. As and to the extent that payments are made to AG on account of principal due, the coverage under the Reserve Policy will be increased by a like amount, subject to the terms of the Reserve Policy.

G. The Bond Resolution shall not be discharged until all Policy Costs owing to AG shall have been paid in full. The Issuer’s obligation to pay such amounts shall expressly survive payment in full of the Bonds.

H. To secure the Issuer's payment obligations to AG under this Agreement, the Issuer hereby pledges and places a lien on the Pledged Funds in favor of AG for the payment of Policy Costs (subject only to the priority of payment provisions set forth under the Bond Resolution).

3. Rights of AG. Notwithstanding anything to the contrary in the Bond Resolution, so long as the Reserve Policy is in effect and provided that AG is not then in default thereunder, AG shall have the following rights; provided, however, that, to the extent AG has made any payments under the Reserve Policy, it shall retain its rights to enforce the reimbursement of the Policy Costs under this Agreement and the Reserve Policy:

A. Upon a failure to pay Policy Costs when due or any other breach of the terms of this Agreement, AG shall be entitled to exercise any and all legal and equitable remedies available to it, including those provided under the Bond Resolution, other than remedies which would adversely affect owners of the Bonds.

B. The prior written consent of AG shall be a condition precedent to the deposit of any Credit Facility credited to the Reserve Account in substitution of the Reserve Policy or lieu of a cash deposit into the Reserve Account.

4. Covenants of the Issuer. So long as the Reserve Policy is in effect and provided that AG is not then in default thereunder, the Issuer covenants and agrees as follows:

A. The Issuer shall not issue Additional Bonds pursuant to the Bond Resolution at any time when AG has made any payments under the Reserve Policy that have not been reimbursed in full by the Issuer.

B. The Issuer shall include any Policy Costs then due and owing to AG in the calculation of the Additional Parity Bonds test in Section 5.12 of the Bond Resolution and the calculation of Rates and Charges covenant in Section 5.04 of the Bond Resolution.

C. The Issuer shall fully observe, perform, and fulfill each of the provisions (as each of those provisions may be amended, supplemented, modified or waived as provided in the Bond Resolution) of the Bond Resolution applicable to it, each of the provisions thereof being incorporated herein by reference as if set forth directly herein. No provision of the Bond Resolution that could adversely affect the payment obligations of the Issuer hereunder or the priority accorded to the reimbursement of Policy Costs under the Bond Resolution shall be amended, supplemented, modified or waived, without the prior written consent of AG.

D. The Issuer will pay or reimburse AG, solely from the Pledged Funds, any and all charges, fees, costs, losses, liabilities and expenses which AG may pay or incur, including, but not limited to, reasonable fees and expenses of attorneys, accountants, consultants and auditors and reasonable costs of investigations, in connection with (i) any accounts established to facilitate payments under the Reserve Policy, (ii) the administration, enforcement, defense or preservation of any rights in respect of this

Agreement, the Bond Resolution or any other document executed in connection with the Bonds (the “Related Documents”), including defending, monitoring or participating in any litigation or proceeding (including any bankruptcy proceeding in respect of the Issuer) relating to this Agreement, the Bond Resolution, or any other Related Document, any party to this Agreement, the Bond Resolution or any other Related Document or the transactions contemplated by the Related Documents, (iii) the foreclosure against, sale or other disposition of any collateral securing any obligations under this Agreement, the Bond Resolution or any other Related Document, if any, or the pursuit of any remedies under this Agreement, the Bond Resolution or any other Related Document, to the extent such costs and expenses are not recovered from such foreclosure, sale or other disposition, (iv) any amendment, waiver or other action with respect to, or related to this Agreement, the Bond Resolution, the Reserve Policy or any other Related Document whether or not executed or completed, or (v) any action taken by AG to cure a default or termination or similar event (or to mitigate the effect thereof) under the Bond Resolution or any other Related Document; costs and expenses shall include a reasonable allocation of compensation and overhead attributable to time of employees of AG spent in connection with the actions described in clauses (ii) through (v) above. AG reserves the right to charge a reasonable fee as a condition to executing any amendment, waiver or consent proposed in respect of this Agreement, the Bond Resolution or any other Related Document. Amounts payable by the Issuer hereunder shall bear interest at the Late Payment Rate from the date such amount is paid or incurred by AG until the date AG is paid in full. The Issuer’s obligation to pay such amounts shall expressly survive payment in full of the Bonds.

5. Nature of Obligations. The obligation of the Issuer to pay all amounts due under this Agreement shall be an absolute and unconditional obligation of the Issuer and will be paid or performed strictly in accordance with this Agreement, irrespective of: (i) any lack of validity or enforceability of or any amendment or other modifications of, or waiver with respect to the Bonds, the Bond Resolution or any other Related Document; (ii) any amendment or other modification of, or waiver with respect to the Reserve Policy; (iii) any exchange, release or non-perfection of any security interest in property securing the Bonds, this Agreement, the Bond Resolution or any other Related Documents; (iv) whether or not such Bonds are contingent or matured, disputed or undisputed, liquidated or unliquidated; (v) any amendment, modification or waiver of or any consent to departure from this Agreement, the Reserve Policy, the Bond Resolution or all or any of the other Related Documents; (vi) the existence of any claim, setoff, defense (other than the defense of payment in full), reduction, abatement or other right which the Issuer may have at any time against the Paying Agent or any other person or entity other than AG, whether in connection with this Agreement, the transactions contemplated herein, in the Bond Resolution or in any other Related Documents or any unrelated transactions; (vii) any statement or any other document presented under or in connection with the Reserve Policy proving in any and all respects invalid, inaccurate, insufficient, fraudulent or forged or any statement therein being untrue or inaccurate in any respect; or (viii) any payment by AG under the Reserve Policy against presentation of a certificate or other document which does not strictly comply with the terms of the Reserve Policy.

6. Notices. Notices or other communications to AG shall be sent to the following address (or such other address as AG may designate in writing):

Assured Guaranty Inc.  
1633 Broadway  
New York, New York 10019  
Attention: Managing Director– Surveillance  
Re: Policy No. \_\_\_\_\_-S  
Telephone: (212) 974-0100  
Email: [munidisclosure@agltd.com](mailto:munidisclosure@agltd.com)

In each case in which the notice or other communication refers to a claim on the Reserve Policy or an Event of Default, such notice or other communication shall be marked "URGENT MATERIAL ENCLOSED" and a copy shall also be sent to the attention of the General Counsel at the above address and at [generalcounsel@agltd.com](mailto:generalcounsel@agltd.com).

7. Miscellaneous.

A. This Agreement shall be binding upon and inure to the benefit of the Issuer and AG and their respective successors and assigns.

B. Section headings have been inserted in this Agreement as a matter of convenience of reference only. The parties agree that such section headings will not govern the interpretation of any provision of this Agreement.

C. This Agreement is intended solely for the benefit of the parties executing this Agreement. Neither the holders of the Bonds nor third parties are intended to be beneficiaries of the terms and provisions of this Agreement. This Agreement may be amended with the written consent of the parties executing this Agreement and any provision of this Agreement may be waived by AG, without the need to provide notice to, or obtain any consent from, any of the holders of the Bonds.

D. If any one or more of the agreements, provisions or terms of this Agreement shall be for any reason whatsoever held invalid, then such agreements, provisions or terms shall be deemed severable from the remaining agreements, provisions or terms of this Agreement and shall in no way affect the validity or enforceability of the other provisions of this Agreement.

E. This Agreement may be executed in counterparts, each of which alone and all of which together shall be deemed one original Agreement. This Agreement may be delivered by the exchange of executed signature pages by e-mail with a .pdf copy or other replicating image attached, and any printed or copied version of any signature page so delivered shall have the same force and effect as the originally signed version of such signature page.

F. This Agreement and the rights and obligations of the parties of the Agreement shall be governed by and construed and interpreted in accordance with the laws of the State of Florida.

*[THE REMAINDER OF THIS PAGE INTENTIONALLY LEFT BLANK]*

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be duly executed in their respective names as of the date first written above.

BOARD OF COUNTY COMMISSIONERS OF  
LEE COUNTY, FLORIDA

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

ASSURED GUARANTY INC.

By: \_\_\_\_\_  
Title: Authorized Officer

**EXHIBIT G**

**BAM RESERVE SUBACCOUNT INSURANCE AGREEMENT**



## DEBT SERVICE RESERVE AGREEMENT

DEBT SERVICE RESERVE AGREEMENT, dated \_\_\_\_\_ (the "Agreement"), by and between \_\_\_\_\_ (the "Obligor") and BUILD AMERICA MUTUAL ASSURANCE COMPANY ("BAM").

In consideration of the issuance by BAM of its Municipal Bond Debt Service Reserve Insurance Policy No. @@POLICY NO@@ (the "Reserve Policy") with respect to [NAME OF BONDS] [Bonds] and any [parity bonds] (the "Bonds") issued under the [Indenture/Resolution/Ordinance] dated as of \_\_\_\_\_, between the [Obligor] [Issuer] and the [Trustee] (the "Trustee") (the "Authorizing Document") [, which bonds are secured by the [Lease/Loan] payments of the Obligor under the [Lease/Loan] Agreement dated as of \_\_\_\_\_ [the "[Lease/Loan] Agreement"] between the Issuer and Obligor and the other revenue and collateral described in the Authorizing Document,] and the payment to BAM hereby covenant and agree as follows:

1. The Obligor shall repay BAM any draws under the Reserve Policy and pay all Administrative Expenses (as defined below) incurred by BAM. Interest shall accrue and be payable on such draws and expenses from the date of payment by BAM at the Late Payment Rate. "Late Payment Rate" means the lesser of (a) the greater of (i) the per annum rate of interest, publicly announced from time to time by JPMorgan Chase Bank at its principal office in the City of New York, as its prime or base lending rate ("Prime Rate") (any change in such Prime Rate to be effective on the date such change is announced by JPMorgan Chase Bank) plus 3%, and (ii) the then applicable highest rate of interest on the Insured Obligations and (b) the maximum rate permissible under applicable usury or similar laws limiting interest rates. The Late Payment Rate shall be computed on the basis of the actual number of days elapsed over a year of 360 days. In the event JPMorgan Chase Bank ceases to announce its Prime Rate, the Prime Rate shall be the prime or base-lending rate of such national bank as BAM shall designate.

2. Repayment of draws and payment of Administrative Expenses and the interest accrued thereon at the Late Payment Rate (collectively, "Policy Costs") shall commence in the first month following each draw and each such monthly payment shall be in an amount at least equal to 1/12th of the aggregated of Policy Costs related to such draw[; provided, however, that all such payments shall be due prior to termination of the [Lease] Agreement dated as of \_\_\_\_\_ between the Issuer and Obligor]. Amounts in respect of Policy Costs paid to BAM shall be credited first to interest due, then to the expenses due and then to principal due. [For Ca. RDA add: The Obligor shall include the repayment of Policy Costs in its Recognized Payment Obligation Schedule.]

3. As and to the extent that payments are made to BAM on account of principal due, the coverage under the Reserve Policy will be reinstated by a like amount, subject to the terms of the Reserve Policy.

4. All cash and investments in the debt service reserve fund or account securing the Insured Obligations (the "Reserve Fund") shall be transferred to the debt service fund for payment of debt service on the Insured Obligations before any drawing may be made on the Reserve Policy or on any alternative credit instrument. Payment of any Policy Costs shall be made prior to replenishment of any such cash amounts. Draws on all alternative credit instruments (including the Reserve Policy) on which there is available coverage shall be made on a pro rata basis (calculated by reference to available coverage under each such alternative credit instrument) after applying available cash and investments in the Reserve Fund. Payment of Policy Costs and reimbursement of amounts with respect to alternative credit instruments shall be made on a pro-rata basis prior to replenishment of any cash drawn from the Reserve Fund. For the avoidance of doubt, "available coverage" means the coverage then available for disbursement pursuant to the terms of the applicable alternative credit instrument without regard to the legal or financial ability or willingness of the provider of such instrument to honor a claim or draw thereon or the failure of such provider to honor any such claim or draw.

5. Draws on the Reserve Policy may only be used to make payments on the Insured Obligations (and for the avoidance of doubt, not any other obligations of the [Issuer or] Obligor, whether issued on parity with the Insured Obligations, or otherwise).

6. If the Obligor shall fail to pay any Policy Costs in accordance with the requirements of the Authorizing Document and this Agreement, BAM shall be entitled to exercise any and all legal and equitable remedies available to it, including those provided under the Authorizing Document, other than (i) acceleration of the maturity of the Insured Obligations or (ii) remedies which would adversely affect owners of the Insured Obligations.

7. The Authorizing Document shall not be discharged until all Policy Costs owing to BAM shall have been paid in full. The Obligor 's obligation to pay such amounts shall expressly survive payment in full of the Insured Obligations.

8. In order to secure the Obligor 's payment obligations with respect to the Policy Costs, there is hereby granted and perfected in favor of BAM a security interest (subordinate only to that of the owners of the Insured Obligations) in all revenues and collateral pledged as security for the Insured Obligations [payment obligations of the Obligor under the Lease/Loan Agreement].

9. Policy Costs due and owing shall be included in debt service requirements for purposes of calculation of the additional bonds test and the rate covenant in the Authorizing Document [Lease/Loan Agreement].

10. The Trustee shall ascertain the necessity for a claim upon the Reserve Policy in accordance with the provisions of paragraph 4 hereof and shall provide notice to BAM in accordance with the terms of the Reserve Policy at least five business days prior

to each date upon which interest or principal is due on the Insured Obligations. Where deposits are required to be made by the Obligor with the Trustee to the debt service fund for the Insured Obligations more often than semi-annually, the Trustee shall give notice to BAM of any failure of the Obligor to make timely payment in full of such deposits within two business days of the date due.

11. The Obligor agrees unconditionally that it will pay or reimburse BAM on demand any and all reasonable charges, fees, costs, losses, liabilities and expenses that BAM may pay or incur, including, but not limited to, fees and expenses of BAM 's agents, attorneys, accountants, consultants, appraisers and auditors and reasonable costs of investigations, in connection with the administration (including waivers and consents, if any), enforcement, defense, exercise or preservation of any rights and remedies in respect of this Agreement, the Authorizing Document and any other document executed in connection with the Insured Obligations ("Administrative Expenses"). For purposes of the foregoing, costs and expenses shall include a reasonable allocation of compensation and overhead attributable to the time of employees of BAM spent in connection with the actions described in the preceding sentence. The Obligor agrees that failure to pay any Administrative Costs on a timely basis will result in the accrual of interest on the unpaid amount at the Late Payment Rate, compounded semi-annually, from the date that payment is first due to BAM until the date BAM is paid in full.

12. The obligation of the Obligor to pay all amounts due under this Agreement shall be an absolute and unconditional obligation of the Obligor and will be paid or performed strictly in accordance with this Agreement.

13. So long as a default or event of default has occurred and is continuing under this Agreement, the Authorizing Document or any other document executed in connection with the Insured Obligations, the Obligor shall not be eligible for a dividend or any other economic benefit under BAM 's organizational documents.

14. Notices to BAM shall be sent to the following address (or such other address as BAM may designate in writing): Build America Mutual Assurance Company, 200 Liberty Street, 27th Floor, New York, NY 10281, Attention: Surveillance, Re: Policy No. \_\_\_\_\_, Telephone: (212) 235-2500, Telecopier: (212) 235-1542, Email: notices@buildamerica.com; with a copy of such notice<sup>4</sup> to other communication sent to the attention of the General Counsel at the same address and at claims@buildamerica.com or at Telecopier: (212) 235-5214.

15. If any one or more of the agreements, provisions or terms of this Agreement shall be for any reason whatsoever held invalid, then such agreements, provisions or terms shall be deemed severable from the remaining agreements, provisions or terms of this Agreement and shall in no way affect the validity or enforceability of the other provisions of this Agreement. In the event of any conflict in the terms of this Agreement and the Authorizing Document, the terms of this Agreement shall control.

16. All capitalized terms used herein and not otherwise defined shall have the meanings ascribed to them in the Authorizing Document.

17. This Agreement may be executed in counterparts, each of which alone and all of which together shall be deemed one original Agreement.

18. This Agreement and the rights and obligations of the parties to the Agreement shall be governed by and construed and interpreted in accordance with the laws of the State of New York.

IN WITNESS WHEREOF, each of the parties hereto has duly executed and delivered this Agreement as of the date first above written.

[OBILGOR] [ISSUER]

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

Title: \_\_\_\_\_

BUILD AMERICA MUTUAL ASSURANCE  
COMPANY

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

Title: \_\_\_\_\_

**EXHIBIT H**

**FORM OF CONTINUING DISCLOSURE CERTIFICATE**

## FORM OF CONTINUING DISCLOSURE CERTIFICATE

This Continuing Disclosure Certificate (the "Disclosure Certificate") dated \_\_\_\_\_, 2024 is executed and delivered by Lee County, Florida (the "Issuer") in connection with the issuance by the Issuer of its \$\_\_\_\_\_ Transportation Facilities Refunding Revenue Bonds, Series 2024 (the "Bonds"). The Bonds are being issued pursuant Resolution No. 86-4-12 adopted by the Board of County Commissioners of the County (the "Board") on April 16, 1986, as amended, and as further amended and restated in its entirety by the Amended and Restated Transportation Facilities Revenue Bond Resolution No. 2024-\_\_-\_\_ adopted by the Board on September 3, 2024, as supplemented and amended from time to time (the "Master Resolution"), and particularly as supplemented by Resolution No. 2024-\_\_-\_\_ adopted by the Board on September 3, 2024 (the "2024 Resolution", together with the Master Resolution, the "Resolution").

SECTION 1. PURPOSE OF THE DISCLOSURE CERTIFICATE. This Disclosure Certificate is being executed and delivered by the Issuer for the benefit of the holders and Beneficial Owners (defined below) of the Bonds and in order to assist the Participating Underwriters in complying with the continuing disclosure requirements of the Rule (defined below).

SECTION 2. DEFINITIONS. In addition to the definitions set forth in the Resolution which apply to any capitalized term used in this Disclosure Certificate, unless otherwise defined herein, the following capitalized terms shall have the following meanings:

"Annual Report" shall mean any Annual Report provided by the Issuer pursuant to, and as described in, Sections 3 and 4 of this Disclosure Certificate.

"Beneficial Owner" shall mean any person which (a) has the power, directly or indirectly, to vote or consent with respect to, or to dispose of ownership of, any Bonds (including persons holding Bonds through nominees, depositories or other intermediaries), or (b) is treated as the owner of any Bonds for federal income tax purposes.

"Dissemination Agent" shall mean initially, Digital Assurance Certification LLC, or any successor Dissemination Agent designated in writing by the Issuer and which has filed with the Issuer a written acceptance of such designation.

"EMMA" shall mean the Electronic Municipal Market Access web portal of the MSRB, located at <http://www.emma.msrb.org>.

"Event of Bankruptcy" shall be considered to have occurred when any of the following occur: the appointment of a receiver, fiscal agent or similar officer for an Obligated Person in a proceeding under the U.S. Bankruptcy Code or in any other proceeding under state or federal law in which a court or governmental authority has assumed jurisdiction over substantially all of the assets or business of the Obligated Person, or if such jurisdiction has been assumed by leaving the existing governmental body and officials or officers in possession but subject to the supervision and orders of a court or governmental authority, or the entry of an order confirming a plan of reorganization, arrangement or liquidation by a court or governmental authority having supervision or jurisdiction over substantially all of the assets or business of the Obligated Person.

"Financial Obligation" shall mean a (i) debt obligation; (ii) derivative instrument entered into in connection with, or pledged as security or a source of payment for, an existing or planned debt obligation;

or (iii) a guarantee of (i) or (ii). The term Financial Obligation shall not include municipal securities as to which a final official statement has been provided to the Municipal Securities Rulemaking Board consistent with the Rule.

"Listed Events" shall mean any of the events listed in Section 5(a) of this Disclosure Certificate.

"MSRB" shall mean the Municipal Securities Rulemaking Board.

"Obligated Person" shall mean any person, including the Issuer, who is either generally or through an enterprise, fund, or account of such person committed by contract or other arrangement to support payment of all, or part of the obligations on the Bonds (other than providers of municipal bond insurance, letters of credit, or other liquidity or credit facilities).

"Participating Underwriters" shall mean the original underwriters of the Bonds required to comply with the Rule in connection with the offering of the Bonds.

"Repository" shall mean each entity authorized and approved by the Securities and Exchange Commission from time to time to act as a repository for purposes of complying with the Rule. As of the date hereof, the Repository recognized by the Securities and Exchange Commission for such purpose is the MSRB, which currently accepts continuing disclosure submissions through EMMA.

"Rule" shall mean the continuing disclosure requirements of Rule 15c2-12 adopted by the Securities and Exchange Commission under the Securities Exchange Act of 1934, as the same may be amended from time to time.

"State" shall mean the State of Florida.

### SECTION 3. PROVISION OF ANNUAL REPORTS.

(a) The Issuer shall, or shall cause the Dissemination Agent to, not later than each April 30<sup>th</sup> (or, if such date falls on a Saturday, Sunday or holiday, then the first business day thereafter), commencing April 30, 2025 with respect to the report for the 2024 fiscal year, provide to any Repository in the electronic format as required and deemed acceptable by such Repository an Annual Report which is consistent with the requirements of Section 4 of this Disclosure Certificate. The Annual Report may be submitted as a single document or as separate documents comprising a package, and may cross-reference other information as provided in Section 4 of this Disclosure Certificate; provided that the audited financial statements of the Issuer may be submitted separately from the balance of the Annual Report and later than the date required above for the filing of the Annual Report if they are not available by that date provided, further, in such event unaudited financial statements are required to be delivered as part of the Annual Report in accordance with Section 4(a) below. If the Issuer's fiscal year changes, it shall give notice of such change in the same manner as for a Listed Event under Section 5.

(b) If on the fifteenth (15<sup>th</sup>) day prior to the annual filing date, the Dissemination Agent has not received a copy of the Annual Report, the Dissemination Agent shall contact the Issuer by telephone and in writing (which may be by e-mail) to remind the Issuer of its undertaking to provide the Annual Report pursuant to Section 3(a). Upon such reminder, the Issuer shall either (i) provide the Dissemination Agent with an electronic copy of the Annual Report by no later than the annual filing date, or (ii) instruct the Dissemination Agent in writing that the Issuer will not be able to file the Annual Report

within the time required under this Disclosure Certificate, state the date by which the Annual Report for such year will be provided and instruct the Dissemination Agent that a failure to file has occurred and to immediately send a notice to the Repository in substantially the form attached as Exhibit A, accompanied by a cover sheet completed by the Dissemination Agent in the form set forth in Exhibit B.

(c) The Dissemination Agent shall:

(i) determine each year prior to the date for providing the Annual Report the name and address of any Repository;

(ii) if the Dissemination Agent is other than the Issuer, file a report with the Issuer certifying that the Annual Report has been provided pursuant to this Disclosure Certificate, stating the date it was provided and listing any Repository to which it was provided; and

(iii) if the Dissemination Agent has not received an Annual Report by 6:00 p.m. Eastern time on the annual filing date (or, if such annual filing date falls on a Saturday, Sunday or holiday, then the first business day thereafter) for the Annual Report, a failure to file shall have occurred and the Issuer irrevocably directs the Dissemination Agent to immediately send a notice to the Repository in substantially the form attached as Exhibit A without reference to the anticipated filing date for the Annual Report, accompanied by a cover sheet completed by the Dissemination Agent in the form set forth in Exhibit B.

SECTION 4. CONTENT OF ANNUAL REPORTS. The Issuer's Annual Report shall contain or include by reference the following:

(a) the audited financial statements of the Issuer for the prior fiscal year, prepared in accordance with generally accepted accounting principles as promulgated to apply to governmental entities from time to time by the Governmental Accounting Standards Board. If the Issuer's audited financial statements are not available by the time the Annual Report is required to be filed pursuant to Section 3(a), the Annual Report shall contain unaudited financial statements in a format similar to the financial statements contained in the final Official Statement dated \_\_\_\_\_, 2024 (the "Official Statement"), and the audited financial statements shall be filed in the same manner as the Annual Report when they become available; and

(b) updates of the following tabular historical financial and operating data set forth in the Official Statement in the tables entitled:

- (i) SANIBEL CAUSEWAY TRAFFIC, REVENUE AND EXPENSES,
- (ii) CAPE CORAL BRIDGE TRAFFIC, REVENUE AND EXPENSES,
- (iii) MIDPOINT MEMORIAL BRIDGE TRAFFIC, REVENUE AND EXPENSES, AND
- (iv) REVENUES, OPERATING EXPENSES AND DEBT SERVICE COVERAGE LEE COUNTY TRANSPORTATION FACILITIES.

The information provided under Section 4(b) may be included by specific reference to documents, including official statements of debt issues of the Issuer or related public entities, which are available to the public on the Repository's Internet website or filed with the Securities and Exchange Commission.



The Issuer reserves the right to modify from time to time the specific types of information provided in its Annual Report or the format of the presentation of such information, to the extent necessary or appropriate in the judgment of the Issuer; provided that the Issuer agrees that any such modification will be done in a manner consistent with the Rule.

#### SECTION 5. REPORTING OF SIGNIFICANT EVENTS.

(a) Pursuant to the provisions of this Section 5, the Issuer shall give, or cause to be given, notice of the occurrence of any of the following events with respect to the Bonds. Such notice shall be given in a timely manner not in excess of ten (10) business days after the occurrence of the event, with the exception of the event described in number 17 below, which notice shall be given in a timely manner:

1. principal and interest payment delinquencies;
2. non-payment related defaults, if material;
3. unscheduled draws on debt service reserves reflecting financial difficulties;
4. unscheduled draws on credit enhancements reflecting financial difficulties;
5. substitution of credit or liquidity providers, or their failure to perform;
6. adverse tax opinions, the issuance by the Internal Revenue Service of proposed or final determinations of taxability, Notices of Proposed Issue (IRS Form 5701 TEB) or other material notices or determinations with respect to the tax status of the Bonds, or other material events affecting the tax status of the Bonds;
7. modifications to rights of the holders of the Bonds, if material;
8. Bond calls, if material, and tender offers;
9. defeasances;
10. release, substitution, or sale of property securing repayment of the Bonds, if material;
11. ratings changes;
12. an Event of Bankruptcy or similar event of an Obligated Person;
13. the consummation of a merger, consolidation, or acquisition involving an Obligated Person or the sale of all or substantially all of the assets of the Obligated Person, other than in the ordinary course of business, the entry into a definitive agreement to undertake such an action or the termination of a definitive agreement relating to any such actions, other than pursuant to its terms, if material;
14. appointment of a successor or additional trustee or the change of name of a trustee, if material;

15. incurrence of a Financial Obligation of the Issuer or Obligated Person, if material, or agreement to covenants, events of default, remedies, priority rights, or other similar terms of a Financial Obligation of the Issuer or Obligated Person, any of which affect security holders, if material;
16. default, event of acceleration, termination event, modification of terms, or other similar events under the terms of a Financial Obligation of the Issuer or Obligated Person, any of which reflect financial difficulties; and
17. notice of any failure on the part of the Issuer to meet the requirements of Section 3 hereof.

(b) The notice required to be given in paragraph 5(a) above shall be filed with any Repository, in electronic format as prescribed by such Repository.

SECTION 6. IDENTIFYING INFORMATION. In accordance with the Rule, all disclosure filings submitted pursuant to this Disclosure Certificate to any Repository must be accompanied by identifying information as prescribed by the Repository. Such information may include, but not be limited to:

- (a) the category of information being provided;
- (b) the period covered by any annual financial information, financial statement or other financial information or operation data;
- (c) the issues or specific securities to which such documents are related (including CUSIPs, issuer name, state, issue description/securities name, dated date, maturity date, and/or coupon rate);
- (d) the name of any Obligated Person other than the Issuer;
- (e) the name and date of the document being submitted; and
- (f) contact information for the submitter.

SECTION 7. TERMINATION OF REPORTING OBLIGATION. The Issuer's obligations under this Disclosure Certificate shall terminate upon the legal defeasance, prior redemption or payment in full of all of the Bonds, so long as there is no remaining liability of the Issuer, or if the Rule is repealed or no longer in effect. If such termination occurs prior to the final maturity of the Bonds, the Issuer shall give notice of such termination in the same manner as for a Listed Event under Section 5.

SECTION 8. DISSEMINATION AGENT. The Issuer may, from time to time, appoint or engage a Dissemination Agent to assist it in carrying out its obligations under this Disclosure Certificate, and may discharge any such Dissemination Agent, with or without appointing a successor Dissemination Agent. The Dissemination Agent shall not be responsible in any manner for the content of any notice or report prepared by the Issuer pursuant to this Disclosure Certificate. The initial Dissemination Agent shall be Digital Assurance Certification, L.L.C.

SECTION 9. AMENDMENT; WAIVER. Notwithstanding any other provision of this Disclosure Certificate, the Issuer may amend this Disclosure Certificate, and any provision of this Disclosure Certificate may be waived, provided that the following conditions are satisfied:

(a) If the amendment or waiver relates to the provisions of Sections 3(a), 4, or 5(a), it may only be made in connection with a change in circumstances that arises from a change in legal requirements, change in law, or change in the identity, nature or status of the Issuer, or the type of business conducted;

(b) The undertaking, as amended or taking into account such waiver, would, in the opinion of nationally recognized bond counsel, have complied with the requirements of the Rule at the time of the original issuance of the Bonds, after taking into account any amendments or interpretations of the Rule, as well as any change in circumstances; and

(c) The amendment or waiver either (i) is approved by the holders or Beneficial Owners of the Bonds in the same manner as provided in the Resolution for amendments to the Resolution with the consent of holders or Beneficial Owners, or (ii) does not, in the opinion of nationally recognized bond counsel, materially impair the interests of the holders or Beneficial Owners of the Bonds.

Notwithstanding the foregoing, the Issuer shall have the right to adopt amendments to this Disclosure Certificate necessary to comply with modifications to and interpretations of the provisions of the Rule as announced by the Securities and Exchange Commission from time to time.

In the event of any amendment or waiver of a provision of this Disclosure Certificate, the Issuer shall describe such amendment in the next Annual Report, and shall include, as applicable, a narrative explanation of the reason for the amendment or waiver and its impact on the type (or in the case of a change of accounting principles, on the presentation) of financial information or operating data being presented by the Issuer. In addition, if the amendment relates to the accounting principles to be followed in preparing financial statements, (i) notice of such change shall be given in the same manner as for a Listed Event under Section 5, and (ii) the Annual Report for the year in which the change is made should present a comparison (in narrative form and also, if feasible, in quantitative form) between the financial statements as prepared on the basis of the new accounting principles and those prepared on the basis of the former accounting principles.

SECTION 10. ADDITIONAL INFORMATION. Nothing in this Disclosure Certificate shall be deemed to prevent the Issuer from disseminating any other information, using the means of dissemination set forth in this Disclosure Certificate or any other means of communication, or including any other information in any Annual Report or notice of occurrence of a Listed Event, in addition to that which is required by this Disclosure Certificate. If the Issuer chooses to include any information in any Annual Report or notice of occurrence of a Listed Event in addition to that which is specifically required by this Disclosure Certificate, the Issuer shall have no obligation under this Certificate to update such information or include it in any future Annual Report or notice of occurrence of a Listed Event.

SECTION 11. DEFAULT. The continuing disclosure obligations of the Issuer set forth herein constitute a contract with the holders of the Bonds. In the event of a failure of the Issuer to comply with any provision of this Disclosure Certificate, any holder or Beneficial Owner of the Bonds may take such actions as may be necessary and appropriate, including seeking mandamus or specific performance by court order, to cause the Issuer to comply with its obligations under this Disclosure Certificate; provided, however, the sole remedy under this Disclosure Certificate in the event of any failure of the Issuer to comply with the provisions of this Disclosure Certificate shall be an action to compel performance. A default under this Disclosure Certificate shall not be deemed an Event of Default under the Resolution.

SECTION 12. DUTIES, IMMUNITIES AND LIABILITIES OF DISSEMINATION AGENT.

(a) The Dissemination Agent shall have only such duties as are specifically set forth in this Disclosure Certificate. The Dissemination Agent's obligation to deliver the information at the times and with the contents described herein shall be limited to the extent the Issuer has provided such information to the Dissemination Agent as required by this Disclosure Certificate. The Dissemination Agent shall have no duty with respect to the content of any disclosures or notice made pursuant to the terms hereof. The Dissemination Agent shall have no duty or obligation to review or verify any information, disclosures or notices provided to it by the Issuer and shall not be deemed to be acting in any fiduciary capacity for the Issuer, the Holders of the Bonds or any other party. The Dissemination Agent shall have no responsibility for the Issuer's failure to report to the Dissemination Agent a Listed Event or a duty to determine the materiality thereof. The Dissemination Agent shall have no duty to determine, or liability for failing to determine, whether the Issuer has complied with this Disclosure Certificate. The Dissemination Agent may conclusively rely upon certifications of the Issuer at all times.

The obligations of the Issuer under this Section shall survive resignation or removal of the Dissemination Agent and defeasance, redemption or payment of the Bonds.

(b) The Dissemination Agent may, from time to time, consult with legal counsel (either in-house or external) of its own choosing in the event of any disagreement or controversy, or question or doubt as to the construction of any of the provisions hereof or its respective duties hereunder, and shall not incur any liability and shall be fully protected in acting in good faith upon the advice of such legal counsel. The reasonable fees and expenses of such counsel shall be payable by the Issuer.

(c) All documents, reports, notices, statements, information and other materials provided to the MSRB under this Disclosure Certificate shall be provided in an electronic format and accompanied by identifying information as prescribed by the MSRB.

[Remainder of page intentionally left blank]

SECTION 13. BENEFICIARIES. This Disclosure Certificate shall inure solely to the benefit of the Issuer, the Dissemination Agent, the Participating Underwriters and holders and Beneficial Owners from time to time of the Bonds, and shall create no rights in any other person or entity.

Dated: \_\_\_\_\_, 2024

LEE COUNTY, FLORIDA

By: \_\_\_\_\_  
Chairman, Board of County Commissioners

ACKNOWLEDGED BY:

DIGITAL ASSURANCE CERTIFICATION L.L.C.,  
as Dissemination Agent

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

**EXHIBIT A**

**NOTICE TO REPOSITORY OF FAILURE TO FILE ANNUAL REPORT**

Issuer: Lee County, Florida

Obligated Person: \_\_\_\_\_

Name(s) of Bond Issue(s): Transportation Facilities Refunding Revenue Bonds, Series 2024

Date(s) of Issuance: \_\_\_\_\_, 2024

Date(s) of Disclosure Certificate: \_\_\_\_\_

CUSIP Number: \_\_\_\_\_

NOTICE IS HEREBY GIVEN that the Issuer has not provided an Annual Report with respect to the above-named Bonds as required by the Continuing Disclosure Certificate between the Issuer and Digital Assurance Certification, L.L.C., as Dissemination Agent. [The Issuer has notified the Dissemination Agent that it anticipates that the Annual Report will be filed by\_\_\_\_\_].

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

Digital Assurance Certification, L.L.C., as Dissemination Agent, on behalf of the Issuer

\_\_\_\_\_

cc:

**EXHIBIT B**  
**EVENT NOTICE COVER SHEET**

This cover sheet and accompanying "event notice" will be sent to the MSRB, pursuant to Securities and Exchange Commission Rule 15c2-12(b)(5)(i)(C) and (D).

Issuer's and/or Other Obligated Person's Name:

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Issuer's Six-Digit CUSIP Number:

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or Nine-Digit CUSIP Number(s) of the bonds to which this event notice relates:

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Number of pages attached: \_\_\_\_

\_\_\_\_ Description of Notice Events (Check One):

1. \_\_\_\_ "Principal and interest payment delinquencies;"
2. \_\_\_\_ "Non-Payment related defaults, if material;"
3. \_\_\_\_ "Unscheduled draws on debt service reserves reflecting financial difficulties;"
4. \_\_\_\_ "Unscheduled draws on credit enhancements reflecting financial difficulties;"
5. \_\_\_\_ "Substitution of credit or liquidity providers, or their failure to perform;"
6. \_\_\_\_ "Adverse tax opinions, the issuance by the Internal Revenue Service of proposed or final determinations of taxability, Notices of Proposed Issue (IRS Form 5701 TEB) or other material notices or determinations with respect to the tax status of the Bonds, or other material events affecting the tax status of the Bonds;"
7. \_\_\_\_ "Modifications to rights of securities holders, if material;"
8. \_\_\_\_ "Bond calls, if material, and tender offers;"
9. \_\_\_\_ "Defeasances;"
10. \_\_\_\_ "Release, substitution, or sale of property securing repayment of the Bonds, if material;"
11. \_\_\_\_ "Rating changes;"
12. \_\_\_\_ "An Event of Bankruptcy or similar event of an Obligated Person;"
13. \_\_\_\_ "The consummation of a merger, consolidation, or acquisition involving an Obligated Person or the sale of all or substantially all of the assets of the Obligated Person, other than in the ordinary course of business, the entry into a definitive agreement to undertake such an action or the termination of a definitive agreement relating to any such actions, other than pursuant to its terms, if material;"
14. \_\_\_\_ "Appointment of a successor or additional trustee, or the change of name of a trustee, if material."
15. \_\_\_\_ "Incurrence of a Financial Obligation of the Issuer or Obligated Person, if material, or agreement to covenants, events of default, remedies, priority rights, or other similar terms of a Financial Obligation of the Issuer or Obligated Person, any of which affect security holders, if material;"

16.\_\_\_\_\_"Default, event of acceleration, termination event, modification of terms, or other similar events under the terms of the Financial Obligation of the Issuer or Obligated Person, any of which reflect financial difficulties;" and

17.\_\_\_\_\_"Failure to provide annual financial information as required."

I hereby represent that I am authorized by the Issuer or its agent to distribute this information publicly:

Signature:

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

Digital Assurance Certification, L.L.C.  
315 E. Robinson Street, Suite 300  
Orlando, Florida 32801  
407-515-1100

Date: