

R-13-140

MANATEE COUNTY, FLORIDA

REVENUE IMPROVEMENT NOTES, SERIES 2013

(ESCO PROJECT)

NOTE RESOLUTION

Adopted August 13, 2013

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RESOLUTION NO. R-13-140

A RESOLUTION OF THE BOARD OF COUNTY COMMISSIONERS OF MANATEE COUNTY, FLORIDA, AUTHORIZING THE ISSUANCE OF A SERIES OF NOTES IN THE INITIAL AGGREGATE PRINCIPAL AMOUNT OF NOT EXCEEDING \$6,500,000 AND DESIGNATED MANATEE COUNTY, FLORIDA, REVENUE IMPROVEMENT NOTES, SERIES 2013 (ESCO PROJECT) (THE "NOTES") TO FINANCE ALL OR A PORTION OF THE COSTS OF CERTAIN ENERGY SAVING EQUIPMENT AND FACILITIES RELATING TO THE COUNTY'S JAIL AND STOCKADE TO BE PROVIDED BY AMERESCO, INC.; AUTHORIZING THE NEGOTIATED PRIVATE PLACEMENT OF THE NOTES TO BANC OF AMERICA PUBLIC CAPITAL CORP. (THE "LENDER"); APPROVING THE FORM OF AND AUTHORIZING THE EXECUTION AND DELIVERY OF A LOAN AGREEMENT BETWEEN THE COUNTY AND THE LENDER; APPROVING THE FORM OF AND AUTHORIZING THE EXECUTION AND DELIVERY OF A NOTE PURCHASE AGREEMENT BETWEEN THE COUNTY AND THE LENDER; AUTHORIZING THE CLERK TO MAKE CERTAIN DETERMINATIONS WITH RESPECT TO THE NOTES SUBJECT TO THE PARAMETERS SET FORTH IN THE RESOLUTION; APPOINTING A PAYING AGENT AND REGISTRAR; PROVIDING FOR THE TERMS AND PAYMENT OF SUCH NOTES; PROVIDING FOR THE RIGHTS, SECURITY AND REMEDIES OF THE LENDER THEREOF; MAKING CERTAIN COVENANTS AND AGREEMENTS IN CONNECTION THEREWITH; PROVIDING FOR CERTAIN OTHER MATTERS IN CONNECTION THEREWITH; PROVIDING FOR SEVERABILITY; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, pursuant to Section 489.145, Florida Statutes, Manatee County, Florida, a political subdivision of the State of Florida (the "County") initiated a request for proposals ("RFP") from contractors to perform an energy savings audit and to enter into an energy performance services agreement with the County to provide energy related capital improvement services for various County buildings and services; and

WHEREAS, as a result of the RFP process, Ameresco, Inc. (herein, "ESCO"), a corporation qualified to do business in Florida, was selected to provide such services for the County's Jail and Stockade (the "Premises") and has entered into that certain Guaranteed Energy Performance Contracting Service Agreement No. 11-3251BG with ESCO (herein, the "Contract"); and

WHEREAS, since the County’s jail and stockade are high energy users, it is the intent of the County that the equipment and facilities to be provided and installed at the Premises pursuant to the Contract will provide long term energy savings (herein, the “Project”); and

WHEREAS, in order to finance the Project, in whole or in part, the County solicited ESCO to obtain financing proposals from various lending institutions and as a result, Banc of America Public Capital Corp. (“BAPCC”) provided the overall best proposal to provide financing for the Project, taking into account interest rate and the term of the loan (the “Loan”); and

WHEREAS, such Loan will be evidenced by a loan agreement (the “Loan Agreement”) in substantially the form attached hereto as Exhibit “C,” by and between the County and BAPCC or such other entity so designated by BAPCC (herein, the “Lender”) and the obligations of the County under the Loan Agreement to repay the Loan will be evidenced by the County issuing its Revenue Improvement Notes, Series 2013 (ESCO Project), in the initial aggregate principal amount of not exceeding \$6,500,000 (the “Notes”); and

WHEREAS, the Notes will be sold pursuant to the terms and provisions of this Resolution, the Loan Agreement and that certain Note Purchase Agreement by and between the Lender, as the purchaser of the Notes, and the County, as the issuer of the Notes, substantially in the form attached hereto as Exhibit “B” (the “Note Purchase Agreement”).

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

ARTICLE I
DEFINITIONS, FINDINGS AND STATUTORY AUTHORITY

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

“ACT” shall mean the Constitution of the State of Florida, Part I of Chapter 125, Florida Statutes, as amended and supplemented, Chapter 489.145, Florida Statutes, as amended and supplemented, and other applicable provisions of law.

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

“BUSINESS DAY” shall mean any day other than a Saturday, Sunday, legal holiday or a day on which banking institutions in the State of Florida are authorized by law to close.

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

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

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

“DEFAULT RATE” shall mean the rate of interest borne by the Notes as set forth in the Loan Agreement upon the occurrence of an Event of Default under the Loan Agreement.

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

“DETERMINATION OF TAXABILITY” shall mean the circumstance of interest paid or payable on the Notes becoming includable for federal income tax purposes in the gross

income of the Noteholder. A Determination of Taxability will be deemed to have occurred upon the receipt by the County or Noteholder of an original or a copy of an Internal Revenue Service Technical Advice Memorandum, Statutory Notice of Deficiency, or other similar written notification which holds that any interest payable on the Notes is includable in the gross income of the Noteholder for federal income tax purposes; which notice or notification is not contested by either the County or any Owner; or (ii) a determination by a court of competent jurisdiction that the interest payable on the Notes is includable for federal income tax purposes in the gross income of the Owner thereof, which determination either is final and non-appealable or is not appealed within the requisite time period for appeal, or (iii) the admission in writing by the County to the effect that interest on the Notes is includable for federal income tax purposes in the gross income of the Owner thereof.

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

“INTEREST PAYMENT DATE” shall mean such dates of each Fiscal Year on which interest and/or principal are payable on the Notes that are then Outstanding which unless determined otherwise by subsequent proceedings of the Board or as otherwise provided in the Loan Agreement, shall be each April 1 and October 1 of each calendar year commencing October 1, 2013.

“INTEREST RATE” shall mean with respect to the Notes, unless the Notes bear interest at the Default Rate or Taxable Rate, a fixed rate of 3.67% calculated on the basis of a 360 day year of twelve thirty-day months.

“MATURITY DATE” shall mean the date set forth on the executed Note delivered to the Lender to evidence the Loan where all unpaid principal of and unpaid accrued interest thereon shall be due and payable.

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

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

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

“NOTES” shall mean the County’s Revenue Improvement Notes, Series 2013 (ESCO Project).

“OUTSTANDING” shall mean, when used with reference to the Notes, as of any particular date, all Notes theretofore, or thereupon being, authenticated and delivered by the Registrar under this Resolution, except (i) Notes theretofore or thereupon canceled by the Registrar or surrendered to the Registrar for cancellation; (ii) Notes with respect to which all liability of the County shall have been discharged in accordance with Article III, Section 4.H of this Resolution; (iii) Notes in lieu of or in substitution for which other Notes shall have been authenticated and delivered by the Registrar pursuant to any provision of this Resolution; (iv) Notes canceled because of payment at redemption prior to maturity; and (v) Notes held or

purchased by the County, unless the County intends as evidenced by written communication to the Registrar that such Notes shall remain Outstanding.

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

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

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

“RECORD DATE” shall mean the fifteenth (15th) day prior to an Interest Payment Date.

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

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

“TAXABLE RATE” shall mean the Interest Rate borne by the Notes plus a rate sufficient that the total interest paid on any Interest Payment Date would, after such initial Interest Rate, be reduced by any Federal income taxes (including any interest penalties or additions to tax) actually imposed thereon, equal to the amount of interest payable on the Notes if no Determination of Taxability had occurred.

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

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

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

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

- A. That the recitals hereinbefore mentioned are hereby adopted.
- B. That the Board deems it necessary, desirable and in the best interest of the citizens and residents of the County to issue the Notes to provide the funds necessary, together with other legally available moneys, to finance the Project
- C. That the principal of and interest on the Notes to be issued pursuant to this Resolution, will be paid from the Pledged Revenues, all as provided herein; and the ad valorem taxing power of the County will never be necessary or authorized to pay the principal of and

interest on the Notes to be issued pursuant to this Resolution; and the Notes issued pursuant to this Resolution shall not constitute a lien upon any property whatsoever of or in the County and shall not be an indebtedness of the County within the meaning of any Constitutional, statutory or other limitation of Indebtedness, but shall be payable solely from the Pledged Revenues.

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

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

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

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

Section 4. RESOLUTION CONSTITUTES CONTRACT. In consideration of the acceptance of the Notes authorized to be issued hereunder by those who shall hold the same from time to time, this Resolution shall be deemed to be and shall constitute a contract between the County and such Owners and the covenants and agreements herein set forth to be performed by said County shall be for the equal benefit, protection and security of the Owners of any and all of such Notes all of which shall be of equal rank and without preference, priority, or distinction of any of the Notes over any other thereof except as expressly provided therein and herein.

ARTICLE II
AUTHORIZATIONS, TERMS, EXECUTION AND REGISTRATION OF NOTES

Section 1. AUTHORIZATION OF NOTES. Subject and pursuant to the provisions of this Resolution, obligations of the County to be known as “Revenue Improvement Notes, Series 2013 (ESCO Project),” are hereby authorized to be used in the initial aggregate principal amount of not exceeding SIX MILLION FIVE HUNDRED THOUSAND DOLLARS (\$6,500,000) (the “Notes”), to be issued, delivered and secured as provided herein. The Notes shall be issued for the purpose described in Section 2 of Article I hereof and to pay all or a portion of the cost of issuing the Notes. The actual principal amount of the Notes shall be equal to the initial principal amount of the Loan and such amount shall be set forth in the executes Notes and in the Loan Agreement.

Section 2. GENERAL DESCRIPTION OF NOTES. The Notes shall be issued in registered certificated form, shall be in the denomination equal to the principal amount of the Notes so issued and shall, subject to sinking fund redemptions in such amounts set forth in the Loan Agreement, mature on such date as shall be set forth in the Loan Agreement or determined by the Clerk or his designee, subject to the parameters set forth in Section 8 hereof of this Article II. Principal shall be payable at the designated office of the Paying Agent.

The Notes (initially issued in one (1) typewritten certificate) shall be dated the date of initial issuance of such Notes. Unless the interest rate on the Notes is adjusted in accordance with the provisions hereof or pursuant to the Loan Agreement, the Notes shall bear interest on the outstanding principal amount of the Notes at the Interest Rate and shall be payable on each Interest Payment Date, commencing October 1, 2013. Unless all of the Notes are optionally prepaid in accordance with the terms of this Resolution, the outstanding principal of the Notes shall be payable on the Maturity Date.

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

The Notes shall be payable, with respect to interest and principal, in any coin or currency of the United States of America which at the time of payment is legal tender for the payment of public and private debts.

Subject to the next succeeding paragraphs, the County may prepay the Notes in whole or in part, on any Interest Payment Date, with a premium in the amount set forth below, if applicable, by paying to the registered holder all or part of the principal amount of the Notes, together with the applicable premium, if any, and the unpaid interest accrued on the amount of principal so prepaid to the date of such prepayment. Each prepayment shall be made on such date and in such principal amount as shall be specified by the County in a written notice delivered to the registered owner not less than thirty (30) days prior thereto. Notice having been given as aforesaid, the principal amount stated in such notice or the whole thereof, as the case may be, shall become due and payable on the prepayment date stated in such notice, together with the applicable premium, if any; and the amount of principal, together with the applicable premium, if any, shall be paid (i) in case the entire unpaid balance of the principal of the Notes is to be paid, upon presentation and surrender of the Notes to the office of the Paying Agent (the designated corporate trust office, if the Paying Agent is not the office of the Clerk) and (ii) in case only part of the unpaid balance of principal of the Notes is to be paid, upon presentation of such Notes at the office of the Paying Agent (the designated corporate trust office, if the Paying Agent is not the office of the Clerk) for notation thereon of the amount of principal then paid or for issuance of a replacement Note in the principal amount not redeemed.

Notwithstanding the provisions of clause (i) or (ii) above, if all of the Notes are registered in the name of the Lender, payments shall be effected by payment to the Lender of the principal and interest then due without surrender of the Note; such payment to be evidenced by the records of the County and the Lender and such records shall be conclusive and binding upon the County and the Owner absent manifest error.

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

Any partial prepayment shall not postpone the due dates of, or relieve the amounts of, any payments of interest due on the unpaid principal of the Notes. Once the County prepays a principal amount of the Notes, the Lender shall have no obligation to repurchase such amount if the County shall subsequently issue a like amount.

If the County elects to optionally prepay the Notes in whole or in part, the County shall be required to also pay the applicable premium set forth below during the applicable optional redemption period set forth below based on the applicable anniversary date period measured from the date of issuance of the Notes. Such premium shall be payable at the same time the principal portion of the Notes are so prepaid, together with accrued interest on the principal

amount prepaid to the date of prepayment. Any partial prepayment of the Notes shall reduce sinking fund redemptions in adverse order of the sinking fund dates.

Redemption Period (both dates inclusive)	Redemption Premium
Date of Issuance to end of 4 th Anniversary	102.50%
Fifth Anniversary to end of 8 th Anniversary	102.00%
Ninth Anniversary to end of 12 th Anniversary	101.50%
Thirteenth Anniversary to end of 16 th Anniversary	101.00%
Seventeenth Anniversary to end of 18 th Anniversary	100.50%
and thereafter	100.00%

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

The Notes shall bear thereon a certificate of authentication, in the form set forth in Section 7 hereof, executed manually by the Registrar. Only such Notes as shall bear thereon such certificate of authentication shall be entitled to any right or benefit under this Resolution and no Note shall be valid or obligatory for any purpose until such certificate of authentication shall have been duly executed by the Registrar. Such certificate of the Registrar upon any Note

executed on behalf of the County shall be conclusive evidence that the Note has been so authenticated and that the Owner thereof is entitled to the benefits of this Resolution.

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

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

The County, the Paying Agent and the Registrar shall deem and treat the person in whose name any Note shall be registered upon the books kept by the Registrar as the absolute

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

In all cases in which the privilege of exchanging Notes or transferring Notes is exercised, the County shall execute and the Registrar shall authenticate and deliver Notes in accordance with the provisions of this Resolution. All Notes surrendered in any such exchanges or transfers shall forthwith be delivered to the Registrar and canceled by the Registrar in the manner provided in this Section. There shall be no charge for any such exchange or transfer of Notes, but the County or the Registrar may require the payment of a sum sufficient to pay any tax, fee or other governmental charge required to be paid with respect to such exchange or transfer. Neither the County nor the Registrar shall be required to transfer or exchange Notes for a period commencing on a Record Date and ending on the next ensuing Interest Payment Date.

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

Section 5. NOTES MUTILATED, DESTROYED, STOLEN OR LOST. In case any Note shall become mutilated, destroyed, stolen or lost, the County may execute and the Registrar shall authenticate and deliver a new Note of like series, date, maturity and denomination as the Note so mutilated, destroyed, stolen or lost; provided that, in the case of any mutilated Note, such mutilated Note shall first be surrendered to the County and, in the case of any lost, stolen or destroyed Note, there shall first be furnished to the County and the Registrar evidence of such loss, theft, or destruction satisfactory to the County and the Registrar, together with indemnity satisfactory to them. In the event any such Note shall be about to mature or have matured instead of issuing a duplicate Note, the County may pay the same without surrender thereof. The County and the Registrar may charge the Owner of such Note their reasonable fees and expenses in connection with this transaction. Any Note surrendered for replacement shall be canceled in the same manner as provided in Section 4 of this Article II.

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

Section 6. PREPARATION OF DEFINITIVE NOTES; TEMPORARY NOTES. Unless the County is utilizing the Book-Entry System, the definitive Notes shall be lithographed or printed on steel engraved borders. Until the definitive Notes are prepared, the Chairman of the Board and the Clerk may execute and the Registrar may authenticate, in the same manner as is provided in Section 4 of this Article II, and deliver, in lieu of definitive Notes, but subject to the same provisions, limitations and conditions as the definitive Notes, one or more printed,

lithographed or typewritten temporary fully registered Notes, substantially of the tenor of the definitive Notes in lieu of which such temporary Note or Notes are issued, in authorized denominations or any whole multiples thereof, and with such omissions, insertions and variations as may be appropriate to such temporary Notes. The County, at its own expense, shall prepare and execute and, upon the surrender at the designated corporate trust office of the Registrar of such temporary Notes for which no payment or only partial payment has been provided, for exchange and the cancellation of such surrendered temporary Notes, the Registrar shall authenticate and, without charge to the Holder thereof, deliver in exchange therefor, at the designated corporate trust office of the Registrar, definitive Notes of the same aggregate principal amount and maturity as the temporary Notes surrendered. Until so exchanged, the temporary Notes shall in all respects be entitled to the same benefits and security as definitive Notes issued pursuant to this Resolution. If the County is utilizing the Book-Entry System, the Notes shall be in the form so required by the Securities Depository.

Section 7. FORM OF NOTES. The text of the Notes shall be of substantially the following tenor, with such omissions, insertions and variations as may be necessary and desirable:

(Form of Notes)*

The text of the Notes shall be of substantially the tenor set forth below.

(Face of Note)

No. R- \$ _____

**UNITED STATES OF AMERICA
STATE OF FLORIDA
MANATEE COUNTY
REVENUE IMPROVEMENT NOTE
SERIES 2013
(ESCO PROJECT)**

Interest Rate
(subject to adjustment)

Maturity Date

Dated Date

Registered Owner:

Principal Amount:

KNOW ALL MEN BY THESE PRESENTS, that Manatee County, Florida, a political subdivision of the State of Florida (the "County"), for value received, hereby promises to pay, from the Pledged Revenues, hereinafter mentioned, to the Registered Owner or registered assigns on the Maturity Date specified above, upon the presentation and surrender hereof at the office of the County Clerk, as paying agent (said office of the Clerk and any bank or trust company becoming successor paying agent being herein called the "Paying Agent"), the Principal Amount stated hereon with interest thereon at the Interest Rate stated above, payable on the first day of April and October of each year, commencing October 1, 2013 until the County's obligation with respect to the payment of such principal sum shall be discharged.

Interest on this Note is payable by check or draft of the Paying Agent made payable to the registered owner and mailed to the address of the registered owner as such name and address shall appear on the registration books of the office of the County Clerk, as registrar (said office of the Clerk and any bank or trust company becoming successor registrar being herein called the "Registrar"), on the fifteenth day of the calendar month preceding each interest payment date, whether or not such fifteenth day is a Saturday, Sunday or holiday (the "Record Date"); provided, however, that payment of interest on the Notes may, at the option of any Holder of Notes in an aggregate principal amount of at least \$1,000,000, be transmitted by wire transfer to the Holder to the domestic bank account number on file with the Paying Agent as of the Record Date. Such interest shall be payable from the most recent interest payment date next preceding the date of authentication to which interest has been paid, unless the date hereof is an April 1 or October 1 to which interest has been paid, in which case from the date of authentication, or unless the date hereof is prior to October 1, 2013, in which case from the Dated Date stated above, or unless the date hereof is between a Record Date and the next succeeding interest payment date, in which case from such interest payment date; provided, however, that if and to the extent there is a default in the payment of the interest due on such interest payment date, such defaulted interest shall be paid to the persons in whose name Notes are registered on the registration books of the County maintained by the Registrar at the close of business on the fifteenth day prior to a subsequent interest payment date established by notice mailed by the Registrar to the registered owner not less than the tenth day preceding such subsequent interest payment date. The Principal Amount and accrued interest thereon is payable in any coin or currency of the United States of America, which, on the date of payment thereof, shall be legal tender for the payment of public and private debts.

This Note shall not be valid or obligatory for any purpose until the certificate of authentication set forth hereon shall have been duly executed by the Registrar.

This Note is one of an authorized issue of Notes of the County designated as its Revenue Improvement Notes, Series 2013 (ESCO Project) (herein called the “Notes”), in the aggregate principal amount of \$_____ of like date, tender, and effect, except as to number, date of maturity and interest rate, issued for the purpose of financing all or a portion of the Project, under the authority of and in full compliance with the Constitution and Statutes of the State of Florida, including particularly, Part I of Chapter 125, Florida Statutes, as amended and supplemented, and other applicable provisions of law, and a resolution duly adopted by the Board of County Commissioners of said County on August 13, 2013, as amended and supplemented from time to time (herein referred to as the “Resolution”), and is subject to all the terms and conditions of the Resolution. Any capitalized term not otherwise defined in this Note shall have the meaning ascribed to such term in the Resolution.

This Note is payable from and secured by a lien upon and pledge of the Pledged Revenues, all in the manner provided in the Resolution.

“Pledged Revenues” shall mean (a) the Non-Ad Valorem Revenues deposited in the Debt Service Fund created and established under the Resolution, (b) investment income received from the investment of moneys in the Debt Service Fund and accounts established thereunder, and (c) any other moneys deposited in the Debt Service Fund or received by the Paying Agent in connection with the repayment of the Notes.

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

Until all of the Notes are paid or deemed paid pursuant to the provisions of the Resolution, the County has covenanted to appropriate in its annual budget, by amendment if required, in each Fiscal Year, Non-Ad Valorem Revenues sufficient to pay the principal of and interest on the Notes, as the same become due and payable. Notwithstanding the foregoing covenant of the County, the County does not covenant to maintain any services or programs, now provided or maintained by the County, which generate Non-Ad Valorem Revenues.

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

[INSERT SINKING FUND SCHEDULE]

The full faith and credit of the County is not pledged for the payment of this Note, and this Note does not constitute an indebtedness of the County within the meaning of any Constitutional, statutory or other provision or limitation; and it is expressly agreed by the Owner of this Note that such Owner shall never have the right to require or compel the exercise of the ad valorem taxing power of the County for the payment of the principal of and interest on this Note or the making of sinking fund payments provided for in the Resolution.

It is further agreed between the County and the Owner of this Note that this Note and the obligation evidenced thereby shall not constitute a lien upon any property or in the County, but shall constitute a lien only on the Pledged Revenues pledged thereto, all in the manner provided in the Resolution. The original registered owner, and each successive registered owner of this

Note shall be conclusively deemed to have agreed and consented to the following terms and conditions:

(1) The Registrar shall maintain the books of the County for the registration of Notes and for the registration of transfers of Notes as provided in the Resolution. Subject to the limitations on transferability of the Notes set forth in the Resolution, the Notes shall be transferable by the registered Owner thereof in person or by his attorney duly authorized in writing only upon the books of the County kept by the Registrar and only upon surrender hereof together with a written instrument of transfer satisfactory to the Registrar duly executed by the registered owner or his duly authorized attorney. Upon the transfer of any such Note, the County shall issue in the name of the transferee a new Note or Notes.

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

(3) At the option of the registered owner thereof and upon surrender hereof at the designated corporate trust office of the Registrar with a written instrument of transfer satisfactory to the Registrar duly executed by the registered owner or his duly authorized attorney and upon payment by such registered owner of any charges which the Registrar or the

County may make as provided in the Resolution, the Notes may be exchanged for Notes of the same maturity of any other authorized denominations.

(4) In all other cases in which the privilege of exchanging Notes or transferring Notes is exercised, the County shall execute and the Registrar shall authenticate and deliver Notes in accordance with the provisions of the Resolution. There shall be no charge for any such exchange or transfer of Notes, but the County or the Registrar may require payment of a sum sufficient to pay any tax, fee or other governmental charge required to be paid with respect to such exchange or transfer. Neither the County nor the Registrar shall be required to transfer or exchange Notes for a period of 15 days from a Record Date to the next ensuing interest payment date.

The Notes are subject to mandatory sinking fund payments and optional prepayment all in accordance with the terms of the Resolution and Loan Agreement.

The interest rate on the Notes shall be subject to adjustment upon a Determination of Taxability or upon an event of default in the manner set forth in the Resolution or Loan Agreement.

It is hereby certified and recited that all acts, conditions, and things required to exist, to happen, and to be performed, precedent to and in the issuance of this Note exist, have happened and have been performed in regular and due form and time as required by the laws and Constitution of the State of Florida applicable thereto, and that the issuance of this Note, and of the issue of Notes of which this Note is one, is in full compliance with all constitutional or statutory limitations or provisions.

IN WITNESS WHEREOF, Manatee County, Florida, has caused this Note to be signed by the Chairman of the Board of County Commissioners of Manatee County, Florida, either manually or with her facsimile signature, and the seal of said County to be affixed hereto or imprinted or reproduced hereon, and attested by the Clerk of the Board of County Commissioners of Manatee County, Florida, either manually or with his facsimile signature, all as of the Dated Date.

MANATEE COUNTY, FLORIDA

Chairman of the Board of County Commissioners
of Manatee County, Florida

Attest:

Clerk of the Board of County
Commissioners of
Manatee County, Florida

FORM OF CERTIFICATE OF AUTHENTICATION

Date of Authentication:

This Note is one of the Notes delivered pursuant to the within mentioned Resolution.

as Registrar

By: _____
Authorized Officer

ASSIGNMENT AND TRANSFER

FOR VALUE RECEIVED the undersigned sells, assigns and transfers unto _____

(please print or typewrite name and address of transferee)

the within note and all rights thereunder, and hereby irrevocably constitutes and appoints _____

Attorney to transfer the within note on the books kept for registration thereof, with full power of substitution in the premises.

Dated: _____

In the presence of: _____

Section 8. NEGOTIATED SALE OF NOTES; DELEGATION OF AUTHORITY; PARAMETERS. The Board hereby finds that, due to the volatile market conditions and in order to efficiently finance the Project, in whole or in part, it would be in the best interest of the County that the Notes be sold on a negotiated private placement basis. That the form of the Note Purchase Agreement for the Notes, between the County and the Lender, as submitted to this meeting and attached hereto as Exhibit B, is hereby approved and accepted, and the County is hereby authorized to sell the Notes to the Lender subject to satisfaction of the conditions set forth below. The Chairman of the Board or, in his absence, the Vice Chairman is hereby authorized and directed to execute, and the Clerk or the Chief Deputy Clerk to attest (if so required by the terms of the Note Purchase Agreement), the Note Purchase Agreement and to deliver the same to the Lender, provided that (i) the Notes shall bear interest at the Interest Rate of 3.67% per annum; (ii) the final form of the Note Purchase Agreement is acceptable to Bond Counsel after consultation with the County Attorney, and (iii) the terms and conditions of the Lender set forth in the Loan Agreement which are not otherwise set forth herein (herein, the “Final Loan Terms”) to provide the Loan is acceptable to the Financial Advisor after consultation with the Clerk, Bond Counsel and the County Attorney. The County’s Financial Advisor shall file with the Clerk a written summary of the final details of the Notes. Such written summary shall be entered into Board records as an attachment to this Resolution. The Clerk is hereby authorized to consent, on behalf of the County, to any changes to this Section 8 if the County’s Financial Advisor certifies in writing that such changes are necessary to sell the Notes to the Lender. Notwithstanding anything in this Section 8 to the contrary, the County has the absolute right, in its sole discretion, to not execute the Note Purchase Agreement and no

contract between the County and the Lender, either expressed or implied, is intended before the Note Purchase Agreement is executed.

Section 9. LOAN AGREEMENT. The form, terms and provisions of the Loan Agreement for the making of the Loan consistent with the provisions of this Resolution, attached hereto as Exhibit C between the County and the Lender, as submitted to this meeting, be and the same is hereby approved and accepted. The Chairman or the Clerk are each hereby authorized and directed to execute and deliver the Loan Agreement in the form submitted to this meeting, with such changes, insertions and deletions thereto as are necessary or desirable for carrying out the purposes thereof as may be approved by the Clerk, the County Attorney and Bond Counsel, the execution of said Loan Agreement being conclusive evidence of such approval.

ARTICLE III
COVENANTS, FUNDS AND APPLICATION THEREOF

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

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

Section 2. NOTES SECURED BY LIEN ON AND PLEDGE OF THE PLEDGED REVENUES. The payment of the principal of and interest on all of the Notes issued hereunder shall be secured forthwith equally and ratably by a lien on and pledge of the Pledged Revenues in an amount sufficient to pay the principal of and interest on the Notes, herein authorized, and to make the required payments into the Debt Service Fund, hereinafter created, and all other payments provided for in this Resolution as the same become due and payable.

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

A. The net proceeds derived from the sale of the Notes shall be deposited in a fund in a bank or trust company in the State which is eligible under State laws to receive deposits of County funds, which fund is hereby created, established and designated as the “Construction Fund” together with other moneys lawfully available therefor, if any. There is hereby created and established in the Construction Fund a separate line item to be known as the “Cost of Issuance Cost Center,” into which shall be deposited an amount sufficient to pay the costs of issuance of the Notes, unless the County elects to pay all costs of issuance of the Notes from such other source. There is hereby further created and established in the Construction Fund a separate line item to be known as the “Capitalized Interest Cost Center,” into which shall be deposited an amount of net proceeds of the Note, if any, which will be sufficient, including investment income, if any, to provide for the payment of interest on all or a portion of the Notes for a period to be hereinafter determined by the Clerk but such period shall not be longer than the period it takes to complete the Project. No withdrawals shall be made from the Construction Fund in an amount in excess of \$75,000 at any one time, except for amounts in the Cost of

Issuance Cost Center, and the Capitalized Interest Cost Center, without the written approval of the Clerk or his designee, and only upon receipt of a written requisition executed by the duly authorized official of the County responsible for the construction management of the Project, specifying the purpose for which such withdrawal is to be made and certifying that such purpose is one of the purposes provided for in the Contract. If, for any reason, the moneys in the Construction Fund, or any part thereof, are not necessary for, or are not applied to, the purposes of completion of the Project, as such Project may be changed by subsequent proceedings of the Board with the consent of ESCO, then such surplus proceeds shall be deposited, upon certification of the Clerk, that such surplus proceeds are not needed for the purposes of the Construction Fund, in the following order:

First, to the Debt Service Account in the amounts determined by subsequent proceedings of the Board; and

Second, the balance, if any, to the County and used for any lawful capital purpose.

The moneys deposited in the Construction Fund may, pending their use for the purposes provided in this Resolution, be temporarily invested in Permitted Investments maturing not later than the dates on which such moneys will be needed for the purposes of the Construction Fund. Subject to the provisions of the Code and the Tax Certificate, all the earnings and investment income from such investments shall remain in and become a part of said Construction Fund and be used for the purposes of the Construction Fund.

Any moneys received by the County from the State or from the United States of America or any agencies thereof for the purpose of financing any part of the Project, may be deposited in the Construction Fund and used in the same manner as the Note proceeds

are used therein; provided, however, that such moneys shall not be so deposited in the event and to the extent that the County has incurred debt or has effected an inter-fund loan in anticipation of the receipt of such moneys; and provided further, that separate accounts may be established in the Construction Fund for moneys received pursuant to the provisions of this paragraph whenever required by federal or State regulations.

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

Section 4. COVENANTS OF THE COUNTY. As long as any of the principal of or interest on any of the Notes shall be outstanding and unpaid, or until there shall have been set apart in the Debt Service Fund (hereinafter defined), a sum sufficient to pay, when due, the entire principal of the Notes remaining unpaid, together with interest accrued and to accrue thereon, or until the provisions of Section 4.H of this Article III have been complied with, the County covenants with the Owners of any and all of the Notes issued pursuant to this Resolution as follows:

A. Covenant to Budget and Appropriate. Until all of the Notes are paid or deemed paid pursuant to the provisions of this Resolution, the County hereby covenants to appropriate in its annual budget, by amendment if required, in each Fiscal Year, Non-Ad Valorem Revenues sufficient to pay the principal of and interest on the Notes, as the same become due and payable. Notwithstanding the foregoing, the County does not covenant to maintain any services or programs, now provided or maintained by the County, which generate Non-Ad Valorem Revenues.

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

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

B. Tax Covenant.

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

2. The County covenants that the County shall make any and all payments required to be made to the United States Department of the Treasury in connection with the Notes pursuant to Section 148(f) of the Code from amounts on deposit in the fund and

accounts established in connection with the Notes or from other legally available funds of the County.

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

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

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

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

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

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

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

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

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

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

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

The County covenants that within one hundred eighty (180) days of the close of each Fiscal Year it will cause to be prepared and filed with the Clerk and mailed to all Owners who shall have filed their names and addresses with the Clerk for such purpose a statement setting forth in respect of the preceding Fiscal Year:

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

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

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

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

H. Discharge and Satisfaction of Notes. The covenants, liens and pledges entered into, created or imposed pursuant to this Resolution may be fully discharged and satisfied with respect to the Notes in anyone or more of the following ways:

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

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

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

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

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

ARTICLE IV
MISCELLANEOUS PROVISIONS

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

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

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

Section 3. SEVERABILITY OF INVALID PROVISIONS. If any one or more of the covenants, agreements or provisions of this Resolution should be held contrary to any express provision of law or contrary to the policy of express law, though not expressly prohibited, or against public policy, or shall for any reason whatsoever be held invalid, then such covenants, agreements or provisions shall be null and void and shall be deemed separate from the remaining covenants, agreements or provisions, and shall in no way affect the validity of any of the other provisions of the Resolution or of the Notes issued hereunder.


Section 4. FURTHER AUTHORIZATIONS. That the Chairman of the Board, the Vice Chairman, the Clerk, the County Administrator, the Financial Management Department Director, and any other authorized official of the County, be and each of them is hereby authorized and directed to execute and deliver any and all documents and instruments, including but not limited to entering into a paying agent and registrar agreement if so required, and satisfying any conditions set forth in the Final Loan Terms necessary to obtain the Loan, and to do and cause to be done any and all acts and things necessary or proper for carrying out the transactions contemplated by this Resolution.

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

**BOARD OF COUNTY COMMISSIONERS OF
MANATEE COUNTY, FLORIDA**

By: 
Chairman

Date: August 13, 2013

ATTEST:

Clerk of the Board of County Commissioners
of Manatee County, Florida

EXHIBITS TO RESOLUTION No. R-13-140

- Exhibit A Description of Project
- Exhibit B Form of Note Purchase Agreement
- Exhibit C Form of Loan Agreement

EXHIBIT “A”

Description of Project

- Outdoor Lighting Jail and Stockade
- Domestic Water Conservation
- Institutional Water Conservation Controls
- Chiller Plant Retrofit and Modification
- HVAC Controls and EMS
- AC Replacement at Stockade
- Power Transformers Replacement
- Chiller Plant Emergency Power
- Air Handling Units Replacement

EXHIBIT “B”

Form of Note Purchase Agreement

NOTE PURCHASE AGREEMENT

THIS NOTE PURCHASE AGREEMENT (the “Agreement”) dated September ____, 2013, by and between Banc of America Public Capital Corp., a corporation organized under the laws of the State of _____ (herein the “Lender”) and Manatee County, Florida, a political subdivision of the State of Florida (together with its successors and assigns, the “County”).

W I T N E S S E T H:

WHEREAS, pursuant to the Act, as such term is defined in Resolution No. 13-140 (the “Resolution”), adopted by the Board of County Commissioners of Manatee County, Florida, as the governing body of the County, on August 13, 2013, the County authorized the issuance of not exceeding \$6,500,000 in aggregate principal amount of Manatee County, Florida Revenue Improvement Notes, Series 2013 (ESCO Project) (the “Notes”); and

WHEREAS, any capitalized term used in this Agreement and not otherwise defined shall have the meaning ascribed to such term in the Resolution; and

WHEREAS, the Lender has reviewed the Resolution and hereby finds the terms acceptable; and

WHEREAS, on this date, the County has, pursuant to provisions of the Act, the Resolution, the Loan Agreement and this Agreement, agreed to issue and sell to the Lender and the Lender has, pursuant to the terms of this Agreement, the Loan Agreement and the terms and provisions of the Resolution, agreed to purchase all of the Notes; and

WHEREAS, on the date hereof, the Lender shall purchase the Notes in the principal amount equal to \$_____; and

WHEREAS, the County and the Lender have heretofore negotiated the terms of the Notes and the Resolution and by execution of this Agreement each will have confirmed that such are acceptable.

NOW THEREFORE, the County and the Lender hereby agree as follows:

1. **Purchase and Sale.** Upon the terms and conditions set forth herein and in the Notes, the Loan Agreement and the Resolution and upon the representations and warranties of the County set forth in the Resolution, the Loan Agreement and other closing certificates, the County agrees to sell on this date the Notes on a negotiated basis to the Lender and the Lender agrees on this date to purchase, with immediately available funds, the principal amount of the Notes issued by the County. The purchase price for the Notes shall be equal to the principal amount of the Notes so issued by the County. Since the dated date of the Notes is the date the Notes are issued, there will be no accrued interest as part of the purchase price.

2. **Private Placement Negotiated Sale.** The Lender hereby acknowledges that the purchase of the Notes from the County is and will be on a negotiated private placement basis and that there has been no offering document prepared by the County in connection with such sales.

3. **Conditions for Purchase.** The Lender's agreement to purchase the Notes on this date is subject to the satisfaction of the conditions set forth on Schedule A attached hereto. The Lender's purchase of the Notes will constitute full evidence that such conditions have been satisfied or waived.

4. **Section 218.385 Florida Statutes.** On or before the purchase of the Notes, the Lender has provided the County with the disclosure and truth-in-bonding statements required by and in accordance with, Section 218.385, Florida Statutes, as amended and supplemented. The above-referenced statements are attached to this Agreement as Schedule B.

5. **Expenses.** As between the County and the Lender, the Lender shall not be liable for any expenses incurred by the County in connection with the issuance of the Notes. The Lender represents to the County that it has not employed or used the services of any attorney or other professional in connection with the Lender's negotiations with the County and its purchase of the Notes other than Foley & Lardner, LLP, which fee, in the amount of \$_____ shall be paid by the County.

6. **Trial by Jury Waived.** The County and the Lender, for mutual consideration, each acknowledged to be received by the other party hereto, mutually and willingly waive the right to a trial by a jury in connection with any and all claims by any party hereto against the other arising from or in connection with the transactions contemplated by this Agreement, the Loan Agreement or the Resolution.

7. **Effectiveness.** This Agreement shall become effective upon the execution by the appropriate officials of the County and the Lender.

8. **Headings.** The headings set forth in this Agreement are inserted for convenience only and shall not be deemed to be a part hereof.

9. **Amendment.** No modification, alteration or amendment to this Agreement shall be binding upon any party until such modification, alternation or amendment is reduced to writing and executed by all parties hereto.

10. **Governing Law.** The laws of the State of Florida shall govern this Agreement.

11. **Counterparts.** This Agreement may be signed in any number of counterparts with the same effect as if the signatures thereto and hereto were signatories upon the same instrument.

[Signature page follows]

IN WITNESS WHEREOF, the County and the Lender has caused this Agreement to be executed by its respective duly authorized officers all as of the date hereof.

BANC OF AMERICA PUBLIC CAPITAL
CORP.

By: _____

Name: _____

Title: _____

(SEAL)

Date: September __, 2013

MANATEE COUNTY, FLORIDA

By: Board of County Commissioners of
Manatee County, Florida

By: _____

Name: _____

Title: Chairperson

Date: September __, 2013

SCHEDULE A

Closing Conditions

SCHEDULE B

Disclosure and Truth-In-Bonding Statements

WPB 383064267v2/016705.014500

EXHIBIT “C”

Form of Loan Agreement

WPB 383063165v4/016705.014500

LOAN AGREEMENT

Dated as of August 1, 2013

WHEREAS, Banc of America Public Capital Corp. (the “Lender”), a corporation organized under the laws of the State of _____ and qualified to do business in the State of Florida (the “State”), has offered to make a loan (the “Loan”), pursuant to the terms and provisions of this Loan Agreement (the “Agreement”) to Manatee County, Florida, a political subdivision of the State (the “County”) created and established pursuant to the laws of Florida, in the principal amount of \$_____ pursuant to which the County will finance a portion of the Project, as such term is defined in the herein referred to Resolution; and

WHEREAS, the County, on August 13, 2013, adopted Resolution No. 13-140 (the “Resolution”) authorizing the issuance of not exceeding \$6,500,000, in aggregate principal amount of Manatee County, Florida Revenue Improvement Notes, Series 2013 (ESCO Project) (the “2013 Notes”) which 2013 Notes shall be purchased by Lender and shall represent the County’s obligation to repay the Loan made under this Agreement; and

WHEREAS, the County and the Lender find it necessary to enter into this Agreement to acknowledge the terms and provisions of the Resolution adopted by the County and the terms pursuant to which the Lender shall make the Loan; and

WHEREAS, capitalized terms not otherwise defined herein shall have the meanings ascribed to such terms in the Resolution.

NOW THEREFORE, the County and the Lender hereby agree as follows:

1. **Loan.** The Lender hereby loans to the County the sum of \$_____ in immediately available funds, pursuant to the terms and provisions of the Resolution and this Agreement.

2. **Loan Terms.** The Loan shall bear interest at the interest rate of 3.67% per annum, calculated on the basis of a 360 day year of 12 thirty day months. Principal and interest on the Loan shall be payable semiannually each April 1 and October 1, commencing October 1, 2013 with respect to interest. Principal amortization will commence October 1, 2015 and shall be payable each [April 1] and October 1 until the earlier of the final maturity date of the Loan or the date the Loan is optionally prepaid. The final maturity date of the Loan shall be _____. The debt service schedule for the Loan is attached hereto as Exhibit A. The obligations of the County to repay the Loan shall be evidenced by the Notes issued by the County to the Lender. It is the intent of the parties that the terms and provisions of the Notes shall reflect exactly the terms and provisions of the Loan set forth herein. The Notes may be optionally prepaid by the County in whole or in part as provided in the Resolution. Any prepayment of the Notes in whole or in part shall result in a corresponding reduction of the principal amount of the Loan outstanding under this Agreement, plus accrued interest on such principal amount of the date of prepayment.

3. **Representations and Covenants of the County.** The County represents, covenants and warrants for the benefit of Lender on the date hereof:

a. County is a political subdivision of the State within the meaning of Section 103(c) of the Code, duly organized and existing under the constitution and laws of the State, including the Act, with full power and authority to adopt the Resolution and to enter into this Agreement and the transactions contemplated thereby and hereby and to perform all of its obligations thereunder and hereunder.

b. County has duly authorized the execution and delivery of this Agreement by proper action of its Board at a meeting duly called, regularly convened and attended throughout by the requisite quorum of the members thereof, or by other appropriate official approval, and all requirements have been met and procedures have occurred in order to ensure the validity and enforceability of this Agreement.

c. No event or condition that constitutes, or with the giving of notice or the lapse of time or both would constitute, an Event of Default (as defined in Section 4 below) exists as of the date hereof.

d. County has complied with any public bidding requirements as may be applicable to this Agreement.

e. During the term of the Loan, the equipment constituting the Project (the "Equipment") will be used by County only for the purpose of performing essential governmental or proprietary functions of County consistent with the permissible scope of County's authority.

f. County shall keep its books and records in accordance with generally accepted accounting principles and practices consistently applied, and shall deliver to Lender (i) annual audited financial statements (including (1) a balance sheet, (2) statement of revenues, expenses and changes in fund balances for budget and actual, (3) statement of cash flows, and (4) footnotes, schedules and attachments to the financial statements) within 270 days of its Fiscal Year end, (ii) such other financial statements and information as Lender may reasonably request, and (iii) upon Lender's request, its annual budget for any prior or current Fiscal Year or the following Fiscal Year. The financial statements described in this subsection (f) shall be accompanied by an unqualified opinion of the County's auditor. Credit information relating to County may be disseminated among Lender and any of its affiliates and any of their respective successors and assigns.

g. The payment of the Loan and Notes or any portion thereof is not directly or indirectly (x) secured by any interest in property used or to be used in any activity carried on by any person other than a state or local governmental unit or payments in respect of such property; or (y) on a present value basis, derived from payments (whether or not to County) in respect of property, or borrowed money, used or to be used in any activity carried on by any person other than a state or local governmental unit. County shall not permit the Federal government to guarantee any Note payments. The Equipment will not be used, directly or indirectly, in any activity carried on by any person other than a state or local governmental unit. No portion of the Loan will be used, directly or indirectly, to make or finance loans to any person other than County. County has not entered into any management or other service contract with respect to the use and operation of the Equipment.

h. There is no pending litigation, tax claim, proceeding or dispute that may adversely affect County's financial condition or impairs its ability to perform its obligations under this Agreement or the Resolution. County will, at its expense, maintain its legal existence in good standing and do any further act and execute, acknowledge, deliver, file, register and record any further documents Lender may reasonably request in order to protect Lender's rights and benefits under this Agreement and the Resolution.

i. No lease, rental agreement, lease-purchase agreement, payment agreement or contract for purchase to which County has been a party at any time has been terminated by County as a result of insufficient funds being appropriated in any Fiscal Year. No event has occurred which would constitute an event of default under any debt, revenue bond or obligation which County has issued during the past ten (10) years.

j. The financial information regarding County furnished to Lender by County in connection with this Agreement is complete and accurate, and there has been no material and adverse change in the financial condition of County since the Fiscal Year ended September 30, 2012. The average amount of Non-Ad Valorem Revenues (exclusive of any proceeds of indebtedness) for the Fiscal Years ended September 30, 2011 and September 30, 2012 equals or exceeds a coverage ratio of at least 1.5 times the maximum annual debt service in the current fiscal year and any future fiscal year on all outstanding indebtedness secured by or payable from all or a portion of the Non-Ad Valorem Revenues, including the payment required to be made under the Notes under the Resolution, and (ii) the maximum annual debt service on all outstanding indebtedness of the County secured by or payable from all or a portion of the Non-Ad Valorem Revenues, together with the maximum annual payment required to be made under the Notes, does not exceed 20% of all County funds and revenues of the County for Fiscal Year ended September 30, 2012, exclusive of ad valorem revenues restricted to payment of debt service on any debt and any debt proceeds.

4. **Events of Default Defined.** Any of the following events shall constitute an "*Event of Default*" under this Agreement:

a. Failure by County to pay any debt service on the Notes or other payment required to be paid under the Resolution within 10 days after the date when due as specified in the Notes;

b. Failure by County to observe and perform any covenant, condition or agreement contained in this Agreement or the Resolution on its part to be observed or performed, other than as referred to in subparagraph (a) above, for a period of 30 days after written notice specifying such failure and requesting that it be remedied is given to County by Lender, unless Lender shall agree in writing to an extension of such time prior to its expiration; *provided that*, if the failure stated in the notice cannot be corrected within the applicable period, Lender will not unreasonably withhold its consent to an extension of such time if corrective action is instituted by County within the applicable period and diligently pursued until the default is corrected;

c. Any statement, representation or warranty made by County in or pursuant to this Agreement or its execution, delivery or performance shall prove to have been false, incorrect, misleading, or breached in any material respect on the date when made;

d. Any default occurs under any other agreement for borrowed money, lease financing of property or otherwise receiving credit under which County is an obligor, if such default (i) arises under any other agreement for borrowed money, lease financing of property or provision of credit provided by Lender or any affiliate of Lender, or (ii) arises under any obligation under which there is outstanding, owing or committed an aggregated amount in excess of \$100,000.00;

e. County shall (i) apply for or consent to the appointment of a receiver, trustee, custodian or liquidator of County, or of all or a substantial part of the assets of County, (ii) be unable, fail or admit in writing its inability generally to pay its debts as they become due, (iii) make a general assignment for the benefit of creditors, (iv) have an order for relief entered against it under applicable federal bankruptcy law, or (v) file a voluntary petition in bankruptcy or a petition or an answer seeking reorganization or an arrangement with creditors or taking advantage of any insolvency law or any answer admitting the material allegations of a petition filed against County in any bankruptcy, reorganization, moratorium or insolvency proceeding; or

f. An order, judgment or decree shall be entered by any court of competent jurisdiction, approving a petition or appointing a receiver, trustee, custodian or liquidator for County or of all or a substantial part of the assets of County, in each case without its application, approval or consent, and such order, judgment or decree shall continue unstayed and in effect for any period of 30 consecutive days.

g. Whenever any Event of Default exists, the Notes shall bear interest at the Default Rate which shall be equal to ____%. Acceleration of the Loan shall not be a remedy available to the Lender. Lender shall have the rights set forth in the Resolution upon the occurrence of an Event of Default.

5. **Acceptance of Terms.** That the Lender hereby accepts the terms and conditions set forth in the Resolution applicable to the Loan.

6. **Waiver of Jury Trial.** The County and the Lender, for mutual consideration, each acknowledged to be received by the other party hereto, mutually and willingly waive the right to a trial by a jury in connection with any and all claims by any party hereto against the other arising from or in connection with the transactions contemplated by this Agreement and the Resolution.

7. **Amendment.** No modification, alteration or amendment to this Agreement shall be binding upon any party until such modification, alternation or amendment is reduced to writing and executed by all parties hereto.

8. **Governing Law.** The laws of the State of Florida shall govern this Agreement.

9. **Counterparts.** This Agreement may be signed in any number of counterparts with the same effect as if the signatures thereto and hereto were signatories upon the same instrument.

**BANC OF AMERICA PUBLIC
CAPITAL CORP.**

By: _____

Name: _____

Title: _____

Date: _____

[S E A L]

MANATEE COUNTY, FLORIDA

By: Board of County Commissioners

By: _____

Name: _____

Title: Chairperson

Dated: _____

Attest

By: _____

Name:

Title: Clerk of the Circuit Court in and for
Manatee County, Florida