

## **LOAN AGREEMENT**

**Dated as of May 1, 2014**

**WHEREAS**, SunTrust Equipment Finance & Leasing Corp. (the “Lender”), a corporation organized under the laws of the State of Virginia 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, a political subdivision of the State of Florida (the “County”) created and established pursuant to the laws of Florida, in the principal amount of \$6,482,360 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 May 20, 2014, adopted Resolution No. 14-028 (the “Resolution”) authorizing the issuance of not exceeding \$6,600,000, in aggregate principal amount of Manatee County, Florida Revenue Improvement Bonds, Series 2014 (ESCO Project) (the “2014 Bonds”) which 2014 Bonds 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 \$6,482,360 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 3.69% per annum, calculated on the basis of a 360 day year of 12 thirty day months except as otherwise provided in the Resolution. Notwithstanding any provision in the Resolution to the contrary, principal and interest on the Loan shall be payable annually each January 1, commencing January 1, 2015 and shall be payable each such January 1 until the earlier of the final maturity date of the Loan or the date the Loan is optionally prepaid in full, together with any applicable prepayment premium. The final maturity date of the Loan shall be January 1, 2034. 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 2014 Bonds issued by the County to the Lender. It is the intent of the parties that the terms and provisions of the 2014 Bonds shall reflect exactly the terms and provisions of the Loan set forth herein. The 2014 Bonds may be optionally prepaid by the County in whole as provided in the Resolution. A prepayment of the 2014 Bonds in whole shall result in a complete corresponding reduction of the principal amount of the Loan outstanding under this Agreement, plus accrued interest on such principal amount on 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 210 days of its Fiscal Year end, (ii) such other financial statements and information relating to the ability of the County to satisfy its obligations hereunder, 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 within ten (10) days of approval. 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 2014 Bonds 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 2014 Bond 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. Other than the Contract, the 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, 2013.

k. All non-self-supporting revenue debt of the County payable from its Non-Ad Valorem Revenues outstanding as of the date hereof ("Outstanding Debt"), together with the 2014 Bonds, 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 Outstanding Debt and the 2014 Bonds, 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 Outstanding Debt and the 2014 Bonds.

l. 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.

m. 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.

n. The County covenants to comply with all representations, covenants, and assurances contained in the Tax Certificate, which Tax Certificate shall constitute a part of the contract between the County and the Registered Owner of the Bond.

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 2014 Bonds or other payment required to be paid under the Resolution within 10 days after the date when due as specified in the 2014 Bonds;

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. The occurrence of any default under any other agreement for borrowed money, lease financing of property or other receipt or pledge of credit under which County is an obligor, if such default is a monetary default and (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 \$250,000.00;

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.

5. **Remedies.** Whenever any Event of Default exists, the 2014 Bonds shall bear interest at the Default Rate which shall be equal to the lesser of the maximum rate permitted under Florida law or 13.69% (10% above interest rate). 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.

6. **Defeasance.** In addition to the provisions of Section 4.H. of Article IV of the Resolution, so long as Lender is the holder of the 2014 Bonds, any special fund created by the County pursuant to the Resolution to defease the 2014 Bonds (an "Escrow Account") shall be held by a trust company or bank having the powers of a trust company which is in good standing and has a reported capital, surplus and undivided profits of not less than \$100,000,000 or \$500,000,000 under trust management, and is reasonably acceptable to the Lender (an "Escrow Agent"), pursuant to an escrow deposit agreement between the Escrow Agent and the County, in form and substance satisfactory to the Lender. Furthermore, the 2014 Bonds shall be deemed to have been paid for the purposes of this Section only if the Lender shall have received (i) an opinion of Bond Counsel that such payment and the holding of Defeasance Obligations and moneys, if any, shall not in and of itself cause interest on the 2014 Bonds to be included in gross income for federal income tax purposes; (ii) a report in form and substance acceptable to the Lender and the County of a firm of certified public accountants acceptable to the Lender and the County verifying that the payments on such Defeasance Obligations, if paid when due and without reinvestment, will, together with any moneys so deposited, be sufficient for the payment of all principal of and interest and premium, if any, on the 2014 Bonds to the date of maturity or redemption, as the case may be; and (iii) an opinion of Bond Counsel to the effect that the 2014 Bonds are no longer outstanding pursuant to the Resolution and this Section 6. The County hereby acknowledges that the County shall be responsible for any shortfall in the Escrow Account to accomplish the complete defeasance of the 2014 Bonds and that the Lender shall have no liability with respect to any shortfall in the Escrow Account.

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

8. **Waiver of Jury Trial.** The County and the Lender, for mutual consideration, the receipt of which is hereby acknowledged, 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.

9. **Form of 2014 Bond.** Notwithstanding any provision in Section 6 of Article II of the Resolution, the parties agree that the 2014 Bond delivered to Lender shall be typewritten and in certificated form.

10. **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.

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

12. **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.

**SUNTRUST EQUIPMENT FINANCE & LEASING CORP.**

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

Date: \_\_\_\_\_

[S E A L]

**MANATEE COUNTY, FLORIDA**

By: Board of County Commissioners

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

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

Attest

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: Clerk of the Circuit Court in and for  
Manatee County, Florida

## EXHIBIT "A"

MANATEE PAYMENT SCHEDULE					
<u>Payment Number</u>	<u>Payment Date</u>	<u>Payment Amount</u>	<u>Principal Component</u>	<u>Interest Component</u>	<u>Principal Balance</u>
					<u>\$ 6,482,360.00</u>
1	1/1/2015	\$ 286,499.00	\$ 141,996.54	\$ 144,502.46	\$ 6,340,363.46
2	1/1/2016	\$ 471,654.20	\$ 237,694.78	\$ 233,959.41	\$ 6,102,668.68
3	1/1/2017	\$ 480,534.04	\$ 255,345.57	\$ 225,188.47	\$ 5,847,323.11
4	1/1/2018	\$ 443,803.37	\$ 228,037.15	\$ 215,766.22	\$ 5,619,285.96
5	1/1/2019	\$ 502,580.19	\$ 295,228.54	\$ 207,351.65	\$ 5,324,057.42
6	1/1/2020	\$ 517,957.60	\$ 321,499.88	\$ 196,457.72	\$ 5,002,557.54
7	1/1/2021	\$ 394,499.69	\$ 209,905.32	\$ 184,594.37	\$ 4,792,652.22
8	1/1/2022	\$ 406,634.68	\$ 229,785.82	\$ 176,848.87	\$ 4,562,866.40
9	1/1/2023	\$ 419,133.73	\$ 250,763.96	\$ 168,369.77	\$ 4,312,102.45
10	1/1/2024	\$ 432,007.74	\$ 272,891.16	\$ 159,116.58	\$ 4,039,211.29
11	1/1/2025	\$ 445,267.97	\$ 296,221.07	\$ 149,046.90	\$ 3,742,990.22
12	1/1/2026	\$ 449,479.02	\$ 311,362.68	\$ 138,116.34	\$ 3,431,627.54
13	1/1/2027	\$ 463,263.39	\$ 336,636.33	\$ 126,627.06	\$ 3,094,991.20
14	1/1/2028	\$ 477,461.29	\$ 363,256.12	\$ 114,205.18	\$ 2,731,735.09
15	1/1/2029	\$ 492,085.13	\$ 391,284.11	\$ 100,801.02	\$ 2,340,450.98
16	1/1/2030	\$ 445,797.68	\$ 359,435.04	\$ 86,362.64	\$ 1,981,015.94
17	1/1/2031	\$ 522,662.12	\$ 449,562.63	\$ 73,099.49	\$ 1,531,453.31
18	1/1/2032	\$ 538,641.98	\$ 482,131.35	\$ 56,510.63	\$ 1,049,321.96
19	1/1/2033	\$ 555,101.24	\$ 516,381.26	\$ 38,719.98	\$ 532,940.70
20	1/1/2034	\$ 552,606.21	\$ 532,940.70	\$ 19,665.51	\$ (0.00)
TOTALS		\$ 9,297,670.27	\$ 6,482,360.00	\$ 2,815,310.27	

## **BOND PURCHASE AGREEMENT**

**THIS BOND PURCHASE AGREEMENT** (the “Agreement”) dated May 23, 2014 is made and entered into by and between SunTrust Equipment Finance & Leasing Corp., a corporation organized under the laws of the State of Virginia (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. 14-028 (the “Resolution”), adopted by the Board of County Commissioners of Manatee County, Florida, as the governing body of the County, on May 20, 2014, the County authorized the issuance of not exceeding \$6,600,000 in aggregate principal amount of Manatee County, Florida Revenue Improvement Bonds, Series 2014 (ESCO Project) (the “Bonds”); 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 Bonds; and

**WHEREAS**, on the date hereof, the Lender shall purchase the Bonds in the principal amount equal to \$6,482,360; and

**WHEREAS**, the County and the Lender have heretofore negotiated the terms of the Bonds 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 Bonds, 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 Bonds 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 Bonds issued by the County. The purchase price for the Bonds shall be equal to the principal amount of the Bonds so issued by the County. Since the dated date of the Bonds is the date the Bonds 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 Bonds 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 Bonds on this date is subject to the satisfaction of the conditions set forth on Schedule A attached hereto. The Lender's purchase of the Bonds will constitute full evidence that such conditions have been satisfied or waived.

4. **Section 218.385 Florida Statutes.** Simultaneously with the purchase of the Bonds, 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 Bonds. 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 Bonds other than the fee payable to Lender's special counsel, which fee, in the amount of \$5,500 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.

SUNTRUST EQUIPMENT FINANCE &  
LEASING CORP.

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

Name: \_\_\_\_\_

Title: \_\_\_\_\_

(SEAL)

Date: May 23, 2014

MANATEE COUNTY, FLORIDA

By: Board of County Commissioners of  
Manatee County, Florida

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

Name:

Title:

Date: May 23, 2014

## **SCHEDULE A**

### **Closing Conditions**

1. Bond Counsel Opinion in form acceptable to County, Lender and respective counsel
2. County Attorney Opinion
3. Tax Certificate and IRS Form 8038-G
4. Certified Copy of fully executed Resolution No. 14-028 (the “Resolution”)
5. Closing certificates in forms acceptable to County, Lender and their respective counsel
6. Signed originals of this Bond Purchase Agreement, the Loan Agreement, the Resolution and the Bond.

## **SCHEDULE B**

### **Disclosure and Truth-In-Bonding Statements**

May 23, 2014

Board of County Commissioners  
of Manatee County, Florida  
Bradenton, Florida

Re:

**\$6,482,360**  
**Manatee County, Florida**  
**Revenue Improvement Bond, Series 2014**  
**(ESCO Project)**

To Board of County Commissioners:

This letter shall serve as the disclosure statements and truth-in-bonding statement pursuant to Section 218.385, Florida Statutes, in connection with the sale of the above-referenced Bond (the "2014 Bond") to SunTrust Equipment Finance & Leasing Corp. (the "Purchaser"). We represent to you as follows:

1. No management fee will be charged by the Purchaser.
2. The Underwriting spread which the Purchaser expects to realize will be -0-.
3. No fee, bonus or other compensation will be paid by the Purchaser in connection with the issue of the 2014 Bond to any person not regularly employed or retained by the Purchaser.
4. Manatee County, Florida (the "County"), is proposing to issue the aggregate principal amount of \$6,482,360 of debt or obligation for the purposes of financing certain energy saving equipment. This debt or obligation is expected to be repaid over a period of approximately 240 months. Based on the 2014 Bond bearing an interest rate of 3.69%, the total interest paid over the life of the debt or obligation could be as much as \$2,815,310.27.

The source of repayment or security for this proposal is the Pledged Revenues (as defined in the resolution authorizing the issuance of the debt or obligation). Authorizing this debt or obligation will result in up to \$9,297,670.27 of Pledged Revenues not being available to finance other capital projects in the County in calendar years 2014 (commencing on this date) through January 1, 2034.

Very truly yours,

SUNTRUST EQUIPMENT FINANCE &  
LEASING CORP.

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

**R-14-028**

**MANATEE COUNTY, FLORIDA**

**REVENUE IMPROVEMENT BONDS, SERIES 2014**

**(ESCO PROJECT)**

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**BOND RESOLUTION**

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**Adopted May 20, 2014**

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## **RESOLUTION NO. R-14-028**

A RESOLUTION OF THE BOARD OF COUNTY COMMISSIONERS OF MANATEE COUNTY, FLORIDA, AUTHORIZING THE ISSUANCE OF A SERIES OF BONDS IN THE INITIAL AGGREGATE PRINCIPAL AMOUNT OF NOT EXCEEDING \$6,600,000 AND DESIGNATED MANATEE COUNTY, FLORIDA, REVENUE IMPROVEMENT BONDS, SERIES 2014 (ESCO PROJECT) (THE "BONDS") TO FINANCE A PORTION OF THE COSTS OF CERTAIN ENERGY SAVING EQUIPMENT AND FACILITIES RELATING TO THE COOLING OF CERTAIN COUNTY OWNED BUILDINGS INCLUDING THE CONSTRUCTION OF A NEW DISTRICT COOLING PLANT TO BE PROVIDED BY FPL SERVICES, LLC; AUTHORIZING THE NEGOTIATED PRIVATE PLACEMENT OF THE BONDS TO SUNTRUST EQUIPMENT FINANCE & LEASING 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 BOND PURCHASE AGREEMENT BETWEEN THE COUNTY AND THE LENDER; AUTHORIZING THE CLERK TO MAKE CERTAIN DETERMINATIONS WITH RESPECT TO THE BONDS SUBJECT TO THE PARAMETERS SET FORTH IN THIS RESOLUTION; APPOINTING A PAYING AGENT AND REGISTRAR; PROVIDING FOR THE TERMS AND PAYMENT OF SUCH BONDS; 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, FPL Services, LLC (herein, "ESCO"), a limited liability company authorized to conduct business in Florida, was selected to provide such energy savings equipment facilities and services for certain County owned buildings (the



“County Buildings”) and has entered into that certain Guaranteed Energy Performance Contracting Service Agreement No. 13-2896FL with the County (herein, the “Contract”); and

**WHEREAS**, since the County Buildings are high energy users, it is the intent of the County that the equipment and facilities to be provided and installed at, and in connection with, the County Buildings pursuant to the Contract will provide long term energy savings to the County (herein, the “Project”); and

**WHEREAS**, in order to finance the Project, in part, the County solicited financing proposals from various lending institutions, and as a result, SunTrust Equipment Finance & Leasing Corp. (the “Lender”) provided the overall best proposal to provide financing for the portion of the Project the County has elected to finance, taking into account interest rate and the term of the loan (the “Loan”); and

**WHEREAS**, such Loan will be evidenced by a loan agreement (the “Loan Agreement”) in substantially the form attached hereto as Exhibit “C,” by and between the County and the Lender, and the obligations of the County under the Loan Agreement to repay the Loan will be evidenced by the County issuing its Revenue Improvement Bonds, Series 2014 (ESCO Project), in the initial aggregate principal amount of not exceeding \$6,600,000 (the “Bonds”); and

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

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

“BONDHOLDER,” “HOLDER OF BONDS,” “OWNER,” “OWNERS” or any similar term, shall mean any person who shall be the registered owner of any Bond or Bonds Outstanding under the terms of this Resolution.

“BONDS” shall mean the County’s Revenue Improvement Bonds, Series 2014 (ESCO Project).

“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, a political subdivision of the State of Florida.

“DEFAULT RATE” shall mean the rate of interest borne by the Bonds 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 Bonds becoming includable for federal income tax purposes in the gross income of the Bondholder. A Determination of Taxability will be deemed to have occurred upon the receipt by the County or Bondholder 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 Bonds is includable in the gross income of the Bondholder 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 Bonds 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 Bonds 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 Bonds 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 January 1 of each calendar year commencing January 1, 2015. If such date is not a Business Day, the Interest Payment Date shall be the next day after such January 1 which is a Business Day.

“INTEREST RATE” shall mean with respect to the Bonds, unless the Bonds bear interest at the Default Rate or Taxable Rate, a fixed rate of 3.69% calculated on the basis of a 360 day year of twelve thirty-day months except that with respect to a portion of the first interest period, interest shall be calculated using the 365-366 actual day convention.

“MATURITY DATE” shall mean the date set forth on the executed Bond 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.

“OUTSTANDING” shall mean, when used with reference to the Bonds, as of any particular date, all Bonds theretofore, or thereupon being, authenticated and delivered by the Registrar under this Resolution, except (i) Bonds theretofore or thereupon canceled by the Registrar or surrendered to the Registrar for cancellation; (ii) Bonds 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) Bonds in lieu of or in substitution for which other Bonds shall have been authenticated and delivered by the Registrar pursuant to any provision of this Resolution; (iv) Bonds canceled because of payment at redemption prior to maturity; and (v) Bonds held or purchased by the County, unless the County intends as evidenced by written communication to the Registrar that such Bonds shall remain Outstanding.

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

“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 Bonds.

“RECORD DATE” shall mean the fifteenth (15<sup>th</sup>) 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, 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 Bonds 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 Bonds 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 Bonds, 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 Bonds to provide the funds necessary, together with other legally available moneys, to finance a portion of the Project.

C. That the principal of and interest on the Bonds 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 Bonds to be issued pursuant to this Resolution; and the Bonds 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 Bonds 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 Bonds and private placement thereof to the Lender.

F. That the final terms of the Loan and the Bonds, 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 Bonds 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 Bonds all of which shall be of equal rank and without preference, priority, or distinction of any of the Bonds over any other thereof except as expressly provided therein and herein.

## **ARTICLE II**

### **AUTHORIZATIONS, TERMS, EXECUTION AND REGISTRATION OF BONDS**

**Section 1. AUTHORIZATION OF BONDS.** Subject and pursuant to the provisions of this Resolution, obligations of the County to be known as “Revenue Improvement Bonds, Series 2014 (ESCO Project),” are hereby authorized to be issued in the initial aggregate principal amount of not exceeding SIX MILLION SIX HUNDRED THOUSAND DOLLARS (\$6,600,000) (the “Bonds”), to be issued, delivered and secured as provided herein. The Bonds 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 Bonds. The actual principal amount of the Bonds shall be equal to the initial principal amount of the Loan and such amount shall be set forth in the executed Bonds and in the Loan Agreement.

**Section 2. GENERAL DESCRIPTION OF BONDS.** The Bonds shall be issued in registered certificated form, shall be in the denomination equal to the principal amount of the Bonds 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 of this Article II. Principal shall be payable at the designated office of the Paying Agent.



The Bonds (initially issued in one (1) typewritten certificate) shall be dated the date of initial issuance of such Bonds. Unless the interest rate on the Bonds is adjusted in accordance with the provisions hereof or pursuant to the Loan Agreement, the Bonds shall bear interest on the outstanding principal amount of the Bonds at the Interest Rate and shall be payable on each Interest Payment Date, commencing January 1, 2015. Unless all of the Bonds are redeemed or prepaid in accordance with the terms of this Resolution, the Outstanding principal of the Bonds shall be payable on the Maturity Date.

Principal and interest on the Bonds 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 Bonds shall be numbered in such manner as may be prescribed by the Registrar.

The Bonds 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.

The County may prepay the Bonds in whole on any date on or after August 1, 2019, without a premium, by paying to the registered holder all of the principal amount of the Outstanding Bonds, and the unpaid interest accrued on the amount of the Outstanding principal so prepaid to the date of such prepayment. Such prepayment shall be made on such date 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 Outstanding principal amount of the Bonds shall become due and payable on the prepayment date stated in such notice, together with accrued interest thereon upon presentation and surrender of the Bonds to the office of the Paying Agent (the designated corporate trust office, if the Paying Agent is not the office of the Clerk).

Notwithstanding the foregoing, if all of the Bonds are registered in the name of the Lender, payment shall be effected by payment to the Lender of the principal and interest then due without surrender of the Bond; including redemptions, such payment to be evidenced by the records of the County and the Lender and such records shall be conclusive and binding upon the County and the Lender absent manifest error.

Upon a prepayment in whole, the County understands that the Lender will promptly thereafter surrender the Bonds to the County marked “satisfied” or “paid in full.” If, on the prepayment date, funds for the payment of the principal amount to be prepaid, together with accrued and unpaid interest to the prepayment date on such principal amount, shall have been provided to the Owner, as above provided, then from and after the prepayment date interest on such principal amount of the Bonds 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 Bonds shall continue to bear interest until payment thereof at the applicable Interest Rate.

**Section 3.     EXECUTION OF BONDS.** The Bonds 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 Bonds may be manual or facsimile signatures. In case any one or more of the officers who shall have signed or sealed any of the Bonds shall cease to be such officer of the County before the Bonds so signed and sealed shall have been actually sold and delivered, such Bonds may nevertheless be sold and delivered as herein provided and may be issued as if the person who signed or sealed such Bonds had not ceased to hold such office. Any Bond may be signed and sealed on behalf of the County by such person who at the actual time of

the execution of such Bond shall hold the proper office, although at the date such Bonds shall be actually delivered such person may not hold office or may not be so authorized.

The Bonds shall bear thereon a certificate of authentication, in the form set forth in Section 7 hereof, executed manually by the Registrar. Only such Bonds as shall bear thereon such certificate of authentication shall be entitled to any right or benefit under this Resolution, and no Bond 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 Bond executed on behalf of the County shall be conclusive evidence that the Bond 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 Bonds may be exchanged for Bonds of the same maturity of any other authorized denominations.

The Registrar shall keep books for the registration of Bonds and for the registration of transfers of Bonds. Subject to the next succeeding sentences, the Bonds shall be transferable by the Owner thereof in person or by his attorney duly authorized in writing only upon the books of the County kept by the Registrar and only upon surrender thereof together with a written instrument of transfer satisfactory to the Registrar duly executed by the Owner or his duly authorized attorney. The Bonds 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 Bond, the County shall issue in the name of the transferee a new Bond or Bonds. There shall only be one (1) Owner of the Bonds at any one time.

The County, the Paying Agent and the Registrar shall deem and treat the person in whose name any Bond shall be registered upon the books kept by the Registrar as the absolute Owner of such Bond, whether such Bond shall be overdue or not, for the purpose of receiving payment of, or on account of, the principal of and interest on such Bond 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 Bond 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 Bonds or transferring Bonds is exercised, the County shall execute, and the Registrar shall authenticate and deliver, Bonds in accordance with the provisions of this Resolution. All Bonds 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 Bonds, 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 Bonds for a period commencing on a Record Date and ending on the next ensuing Interest Payment Date.

All Bonds paid at or before maturity shall be delivered to the Registrar when such payment is made, and such Bonds, together with all Bonds purchased by the County with the intent of cancellation, shall thereupon be promptly canceled. Bonds 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 Bonds 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. BONDS MUTILATED, DESTROYED, STOLEN OR LOST.** In case any Bond shall become mutilated, destroyed, stolen or lost, the County may execute and the Registrar shall authenticate and deliver a new Bond of like series, date, maturity and denomination as the Bond so mutilated, destroyed, stolen or lost; provided that, in the case of any mutilated Bond, such mutilated Bond shall first be surrendered to the County and, in the case of any lost, stolen or destroyed Bond, 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 Bond shall be about to mature or have matured instead of issuing a duplicate Bond, the County may pay the same without surrender thereof. The County and the Registrar may charge the Owner of such Bond their reasonable fees and expenses in connection with this transaction. Any Bond surrendered for replacement shall be canceled in the same manner as provided in Section 4 of this Article II.

Any such duplicate Bonds issued pursuant to this Section shall constitute additional contractual obligations on the part of the County, whether or not the lost, stolen or destroyed Bonds be at any time found by anyone, and such duplicate Bonds 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 Bonds issued hereunder.

**Section 6.     PREPARATION OF DEFINITIVE BONDS; TEMPORARY BONDS.**

Unless the County is utilizing the Book-Entry System, the definitive Bonds shall be typewritten on “safety” paper. Until the definitive Bonds 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 Bonds, but subject to the same provisions, limitations and conditions as the definitive Bonds, one or more typewritten temporary fully registered Bonds, substantially of the tenor of the definitive Bonds in lieu of which such temporary Bond or Bonds are issued, in authorized denominations or any whole multiples thereof, and with such omissions, insertions and variations as may be appropriate to such temporary Bonds. 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 Bonds for which no payment or only partial payment has been provided, for exchange and the cancellation of such surrendered temporary Bonds, 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 Bonds of the same aggregate principal amount and maturity as the temporary Bonds surrendered. Until so exchanged, the temporary Bonds shall in all respects be entitled to the same benefits and security as definitive Bonds issued pursuant to this Resolution. If the County is utilizing the Book-Entry System, the Bonds shall be in the form so required by the Securities Depository.

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

(Form of Bonds)\*

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

(Face of Bond)

No. R- \$\_\_\_\_\_

**UNITED STATES OF AMERICA  
STATE OF FLORIDA  
MANATEE COUNTY  
REVENUE IMPROVEMENT BOND  
SERIES 2014  
(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 January 1 of each year, commencing January 1, 2015, until the County's obligation with respect to the payment of such principal sum shall be discharged. Interest on this Bond 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 Bonds may, at the option of any Holder of Bonds 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 a January 1 to which interest has been paid, in which case from the date of authentication, or unless the date hereof is prior to January 1, 2015, 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 Bonds 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.

Notwithstanding the foregoing, if all of the Bonds are registered in the name of the Lender, payment shall be effected by payment to the Lender of the principal and interest then due without surrender of the Bond; including redemptions, such payment to be evidenced by the records of the County and the Lender and such records shall be conclusive and binding upon the County and the Lender absent manifest error.

This Bond 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 Bond is one of an authorized issue of Bonds of the County designated as its Revenue Improvement Bonds, Series 2014 (ESCO Project) (herein called the “Bonds”), 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 May 20, 2014, 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 Bond shall have the meaning ascribed to such term in the Resolution.

This Bond 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 Bonds.

“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 Bonds 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 Bonds, 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 Bonds 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.

The full faith and credit of the County is not pledged for the payment of this Bond, and this Bond 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 Bond 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 Bond or the making of sinking fund payments provided for in the Resolution.

It is further agreed between the County and the Owner of this Bond that this Bond 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 Bond 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 Bonds and for the registration of transfers of Bonds as provided in the Resolution. Subject to the limitations on transferability of the Bonds set forth in the Resolution, the Bonds 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 Bond, the County shall issue in the name of the transferee a new Bond or Bonds.

(2) The County, the Paying Agent and the Registrar shall deem and treat the person in whose name any Bond shall be registered upon the books kept by the Registrar as the absolute owner of such Bond, whether such Bond shall be overdue or not, for the purpose of receiving payment of, or on account of, the principal of and interest on such Bond 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 Bond 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 Bonds may be exchanged for Bonds of the same maturity of any other authorized denominations.

(4) In all other cases in which the privilege of exchanging Bonds or transferring Bonds is exercised, the County shall execute and the Registrar shall authenticate and deliver Bonds in accordance with the provisions of the Resolution. There shall be no charge for any such exchange or transfer of Bonds, 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 Bonds for a period of 15 days from a Record Date to the next ensuing Interest Payment Date.

The Bonds 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 Bonds 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 Bond 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 Bond, and of

the issue of Bonds of which this Bond is one, is in full compliance with all constitutional or statutory limitations or provisions.

IN WITNESS WHEREOF, Manatee County, Florida, has caused this Bond to be signed by the Chairman of the Board of County Commissioners of Manatee County, Florida, either manually or with his 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**

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

Attest:

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

FORM OF CERTIFICATE OF AUTHENTICATION

Date of Authentication:

This Bond is one of the Bonds 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 \_\_\_\_\_

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(please print or typewrite name and address of transferee)

the within Bond and all rights thereunder, and hereby irrevocably constitutes and appoints \_\_\_\_\_

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Attorney to transfer the within Bond 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 BONDS; 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 Bonds be sold on a negotiated private placement basis. The form of the Bond Purchase Agreement for the Bonds, 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 Bonds 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 Bond Purchase Agreement), the Bond Purchase Agreement in substantially the form attached hereto as Exhibit “B” with such changes, insertions and deletions thereto as are deemed necessary or desirable for carrying out the purposes thereof as may be approved by the Chairman or Vice Chairman, in the absence of the Chairman, upon the advice of the County Attorney and Bond Counsel, the execution of the Bond Purchase Agreement and delivery to the Lender being conclusive evidence of such approval. The County’s Financial Advisor shall file with the Clerk a written summary of the final details of the Bonds. Such written summary shall be entered into Board records as an attachment to this Resolution. Notwithstanding anything in this Section 8 to the contrary, the County has the absolute right, in its sole discretion, to not execute the Bond Purchase Agreement and no contract between the County and the Lender, either expressed or implied, is intended before the Bond 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

substantially in the form attached hereto as Exhibit “C” between the County and the Lender, as submitted to this meeting, is hereby approved and accepted. The Chairman or the Vice Chairman, in the absence of the Chairman, 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 Chairman or the Vice Chairman, in the absence of the Chairman, upon the advice of the County Attorney and Bond Counsel, the execution of said Loan Agreement and delivery to the Lender being conclusive evidence of such approval.

### **ARTICLE III**

#### **COVENANTS, FUNDS AND APPLICATION THEREOF**

**Section 1. BONDS NOT TO BE INDEBTEDNESS OF THE COUNTY.** The Bonds 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 Bonds 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 Bonds or the interest thereon.

It is further agreed between the County and the Bondholders that the Bonds 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. BONDS SECURED BY LIEN ON AND PLEDGE OF THE PLEDGED REVENUES.** The payment of the principal of and interest on all of the Bonds 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 Bonds, 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 BOND PROCEEDS.** All moneys received by the County from the sale of the Bonds authorized and issued pursuant to this Resolution shall be disbursed in the following manner:

A.     The net proceeds derived from the sale of the Bonds 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 Bonds, unless the County elects to pay all costs of issuance of the Bonds from such other source. No withdrawals shall be made from the Construction Fund in an amount in excess of \$75,000 at any one time, except for amounts in the Cost of Issuance Cost Center without the written approval of the Clerk or 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:

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

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

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

**Section 4.     COVENANTS OF THE COUNTY.** As long as any of the principal of or interest on any of the Bonds 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 Bonds 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 Bonds issued pursuant to this Resolution as follows:

A.     Covenant to Budget and Appropriate. Until all of the Bonds 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 Bonds, 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 Bonds 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 Bonds shall have a first lien on such Pledged Revenues until the principal of and interest on the Bonds 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 Bonds 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 Bonds.

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 Bonds pursuant to Section 148(f) of the Code from amounts on deposit in the fund and accounts established in connection with the Bonds 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 Bonds from gross income for federal income tax purposes, the covenants contained in this Section shall survive the payment of the Bonds 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 Bonds 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 Bonds, as the same become due and payable, in each year that the Bonds 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 Bonds (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. 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 Bonds 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 Bonds 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 Bonds 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 Bonds in an aggregate principal amount of not less than fifty one per centum (51%) of Bonds issued under this Resolution then Outstanding may by a duly executed certificate in writing appoint a trustee for Owners of Bonds 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 Bonds shall not be a remedy available to the Owners of the Bonds. The County, however, agrees to pay interest on the Bonds at the Default Rate established under the Loan Agreement until such event of default shall have been cured.

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

1. by paying the principal of and interest on Bonds 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 Bonds 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 Bonds and the interest thereon as the same become due on said Bonds 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 Bonds 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 Bonds and

interest thereon as the same shall become due on said Bonds on or prior to the maturity date thereof.

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

Upon such payment or deposit in the amount and manner provided in this Section 4.H, the Bonds shall no longer be deemed to be outstanding for the purposes of this Resolution and all liability of the County with respect to the Bonds 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 Bonds then Outstanding.

**Section 2.     PURCHASE OF BONDS.** The County may at any time purchase any of the Bonds 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 Bonds issued hereunder.

**Section 4. FURTHER AUTHORIZATIONS.** 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, are hereby authorized and directed to execute and deliver any and all documents and instruments, including but not limited to entering into a paying agent and registrar agreement if so required and to do and cause to be done any and all acts and things necessary or proper for carrying out the transactions contemplated by this Resolution.

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

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

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

Date: May 20, 2014

ATTEST:

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

**EXHIBITS TO RESOLUTION No. R-14-028**

Exhibit “A”    Description of Project

Exhibit “B”    Form of Bond Purchase Agreement

Exhibit “C”    Form of Loan Agreement

## **EXHIBIT “A”**

### **Description of Project**

- Conventional conservation
  - Lighting
  - Water Conservation
  - AHU replacement
  - Controls
- Central Chiller Plant
- Elevator Improvements
- FPL Load Control
- Transformers
- Metering

**EXHIBIT “B”**

**Form of Bond Purchase Agreement**



## **EXHIBIT “C”**

### **Form of Loan Agreement**

WPB 383192034v8/016705.014400

No. R-1

\$6,482,360

**UNITED STATES OF AMERICA  
STATE OF FLORIDA  
MANATEE COUNTY  
REVENUE IMPROVEMENT BOND  
SERIES 2014  
(ESCO PROJECT)**

<b><u>Interest Rate</u></b> (subject to adjustment)	<b><u>Maturity Date</u></b>	<b><u>Dated Date</u></b>
3.69%	January 1, 20____	May 23, 2014

Registered Owner: ---SUNTRUST EQUIPMENT FINANCE & LEASING CORP.---

Principal Amount: ---SIX MILLION FOUR HUNDRED EIGHTY-TWO THOUSAND THREE HUNDRED SIXTY AND NO/100 DOLLARS

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 January 1 of each year, commencing January 1, 2015, until the County's obligation with respect to the payment of such principal sum shall be discharged. Interest on this Bond 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 Bonds may, at the option of any Holder of Bonds 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 a January 1 to which interest has been paid, in which case from the date of authentication, or unless the date hereof is prior to January 1, 2015, 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 Bonds 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.

Notwithstanding the foregoing, if all of the Bonds are registered in the name of the Lender, payment shall be effected by payment to the Lender of the principal and interest then due without surrender of the Bond; including redemptions, such payment to be evidenced by the records of the County and the Lender and such records shall be conclusive and binding upon the County and the Lender absent manifest error.

This Bond 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 Bond is one of an authorized issue of Bonds of the County designated as its Revenue Improvement Bonds, Series 2014 (ESCO Project) (herein called the “Bonds”), in the aggregate principal amount of SIX MILLION FOUR HUNDRED EIGHTY-TWO THOUSAND THREE HUNDRED SIXTY DOLLARS (\$6,482,360) 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 May 20, 2014, 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 Bond shall have the meaning ascribed to such term in the Resolution.

This Bond 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 Bonds.

“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 Bonds 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 Bonds, 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 Bonds 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.

The full faith and credit of the County is not pledged for the payment of this Bond, and this Bond 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 Bond 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 Bond or the making of sinking fund payments provided for in the Resolution.

It is further agreed between the County and the Owner of this Bond that this Bond 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 Bond 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 Bonds and for the registration of transfers of Bonds as provided in the Resolution. Subject to the limitations on transferability of the Bonds set forth in the Resolution, the Bonds 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 Bond, the County shall issue in the name of the transferee a new Bond or Bonds.

(2) The County, the Paying Agent and the Registrar shall deem and treat the person in whose name any Bond shall be registered upon the books kept by the Registrar as the absolute owner of such Bond, whether such Bond shall be overdue or not, for the purpose of receiving payment of, or on account of, the principal of and interest on such Bond 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 Bond 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 Bonds may be exchanged for Bonds of the same maturity of any other authorized denominations.

(4) In all other cases in which the privilege of exchanging Bonds or transferring Bonds is exercised, the County shall execute and the Registrar shall authenticate and deliver Bonds in accordance with the provisions of the Resolution. There shall be no charge for any such exchange or transfer of Bonds, 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 Bonds for a period of 15 days from a Record Date to the next ensuing Interest Payment Date.

The Bonds 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 Bonds 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 Bond 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 Bond, and of the issue of Bonds of which this Bond is one, is in full compliance with all constitutional or statutory limitations or provisions.

IN WITNESS WHEREOF, Manatee County, Florida, has caused this Bond to be signed by the Chairman of the Board of County Commissioners of Manatee County, Florida, either manually or with his 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**

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

Attest:

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



CERTIFICATE OF AUTHENTICATION

Date of Authentication:

This Bond is one of the Bonds delivered pursuant to the within mentioned Resolution.

OFFICE OF THE COUNTY CLERK

\_\_\_\_\_  
as Registrar

By: \_\_\_\_\_  
Authorized Officer

**ASSIGNMENT AND TRANSFER**

FOR VALUE RECEIVED the undersigned sells, assigns and transfers unto \_\_\_\_\_

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(please print or typewrite name and address of transferee)

the within Bond and all rights thereunder, and hereby irrevocably constitutes and appoints \_\_\_\_\_

---

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

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

In the presence of: \_\_\_\_\_

WPB 383243182v2/016705.014400