

RESOLUTION NO. R-2008-0571

A RESOLUTION OF THE BOARD OF COUNTY COMMISSIONERS OF PALM BEACH COUNTY, FLORIDA AUTHORIZING THE ISSUANCE OF PUBLIC IMPROVEMENT REVENUE REFUNDING BONDS, SERIES 2008A IN THE PRINCIPAL AMOUNT OF NOT TO EXCEED \$30,000,000, TO REFUND CERTAIN OUTSTANDING OBLIGATIONS OF THE ISSUER; PROVIDING THAT THE BONDS SHALL BE A LIMITED OBLIGATION OF THE ISSUER PAYABLE FROM A COVENANT TO BUDGET AND APPROPRIATE NON-AD VALOREM REVENUES; DELEGATING CERTAIN RESPONSIBILITIES WITH RESPECT TO THE SALE OF THE BONDS TO THE CHAIRPERSON; PROVIDING FOR THE RIGHTS, SECURITIES AND REMEDIES FOR THE OWNER OF THE BOND; MAKING CERTAIN COVENANTS AND AGREEMENTS IN CONNECTION THEREWITH; PROVIDING FOR SEVERABILITY; AND PROVIDING AN EFFECTIVE DATE.

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF COUNTY COMMISSIONERS OF PALM BEACH COUNTY, FLORIDA, as follows:

**Section 1: Authority for this Resolution.** This Resolution is adopted pursuant to the provisions of the Constitution of Florida, Chapter 125, Florida Statutes, and other applicable provisions of law (collectively, the "Act").

**Section 2: Definitions.** The following words and phrases shall have the following meanings when used herein:

"Act" shall have the meaning ascribed thereto in Section 1 hereof.

"Authorized Denominations" means the stated amount of the Bond.

"Board" means the Board of County Commissioners, as the governing body of Palm Beach County, Florida.

"Bond" means the Palm Beach County Public Improvement Revenue Refunding Bonds, Series 2008A authorized pursuant to this Resolution.

"Business Day" means any day except any Saturday or Sunday or day on which the principal office of the Original Purchaser is closed.

"Chairperson" means the Chairperson of the Board or in her absence or inability to act, the Vice Chairman of the Board or such other person as may be duly authorized by the Board to act on her behalf.

*"Clerk"* means the Clerk of the Circuit Court or any Deputy Clerk.

*"Issuer"* means the Board of County Commissioners of Palm Beach County, Florida.

*"Fiscal Year"* means the period commencing on October 1 of each year and ending on the succeeding September 30.

*"Maturity Date"* means December 1, 2020.

*"Non-Ad Valorem Revenues"* means all legally available non-ad valorem revenues of the Issuer, but shall not include any ad valorem taxes.

*"Original Purchaser"* means the initial purchaser of the Bonds, as selected by the Chairperson pursuant to Section 12 hereof, and its successors and assigns

*"Owner"* or *"Owners"* means the Person or Persons in whose name or names a Bond shall be registered on the books of the Issuer kept for that purpose in accordance with provisions of this Resolution.

*"Person"* means natural persons, firms, trusts, estates, associations, corporations, partnerships and public bodies and other legal entities.

*"Refunded Obligations"* shall mean (i) obligations evidenced by a loan agreement between the Sunshine State Governmental Financing Commission (the "Commission") and the Issuer dated as of August 4, 2000, in the original principal amount of \$20,280,000 and currently outstanding in the amount of \$15,005,000, funded from the Sunshine State Governmental Financing Commission Commercial Paper Revenue Notes (Governmental Financing Program); (ii) obligations evidenced by a loan agreement between the Commission and the Issuer dated as of October 21, 1987, in the original principal amount of \$50,875,000 and currently outstanding in the amount of \$12,875,000, funded from the Sunshine State Governmental Financing Commission Revenue Bonds, Series 1986 (Governmental Financing Program); and (iii) obligations evidenced by a loan agreement between the Commission and the Issuer dated as of February 19, 2004, in the original principal amount of \$12,000,000 and currently outstanding in the amount of \$4,000,000, funded from the Sunshine State Governmental Financing Commission Revenue Bonds, Series 1986 (Governmental Financing Program).

*"Resolution"* means this Resolution, pursuant to which the Bond is authorized to be issued, including any supplemental resolution(s).

*"State"* means the State of Florida.

### Section 3: Findings.

(A) For the benefit of the inhabitants of the Issuer, the Board finds, determines and declares that it is necessary for the continued preservation of the health, welfare, convenience and safety of the Issuer and its inhabitants to refinance Refunded Obligations. Issuance of the Bonds to refinance the Refunded Obligations which originally funded capital projects satisfies a paramount public purpose.

(B) The Issuer is without adequate, currently available funds to pay the costs of financing the Project, and it is necessary and desirable and in the best interests of the Issuer that it borrow the moneys necessary to accomplish the financing of the costs of the Project.

(C) The Bonds will be payable from Non-Ad Valorem Revenues. The Non-Ad Valorem Revenues will be sufficient to pay the Bonds, as the same becomes due.

(D) Neither the Issuer nor the State of Florida or any political subdivision thereof or governmental authority or body therein, shall ever be required to levy ad valorem taxes to pay the Bond and the Bond shall not constitute a lien upon any properties owned by or situated within the Issuer, except as provided herein with respect to the Non-Ad Valorem Revenues, in the manner and to the extent provided herein.

(E) Because of the characteristics of the Bond, prevailing market conditions, and additional savings to be realized from an expeditious sale of the Bond, it is in the best interest of the Issuer to purchase the Bond at a private negotiated sale from the Original Purchaser. Prior to the issuance of the Bond, the Issuer shall receive from the Original Purchaser, a Purchaser's Certificate, the form of which is attached hereto as Exhibit B and the Disclosure Letter containing the information required by Section 218.385, Florida Statutes, a form of which is attached hereto as Exhibit C.

Section 4: Authorization. The issuance of an obligation of the Issuer to be known as the "Palm Beach County Public Improvement Revenue Refunding Bonds, Series 2008A" is hereby approved and authorized, in the aggregate principal amount of not to exceed \$30,000,000 for the purpose of providing funds to currently refund the Refunded Obligations and to pay the costs of issuing the Bond.

Section 5: Description of Bond. The Bonds shall be issued as a single Bond and shall be dated the date of its execution and delivery, which shall be a date agreed upon by the Issuer and the Original Purchaser, and shall have such other terms and provisions, including interest rates not exceeding the maximum interest rates permitted by the Act, principal and interest payment terms, maturity date, and prepayment provisions as stated herein and/or in the form of the Bond attached hereto as Exhibit A or as determined by supplemental resolution. The Bond is to be in substantially the form set forth on Exhibit A attached hereto, together with such changes as shall be approved by the Chairperson, such approval to be conclusively evidenced

by the execution thereof by the Chairperson. The Bond shall be executed with the manual or facsimile signature of the Chairperson and the Bond shall be attested with the manual or facsimile signature of the Clerk. In case any one or more of the officers who shall have signed or sealed the Bond or whose facsimile signature shall appear thereon shall cease to be such officer of the Issuer before the Bond so signed and sealed have been actually sold and delivered, such Bond may nevertheless be sold and delivered as herein provided and may be issued as if the person who signed or sealed such Bond had not ceased to hold such office. The Bond may be signed and sealed by such person who at the actual time of the execution of the Bond shall hold the proper office of the Issuer, although, at the date of the Bond, such person may not have held such office or may not have been so authorized. The Issuer may adopt and use for such purposes the facsimile signatures of any such persons who shall have held such offices at any time after the date of the adoption of this Resolution, notwithstanding that either or both shall have ceased to hold such office at the time the Bond shall be actually sold and delivered.

**Section 6: Registration and Exchange of Bond; Persons Treated as Owners.** The Bond will initially be registered to the Original Purchaser. So long as the Bond shall remain unpaid, the Issuer will keep books for the registration and transfer of the Bond. The Bond shall be transferable only upon such registration books and in Authorized Denominations.

The Person in whose name a Bond shall be registered shall be deemed and regarded as the absolute Owner thereof for all purposes, and payment of principal and interest on such Bond shall be made only to or upon the written order of the Owner. All such payments shall be valid and effectual to satisfy and discharge the liability upon such Bond to the extent of the sum or sums so paid.

**Section 7: Bond Mutilated, Destroyed, Stolen or Lost.** In case a Bond shall become mutilated, or be destroyed, stolen or lost, the Issuer shall issue and deliver a new Bond of like tenor as the Bond so mutilated, destroyed, stolen or lost, in exchange and in substitution for such mutilated Bond, or in lieu of and in substitution for the Bond destroyed, stolen or lost and upon the Owner furnishing the Issuer reasonable proof of ownership thereof and indemnity reasonably satisfactory to the Issuer and complying with such other reasonable regulations and conditions as the Issuer may prescribe and paying such expenses as the Issuer may incur. The Bond so surrendered shall be canceled.

**Section 8: Payment of Bond; Limited Obligation.** The Issuer promises that it will promptly pay the Bond at the place, on the dates and in the manner provided therein according to the true intent and meaning hereof and thereof. The Bond shall not be or constitute general obligations or indebtedness of the Issuer as "Bond" within the meaning of Article VII, Section 12 of the Constitution of Florida, but shall be payable from the Non-Ad Valorem Revenues, in the manner and to the extent provided herein. No holder of any Bond issued hereunder shall ever have the right to compel the exercise of any ad valorem taxing power to pay such Bond, or be entitled to payment of such Bond from any funds of the Issuer except from the Non-Ad Valorem Revenues, in the manner and to the extent provided herein. Nothing in this section



shall be construed as to limit the Issuer's ability to use any Non-Ad Valorem Revenues to make any payments coming due.

**Section 9. Security for the Bond.** The Issuer covenants and agrees to appropriate in its annual budget for each Fiscal Year in which the Bond remains outstanding, sufficient amounts of Non-Ad Valorem Revenues for the payment of principal of and interest on the Bond in each such Fiscal Year. Such covenant and agreement on the part of the Issuer shall be for the term and of the Bond and be cumulative and shall continue until all payments of principal of and interest on the Bond shall have been budgeted, appropriated and actually paid. The Issuer agrees that this covenant and agreement to budget and appropriate Non-Ad Valorem Revenue shall be deemed to be entered into for the benefit of the holders of the Bond and that this obligation may be enforced in a court of competent jurisdiction. This covenant and agreement shall not be construed as a limitation on the ability of the Issuer to pledge all or a portion of such Non-Ad Valorem Revenues for other legally permissible purposes. Nothing herein shall be deemed to pledge ad valorem taxation revenues or to permit or constitute a mortgage upon any assets owned by the Issuer and no Person may compel the levy of ad valorem taxes on real or personal property within the boundaries of the Issuer for the payment of the Issuer's obligations hereunder. The Bond shall not be or constitute general obligations or indebtedness of the Issuer as "bonds" within the meaning of the Constitution of the State of Florida. The obligation of the Issuer to appropriate Non-Ad Valorem Revenues shall be subject in all respects to the obligation of the Issuer to provide for essential governmental services and further shall be subject to the provisions of Section 129.07, Florida Statutes. Notwithstanding any provisions of this Resolution to the contrary, the Issuer shall not be obligated to exercise ad valorem taxing power to maintain or continue any of the activities of the Issuer which generate user service charges, regulatory fees or other Non-Ad Valorem Revenues.

**Section 10: Application of Proceeds of Bond.** At the time of delivery of the Bond, proceeds from the sale of the Bond shall be used to refinance the Refunded Obligations and to pay the costs of issuance (including but not limited to legal fees and expenses). Upon issuance of the Bonds, the Clerk shall transfer funds to pay the Refunded Obligations without any further direction.

**Section 11. Application of Revenues.** For so long as any of the principal of and interest on the Bond shall be outstanding and unpaid or until the Issuer has made provision for payment of principal of and interest, with respect to the Bond, the Issuer covenants as follows:

A. Funds and Accounts. The Issuer covenants and agrees to establish separate funds to be known as the "Revenue Fund," the "Debt Service Fund" and the "Rebate Fund." Moneys in the aforementioned funds, other than the Rebate Fund, until applied in accordance with the provisions hereof, shall be subject to a lien and charge in favor of the Owner and for the further security of the Owner.

The Issuer may, but shall not be required to, at any time and from time to time appoint

one or more depositories to hold, for the benefit of the Owner, any one or more of the funds and accounts established hereby. Such depository or depositories shall perform at the direction of the Issuer the duties of the Issuer in depositing, transferring and disbursing moneys to and from each of such funds and accounts as herein set forth, and all records of such depository in performing such duties shall be open at all reasonable times to inspection by the Issuer and its agents and employees. Any such depository shall be a bank or trust company duly authorized to exercise corporate trust powers and subject to examination by federal or state authority, of good standing, and having a combined capital, surplus and undivided profits aggregating not less than five million dollars (\$5,000,000).

All deposits into the funds and accounts created by this Resolution shall be deemed to be held in trust by the Issuer for the benefit of the Owner for the purposes herein provided and used and applied only for the purposes and in the manner herein provided.

**B. Flow of Funds.**

(1) The Issuer shall credit the appropriated and budgeted amounts of Non-Ad Valorem Revenue to the Revenue Fund. The moneys in the Revenue Fund shall be deposited or credited on or before the last day of each month, commencing with the month in which delivery of the Bond shall be made to the purchaser or purchasers thereof, or such later date as hereinafter provided, in the following manner and in the following order of priority:

(a) Debt Service Fund. The Issuer shall deposit into or credit to the Debt Service Fund the sum which, together with the balance in said fund, shall be equal to the interest and the principal amount on all Outstanding Bonds accrued and unpaid and to accrue to the end of the then current calendar month. Moneys in the Debt Service Fund shall be used to pay principal of and interest on the Bonds as and when the same become due, whether by redemption or otherwise, and for no other purpose. In determining the amount to deposit for principal, the Issuer shall take into account that portion of the principal due on the next principal payment date which would have accrued on said Bond during the then current calendar month if such principal amounts were deemed to accrue monthly (assuming that a year consists of twelve (12) equivalent calendar months of thirty (30) days each) in equal amounts from the next preceding principal payment due date, or, if there is no such preceding principal payment due date, from a date one year preceding the due date of such principal amount. The Issuer shall adjust the amount of the deposit into the Debt Service Fund not later than the month immediately preceding any payment date so as to provide sufficient moneys in the Debt Service Fund to pay the principal of and interest on the Bond coming due on such payment date.

(b) Balance. The balance of any moneys after the deposits required by Section 12(B)(1) hereof may be transferred to any appropriate fund or account of the Issuer or may be used for any lawful purpose.

(2) The Issuer, in its discretion, may use moneys in the Debt Service Fund to prepay the principal or interest coming due in future years.

(3) On the date established for payment of any principal of or redemption price, if applicable, or interest on the Bond, the Issuer shall withdraw from the Debt Service Fund sufficient moneys to pay such principal or redemption price, if applicable, or interest and deposit such moneys with the Paying Agent.

C. Rebate Fund. Amounts on deposit in the Rebate Fund shall be held in trust by the Issuer and used solely to make required rebates to the United States (except to the extent the same may be transferred to the Revenue Fund) and the Owner shall have no right to have the same applied for debt service on the Bond. The Issuer agrees to undertake all actions required of it in its arbitrage certificate, dated the date of issuance of the Bond, relating to such Bond, including, but not limited to:

(1) making a determination in accordance with the Code of the amount, if any, required to be deposited in the Rebate Fund;

(2) depositing the amount determined in clause (1) above into the Rebate Fund;

(3) paying on the dates and in the manner required by the Code to the United States Treasury from the Rebate Fund and any other legally available moneys of the Issuer such amounts as shall be required by the Code to be rebated to the United States Treasury; and

(4) keeping such records of the determinations made pursuant to this Section as shall be required by the Code, as well as evidence of the fair market value of any investments purchased with proceeds of the Bond.

The provisions of the above-described arbitrage certificate may be amended from time to time as shall be necessary, in the opinion of Bond Counsel, to comply with the provisions of the Code.

**Section 12: Delegated Award and Payment for the Bonds**. (A) In order to obtain the most favorable interest rates and terms, the Debt Manager, in conjunction with the Financial Advisor, is hereby authorized to solicit bids from interested purchasers and the Chairperson is authorized to accept, execute and deliver the commitment letter (the "Commitment Letter") of whichever purchaser provides the terms and provisions which, after consultation with the Issuer's Financial Advisor, provides the lowest interest rate and is in the best interest of the Issuer.

(B) Subject to full satisfaction of the conditions set forth in this Section 12(B), the Issuer hereby authorizes a delegated negotiated sale of the Bonds to the Original Purchaser in accordance with the terms of the Commitment Letter, with such changes, amendments, modifications, omissions and additions thereto as shall be approved by the Chairperson in accordance with the provisions of this Section 12(B) upon recommendation of the Financial Advisor (including, without limitation, making the final determination concerning the structuring and marketing of the Bonds to obtain the most favorable ratings and interest rates on the Bonds). The Bond may provide additional provisions to comply with the Commitment Letter.

Notwithstanding the foregoing, the Bonds shall not be issued until such time as all of the following conditions have been satisfied:

1. Receipt by the Chairperson or Debt Manager of a written offer in the form of a Commitment Letter, said offer to provide for, among other things, (i) the issuance of not exceeding \$30,000,000 aggregate principal amount of Bonds, (ii) a true interest cost of not more than \_\_\_\_% per annum and (iii) the final maturity no later than December 1, 2020.

2. The Bonds may be subject to such optional redemption provisions as provided in the Commitment Letter.

3. Receipt by the Debt Manager of a disclosure statement and truth-in-bonding information complying with Section 218.385, Florida Statutes and substantially in the form attached hereto as Exhibit C.

Upon satisfaction of the conditions set forth in this Section, the Chairperson is hereby authorized to execute and deliver the Bonds and any other documents, agreements or certificates relating to the Bonds, and is further authorized and directed to prepare and furnish to the Original Purchaser of the Bonds, when the Bonds are issued, certified copies of all the proceedings and records of the Issuer relating to the Bonds, and such other affidavits and certificates as may be required to show the facts relating to the legality and marketability of the Bonds as such facts appear from the books and records in the officers' custody and control or as otherwise known to them; and all such certified copies, certificates and affidavits, including any heretofore furnished, shall constitute representations of the Issuer as to the truth of all statements contained therein.

### **Section 13: Covenants of the Issuer.**

A. The Issuer covenants to provide its Certified Audited Financial Report, budgets and other reasonable financial information, if requested by the Owner and not readily publicly available.



B. The Owner will have the right to inspect the Issuer's books and records during normal business hours.

C. The Issuer will not incur any indebtedness payable from Non-Ad Valorem Revenues, unless such Non-Ad Valorem Revenues will be greater than 2.00 times the maximum annual debt service on all outstanding debt payable from such Non-Ad Valorem Revenues. For the purposes of this financial covenant, Non-Self Supporting Debt Service, as such term is more fully defined in a resolution adopted on January 27, 2004, as amended and supplemented, shall be excluded from the definition of Non-Ad Valorem Revenues.

**Section 14. Tax-Exemption.** The Issuer covenants with the Owner of the Bond that it shall not use the proceeds of such Bond in any manner which would cause the interest on such Bond to be or become includable in the gross income of the Owner for federal income tax purposes and the Issuer further covenants with the Owner of the Bond that it will comply with all provisions of the Internal Revenue Code (the "Code") necessary to maintain the exclusion of interest on the Bond from the gross income of the Owner for federal income tax purposes, including, in particular, the payment of any amount required to be rebated to the U.S. Treasury pursuant to the Code.

(a) The Issuer makes each of the representations, warranties and covenants contained in the Tax Certificate delivered with respect to the Bond. By this reference, such Tax Certificate is incorporated in and made a part of this Resolution.

(b) If the Owner receives a final, non-appealable notice, in any form, from the Internal Revenue Service that Owner may not exclude any interest paid under the Bond from its federal gross income (an "Event of Taxability"), the Issuer shall pay to Owner upon demand (x) an amount which, with respect to payments previously paid and taking into account all penalties, fines, interest and additions to tax (including all federal, state and local taxes imposed on the interest due through the date of such event), will restore to Owner its after-tax yield (assuming tax at the highest marginal tax rate and taking into account the time of receipt of payments and reinvestment at the after-tax yield rate) on the transaction evidenced by such Bond through the date of such event and (y) as additional payments to Owner on each succeeding date of payment such amount as will maintain such after-tax yield to Owner.

**Section 15: Events of Default; Remedies of Bondholder.** The following shall constitute Events of Default: (i) if the Issuer fails to pay any payment of principal of or interest on any Bond within 10 days after the same becomes due and payable; (ii) if the Issuer defaults in the performance or observance of any covenant or agreement contained in this Resolution (other than set forth in (i) above) and fails to cure the same within thirty (30) days following written notice; (iii) filing of a petition by or against the Issuer relating to bankruptcy, reorganization, arrangement or readjustment of debt of the Issuer or for any other relief relating to the Issuer under the United States Bankruptcy Code, as amended, or any other insolvency act or law now or hereafter existing, or the involuntary appointment of a receiver or trustee for the Issuer, and

the continuance of any such event for 90 days undismissed or undischarged; or (iv) an Event of Taxability, which cannot reasonably be cured within 30 days.

If the Owner has not received payment of principal and interest within 10 days after it becomes due, the Owner may elect not to declare an Event of Default, then the Bond will be subject to additional interest at the daily rate of 12% APY for the total number of days for which the late payment is past due or the maximum rate permitted by law.

Upon the occurrence and during the continuation of any Event of Default, the Owner of the Bond may, in addition to any remedy authorized in the Bond, either at law or in equity, by suit, action, mandamus or other proceeding (including specific performance) in any court of competent jurisdiction, protect and enforce any and all rights under the laws of the State, or granted or 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 Issuer or by any officer thereof. In any such default, the Issuer shall also be obligated to pay as part of the indebtedness evidenced by the Bond, all costs of collection and enforcement hereof, including such reasonable attorneys' fees as may be incurred, including on appeal or incurred in any proceeding under bankruptcy laws as they now or hereafter exist.

**Section 16: Amendment.** This Resolution shall not be modified or amended in any respect subsequent to the issuance of the Bond except with the written consent of the Owner of the majority of the principal amount of the Bond.

**Section 17: Impairment of Contract.** The Issuer covenants with the Owner of the Bond that it will not, without the written consent of the Owner of the Bond, adopt any resolution which repeals, impairs or amends in any manner adverse to the Owner the rights granted to the Owner of the Bond hereunder.

**Section 18: Limitation of Rights.** With the exception of any rights herein expressly conferred, nothing expressed or mentioned in or to be implied from this Resolution or the Bond is intended or shall be construed to give to any Person other than the Issuer and the Owner any legal or equitable right, remedy or claim under or with respect to this Resolution or any covenants, conditions and provisions herein contained; this Resolution and all of the covenants, conditions and provisions hereof being intended to be and being for the sole and exclusive benefit of the Issuer and the Owner.

**Section 19: Severability.** If any provision of this Resolution shall be held or deemed to be or shall, in fact, be illegal, inoperative or unenforceable in any context, the same shall be stricken solely to the extent of the invalidity and shall not affect any other provision herein or render any other provision (or such provision in any other context) invalid, inoperative or unenforceable to any extent whatever.

**Section 20: Business Days.** In any case where the due date of interest on or principal of a Bond or any other action date is not a Business Day, then payment of such principal or interest need not be made or action need not be taken on such date but may be made or taken on the next succeeding Business Day, provided that credit for payments made shall not be given until the payment is actually received by the Owner.

**Section 21: Applicable Provisions of Law.** This Resolution shall be governed by and construed in accordance with the laws of the State.

**Section 22: Rules of Interpretation.** Unless expressly indicated otherwise, references to sections or articles are to be construed as references to sections or articles of this instrument as originally executed. Use of the words "herein," "hereby," "hereunder," "hereof," "hereinafter," "hereinafter" and other equivalent words refer to this Resolution and not solely to the particular portion in which any such word is used.

**Section 23: Captions.** The captions and headings in this Resolution are for convenience only and in no way define, limit or describe the scope or intent of any provisions or sections of this Resolution.

**Section 24: Members of the Board Exempt from Personal Liability.** No recourse under or upon any obligation, covenant or agreement of this Resolution or the Bond or for any claim based thereon or otherwise in respect thereof, shall be had against any member of the Board (the "Members"), as such, past, present or future, either directly or through the Issuer it being expressly understood (a) that no personal liability whatsoever shall attach to, or is or shall be incurred by, the Members, as such, under or by reason of the obligations, covenants or agreements contained in this Resolution or implied therefrom, and (b) that any and all such personal liability, either at common law or in equity or by constitution or statute, of, and any and all such rights and claims against, every such Member, as such, are waived and released as a condition of, and as a consideration for, the execution of this Resolution, on the part of the Issuer.

**Section 25: Authorizations.** The Chairperson, the County Administrator, the Clerk, the County Attorney, the Debt Manager and such other officials and employees of the Issuer as may be designated by the Issuer are each designated as agents of the Issuer in connection with the issuance and delivery of the Bond and are authorized and empowered, collectively or individually, to take all action and steps, to make such representations and certificates, and to execute all instruments, documents, and contracts on behalf of the Issuer that are necessary or desirable in connection with the execution and delivery of the Bond, and which are specifically authorized or are not inconsistent with the terms and provisions of this Resolution.

**Section 26: Repealer.** All resolutions or parts thereof in conflict herewith are hereby repealed.

**Section 27: No Third Party Beneficiaries.** Except such other persons as may be expressly described in this Resolution or in the Bond, nothing in this Resolution or in the Bond, expressed or implied, is intended or shall be construed to confer upon any Person, other than the holders, any right, remedy or claim, legal or equitable, under and by reason of this Resolution, or any provision thereof, or of the Bond, all provisions thereof being intended to be and being for the sole and exclusive benefit of the persons who shall from time to time be the holders.

**Section 28: Effective Date.** This Resolution shall become effective immediately upon its passage and adoption.

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The foregoing Resolution was offered by Commissioner Jeff Koons who moved for its adoption. The motion was seconded by Commissioner Marcus, and upon being put to a vote, the vote was as follows:


Commissioner Addie L. Greene, Chairperson -	<u>Aye</u>
Commissioner Jeff Koons, Vice-Chairman -	<u>Aye</u>
Commissioner Karen T. Marcus -	<u>Aye</u>
Commissioner Robert J. Kanjian -	<u>Aye</u>
Commissioner Mary McCarty -	<u>Aye</u>
Commissioner Burt Aaronson -	<u>Aye</u>
Commissioner Jess R. Santamaria -	<u>Aye</u>

The Chairperson thereupon declared the Resolution duly passed and adopted this 1st day of April, 2008.

PALM BEACH COUNTY, FLORIDA  
BY ITS BOARD OF COUNTY  
COMMISSIONERS

SHARON R. BOCK, CLERK &  
COMPTROLLER


By: [Signature]  
Deputy Clerk



Approved as to form  
and legal sufficiency

By: [Signature]  
County Attorney

STATE OF FLORIDA, COUNTY OF PALM BEACH  
I, SHARON R. BOCK, Clerk & Comptroller, do hereby  
certify this to be a true and correct copy of the original  
filed in my office on APR 9 1 2008  
dated at West Palm Beach, FL on 4/9/2008  
By: [Signature]  
Deputy Clerk



**SUMMARY OF TERMS AND CONDITIONS**

**Date:** April 9, 2008

**Municipal Entity:** Palm Beach County, FL

**Registered Owner:** Banc of America Public Capital Corp (BAPCC) or its designee ("Registered Owner").

**Use of Proceeds:** Sunshine State Loan Refundings.

**Maximum Purchase Price:** \$29,476,000

**Commencement Date:** Funding is expected to occur on April 23, 2008.

**Maturity:** Final Maturity is December 1, 2020, please see attached amortization.

**Tax-Exempt Rates:** 3.4972% (fixed rate)  
The interest rate will be locked for a funding date until April 25, 2008. Should funding occur after 04-25-08, then refer to Index.

**Repayment:** Loan payments with interest payable on June 1, 2008 and on each June 1, and December 1, thereafter until Maturity. Principal of the Note will be payable commencing on December 1, 2008 and on each December 1, until Maturity. A single amortizing bond should be authorized and issued, rather than serial or term bonds; if an amortizing bond cannot be authorized, a term bond with mandatory sinking fund payments should be utilized.

**Index:** If funded after April 25, 2008, the interest rate will be determined 5 days prior to funding as follows:  
  
Average Life (5 yr) Daily H15 Interest Rate SWAPS X 65%, plus 122.22 bps.

**Security:** The Bonds will be secured by a pledge of the ~~Pledged Revenues~~, as defined in the Resolution, consisting of a pledge of the County to appropriate in its annual budget, from Non-Ad Valorem Revenues lawfully available to the County in each fiscal year, amounts sufficient for the payment of principal and interest on the Bonds when due, subject in all respects to the terms and conditions of the Resolution.

**Governmental Entity:** The payment installments are calculated on the assumptions, and Municipal Entity will represent, that Municipal Entity is a state or political subdivision of a state within the meaning of Section 103(c) of the Internal Revenue Code (the "Code") and that this transaction will constitute an obligation of Municipal Entity within the meaning of Section 103(a) of the Code, notwithstanding Section 103(b) of the Code. Municipal Entity shall provide Registered Owner with such evidence as Registered Owner may request to substantiate and maintain such tax status.

**Prepayment:** The Borrower may early terminate by paying accrued interest and outstanding principal on any loan repayment date, without penalty.

**Assignment:** Record Owner, only with the written consent of Palm Beach County which will not be unreasonably withheld, may assign its right, title and interest in the Bond to an accredited investor or qualified institutional buyer, or to a trustee for the purpose of issuing certificates of participation or other forms of certificates evidencing an undivided interest in such Bond provided such certificates are sold only on a private placement basis (and not pursuant to any "public offering") if the purchaser(s) represent that (i) such purchaser has sufficient knowledge and experience in financial and business matters to be able to evaluate the risks and merits of the investment (ii) such purchaser understands neither the Bond nor certificates will be registered under the Securities Act of 1933, (iii) such purchaser is either an "accredited investor" within the meaning of Regulation D under the Securities Act of 1933, or a qualified institutional buyer within the meaning of Rule 144A, and (iv) that it is the intention of such purchaser to acquire such certificates (A) for investment for its own account or (B) for resale in a transaction exempt from registration under the Securities Act of 1933.

**Documents:** Closing of this transaction is subject to documentation approval by BAPCC. We will endeavor to complete these processes in a simultaneous manner.

BAPCC reserves the right to require changes to the legal documentation for the Bond. BAPCC shall require five (5) business days for review of the legal documentation prior to its adoption by the County.

**Expenses:** Fees and expenses of preparation of the legal documentation for the Bond shall be paid by the County. There will be no cost for Bank counsel review of the legal documentation.

**Opinion of Counsel**

Bond counsel shall deliver an opinion to BAPCC at closing in form and substance satisfactory to BAPCC. The opinion of counsel will cover the following tax matters, in addition to other customary opinions:

- a. The interest paid by Issuer and received by BAPCC on the Bond is excluded from gross income for federal income tax purposes under Section 103 of the Internal Revenue Code of 1986 and is exempt from state income taxes;
- b. Such interest is not a specific preference item for purposes of the federal individual or corporate alternative minimum taxes;
- c. Counsel has examined, approved and attached the text of the enabling resolution of Issuer's governing body authorizing BAPCC to issue the Bond, and such resolution is valid, binding and enforceable.

**Other:** The Bond shall not be deposited with the Depository Trust Company, but shall be issued to BAPCC as a single instrument in registered form. Nor shall ownership of the Bonds be maintained in Book-Entry Form or a CUSIP # assigned. The registered owner of the Bond shall be BAPCC or designee. The Bond is being issued and purchased to evidence a loan to the Issuer for the loan portfolio of BAPCC, not as an investment in a security, and the documentation shall be consistent with this intent.

*Palm Beach County, Florida, Sunshine State Loan Refundings*

date	funding	Loan Amortization		principal	balance
		payment	interest		
Apr-23-08	\$29,476,000.00				\$29,476,000.00
Jun-01-08		\$ 108,808.82	\$ 108,808.82	\$ -	\$29,476,000.00
Dec-01-08		\$ 4,627,410.21	\$ 515,410.21	\$ 4,112,000.00	\$25,364,000.00
Jun-01-09		\$ 443,508.77	\$ 443,508.77	\$ -	\$25,364,000.00
Dec-01-09		\$ 4,585,508.77	\$ 443,508.77	\$ 4,142,000.00	\$21,222,000.00
Jun-01-10		\$ 371,082.76	\$ 371,082.76	\$ -	\$21,222,000.00
Dec-01-10		\$ 2,623,082.76	\$ 371,082.76	\$ 2,252,000.00	\$18,970,000.00
Jun-01-11		\$ 331,704.83	\$ 331,704.83	\$ -	\$18,970,000.00
Dec-01-11		\$ 2,617,704.83	\$ 331,704.83	\$ 2,286,000.00	\$16,684,000.00
Jun-01-12		\$ 291,732.39	\$ 291,732.39	\$ -	\$16,684,000.00
Dec-01-12		\$ 2,615,732.39	\$ 291,732.39	\$ 2,324,000.00	\$14,360,000.00
Jun-01-13		\$ 251,095.49	\$ 251,095.49	\$ -	\$14,360,000.00
Dec-01-13		\$ 2,613,095.49	\$ 251,095.49	\$ 2,362,000.00	\$11,998,000.00
Jun-01-14		\$ 209,794.13	\$ 209,794.13	\$ -	\$11,998,000.00
Dec-01-14		\$ 2,609,794.13	\$ 209,794.13	\$ 2,400,000.00	\$ 9,598,000.00
Jun-01-15		\$ 167,828.31	\$ 167,828.31	\$ -	\$ 9,598,000.00
Dec-01-15		\$ 2,609,828.31	\$ 167,828.31	\$ 2,442,000.00	\$ 7,156,000.00
Jun-01-16		\$ 125,128.09	\$ 125,128.09	\$ -	\$ 7,156,000.00
Dec-01-16		\$ 2,616,128.09	\$ 125,128.09	\$ 2,491,000.00	\$ 4,665,000.00
Jun-01-17		\$ 81,571.06	\$ 81,571.06	\$ -	\$ 4,665,000.00
Dec-01-17		\$ 1,174,571.06	\$ 81,571.06	\$ 1,093,000.00	\$ 3,572,000.00
Jun-01-18		\$ 62,459.13	\$ 62,459.13	\$ -	\$ 3,572,000.00
Dec-01-18		\$ 1,202,459.13	\$ 62,459.13	\$ 1,140,000.00	\$ 2,432,000.00
Jun-01-19		\$ 42,525.36	\$ 42,525.36	\$ -	\$ 2,432,000.00
Dec-01-19		\$ 1,233,525.36	\$ 42,525.36	\$ 1,191,000.00	\$ 1,241,000.00
Jun-01-20		\$ 21,699.83	\$ 21,699.83	\$ -	\$ 1,241,000.00
Dec-01-20		\$ 1,262,699.83	\$ 21,699.83	\$ 1,241,000.00	\$ -
	\$29,476,000.00	\$34,900,479.30	\$5,424,479.30	\$29,476,000.00	



Banc of America Public Capital Corp

*Charles T. Maguire*

Senior Vice President

The terms as outlined are hereby accepted and application for such is hereby submitted:

BY: \_\_\_\_\_

TITLE: \_\_\_\_\_

DATE: \_\_\_\_\_

Federal Tax I.D. Number: \_\_\_\_\_

ANY OWNER SHALL, PRIOR TO BECOMING A HOLDER, EXECUTE A PURCHASER'S CERTIFICATE IN THE FORM ATTACHED TO THE RESOLUTION (HEREIN DEFINED) CERTIFYING, AMONG OTHER THINGS, THAT SUCH OWNER IS AN "ACCREDITED INVESTOR" AS SUCH TERM IS DEFINED IN THE SECURITIES ACT OF 1933, AS AMENDED, AND REGULATION D THEREUNDER.

R-1

\$29,476,000

UNITED STATES OF AMERICA  
STATE OF FLORIDA  
COUNTY OF PALM BEACH  
PUBLIC IMPROVEMENT REVENUE REFUNDING BOND  
SERIES 2008A

DATED DATE: April 23, 2008

MATURITY DATE: December 1, 2020

KNOW ALL MEN BY THESE PRESENTS that Palm Beach County, Florida (the "Issuer"), for value received, promises to pay from the sources hereinafter provided, to the order of BANC OF AMERICA PUBLIC CAPITAL CORP, or registered assigns (hereinafter, the "Owner"), the principal sum of TWENTY NINE MILLION FOUR HUNDRED SEVENTY-SIX THOUSAND DOLLARS (\$29,476,000) at a rate of interest of 3.4972% per annum.

Interest shall be due and payable on each June 1st and December 1st, commencing June 1, 2008 and shall be computed on a 360 day year basis of twelve 30 day months. Principal shall be payable on each December 1st, commencing December 1, 2008. Principal of and interest on this Bond is payable when due (as provided in Schedule I attached hereto) in lawful money of the United States of America at such place as the Owner may designate to the Issuer in writing.

This Bond may be prepaid at the option of the Issuer on any loan repayment date, by paying the outstanding principal amount plus accrued interest, without penalty.

If any date for the payment of principal of or interest hereon or the taking of any action hereunder shall fall on a day which is not a Business Day, the payment due or action to be taken on such date shall be due on the next succeeding day which is a Business Day, but the Issuer shall not receive credit for the payment until it is actually received by the Owner.

THIS BOND DOES NOT CONSTITUTE A GENERAL INDEBTEDNESS OF THE ISSUER, WITHIN THE MEANING OF ANY CONSTITUTIONAL, STATUTORY OR CHARTER

PROVISION OR LIMITATION, AND IT IS EXPRESSLY AGREED BY THE HOLDER OF THIS BOND THAT SUCH BOND HOLDER SHALL NEVER HAVE THE RIGHT TO REQUIRE OR COMPEL THE EXERCISE OF THE AD VALOREM TAXING POWER OF THE ISSUER OR TAXATION OF ANY REAL OR PERSONAL PROPERTY THEREIN FOR THE PAYMENT OF THE PRINCIPAL OF AND INTEREST ON THIS BOND OR THE MAKING OF ANY OTHER PAYMENTS PROVIDED FOR IN THE RESOLUTION.

This Bond is issued pursuant to Chapter 125, Florida Statutes, and other applicable provisions of law (the "Act"), and a resolution duly adopted by the Issuer on April 1, 2008 relating to this Bond, as from time to time amended and supplemented (herein referred to as the "Resolution"), and is subject to all the terms and conditions of the Act and the Resolution. All terms, conditions and provisions of the Resolution including without limitation remedies in the Event of Default are by this reference thereto incorporated herein as a part of this Bond. Payment of the Bond is secured by Non-Ad Valorem Revenues in the manner and to the extent described in the Resolution. Terms used herein in capitalized form and not otherwise defined herein shall have the meanings ascribed thereto in the Resolution.

This Bond is and has all the qualities and incidents of a negotiable instrument under Article 8 of the Uniform Commercial Code, the state of Florida, Chapter 678, Florida Statutes.


This Bond shall not be valid or become obligatory for any purpose or be entitled to any benefit or security under the Resolution until it shall have been authenticated by the execution by the Registrar of the certificate of authentication endorsed hereon.

This Bond may be exchanged or transferred by the Owner hereof but only upon the registration books maintained by the Issuer and in the manner provided in the Resolution.

It is hereby certified, recited and declared that all acts, conditions and prerequisites required to exist, happen and be performed precedent to and in the execution, delivery and the issuance of this Bond do exist, have happened and have been performed in due time, form and manner as required by law, and that the issuance of this Bond is in full compliance with and does not exceed or violate any constitutional or statutory limitation.

IN WITNESS WHEREOF, Palm Beach County, Florida has caused this Bond to be executed in its name by the manual signature of its Chairperson and attested by the manual signature of the Clerk, all as of this 23<sup>rd</sup> day of April, 2008.

PALM BEACH COUNTY, FLORIDA

  
Edan L. Greene  
Chairperson

ATTEST:

Sharon R. Bock, Clerk & Comptroller  
Palm Beach County

By Phyllis House  
Deputy Clerk

By: \_\_\_\_\_  
Deputy Clerk



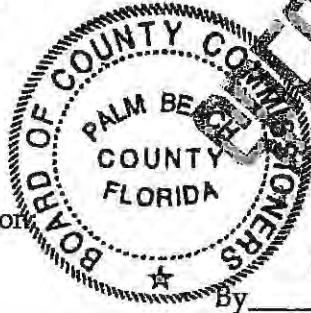


CERTIFICATE OF AUTHENTICATION

This Bond is one of the Bonds issued under the provisions of the within mentioned Resolution.

Date of Authentication

April 23, 2008



Clerk of the Board of County Commissioners of  
Palm Beach County, Florida  
Registrar, as Authenticating Agent  
Sharon R. Bock, Clerk & Comptroller  
Palm Beach County

By

*Phillip House*  
Deputy Clerk

Authorized Officer

## ASSIGNMENT AND TRANSFER

For value received the undersigned hereby sells, assigns and transfers unto \_\_\_\_\_ (Please insert Social Security or other identifying number of transferee) \_\_\_\_\_ the attached Bond of the Palm Beach County, Florida, and does hereby constitute and appoint, \_\_\_\_\_ attorney, to transfer the said Bond on the books kept for registration thereof, with full power of substitution in the premises.

Date \_\_\_\_\_

Signature Guaranteed by \_\_\_\_\_

\_\_\_\_\_  
[member firm of the New York  
Stock Exchange or a commercial  
bank or a trust company.]

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

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

NOTICE: No transfer will be registered and no new Bonds will be issued in the name of the Transferee, unless the signature to this assignment corresponds with the name as it appears upon the face of the within Bond in every particular, without alteration or enlargement or any change whatever and the Social Security or Federal Employer Identification Number of the Transferee is supplied.

# SCHEDULE I

## DEBT SERVICE SCHEDULE

		Loan Amortization			
date	funding	payment	interest	principal	balance
Apr-23-08	\$29,476,000.00				\$29,476,000.00
Jun-01-08		\$ 108,808.82	\$ 108,808.82	\$ -	\$29,476,000.00
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Dec-01-11		\$ 2,517,704.83	\$ 331,704.83	\$ 2,286,000.00	\$16,684,000.00
Jun-01-12		\$ 291,732.39	\$ 291,732.39	\$ -	\$16,684,000.00
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Jun-01-15		\$ 167,628.31	\$ 167,628.31	\$ -	\$ 9,598,000.00
Dec-01-15		\$ 2,609,628.31	\$ 167,628.31	\$ 2,442,000.00	\$ 7,156,000.00
Jun-01-16		\$ 125,128.09	\$ 125,128.09	\$ -	\$ 7,156,000.00
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Dec-01-20		\$ 1,262,699.83	\$ 21,699.83	\$ 1,241,000.00	\$ -
	\$29,476,000.00	\$34,900,479.30	\$5,424,479.30	\$29,476,000.00	

## DISCLOSURE STATEMENT

The undersigned, as purchaser, proposes to negotiate with Palm Beach County, Florida (the "Issuer") for the private purchase of its Public Improvement Revenue Refunding Bond, Series 2008A (the "Bond") in the aggregate principal amount of \$29,476,000. Prior to the award of the Bond, the following information is hereby furnished to the Issuer:

1. Set forth is an itemized list of the nature and estimated amounts of expenses to be incurred for services rendered to us by Banc of America Public Capital Corp (the "Purchaser") in connection with the issuance of the Bond (such fees and expenses to be paid by the Issuer):

Purchaser's legal fees     \$2,500

2. (a) No other fee, bonus or other compensation is estimated to be paid by the Purchaser in connection with the issuance of the Bond to any person not regularly employed or retained by the Purchaser (including any "finder" as defined in Section 218.386(1)(a), Florida Statutes), except as specifically enumerated as expenses to be incurred by the Purchaser, as set forth in paragraph (1) above.

(b) No person has entered into an understanding with the Purchaser, or to the knowledge of the Purchaser, with the Issuer, for any paid or promised compensation or valuable consideration, directly or indirectly, expressly or implied, to act solely as an intermediary between the Issuer and the Purchaser or to exercise or attempt to exercise any influence to effect any transaction in the purchase of the Bond.

3. The amount of the underwriting spread expected to be realized by the Purchaser is \$-0-.

4. The management fee to be charged by the Purchaser is \$-0-.

5. Truth-in-Bonding Statement:

The Bonds are being issued primarily to finance the cost of the acquisition of environmentally sensitive lands. Unless earlier redeemed, the Bond is expected to be repaid at the end of approximately twelve (12) years. At a fixed interest rate of 3.4972%, total interest paid over the life of the Bond is \$5,424,479.30 and issuance of the Bond will result in maximum of approximately \$4,627,410.21 of annual revenues of the Issuer not being available to finance other services of the Issuer during the life of the Bond.



6. The name and address of the Purchaser is as follows:

Banc of America Public Capital Corp  
555 California Street, 4<sup>th</sup> Floor  
Mail Code CA5-705-04-01  
San Francisco, CA 94104  
Attn: Government Leasing Contract Administration

IN WITNESS WHEREOF, the undersigned has executed this Disclosure Statement on behalf of the Bank this 23rd day of April, 2008.

BANC OF AMERICA PUBLIC CAPITAL  
CORP

By: Art Hyman (the)  
Art Hyman, President

## PURCHASER'S CERTIFICATE

This is to certify that Banc of America Public Capital Corp (the "Purchaser") has not required Palm Beach County, Florida (the "Issuer") to deliver any offering document and has conducted its own investigation, to the extent it deems satisfactory or sufficient, into matters relating to business affairs or conditions (either financial or otherwise) of the Issuer in connection with the issuance of the \$29,476,000 Palm Beach County Public Improvement Revenue Refunding Bond, Series 2008A (the "Bond"), and no inference should be drawn that the Purchaser, in the acceptance of said Bond, is relying on Bryant Miller Olive P.A. ("Bond Counsel") or the Assistant County Attorney ("Issuer's Counsel") as to any such matters other than the legal opinions rendered by Bond Counsel and Issuer Counsel. Any capitalized undefined terms used herein not otherwise defined shall have the meaning set forth in a resolution adopted by the Issuer on April 1, 2008 relating to the Bond (the "Resolution").

We acknowledge and understand that the Resolution is not being qualified under the Trust Indenture Act of 1939, as amended (the "1939 Act"), and is not being registered in reliance upon the exemption from registration under Section 3(a)(2) of the Securities Act of 1933, Section 517.051(1), Florida Statutes, and/or Section 517.061(7), Florida Statutes, and that neither the Issuer, Bond Counsel nor Issuer's Counsel shall have any obligation to effect any such registration or qualification.

We are not acting as a broker or other intermediary, and are purchasing the Bond as an investment for our own account and not with a present view to a resale or other distribution to the public. We understand that the Bond may not be transferred in a denomination less than \$100,000 under any circumstance.

We are a wholly owned subsidiary of a bank and an accredited investor under 17 CFR 230.144, and therefore, qualify as an exempt purchaser of securities under Section 517.061(7), Florida Statutes. We are not purchasing the Bond for the direct or indirect promotion of any scheme or enterprise with the intent of violating or evading any provision of Chapter 517, Florida Statutes.

DATED this 23rd day of April, 2008.

BANC OF AMERICA PUBLIC CAPITAL  
CORP

By: Art Hyman (Hw)  
Art Hyman  
President